



**GOVERNMENT OF HIMACHAL PRADESH
DEPARTMENT OF PERSONNEL
Appointment-II**



**HANDBOOK
ON
PERSONNEL MATTERS
Vol-III
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जय राम ठाकुर



**मुख्य मन्त्री
हिमाचल प्रदेश
शिमला-171 002**

संदेश

मुझे इस बात की बेहद प्रसन्नता है कि मेरी सरकार के कार्मिक विभाग (नियुक्ति- I) द्वारा हैंड बुक ऑन परसोनल मैटरज़ के अद्यतन और संशोधित संस्करण लाये जा रहे हैं । इन हैंड बुक्स में मूल रूप से यह विषयसार केन्द्रित है कि सरकार में निर्णय लेने वाले ओर अधिक जागरूक हो विशेषकर जहाँ आदेशो/निदेशों/दिशा-निर्देशों को नियम के रूप में कोडित नहीं किया जा सका है ।

इस पहल और कर्मठ प्रयास के लिए मैं कार्मिक विभाग, इन संस्करणों को तैयार करने वाले संबंधित अधिकारी तथा कर्मचारी को अपनी शुभकामनाएं देता हूँ तथा उम्मीद करता हूँ कि यह संस्करण अंतिम उपयोगकर्ता की अपेक्षाओं को पूर्ण करेंगे ।

(जयराम ठाकुर)

मुख्य मन्त्री, हिमाचल प्रदेश

Ram Subhag Singh, IAS
Chief Secretary
Himachal Pradesh



FOREWARD

The existing versions of Hand Book on Personnel Matters was brought out in the year 1995. The service conditions of Government officers/officials have undergone a major changes and Department of Personnel has issued a number of instructions, notifications, guidelines, and clarifications etc. on different aspects of service matters. There has been a demand for compiling the plethora of orders issued in various subjects on service matters, from time to time.

It gives me great pleasure to note that Department of Personnel (Appointment-II) has brought out the updated and revised versions of the “Handbook on Personnel Matters”.

I congratulate the concerned officer and official for their enormous efforts in preparing the books and also Department of Personnel for coming up with handy reference books that will be of immense use not only to decision making authorities in the State Government but also to government officers/officials, in general.

Prabhod Saxena, IAS
Addl.Chief Secretary (Personnel)
Govt. of Himachal Pradesh



PREFACE

The Department of Personnel under the State Government is the Nodal Departmental in personnel's service matters and rules etc. All relevant notifications/ orders/ guidelines/ instructions/ rules are available on the departmental website i.e. www.himachal.nic.in/personnel, a need was felt to update and revise the existing "Handbooks on Personnel Matters, which were previously brought out in the years 1986 and 1995. Accordingly, it was decided to update the handbooks to provide a compendium of the notifications/orders/instructions, and S. Balbir Singh, HPSS, Under Secretary (Home) to the Government of Himachal Pradesh was asked to undertake the task of updating and revising the existing Handbooks because of his vast knowledge and experience. He alongwith his team worked in tandem to bring out the revised and updated Handbooks.

In the present comprehensive volumes compiled by him, in addition to the new material on subjects already in the earlier handbooks, the new Chapters i.e. "Civil Service Board", "Dispensing with the interviews for Class-III and IV posts/services", "Formation of Difficult Area Sub-cadre" & "Production of Documents" and various instructions on the directions of Hon'ble Court relating to "Dress code", "Presence of Law Officers", "Re-employment/ Extension-in-service" and "Question Bank" etc. and on other subjects have been included.

A departure from the previous editions is that this time the "Handbooks" are in digital format and is being made available on the website of the Department of Personnel. Those responsible for implementing the rules and the government officers/officials would have access to the various orders etc. on the concerned subjects. It is also expected that this would also facilitate

as all updated information would be available in public domain in easy and understandable form. All efforts have been made to make the Handbooks user-friendly.

I would like to place on record the appreciation for fabulous and meticulous work done by S. Balbir Singh, Under Secretary (Home) to the Govt. of H.P whose knowledge of the rules enable the revision of the Handbook. I would also like to record my appreciation of the investigation, other work and word processing done by Mrs. Anjna Thakur, senior Assistant, H.P. Secretariat. The work has been done by the above officer/official with great devotion of duty and in the absence of their efforts it would not have been possible to print the Handbook.

