

Directorate of Hr. Education
Himachal Pradesh




Legal Cell

Subject:- SLP (C) No.34038 /2012-Sunder Singh Vs State of H.P. & ors.

Please find enclosed herewith the copy of letter No. Fin(Pen)-1:(1)-18/2008-Vol-1. Dated 22-04-2015 received from O/O Principal Secretary (Finance).

It is therefore, requested to treat the matter Most Urgent and take necessary action as per letter dated 22-04-2015, under intimation to this cell.

Ensure Compliance being High Court Matter.


Supdt.(Legal Cell)
Directorate of Hr. Education
Himachal Pradesh

Branch Supdt.
 List-I (Internal)

U.O. No. EDN-III(18) I.C-1399/2012-Supreme Court Dated (24-04-2015)

Enclavan / *Dr. G. N. Sharma to circulate the same*
24/4/15



1301
24/4/15

Most Urgent

No.Fin(Pen)-E(1)-18/2008-Vol-1.
Government of Himachal Pradesh
Finance (Pension) Department

From

The Principal Secretary (Finance) to the
Government of Himachal Pradesh, Shimla-2.

To

1. All Administrative Departments
Government of Himachal Pradesh.
2. All Heads of Departments
Himachal Pradesh.

Dated: Shimla-171002, the 21st April, 2015.

Subject: SLP (Civil) No. 34038/2012 titled 'Sunder Singh Vs. State of H.P.' arising out of Judgment dated 31.05.2012 of the Hon'ble High Court passed in CWP No. 180/2001 titled 'State of H.P. & Others Vs. Ram Lal & Others' (popularly known as Sarab Dayal case).

Sir,

I am directed to invite your kind attention to this Department letter No.Fin(Pen)E(1)-18/2001 dated 25-08-2012 on the subject cited above and to say that the Hon'ble High Court of Himachal Pradesh in Judgment dated 31.05.2012 delivered in CWP No. 180/2001 titled 'State of H.P. & Others Vs. Ram Lal & Others' had held that Pension Chapter of Civil Services Regulation which governed the employees, earlier stood repealed after enforcement of the Central Civil Services (Pension) Rules, 1972 and savings clause in Rule 89 of the 1972 Rules does not save the Office Memorandum No.F.12(1)EV/68 dated 14.05.1968.

2. Consequently, service rendered on daily waged/contingent basis by the employees before their regularization/grant of worked-charge status cannot be taken into consideration for counting of qualifying service for grant of pension under the Central Civil Services (Pension) Rules, 1972. The copy of Judgment dated 31.05.2012 *ibid* was forwarded to all Administrative Secretaries and Heads of Departments vide letter No.Fin(Pen)E(1)-18/2008 dated 25-08-2012, as referred

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AB-91112
M. J. 24/4/15

P. A. Cell	
DHE.....	of Departments
23 APR 2015	
Branch	Legal

to above, with the request to issue necessary directions to all Drawing and Disbursing Officers/ Heads of Offices working under them to comply the Judgment dated 31.05.2012 strictly.

3. Apart from the above, as per Rule 2(b) and 2(c) of the CCS (Pension) Rules, 1972, persons in casual & daily rated employment and persons paid from contingencies are specifically excluded from the purview of Rules, *ibid*. Further, Rule 89 of CCS (Pension) Rules, 1972, stipulates that on commencement of these rules, every rule, regulation or other order including Office Memorandum in force immediately before such commencement shall cease to operate. Hence, Government of India O.M. No.F.12(1)EV/68 dated 14.05.1968 stands repealed immediately after commencement of CCS (Pension) Rules, 1972. Therefore, in terms of Rules 2(b), Rule 2(c) and Rule 89 of the CCS (Pension) Rules, 1972 and Judgment dated 31.05.2012 of the Hon'ble High Court, the daily waged and contingent paid service is not to counted for the purpose of pensionary benefits under Pension Rules, 1972, *ibid*.

4. Despite the above position, it has come to the notice of Finance Department that some Offices of the Government departments have allowed the benefit of half of the daily paid and contingent paid service for pensionary benefit in pursuance to the Government of India O.M. No.F.12(1)EV/68 dated 14-05-1968, appearing as Government of India decision No.2 below Rule 14 of the CCS (Pension) Rules, 1972 in Swamy's Pension Compilation by Muthuswamy and Brinda Edition, which is totally contrary to the provisions of Rule 2(b) and 2(c) of the CCS(Pension) Rules, 1972 and Judgment dated 31.5.2012 of the Hon'ble High Court delivered in CWP No. 180/2001 titled as 'State of H.P. & Others Vs. Ram Lal & Others'.

