No. EDN-HE(1)E(3)-2025-Court Cases 3
Directorate of Higher Education
Himachal Pradesh

शिक्षा निदेशालय उच्चतर हि0प्र0
25 SEP 2025
शिमला--1

Dated Shimla-171001 the, September, 2025

OFFICE ORDER

Whereas, the petitioner (Mukul Jishtu) was appointed in the department as JOA (IT) against reserved vacancies of specially abled Persons in the Education Department and joined in the year 2022 on contract basis strictly in accordance Himachal Pradesh, Department of Personnel, Class-III Services Common Recruitment and Promotion Rules, 2017. The selection of the candidates was done as per rules. He was offered appointment on contract basis as per R&P Rules, 2017 applicable to her. Filling aggrieved by the offer of appointment petitioners filled **CWP No. 12551of 2024 titled as Mukesh Jishtu Vs State of HP & Another & CMP No. 1155/2025 in COPC 556/2025** for regular appointment instead of contract, being special abled person.

Whereas, The petitioner in present petition has represented for granting the benefits of regular appointment from the date of appointment instead of contract in light of the judgment passed by the Hon'ble High Court of HP in Nitin Kumar's case CWPOA 1077 of 2019.

Whereas, the Case of Sh. Nitin Kumar Vs. State of Himachal Pradesh (CWPOA No. 1077 of 2019) (wherein the Petitioner, Sh. Nitin Kumar precise grievance was that his appointment on contract basis was improper, as at the time of his appointment, there was no provision in the then existing Recruitment & Promotion Rules for the post of Peon in the Department of Women & Social Welfare, where under the appointment could be made on contract basis) is totally different from the CWP No. 12551of 2024 titled as Mukesh Jishtu Vs State of HP & Another & CMP No. 1155/2025 in COPC 556/2025, where the Petitioner Sh. Mukul Jishtu Walia has pleaded to give appointment to the Petitioners as a JOA (IT) on regular basis from initial date of appointment, as Persons with Benchmark Disabilities (Equal Opportunities. Protection of Rights and Full Participation) Act, 1995 and as per Judgment delivered by the Hon'ble High Court of H.P. in the CWP No. 1077 of 2019 titled as Nitin Kumar Vs. Sate of H.P.

Whereas, now there is provision of contractual employment in R&P Rules, 2017 (as amended from time to time) that the R&P Rules for the cadre in vogue do not have any seperate provision for regular appointment for PwBDs categories as well other categories i.e. General, SC, ST & OBC etc. The appointment offer to the Petitioner on Contract basis is of permanent nature as the contract service is followed by regularization as per Government policy. The appointment on contract basis is permanent in nature and as per the provision in R&P Rules contract service are regularized after two years contract service. The Petitioner was rightly offered appointment on contract basis and was regularized as per Government Policy with other counter parts having completed requisite continuous contract service.

Whereas, provision of the R&P Rules of the respective categories do not provide any regular appointment from the initial date of appointment for PwBDs and other categories as per prevailing R&P rules. Contract provision was inserted in R&P Rules of JOA (IT) cadre on 2007 & 2017 and accordinlgy all the appointments have been made by the Department to the Post of JOA (IT) on contract basis and regularized as per the Government directions/approval from time to time. Therefore, the judgment delivered in CWP 15007/2024 Nitin Kumar Vs State of HP is not similar to the Mukul Jishtu case in 12551of 2024 titled as Mukul Jishtu Vs State of HP & Another & CMP No. 1155/2025 in COPC 556/2025.

Whereas, 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 there under on regular basis shall be entitled to service benefits available under the various

(5)

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 form 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."Ammendment 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 word`s "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 regularized or deemed to have been regularized 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."

And whereas, the Hon'ble High Court of HP has ordered to decide the representations of the petitioners. The Government has notified HP Recruitment and Conditions of Service of Govt. Employees Bill, 2024 wherein it has been mentioned that after 12.12.2003 contractual will be entitled for service benefit after regularization only.

And whereas, the similarly situated cases in CWP No. 8535/2024 titled as Chandermani Vs State of HP and COPC 74/2025 in CWP No. 10252/2023 titled as Ajay Kumar Vs State of HP & anr has also been assailed by the Department.

Now therefore, in view of facts and circumstances discussed above and going through the representations of petitioners. It is pertinent to mention that nothing was concealed from petitioners when posts were advertised and all posts were filled as per Govt. approval. Therefore, the petitioners are not entitled for benefit of regular appointment from the date of initial contract appointment. Hence, the claim is considered and rejected as per law.

May inform the party accordingly.

(Dr. Amarjeet K. Sharma)
Director Higher Education
Himachal Pradesh, Shimla-1

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Endst. No. Even Dated: Shimla-171001 the, September, 2025

Copy forwarded for information and necessary action to:-

1. The Secretary, (Education) to the Govt. of H.P.
2. The District Attorney, Directorate of Higher Education H.P.
3. The concerned Deputy Director of Higher/Elementary Education of H.P.
4. The Nodal Officer, IT Cell, DHE (Internal) to upload the same on Departmental website.
5. Sh. Mukul Jishtu, S/o Pradeep Jishtu r/o Ground Floor Ganapati Bhawan Area Homes Kasumpti, Shimla-9
6. Guard File.

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