Suggestions for improvement are welcome, and errors and omissions may be sent to Department of Personnel (Appointment-II)[e-mail : persbr2-hp@nic.in].

Place:

Date:



S. Balbir Singh belongs to Paonta Sahib, District Sirmour (H.P.) and born in Dehra Doon in a family of a Police personnel turned into a businessman. He grew up in Dehra Doon/Paonta Sahib and got his education there and Shimla as well. He is a Commerce graduate and obtained diploma and certificate course in other fields. He is fond of playing football, hockey, reading and listening music. The thought of writing never came to his mind. Uniform of forces and President Police Medal awarded to his father always attracted him. He joined H.P. Secretariat as Clerk on 28-07-1988 and remained posted in Department of Personnel (Appointment-II) from the year 1998 to 2018 on different posts and gained necessary experience in service matters, which enabled him to update the present Hand Books. Presently, he is working as Under Secretary (Personnel). He lives in Shimla and Paonta Sahib as well.



Mrs. Anjna Thakur born in scenic hills of Village Jugahan, Sunder Nagar, District Mandi in January, 1979 in a family engaged in the noble profession of teaching. After completing her graduation from MLSM College, Sunder Nagar, B.Ed from Nalbari College, Assam and PG in English from H.P. University, she prepared children to become good citizens by doing the job of a Teacher about 10 years. She joined H.P. Secretariat as a Clerk in the month of October, 2011 and remained posted both in Department of Personnel & Cell for updating the Hand Books on Personnel Matters till the end of August, 2020. Her qualification, experience prior to government service and also in the Department of Personnel dealing with the service/establishment matters etc., zeal/enthusiasm to do and brought the work to a logical end & potentiality helped a lot to do the research assistance/word processing/ compilation, which details an important segment of updation of hand books work.

She is currently working as Senior Assistant in Agriculture branch, H.P. Secretariat and resides in Shimla & Balt, Distt Mandi.

DISCLAIMER

Though all possible care has been taken to ensure accuracy and consistency, in the event of a conflict between the Handbook and Government orders/ instructions on the subject, the latter will prevail. Any information given herein cannot be cited in any dispute or litigation, nor is it a substitute for a legal interpretation/ evidence. The user will be solely responsible for any consequence of the decision taken on the basis of information contained in this Handbook.

It may further be noted that Department of Personnel does not entertain references on service matters directly from Government servants. Any request for clarification/ redressal of grievances etc. should be taken up with the concerned administrative authority.

TABLE OF CONTENTS		
Contents		Page
CHAPTER 26		
FORWARDING OF APPLICATIONS FOR EMPLOYMENT ELSEWHERE		
26.1	The need for instructions	1
26.2	Applicability of Central Governments' instructions in H.P.	1
26.3	Central Government's instructions regarding applications for employment. under Central/State Government	2
26.4	Forwarding of applications of Central Government servants for posts under the State Government - obtaining of undertaking, grant of pay.	7
26.5	Forwarding of applications of Govt. servants for posts in Public Sector undertakings - Retention of lien or resignation from Govt. service.	9
26.6	Forwarding of applications of Govt. servants for posts advertised by foreign embassies in New Delhi.	10
26.7	Forwarding of applications of Government servants involved in disciplinary proceedings.	11
26.8	Forwarding of applications of Central Government servants for posts in Private firms.	12
26.9	Release of Government servants applying for posts etc. in response to the U.P.S.C. advertisements.	13
26.10	Retention of lien	14
26.11	Seniority of permanent/quasi-permanent employees on reversion to the original post.	16
26.12	Termination of lien of permanent Government servants on absorption.	16
26.13	Permanent transfer of Government servants to Govt. Corporations - Grant of retirement benefits.	17
26.14	Forwarding of applications of bonded employees for employment elsewhere.	17
26.15	Forwarding of applications - Provision of Office Manual	19
26.16	Forwarding of applications in certain cases - provisions of CCS (CCA) Rules, 1965	19
26.17	Consolidated instructions on Forwarding of Applications of Government servants for Outside Employment.	21
26.18	Directions regarding issue of No Objection certificate by the Appointing Authority.	21
Annexures to Chapter 26		22

