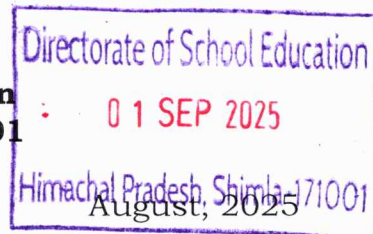


No: EDN-H(2)B(2)PHH-CC  
Directorate of Elementary Education  
Himachal Pradesh Lal Pani Shimla-01



Dated Shimla-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 judgments passed by the Hon'ble High Court of HP in CWPOA No. 1077 of 2019 titled as Nitin Kumar Vs State of H.P. & anr/ CWP No. 5278/2022-titled as Gafoor Mohammad Vs State of HP & others/. CWP No. 5090 of 2022, titled Umesh Jaswal Vs. State of Himachal Pradesh & Ors and all other connected matters.

Whereas; the operative part of the judgment passed by the Hon'ble High Court of H.P. in CWPOA No. 1077 of 2019 titled as Nitin Kumar Vs State of H.P. & anr Decided on 22.08.2022 is reproduced as under:-

***"14. Reverting to the facts of the instant case, admittedly, petitioner is suffering from 90% hearing impairment and also was appointed against the backlog vacancies for persons with disability. Thus, petitioner is entitled for all protection as envisaged under 1995 Act. View from any perspective the petitioner was entitled to be appointed on regular basis from very inception.***

***15. In view of the above discussions, the petition is allowed. Respondents are directed to treat the appointment of the petitioner on regular basis from the date of his initial appointment i.e. 6.11.2006. The respondents are further directed to release all consequential benefits to the petitioner within eight weeks from the date of production of copy of this judgment by the petitioner before respondent No.2.***

**16. The petition is accordingly disposed of. Pending applications, if any, also stand disposed of."**

Whereas, in CWP No. 5090 of 2022-Umesh Jaswal a/w other connected CWP no.s 5122, 5124, 5276 and 5278 of 2022 in which the Hon'ble High Court of H.P. has passed the following orders on dated 14.12.2022:-

**"In view of above discussion, the petitions are allowed and the respondents are directed to treat the appointments of petitioners on regular basis from the date of their initial appointments. The respondents are further directed to release all consequential benefits to the petitioners within eight weeks from the date of production of copy of this judgment by the petitioners. Petition are accordingly disposed of so also, the pending applications."**

Whereas, the petitioners namely Sh. Gafoor Mohammad, Sh. Umesh Singh Jaswal, and Sh. Kunj Bihari had filed the writ petitions in the Hon'ble High Court of H.P. for regular appointment from the date of their initial appointment as TGTs on contract basis under physically handicapped quota. The petitioners were initially appointed as TGTs on contract basis under physically handicapped quota in the year of 2010 as per R&P Rules of TGTs prevalent at that time and their services were regularized by the Department in the year of 2016 as per Government instructions issued vide letter No. PER(AP)C-B(2)-2/2015 dated 22.04.2016. Earlier the Department had rejected the claim of the petitioners for regular appointment vide office order No. EDN-H(2)B(2)497/15--CC dated 07.08.2015 on the ground that R&P Rules of TGTs were amended on 22.10.2009 and posts were advertised only on contractual basis.

Whereas, the judgment passed in the above said cases were particularly based on the judgment passed in CWPOA No. 1077 of 2019 titled as Nitin Kumar Vs State of H.P. & anr. Decided on 22.08.2022 and CWP No. 4299 of 2019 titled as Pushpa Devi & Others Vs Himachal Pradesh University, decided on 16.08.2019. The judgment



passed in these writ petitions are further based on the judgment of Hon'ble Supreme Court of India delivered in the matter of Union of India Vs. National Federation of the Blinds & others, 2013 (10) SCC 772. The main crux of the judgment is as under:-

**“Thus keeping in view the object of 1995 act there is no hesitation to hold that the purpose of reservation of posts under Section 33 of 1995 Act will not be fulfilled by making temporary, ad-hoc or contract appointments. Such an interpretation will make the very purpose of 1995 Act Otiose. The reservation mandated under Section 33 of the Act will necessarily mean to provide employment, which has permanency attached to it and that can only be by way of regular appointment”.**

It is further submitted that, the judgment passed in CWPOA No. 1077 of 2019 titled as Nitin Kumar Vs State of H.P. & anr pertain to the Department of Women & Child Development H.P. and same has been implemented by the Department of Women & Child Development H.P. vide office order No. WCD-AC(1)-12/2012-Estt.(Court) dated 04.04.2023. The judgment passed in CWP No. 4299 of 2019 titled as Pushpa Devi & others Vs State of H.P. & others pertains to H.P. University Shimla-05 and H.P. University Shimla-05 in reference to this Department letter dated 07.02.2023 sent all relevant record of the case to this Directorate vide letter No. 6-2/2019-HPU (Estt.)-1398 dated 25.02.2023 and after perusal of the record it is revealed that said judgment has also been implemented by H.P. University Shimla vide office order No. 6-2/2019-HPU (Estt.)- dated 06.10.2022 by regularizing the services of the petitioners (who were appointed on contract basis under physically handicapped quota) w.e.f. the date(s) of their initial joining on contract basis with all consequential benefits including counting the period for the purpose of seniority etc.

