

No:EDN-H(2)B(2)54/2013-CC

Directorate of Elementary Education, Shimla
Himachal Pradesh Lalpani Shimla-1.

28 MAR 2025
March, 2025
शिमला-1

Dated Shimla-the 171001 the,

OFFICE ORDER

Whereas, various CWPs have been decided by the Hon'ble High Court of HP and various judgments have been passed by the Hon'ble High Court of HP in numerous CWPs to consider and decide the representations made by the petitioners in light of the judgement passed by the Hon'ble High Court of HP in CWP No. 414/2014 titled as Kuldeep Chand Vs State of H.P. & Ors/CWPOA No. 2782/2019-titled as Narender Singh Thakur & others Vs State of HP & others (connected with LPA No.54/2013 titled as State of Himachal Pradesh & Ors Vs Om Prakash & others alongwith LPA No. 21/2013 filed in CWP No. 7602 of 2010, titled Om Prakash Versus State of H.P. and others) and all other connected matters.

E-IV/E-III/A-II

Whereas, in the year of 2008 the Government conveyed the approval to fill up 4568 posts of TGTs on contract basis vide letter No. EDN-C-B(15)6/2007-Loose dated 16.06.2008 and the Department, accordingly, advertised the posts purely on contract basis through batchwise basis vide requisition No. EDN-H(2)B(2)3/2008-Requisition dated 27.06.2008 and requisitions were also sent to the Secretary, H.P. Subordinate Services Selection Board, Hamirpur, Director, Ex-servicemen Employment Cell, Hamirpur, Physically Handicapped Cell H.P., and Director, Sports Cell, H.P. vide requisition No. EDN-H(2)B(2)3/2008-Requisition dated 27.06.2008 & 14.07.2008 to fill up the posts of TGTs purely on contract basis, however, the specific amendment related to contract appointment was inserted in the R&P Rules, of TGTs on dated 22.10.2009 and prior to this, in the R&P Rules of TGTs provision of regular appointment was in vogue. In response to the Department requisition No. EDN-H(2)B(2)3/2008-Requisition dated 14.07.2008, Director, Ex-servicemen Cell, Hamirpur, vide letter No.DSW/Emp(Ex-Cell)OC-19/2008 dated 27.08.2008 & 20.09.2008, No.DSW/Emp(Ex-Cell)OC-20/2008 dated 27.08.2008 & 20.09.2008 and No.DSW/Emp(Ex-Cell)OC-18/2008 dated 19.11.2008 issued NAC (Non Availability Certificate) to fill up 131 posts of TGT NM, 126 posts of TGT Medical and 54 posts of TGT Arts respectively amongst Ward of Ex-servicemen, and accordingly, the Department placed requisition to all Employment Exchanges to fill up the vacancies reserved for Ward of Ex-Servicemen category on contract basis vide Ednst. No.EDN-H(2)B(2)3/2008-

29/03/2025

PD/EE

1/36
03/04/25

2

Requisition (Vol-I) dated 02.01.2009. Thereafter, as per Batchwise Merits drawn against the requisition dated 27.06.2008 & 02.01.2009, recommendation received through Secretary, HPSSSB, Hamirpur against the requisition dated 27.06.2008, recommendation received through Ex-servicemen Cell, Hamirpur from time to time against the requisition dated 27.06.2008 and recommendation received through Sports Cell, H.P. from time to time against the requisition dated 27.06.2008, the Department offered appointment to all eligible candidates on contract basis selected through batchwise basis, selected through HPSSSB, Hamirpur, Ex-servicemen recommended by Ex-servicemen Cell, Hamirpur and sportspersons recommended by Sports Cell H.P.

