No. FIN-(PR)E(1)-1/2004
Government of Himachal Pradesh
Finance (Pay Revision) Department.

Dated Shimla-171002, the 16th February, 2005

**OFFICE MEMORANDUM**

Subject: Petitions relating to financial matters filed in Courts, Administrative Tribunals etc.-Replies thereof.

The undersigned is directed to say that the Finance Department acts as the nodal and advisory department in respect of grant of pay scales and other allowances/benefits/incentives to the employees of the State Government, creation/up-gradation/abolition of posts as well for certain service rules like Fundamental Rules etc. In addition, advice / opinion is tendered on various issues involving financial implications as per provisions of Rules of Business/H.P. Allocation of Business rules and also on other issues relating to interpretation / implications of various rules, regulations & instructions etc., on relevant departmental files, received through different departments. Although the Finance Department issues orders in respect of pay scales, allowances, service rules etc., yet implementation of the policy / orders is done either at level of Administrative Department or Heads of Department. It has been observed that in some cases, employees approach the Courts of Law/Administrative Tribunal/Labour Tribunal as they feel aggrieved regarding implementation of above orders. In several cases, the Finance Department is also impleaded as a party although it has no direct role in implementation of the orders. In certain cases, the basic construction of Rules/instructions issued by the Finance Department are not challenged and also in the implementation of the same, the Finance Department has no direct role, yet the Finance Department is also impleaded as a party.

As a matter of fact, the Finance Department has in most such cases, an advisory role in view of reasons explained above. Moreover, as per sr. no. 9 and 10 of the H.P. Allocation of Business Rules,

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for the work allocated to the Finance Department, it has been assigned an advisory role in such matters as affects the finances of the State. Therefore, the reply to such court cases should be filed by one agency of the Government either at the departmental level or at the Administrative Secretary level so that different views are not presented before the court of law/Tribunals

It has, however, been observed that in some cases where the Finance Department has also been impleaded as a party, concerned department(s) do not filed a combined reply inspite of the fact that the position of Rules/Finance Department is clear on the departmental files. It has also been seen that in certain cases, the advice/opinion of F.D. is further conveyed in verbatim either to the HODs or to Courts by some Administrative Departments. In this context the instructions issued vide Finance (Regulations) Department vide letter No. Fin(C)B(7)10/98 dated 15th September, 2004 may be kept in view, (These instructions are enclosed for ready reference) and it may be ensured that the verbatim opinion of the Finance Department need not be conveyed to the Courts.

In view of the above position, it has been decided that in all such cases where the Finance Department is impleaded as a party, the primary responsibility for contesting such cases on behalf of the Finance Department will be that of the concerned Administrative Department and reply on behalf of the F.D. would be filed by the concerned Administrative Department/HOD, as the case may be. However, in such cases, if any clarification regarding application of rules/ factual position of rules/instructions etc. relevant to the case or comments on the point relating to Finance Department including position regarding revision/grant of pay scales etc. is needed, the same can be obtained by the concerned departments on departmental file. The above instructions may be brought to the notice of all concerned for necessary action.

(YOGESH KHANNA)
Additional Chief Secretary (FIN-[illegible]) to the
Government of Himachal Pradesh.

To

All Secretaries to the Government of Himachal Pradesh, Shimla-2
All Heads of the Departments in Himachal Pradesh.

Contd P-3/-....

No. FIN-(PR)E(1)-1/2004 Dated Shimla-171002, the 16th February, 2005

Copy forwarded for information and necessary action:

1. The Advocate General, Himachal Pradesh Shimla for information pl.
2. The Additional Advocate General, Tribunal Cell, Shimla, H.P.
3. The Divisional Commissioners Shimla/Mandi/Kangra at Dharamsala.
4. The Resident Commissioner Himachal Pradesh, Sikandra Road, Himachal Bhawan, New Delhi.
5. The Resident Commissioner, Pangi at Killar, Chamba
6. All Deputy Commissioners in Himachal Pradesh.
7. All Special/Additional/Joint/Deputy/Under Secretaries to the Government of Himachal Pradesh.
8. All Section Officers in Himachal Pradesh Secretariat, Shimla-171002.
9. Guard File 100 spare copies.

Additional Secretary (FINANCE) to the Government of Himachal Pradesh

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**COPY**

No. Fin (C)B(7)10/98
Government of Himachal Pradesh
Finance (Regulations) Department

Dated Shimla-171002, the 15th September, 2004

From

Additional Secretary (Finance) to the
Government of Himachal Pradesh.

To

1. All Administrative Departments
to the Government of Himachal Pradesh.

2. All the Heads of Departments in H.P.

Subject: Opinion of Finance Department conveyed to the Administrative Departments.

Sir,

I am directed to say that the proposals on various matters are received in the FD from the various Departments for seeking opinion on issues of vital importance. The opinion is conveyed by this department to respective Administrative Departments in the capacity of Advisory Department on internal case files. It has been observed that in some cases the opinion of this department is conveyed by various departments to their subordinate offices in verbatim, which sometimes shows lack of application of mind on the part of department. I am, therefore, to request you to ensure that the verbatim opinion of FD should not be conveyed to subordinate offices by the Administrative Departments in any case.

Yours faithfully,

Sd/-
Deputy Secretary (Finance) to the
Government of Himachal Pradesh

Endst. No. No. Fin (C)B(7)10/98 Dated Shimla-2, the 15th September, 2004

Copy to

The Deputy Secretary (Rev.) to the Government of Himachal Pradesh w.r.t. his letter No. Rev.-A-B(7)-1/92 dated 4.9.2003 for necessary action.

Sd/-
Deputy Secretary (Finance) to the
Government of Himachal Pradesh