

No.Fin(C)A(3)-2/ 2013-L
Government of Himachal Pradesh,
Finance (Regulations) Department

From:

The Chief Secretary to the
Government of Himachal Pradesh.

To

1. All the Administrative Secretaries to the
Government of Himachal Pradesh.
2. All the Heads of Departments in H.P.


Dated Shimla-2, the 28th April, 2023.

Subject Clarification regarding retirement age of Class-IV employees
engaged prior to 10-05-2001.

Sir/ Madam,

I am directed to invite your attention to the subject cited above and to say that the State Government, vide notification dated 30th July, 1998, amended the Rule-56 of the Fundamental Rules to the extent that a Government servant in Class-IV service or post, shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years. Thereafter, an amendment was carried out vide notification dated 10th May, 2001 to the effect that all Class-IV Government servants appointed on or after 10.05.2001, shall retire from service on the afternoon of the last day of the month in which he attains the age of 58 years. Vide notification dated 21.02.2018, further amendment in Rule-56 of the Fundamental Rules was carried out and proviso was inserted that a Class-IV Government servant, appointed on part - time / daily wages basis prior to 10-05-2001 and regularized on or after 10-05-2001,

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shall retire from service on the afternoon of the last day of the month in which he attains the age of 60 years. Later on, vide corrigendum dated 10/06/2019, the word 'appointed' was substituted with 'engaged'.

2. The category of Class-IV Government employees, who had been engaged on part time/ daily wages basis prior to 10-05-2001 and regularized on or after 10-05-2001, but had retired before the issuance of notification dated 21.02.2018, approached the High Court and claimed the benefit of notification dated 21.02.2018. One employee, Shri Baldev filed CWP in the Hon'ble High Court, seeking the benefit of notification dated 21.02.2018. The Hon'ble High Court of HP decided the CWP No.2711 of 2017 alongwith CWP(OA) No.2208 of 2020 on 22.02.2022 in his favour and observed as under:-

"There cannot be any discrimination amongst similarly situated Class-IV employees belonging to one homogenous class. Therefore the retirement date, of such of those employees, who had been engaged on daily wage basis prior to 10.05.2001, but regularized after 10.05.2001 and have actually been retired prior to the issuance of notification dated 21.02.2018 at the age of 58 years, shall be deemed to be the date when they otherwise attained the age of 60 years. Since these employees have not actually worked beyond the age of 58 years, therefore, they will not be entitled to the actual monetary benefits of wages/ salary etc. for the period of service from the date of their actual retirement till deemed dates of their retirement. However, they will be entitled to notional fixation of their pay for the period in question for working out their payable pension and payment of consequential arrears of pension accordingly."

These Court orders have been implemented by the A.D.(Forests) in consultation with the advisory departments.

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3. It has come to the notice of this department that there are other cases belonging to Class-IV wherein petitions have been filed in the Hon'ble High Court drawing parity with Sh.Baldev and claiming similar benefits. The Hon'ble High Court has already directed to give the benefit on the basis of the order in the case of Sh.Baldev.

4. After careful consideration, it has been decided that all such cases may be examined by the AD in the light of the ratio laid down in the Baldev's case and if found similar situated, the same may be settled accordingly.

5. These instructions may be brought to the notice of the all concerned for compliance.

Yours faithfully,


28/04/2023

(RAJENDER SHARMA)

Joint Secretary (Finance) to the
Government of Himachal Pradesh
e-mail : finbr3-hp@nic.in
Phone : 0177-2880413


Endst. No.Fin(C)A(3)-2/ 2013-L Dated Shimla-2, the 28th April, 2023

Copy forwarded to:-

1. The Resident Commissioner, Himachal Bhawan Sikandra Road, New Delhi.
2. All the Divisional Commissioners in Himachal Pradesh.
3. The Registrar General, H.P. High Court, Shimla-171001.
4. The Principal Accountant General, Himachal Pradesh, Shimla-3.
5. The Accountant General (A&E), Himachal Pradesh, Shimla-3.
6. The Secretary to the Governor, H.P. Shimla-171002.
7. The Secretary, H.P. Vidhan Sabha, Shimla-171004.

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8. The Secretary, Lokayukta, Pine Grove Building, Shimla-171002.
9. The Secretary, H.P. Public Service Commission, Shimla-171002.
10. All the Deputy Commissioners in Himachal Pradesh.
11. All the District & Sessions Judges in Himachal Pradesh.
12. The Secretary, H.P. State Electricity Regulatory Commission, Shimla.
13. The OSD erstwhile, H.P. Staff Selection Commission, Hamirpur.
14. The Controller, Printing and Stationery Department, Himachal Pradesh,
Shimla-171005
15. Guard File.


28/04/2023

Joint Secretary (Finance) to the
Government of Himachal Pradesh