5. You are therefore, requested to issue strict directions to all Drawing and Disbursing Officers/ Heads of Offices working under your control to abide by the provisions of Rule 2(b) and 2(c) of the CCS (Pension) Rules, 1972 and strictly comply with the Judgment dated 31.5.2012 of the Hon'ble high Court. The copy of

Judgment dated 31.05.2012 *ibid* is already available with letter dated 25-08-2012 of this Department at 'Pension Link' of Finance Department's website www.himachal.gov.in/finance.

6. Non compliance of above instructions by the Pension Sanctioning Authorities will be viewed seriously.

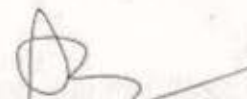
Yours faithfully,


(Akshay Sood)

Special Secretary (Finance) to the
Government of Himachal Pradesh
Phone No. 0177-2621904

Endst. No.Fin(Pen)-E(1)-18/2008-Vol-1 Dated: Shimla-2, the 21/4/2015.
Copy forwarded for information and similar necessary action to:-

1. The Divisional Commissioner Shimla, Mandi and Kangra at Dharamshala Himachal Pradesh.
2. The Resident Commissioner, Himachal Pradesh, Himachal Bhawan, 27-Sikandra Road, New Delhi-110001.
3. The Principal Accountant General (Audit) Himachal Pradesh, Shimla-3.
4. The Accountant General (A&E) Himachal Pradesh, Shimla-3.
5. The Registrar General, H.P. High Court, Ravenswood, Shimla-1.
6. The Advocate General, Himachal Pradesh, Shimla-1.
7. All Deputy Commissioners in Himachal Pradesh.
8. All District and Session Judges in Himachal Pradesh.
9. All Settlement Officer, Himachal Pradesh.
10. All District Treasury Officers/ Treasury Officers in Himachal Pradesh.
11. All Controllers/Joint Controllers/ Deputy Controllers (F&A)/Asstt. Controllers (F&A)/ Section Officers (F&A) under the Control of Treasury & Accounts Organization.


(Akshay Sood)

Special Secretary (Finance) to the
Government of Himachal Pradesh
Phone No. 0177-2621904

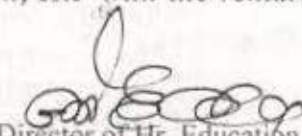
Directorate of Hr. Education
Himachal Pradesh



Endst. No. EDN-H(1)B(15)1/2009- Imp. Instt. Dated Shimla - 171001 the
Copy for information and further necessary action is forwarded to :-

05-5-2015

1. The Principal Secretary(Finance) to the Govt. of Himachal Pradesh, Shimla-2 w.r.t. to the letter No.Fin(Pen)-E(1)-18/2008-Vol-I dated 21.04.2015 for information please.
2. The Additional Director of Hr. Education (Admn.), H.P.
3. The Addl. Director Director of Hr. Education (S), H.P.
4. The Joint Director of Hr. Education, C-I / C-II, H.P.
5. The Joint Controller (F&A), Dte. of Hr. Education, H.P.
6. The OSD(C) / OSD(Skt.) Directorate of Hr. Education, H.P.
7. All the Principal, GDC/ GCTE Dharamshala/ Skt Colleges in Pradesh.
8. **The Deputy Directors of Hr. Education in the Pradesh with the remarks in the Pradesh to circulate the said instructions to all the DDOs working under your control .**
9. The Superintendent, Legal Cell(internal)Dte. of Hr. Edu.HP w.r.t.U.O. No.EDN-HE(18)LC 1399/2012-Supreme Court dated 24.4.2015 for information please.
10. The Chief Librarian, Center State Library Solan.
11. The State Library, The Mall Shimla-1.
12. All the District Libraries in the H.P.
13. The Group Commander, GP HQ, Shimla -4.
14. All the NCC units in the Pradesh.
15. **The Incharge Computer Cell, Dte. of Hr. Education, H.P with the remarks to upload the said orders on the deptt. Website.**
16. Guard File.


Director of Hr. Education
Himachal Pradesh