Chapter 27		
VISITS AND TRAINING ABROAD		
27.1	Role of Department of Personnel (Training) in matters relating to training abroad.	69
27.2	Procedure for selection of candidates for technical and other training abroad.	69
27.3	Procedure for selection from 18-9-1968 to 22-7-1990.	69
27.4	Procedure for selection from 23-7-1990 onwards.	72
27.5	Deputation of officers falling within the purview of the Central Establishment Board, Civil Services Board for training abroad	73
27.6	Sponsoring of officers for training programmes abroad under technical assistance from Japan, Australia, New-Zealand and U.K. etc.	76
27.7	Foreign travel of Ministers of State Governments/Union Territories, Members of State Legislatures/ Union Territories and State Govt. officials.	78
27.8	Extension in the period of deputation abroad beyond 5 years.	82
27.9	Competent authority in H.P. to approve deputation/tour abroad.	83
27.10	Submission of nomination forms with complete particulars in time.	83
27.11	Execution of bond by Government servants deputed/allowed to undergo Training Courses.	84
27.12	Stop-over/Stay over in foreign Countries by Indian trainees.	84
27.13	Drawal of foreign exchange towards personal incidentals.	85
27.14	Frequent tours of Administrative Secretaries.	85
27.15	Nomination/forwarding of applications of various Heads of Departments/IAS/HPAS Officers for Foreign training/visits, etc.	86
Annexures to Chapter 27		88
CHAPTER 28		
CENTRAL CIVIL SERVICES (CONDUCT) RULES, 1964 AND INSTRUCTIONS THEREUNDER		
28.1	Applicability	115
28.2	Conduct Rules vis-à-vis the provisions of the Constitution	115
28.3	Provisions of the CCS (Conduct) Rules, 1964 in brief	117
28.4	Government of India's decisions	132

28.5	Himachal Pradesh Government decisions	132
Annexures to Chapter 28		183
CHAPTER 29		
CENTRAL CIVIL SERVICES (CLASSIFICATION CONTROL AND APPEAL) RULES, 1965 AND STATE GOVERNMENT'S ORDERS THEREUNDER		
29.1	Applicability of the Rules	276
29.2	Provisions of the CCS (Classification Control and Appeal) Rules, 1965	276
29.3	The Rules and Government of India's instructions/orders thereunder	284
29.4	Appointing, Disciplinary and Appellate authorities.	285
29.5	Himachal Pradesh Government's decisions and orders	287
Appendices and Annexures to Chapter 29		307
CHAPTER 30		
DEPARTMENTAL EXAMINATIONS		
30.1	Departmental Examination Rules	362
30.2	Provision for passing of Departmental Examination in all Recruitment & Promotion Rules of all Gazetted posts/services.	362
30.3	Departmental Examination rules - w.e.f. 13-03-1997	363
30.4	Pass percentage	364
30.5	Failure to pass the Departmental Examination	364
30.6	Exemptions clause, power to grant exemption and power to relax	364
30.7	Paper and Syllabus	366
Annexures to Chapter 30		367
CHAPTER 31		
FUNCTIONS OF OFFICE OF RESIDENT COMMISSIONER, DELHI		
31.1	Revised functions	385
31.2	Functioning of the Resident Commissioner's Office at Delhi	386

31.3	Restrictions on tour to Delhi – representation through Resident Commissioner	387
31.4	Complete utilisation of the Office of the Resident Commissioner, New Delhi	388
Annexures to Chapter 31		389
CHAPTER 32		
ADMINISTRATIVE INSTRUCTIONS ON TOURS TO DELHI		
32.1	Orders regarding tour to Delhi	399
32.2	Taking of vehicles to Delhi	399
32.3	Tour by Secretaries to the Government and Heads of Departments – presence of the next-in-command at Headquarters	400
32.4	Leave, Training and tour-Instructions regarding absence of Secretaries/Heads of Departments from headquarters	400
32.5	Indication of full address during leave on the leave application	401
32.6	Cut in tour programmes of Officers as Economy measure	401
32.7	Touring by Secretaries/Heads of Departments etc.- Keeping the Ministers informed	402
32.8	Touring by Administrative Secretaries – restrictions thereon	402
32.9	Control over touring of Managing Directors of Corporations	403
32.10	Touring by Administrative Secretaries/Heads of Departments etc. (From 16-05-1998)	403
32.11	Touring by Administrative Secretaries Modification of decision number 32.10	404
32.12	Providing of vehicles to the officers.	404
32.13	Regarding frequent tours of Administrative Secretaries	405
32.14	Approval of tour and travelling by official vehicle	405
Annexures to Chapter 32		406
CHAPTER 33		
DELEGATION OF ADMINISTRATIVE POWERS GENERALLY AND UNDER SINGLE LINE ADMINISTRATION		
33.1	General	417
33.2	Powers delegated to different authorities throughout the State	417
33.3	Single line administration in Pangri Sub-Division of Chamba district	427

