

No. PER(AP)-C-B(12)-1/2013
Government of Himachal Pradesh
Department of Personnel (AP-III)

Dated: Shimla-2, the 01-04-2021

From

The Addl. Chief Secretary (Personnel) to the
Government of Himachal Pradesh

To

1. All the Administrative Secretaries to the Government of Himachal Pradesh.
2. All Divisional Commissioners in Himachal Pradesh.
3. All Heads of Departments in Himachal Pradesh.
4. All Deputy Commissioners in Himachal Pradesh.
5. All the Chairpersons/ Managing Directors/ Registrars/ Secretaries of various Corporation/ Boards/ Universities etc. in Himachal Pradesh.

Subject: - Special Leave Petition (Civil) No. 8710 of 2009- R.K. Barwal & ors. versus State of H.P. & ors.

Madam/Sir,

I am directed to refer to this department's letter of even number dated 25.02.2019 on the subject cited above. Para-5(ii) of the same provides, as under:-

(ii)- "In the cases pending for decision before and after 29.12.2008, benefit of counting the past service rendered in the armed forces towards seniority in first civil employment against reserved vacancy in the case of Ex-servicemen who have not joined the Armed forces during the period of emergency may not be given. However, the benefit of counting past service rendered in the armed forces towards pay fixation may be given."

2. Vide Notification(s) No. PER(AP)-C-B(19)-03/96-Vol-VII issued by the Department of Personnel on 29.01.2018, the Demobilized Armed Forces Personnel (Reservation of Vacancies in Himachal State Non-Technical Services) First Amendment Rules, 2018 and Ex-Servicemen (Reservation of Vacancies in the Himachal Pradesh Technical Services) First Amendment Rules, 2018 were notified by substituting the existing sub-rule (1) of the rule 5 of the Demobilized Armed Forces Personnel (Reservation of Vacancies in Himachal State Non-Technical Services) Rules, 1972 & Ex-Servicemen (Reservation of Vacancies in the Himachal Pradesh Technical Services) Rules, 1985, as under:-

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JETA
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Registrar

Handwritten signature:
MTA



"Only the period of approved military service rendered after attaining the minimum age and qualification prescribed for appointment to the service concerned, by the candidate(s) appointed against reserved vacancy under the relevant rules, shall count towards fixation of pay in that service at the time of first civil appointment against reserved vacancy. This benefit shall not be admissible in subsequent appointment(s) of Ex-servicemen who are already employed under the State/Central Government against reserved post(s).

Provided that such fixation of pay will be in accordance with the instructions issued by the Finance Department from time to time."

3. The Hon'ble High Court of Himachal Pradesh while passing final judgment dated 15.07.2020 in CWPOA No. 231 of 2019 a/w No. CWPOA No. 237 of 2019 has held that Notification dated 29.01.2018 does not adversely affect the rights of the petitioners (who were appointed before issuance of this Notification dated 29.01.2018 and were not possessing the minimum qualification at the time of their first civil employment) for the grant of benefit of approved military service towards fixation of pay.

4. In view of the orders passed on dated 15.07.2020 by Hon'ble High Court of Himachal Pradesh in CWPOA No. 231 of 2019 and CWPOA No. 237 of 2019 as well as in light of the prospective applicability of the amended rules notified on dated 29.01.2018, it is clarified that the matters of pay fixation of ex-servicemen pending for decision only upto 29.01.2018 be disposed of in accordance with para-5(ii) of this Department letter of even number dated 25.02.2019 as referred above, allowing benefit of counting past service rendered in the armed forces towards pay fixation without imposing the condition of minimum age and qualification and the settled position may not be unsettled.

5. This clarification may kindly be brought into the notice of all concerned, for strict compliance.

Yours faithfully,

(Om Prakash Bhandari)

Joint Secretary (Personnel) to the
Government of Himachal Pradesh

Phone No-2625097

**DIRECTORATE OF ELEMENTARY EDUCATION
HIMACHAL PRADESH, LALPANI, SHIMLA-171001**

Endorsement No: EDN-H (Ele)A-1/2005-08(128)Vol-1(Personnel) dated:

April, 2021.

Copy for information and necessary action to: -

1. The Joint Director(s), Directorate of Elementary Education, HP Shimla-1.
2. The Joint Controller (F&AS), Directorate of Elementary Education, HP Shimla-1.
3. All the Branch Officer, Directorate of Elementary Education, HP Shimla-1.
4. All the Deputy Director of Elementary Education, Himachal Pradesh.
5. The Drawing and Disbursing Officer, Directorate of Elementary Education, HP Shimla-1.
6. The Section Officer (F&AS), Directorate of Elementary Education, HP Shimla-1.
7. All the Branch Superintendents, Directorate of Elementary Education, HP Shimla-1.
8. The Nodal Officer (IT cell), Directorate of Elementary Education, Himachal Pradesh, Shimla-1 with the remarks to upload the same on departmental website.
9. All the Block Elementary Education Officer, Himachal Pradesh.
10. P.S. to the DEE/P.A. to the Joint Director (Admn.), Dte. of Elem. Edu. H.P. Sml-1.
11. Guard file.

प्रारम्भिक शिक्षा निदेशालय (वि.प्र.)

16 APR 2021

शिमला

(Hitesh Azad) HPAS,
Joint Director (Administration),
Directorate of Elementary Education,
Himachal Pradesh, Shimla-171001,