Further, the judgment passed by Hon'ble High Court of HP in CWP No. 5278/2022-titled as Gafoor Mohammad Vs State of HP & others a/w CWP No.'s 5090/2024 & 5124/2024, was implemented by the Department vide office order dated 08.09.2023 as per approval

conveyed by the Govt. vide letter No. EDUC-E05/21/2023-EDU-C dated 08.09.2023.

Whereas, in compliance to orders passed by Hon'ble High Court of HP and also the approval conveyed by Govt. vide letter No. EDUC-E05/21/2023 dated 30.12.2024 this Department is implementing various similarly situated judgments in different CWPs on case to case basis.

Whereas, in compliance to the orders passed by Hon'ble High Court of HP were implemented by this Department vide office orders issued from time to time.

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 19<sup>th</sup> February, 2025 and has come into force w.e.f. 20<sup>th</sup> February, 2025. **As per 1<sup>st</sup> proviso under Section 6(2) of the HP Recruitment and Conditions of Service of Government Employees Act, 2024, a person shall be entitled for service benefits only from the date of regularization of his services. Further, 3rd proviso under Section 6(2) of the act ibid, provides that service benefits already extended to the persons for the service, other than regular service shall stand withdrawn. Besides section 7 of the Act, 2024, stipulates that the service benefits available under various CCS 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 a regular basis.**

Whereas, the matter was again take up with Govt. regarding applicability of act on the cases. Thereafter, Govt. Vide letter No.EDUC-E/05/21/2023 dated 16.05.2025 & 21.08.2025 has given advice after consultation with Law Department which is as under:-

***"-----from the above it can be safely concluded that the appointment of petitioner on contract basis was not in***



*conformity with the provisions of R&P rules. Since there was no provision in the R&P rules to make appointment on contract basis, therefore, it was not justified to make appointment on contract basis. Under these circumstances, the judgment in Nitin Kumar's was found to be just and reasonable. As far as other cases are concerned, Law Department is considered opinion that Department should examine the cases in light of the provisions of the R&P rules of respective categories do not provide appointment on contract basis, then making appointment on 'contract basis' may not be justified. The decision of Nitin Kumar's case will be applicable to such cases. However, if the appointment of disabled categories have been made on contract basis strictly in accordance with the provisions of R&P Rules, then, the judgment rendered by the Hon'ble High Court to make appointments of disabled categories on regular basis in terms of decision rendered in Nitin Kumar's case are liable to agitated further."*

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 CWPOA No. 1077 of 2019 titled as Nitin Kumar Vs State of H.P. & anr/ CWP No. 5278/2022-titled as Gafoor Mohammad Vs State of HP & others/ CWP No. 5090 of 2022, titled Umesh Jaswal Vs. State of Himachal Pradesh & Ors and all other connected matters whose services have been regularized after 12<sup>th</sup> December, 2003 and whose appointments were made "on contract basis" strictly in accordance with the provisions of contract appointment in the "Recruitment & Promotion Rules" 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 cases of these petitiones are not similar to Nitin Kumar's case and also 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 those petitioners as well as non petitioners whose appointments were made on contract basis strictly in accordance

with the provisions of contract appointment in the Recruitment & Promotion rules are hereby considered and rejected accordingly. It is further ordered that if any such benefits have been extended to any incumbents, same shall stand withdrawn with immediate effect.

All the petitioners are informed accordingly.

  
Director School Education,  
Himachal Pradesh, Shimla-1

EndstNo:Even                      Dated:- Shimla-                      the                      August, 2025

Copy forwarded for information and n/a to:-

1. The Secretary (Edu.) to the Govt. of H.P. w.r.t. their letter No.EDUC-E/05/21/2023 dated 16.05.2025 & 21.08.2025.
2. The District Attorney, Directorate of School Education H.P. Shimla-01, with the direction to prepare/file the replies/compliance affidavit in the Hon'ble High Court of HP in similarly situated cases accordingly.
3. All the Dy. Director of Elementary/Higher Education of HP.
4. All the Principals/Headmasters/Incharge,GSSS/GHS/GMS of HP.
5. The Nodal Officer, IT Cell, Dte. of Ele. Edu. H.P. to upload the same on Departmental website.
6. The Dealing Assistant, Seniority Seat (Internal), Dte. of Elem. Edu. HP.
7. Guard file.

  
Director School Education  
Himachal Pradesh, Shimla-1