33.4	Single line administration in ITDP areas of Kinnaur, Spiti and Bharmour	429
33.5	Single line Administration in Dodra Kwar Sub-Division	433
33.6	Certain orders applicable to Kinnaur, Lahaul and Spiti Districts and Pangi Sub-Division of Chamba District	434
	Annexures to Chapter - 33	437
CHAPTER 34		
DEPUTATION ON ASSIGNMENT ABROAD		
34.1	Pre-revised instructions of Government of India	464
34.2	Deputation on foreign assignment	464
34.3	Foreign posts of Government of India	464
34.4	Bilateral assignments to the Developing Countries	465
34.5	Captive posts of Government of India in the International Organisations	465
34.6	International Assignments	466
34.7	Types of international assignments	466
34.8	Methods of selection and related matters	466
34.9	Ceiling on deputation of assignment	470
34.10	Cooling off requirement	471
34.11	Prescribed levels for nominations	471
34.12	Restrictions on officers dealing with International Organisations in official capacity	471
34.13	Cadre clearance	472
34.14	General guidelines	472
34.15	Fundamental instructions on Foreign Assignment	475
34.16	Instructions on filling up of Foreign/captive posts of the Government of India	495
CHAPTER 35		
MISCELLANEOUS MATTERS		
35.1	Change of name by Government servant	497
35.2	Reconstruction of service and related records - Procedure regarding	498
35.3	Consolidation of instructions issued by various Departments - Action by all Departments	499
35.4	Settlement of pension, gratuity, provident fund and other claims of Retired Government servants	500
35.5	Return from leave	501
35.6	Referring of cases to the Department of Personnel for advice- Procedure regarding	502
35.7	Defending of Government cases in the High Court of Himachal Pradesh - Filing of affidavits and discussions with the Advocate General etc.	502

35.8	Implementation of the decisions of the Courts - Instructions regarding	505
35.9	Procedure for handling petitions relating to personnel matters filed in Courts etc.	506
35.10	Consultation with H.P. Public Service Commission for filling of posts by deputation	507
35.11	Maximum period of deputation of Government servants	508
35.12	Extension of period of deputation of Government Officers/Officials - When Personnel Department need be consulted	509
35.13	Deputation of Officers/Officials to Corporation/ Semi-Government Organisation- Procedure for Reversion	509
35.14	Retention of lien of permanent Government servants on deputation/foreign service to other Government departments, Public Undertakings/ Autonomous bodies etc.	510
35.15	Absorption of staff taken on deputation - Clarification regarding date of absorption, seniority etc.	511
35.16	Permanent absorption of Government employees in the Autonomous bodies - Delegation of powers to the Administrative Deptts./Heads of Departments	512
35.17	Terms of appointment of employees of public sector undertakings on reverse foreign service in Himachal Pradesh	512
35.18	Permission to Government servants to join Territorial Army	512
35.19	Regularisation of services of adhoc appointees	513
35.20	Revision of existing orders regarding casual leave	514
35.21	Initiation of timely action for filling up of vacancies by direct recruitment	514
35.22	Consultation/Advice with H.P. Public service Commission	515
35.23	Abolition of Affidavits	516
35.24	Un-authorized drawal of salaries of employees by the DDOs in various departments in Himachal Pradesh	518
35.25	Participation by State Government Servants in sporting events and tournaments of National and International importance - Grant of special increments for achieving excellence in such events.	520
35.26	Defending the court cases of H.P. Subordinate Services Selection Board, Hamirpur in lower courts.	521
35.27	E-Governance initiatives of H.P. Government.	522