Whereas, some of the TGTs who were appointed on contract basis in the year of 2008 & 2009 prior to the insertion of contract condition in the R&P Rules of TGTs filed various civil writ petitions in the Hon'ble High Court of H.P. for regular appointment instead of contract appointment from the date of initial appointment on contract basis as such the provision of contract appointment was not inserted in the R&P Rules of TGTs and provision of regular appointment was in vogue. The Hon'ble High Court of H.P. disposed of these writ petitions **in terms of the judgments passed in CWP No. 7602 of 2010, titled Om Prakash Versus State of H.P. and others, and connected matters, and CWP No. 3144 of 2011, titled as Anju Devi Versus State of H.P. and others, subject to the outcome of LPAs No. 54 of 2013 and 500 of 2013.**

Whereas, the matter of regular appointment instead of contract appointment without the amendment of R&P Rules was decided by the Hon'ble High Court of H.P. in LPA No. 21/2013 and other connected LPAs on dated 04.10.2019 and the Director of Higher Education implemented the judgment passed LPA No. 54/2013 titled as State of Himachal Pradesh & Ors. Vs Sh. Om Parkash (connected with LPA No. 21/2013) filed in CWP No. 7602 of 2010, titled Om Prakash Versus State of H.P. and others, and connected matters vide office order No. EDN-H (19)B(1)6/2013- Court Case dated 08.12.2020 and allowed the benefit of taking over the services on regular basis instead of contract to the eligible petitioners as lecturer w.e.f. 06.02.2007.

Whereas, in the matter of petitioners (TGTs) in CWP No. 414/2014-Kuldip Chand Vs State of HP & connected matters, CWP No. 6383/2014- Manoj Kumar Vs State of HP & Others, CWP No. 6746/2014-Som Dutt Vs State of H.P. & Ors, CWP No. 6751/2014- Manohar Lal Vs State

of H.P. & Ors, CWP No. 6748/2014-Disha Sharma Vs State of H.P. & Ors, CWP No. 6749/2014- Nirmla Shashni vs State of HP & Others, CWP No. 6750/2014- Chhime Angmo Vs State of HP & Others and connected matters, the matter of LPA No. 54/2013(State of HP and others Vs Om Prakash) was again taken up with the Govt. vide letter No EDN-H(2)B(2)54/2013 CC date 24.06.2020 & 01.11.2023 and the Government vide letter No. EDN-C-E(3)3/2020 dated 30.11.2023 conveyed the approval to implement the orders of the Hon'ble High Court in letter and spirit. Accordingly, the Department implemented the order of the Hon'ble High Court of H.P. vide office order No. EDN-H(2)B(2)54/2013-CC dated 01.12.2023 by considering the petitioner deemed regular employee from the date of their initial appointment on contract basis with all consequential benefits. However, the Government had further also directed that in similar situated cases, the advice of the Ld. Advocate General may be sought as to how proceed further in the matter. Accordingly, the matter was also discussed with **Ld. Advocate General who opined that "decide the representations if any in accordance with Law as laid down qua including notional benefits for fence seater"**.

Whereas, the matter of CWP No. 414 of 2014 and other CWPs alongwith LPA No. 54 of 2013 was again taken up with the Government vide letter No. EDN-H(2)B(2)54/2013-CC dated 24.04.2024 and in reference to the Department letter, the Secretary, (Education) to the Govt. of H.P. with the prior approval of Finance Department (Regulation) obtained vide File No. Fin(C)-B(15)-2/2020-L dated 09.05.2024 conveyed the approval to implement the orders of the Hon'ble High Court of H.P. in similar situated cases (TGTs/C&V categories) qua petitioners as well as to fence seater (including notional benefits to fence seater) vide letter No. EDN-C-E(3)3/2020 dated 15.05.2024. Accordingly, the Department has implemented the order of the Hon'ble High Court of H.P. vide various office orders issued from time to time.

Now, **"The Himachal Pradesh Recruitment and conditions of Service of Government Employees Act, 2024"**(Act No. 23 of 2025) is notified by the Department Of Personnel Government of Himachal Pradesh on dated 19th February, 2025 and has come into force w.e.f. 20th February, 2025. The relevant provisions of the act ibid are reproduced below:-

6. **"Extension of Service benefits"**

"(1) The service benefits available under various Central Civil Services Rules, as applicable in the state, the Himachal Pradesh Civil Services Rules, and other service benefits such as, Seniority,

increment, promotion etc. shall be applicable only to the employees appointed on regular basis.

(2) No person working in any Government Department, who has not been appointed as per provisions of this Act and Rules made thereunder on regular basis shall be entitled to service benefits available under the various Central Civil Services Rules, as applicable in the state, the Himachal Pradesh Civil Services Rules and other service benefits such as seniority, increment, promotion etc.:

Provided that a person shall be entitled for service benefits only from the date of regularization of his services:

Provided further that a person whose services have been regularized after 12th December, 2003 shall be entitled to service benefits from the date of regularization, as if their services have been regularized under the provisions of this Act:

Provided also that the service benefits already extended to the persons for the service other than regular service shall stand withdrawn."

8. "Amendment in Column 10 of the rules:

"Notwithstanding anything contained in any judgment, decree or order of any court; law, rule, notification, order, etc., for the period commencing on and from 12th December, 2003 and ending on the date of commencement of this Act, in Column number 10 of the recruitment and promotion rules notified in exercise of powers conferred by proviso to article 309 of the constitution of India, the words "on contract basis". or such similar words conveying the same meaning, wherever occurs, the words "by regularizations" shall be deemed to have always been substituted as if this Act had been in force at all material times:

Provided that the appointments, if any, already made on contract basis will be regularised or deemed to have been regularised under the provisions of this Act."


9. "Overriding effect"

"The Provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law, rule, notification etc., if any."

In view of the facts stated here-in-above, I am of the considered view that the petitioners of those petitions which are decided on the analogy of CWP No. 414/2014 titled as Kuldeep Chand Vs State of H.P. & Ors (connected with LPA No.54/2013 titled as State of Himachal Pradesh & Ors Vs

Om Prakash & others alongwith LPA No. 21/2013 filed in CWP No. 7602 of 2010, titled Om Prakash Versus State of H.P. and others & LPA No. 4059/2013 & LPA No.4060/2013) and all other connected matters, whose services have been regularized after **12th December,2003** cannot be considered deemed regularized from the date of their initial appointment/joining on contract basis and hence not entitled for any other service benefits such as Seniority, increment, promotion etc. as the petitioners have not been appointed on regular basis as per provisions of this Act(Act No.23 of 2025). Hence, the cases/representations of all the petitioners as well as non petitioners are hereby considered and rejected accordingly. It is further ordered that if any such benefits have been extended to any person/persons, same shall stand withdrawn with immediate effect.

All the petitioners are informed accordingly.



Director Elementary Education,
Himachal Pradesh.

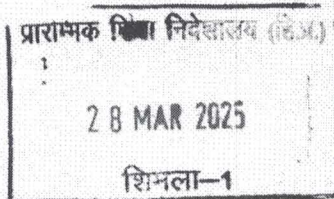
No:EDN-H(2)B(2)54/2013-CC Dated

March, 2025

Copy forwarded for information and necessary action to:-

1. The Secretary (Education) to the Government of H.P.
2. All the concerned Dy. Directors of Elementary/Higher Education of H.P.
3. The concerned Treasury Officer.
4. The concerned Principal/Headmaster of GSSS/GHS/GMS of H.P. **with the direction to initiate the recovery/withdrawal process of the benefits which are extended to any such person/persons on the analogy of 414/2014 titled as Kuldeep Chand Vs State of H.P. & Ors alongwith LPA No.54/2013 titled as State of Himachal Pradesh & Ors Vs Om Prakash & others and all other connected matters whose services have been regularized after **12th December,2003** and further directed to send the compliance report to this Directorate immediately.**
5. The Dealing Assistant Seniority Seat/Pay Fixation Seat, TGTs.
6. The Petitioner concerned.
7. Nodal Officer, IT Cell, Dte. of Ele. Edu. H.P. with the request to upload the same on Departmental website.
8. The Guard file.


Director Elementary Education,
Himachal Pradesh.



Endst.No. EDN-U(E-IV)/Elem/Court Cases/2024 - 1147
O/o DDEE Una (HP)

Dt. 03.04.2025

Copy is being forwarded to all the Principal/Headmaster of GSSS/GHS with the direction to initiate the recovery/withdrawal process of the benefits which are extended to any such person/persons on the analogy of given CWP Nos.


Dy. Director Elementary Education,
Una, District Una HP.