35.28	Timely action for implementation of the orders/directions of the Courts/Tribunals.	523
35.29	Use of words 'Wife of late', 'Zauja Mahroom' as well as 'Dharampatni Swargiya' instead of Widow, Vidhvah, Bevah etc.	523
35.30	Timely action in court cases where blanket stay has been granted by the Court/Tribunal.	523
35.31	Relief to the visually handicapped person in the recruitment procedure	524
35.32	Regarding reply/report on the orders issued from office of Chief Minister.	524
35.33	Correspondence with Governor's Secretariat	524
35.34	Maintaining lists of the names of the officers/officials whose general reputation is not good.	525
35.35	Referring of cases to the Department of Personnel for advice	525
35.36	जन-जातीय क्षेत्रों एवं कठिन क्षेत्रों में अवकाश पर जाने की अवस्था में अतिरिक्त यात्रा दिवसों की सुविधा	525
35.37	Disposal of complaints against Government officers/officials	527
35.38	Conducting of examination once in the year for the posts having same nomenclature	528
35.39	Filing of cases in the Hon'ble High Court application for condonation of delay	529
35.40	Age limit for disengagement of a daily wager.	530
35.41	Requisitions for filling up vacancies through direct recruitment.	530
35.42	Indicating full name in T.R. 1 forms and endorsing of copies	531
35.43	Self-certification of documents by the applicant/stakeholders.	531
35.44	Utilization of services of regular/daily wage/contractual/part-time official by deputing in the houses of officer/officials to do work.	531
35.45	Preceding on earned leave without sanction of competent authority	532
35.46	Issuing of directions for the compliance of Section 39 of Himachal Pradesh Lokayukta Act, 2014 (No. 23 of 2015)	532
35.47	Exemption from passing the typewriting test on Computer in respect of Physically Handicapped selected for the post of Clerks	533

35.48	Directions of the Hon'ble High Court of H.P. regarding ensuring presence of officers in the contempt petitions/court cases	533
35.49	Sanctioning of leave and LTC and assignment of charge in favour of IAS/HPAS/HPSS officers and Heads of Departments	533
35.50	Appointment of a contract employee and maintenance of service record	534
35.51	Providing of reservation to the disabled persons in respect of Class-I to IV posts/services to be filled in by direct recruitment	534
35.52	Forwarding the charge relinquishment and joining report on the TR-I	535
35.53	Publication of notification/orders in official gazette	535
35.54	Prescription of dress code to attend Hon'ble Court and office	536
35.55	grant of relaxation in recruitment rules in favour of Visually Impaired Persons	536
35.56	To sensitize/educate the officers/authorities with regard to procedure/approach required to be followed and adopted in the tender matters	537
35.57	Filling up of vacant posts on merit - Implementation of Vision Document 2017	537
35.58	Special recruitment drive for clearance of backlog and shortfall of Scheduled Castes, Scheduled Tribes, Persons	537
35.59	Official dealings between the Administration and Members of Parliament and State legislatures - Observance of proper procedure	538
35.60	Response to Press report	538
35.61	Appointment on the basis of false/fake caste certificate	539
35.62	Online portal for nomination of participants for HIPA courses	539
35.63	Distribution of urgent dak in Govt. offices	539
35.64	Exemption in Examination fee for the female candidates in the examinations conducted by the HP Public Service Commission and HP Staff Selection Commission Hamirpur	540
35.65	Fair and transparent conduct of recruitment process	540
35.66	Requirement of taking prior permission by Government servants for leaving station/headquarters	542

	during leave or otherwise, especially for visits abroad.	
35.67	Instructions on noting and drafting -	542
35.68	Issuance of Photo Identity Cards to the Government employees	543
35.69	Disposal of Assembly Questions	544
35.70	Question Bank in accordance with the law for examination - Orders of Hon'ble High Court of Himachal Pradesh	545
35.71	Requirement of taking prior permission by government servants for leaving station/ headquarters during leave or otherwise.	545
35.72	Appointments to various posts in Government departments	547
35.73	Passing of speaking orders while dealing with the matter in quasi-judicial capacity	547
35.74	Manav Sampada implementation in all Departments of H.P. Government for keeping up-to-date record of all employees	548
Annexures to Chapter 35		549
CHAPTER 36		
Civil Services Board		
36.1	Constitution of Civil Services Board	699
36.2	Functions of the Civil Services Board	699
Annexures to Chapter 36		700
CHAPTER 37		
Dispensing with interviews in respect of Class-III and IV services/posts		
37.1	Discontinuation of interviews in respect of Class-III and IV services/posts	703
37.2	Clarification regarding 11 parameters for distribution of 15 marks during evaluation of the candidates.	704
37.3	Clarification regarding issuance of certificate.	704
37.4	Clarification regarding issuance of certificate (15-09-2017)	705
37.5	Clarification regarding issuance of certificate (17-11-2020 and 04-02-2021)	705
Annexures to Chapter 37		707

CHAPTER 38		
POLICY GUIDELINES FOR PROVIDING EMPLOYMENT ASSISTANCE TO THE ELIGIBLE DEPENDENTS OF MARTYRS SOLDIERS		
38.1	Policy guidelines dated 23-04-2016	716
38.2	Extension of policy guidelines to martyrs soldiers of Para- Military	717
38.3	Employment assistance to the dependents of soldiers belonging to Himachal Pradesh who lost their lives in Manipur on 04-06-2015.	717
Annexures to Chapter 38		718
CHAPTER 39		
Formation of Difficult Area Sub-Cadre		
39.1	Decision regarding formation of Difficult Area Sub-Cadre	723
39.2	Constitution, Structure and Terms of the Difficult Area Sub-Cadre	723
39.3	Special DPCs for eligible persons and promotion of senior most employee of the sub-cadre posted in the difficult areas on officiating basis	724
39.4	Areas of State identified for Difficult Area Sub-Cadre	725
39.5	Reformulation of Difficult Area Sub-Cadre	725
39.6	Reformulation of Difficult Area Sub-Cadre on 3 rd October, 2016	726
39.7	Formulation of Difficult Area Sub-Cadre – reduction of tenure	727
39.8	Formulation of Difficult Area Sub-Cadre – Enhancement of tenure	727
Annexures to Chapter 39		728
CHAPTER 40		
PRODUCTION OF DOCUMENTS FOR SELECTION IN HIMCHAL PRADESH		
40.1	Decision of the Government not to attach certificates	736
40.2	Revised procedure w.e.f. 07-01-2000	736
40.3	Reiteration of instructions	737
Annexures to Chapter 40		739

CHAPTER 41		
SENIORITY LISTS AND ELIMINATION OF REFERENCES TO CASTES AND SUB CASTES FROM OFFICIAL RECORDS		
41.1	About seniority list	745
41.2	Regarding finalization and issue of seniority lists of the Government employees.	745
41.3	Elimination of references to castes and sub castes in matters connected with the State and its services from official records.	746
Annexures to Chapter 41		747

CHAPTER 26

FORWARDING OF APPLICATIONS FOR EMPLOYMENT ELSEWHERE.

26.1 - The need for instructions

The Government servants applications for posts (Central Services) Rules, 1943 provide that a Government servant who is an applicant for appointment to a post under the Central Govt. shall not be eligible for it unless he has applied with the permission of the Ministry/Head of Department in which he may be serving. The rules also provide that permission to apply for appointment or transfer to a post in another department or office shall not be granted except in such cases and in such circumstances as may from time to time be specified by the Govt. In pursuance of these provisions, the Central Govt. has issued various instructions to regulate the procedure for forwarding of applications of Government servants for employment else-where.

26.2 - Applicability of Central Govt.'s instructions in H.P.

Central Government have been issuing instructions on the subject from the year 1944 onwards and specific detailed instructions for the guidance of administrative authorities were issued by the Central Govt. vide Ministry of Home Affairs O.M. No. 170/51-Ests dated 21-10-1952. These instructions have been further amplified and supplemented from time to time.

Simultaneously the H.P. Government also issued detailed instructions on the same subject vide following communications:-

- (i) Memo No. A-34-9/52 dated 4/5-8-1958.
- (ii) Appointment Deptt. O.M. No. 18-87/63-Apptt. dated 5-2-1965.

Copies of these two communications are at Annexure 26.1 and 26.2.

Though the H.P. Government's instructions were specific and covered by and large the Central Govt's instructions, yet there were certain variations. Moreover, all the instructions of the Central Government continued to be circulated in Himachal Pradesh. This required thorough consideration as to which instructions should be followed in Himachal Pradesh. Final orders were issued by Appointment Deptt. on 27-1-1969 and it was decided that the instructions of the Govt. of India on the subject as are issued from time to time will be applicable to the employees of the Himachal Pradesh Government also. Forwarding of names and particulars of suitable officers for maintaining a panel for posts under the U.N. or with foreign

Governments through the U.N. Agency will not be treated as applications for employment outside Himachal Pradesh.

(H.P. Govt. Appointment Deptt. O.M. No. 12-30/68-Applt-II dated 27-1-1969 Annexure-26.3)

In view of this decision of the Government of HP., the instructions of the Central Govt. in this behalf as adopted and circulated by the State Govt. are applicable in H.P.

26.3 Central Govt.'s instructions regarding applications for employment under the Central/State Governments.

(1) For employment under the same Govt.

In pursuance of the Government servant's applications for posts (Central services) Rules, 1943, the Central Govt. had issued orders vide O.M. No. 189/43-Ests dated 24-11-1944, O.M. No. 20/55/44-Ests dated 5-1-1946 and O.M. Nos. 20/55/44-Ests (S) dated 4-11-1944 and 8-12-1945 which lay down that the Administrative Authorities should ordinarily not refuse to forward applications submitted by Govt. servants for employment elsewhere, which are in response to advertisements issued by the U.P.S.C. or requests officially received from other Departments or where the applicant is temporary and is likely to obtain permanent employment elsewhere. Applications in such cases may be withheld only where the public interest demands it. In cases not covered by the above description, the forwarding of applications is entirely in the discretion of the competent authority.

No hard and fast rules can be laid down and the final decision whether a particular application should be forwarded must rest with the authority through whom the application has to be forwarded. In taking the decision the authority has to balance the interests of the State against the necessity of avoiding hardship to the individual. The general principles to be observed in dealing with such applications are stated below;-

- (i) Applications from permanent Government servants: When a person has been offered and has voluntarily accepted a permanent post or a permanent appointment to a regular service, which offers him the chance of an honorable career with prospects of earning promotion on merits, he is under a moral obligation to devote his energies wholeheartedly to the performance of his duties in that post or service and not to divide his attention and efforts in search for employment elsewhere. He cannot just complain of hardship or harsh treatment if his application for any other post or employment is withheld.

Note: See 26.3(2) below as well.

- (ii) Applications from purely temporary employees: A temporary employee, who has no reasonable prospects of being made permanent, can hardly be blamed if he is on the lookout for better and longer lasting employment. Withholding of his application would result in hardship. Applications from such employees should therefore, be readily forwarded unless there are compelling grounds of public interest for withholding them.
- (iii) Applications from temporary employees likely to become permanent: An employee of this type is somewhere between the types mentioned under (i) and (ii) above and an application from him should, therefore, be dealt with on its own merits, with reference to the circumstances in each case.
- (iv) Applications of employees who have been given special technical training: The State is justified in demanding that, in return for the training given to him at State expense, an employee of this category should continue to give his service to the State in the post or service in which such training was given. He cannot justifiably complain of hardship if he is not allowed to capitalize the special qualifications so gained by seeking other better employment. Withholding of application in such a case is, therefore, justifiable.
- (v) Applications for employment to private business and Industrial firms etc: The rules quoted above do not specially deal with applications of this category. On general grounds, however, it is highly improper for a Government servant to apply without permission for employment in a private business or industrial firm etc. Where a Government servant seeks permission to apply for such employment, he should first offer to resign or retire from Government service. He cannot complain of hardship if he is not granted permission to apply for such employment or if his application is withheld. While a person remains in Government service, the State can legitimately refuse to surrender its claim on his service in favour of a private employer.
- (vi) Overriding consideration of public interest : Notwithstanding anything contained in the preceding paragraph, in a case in which a particular employee cannot be spared without serious detriment to important work in hand, public interest should justify withholding of his application even if otherwise the application would have been forwarded.

It may be added for information that where for food and sufficient reasons an application is withheld, no infringement of any Constitutional right is involved.

(Govt. of India, Ministry of Home Affairs O.M. No. 170/51-Estts dated 21-10-2952, as circulated with H.P. Govt., Department of Personnel O.M. No. 12-50/68-Apptt. dated 9-6-1971-Annexure-26.7.)

(2) Number of opportunities to permanent non-scientific and non technical employees:

The orders of 21-10-1952 {para 26.3 (1) above} vest discretion in the competent authority to withhold applications from permanent Government servants. This matter has been discussed in the Departmental Council of Joint Consultative Body of the Home Ministry. It has been decided that, in regard to permanent non-scientific and non-technical employees of the Government, four opportunities in a year may be given to them to apply in response to Union Public Service Commission advertisement/ notices of Government Departments/Public Sector Undertakings/ Autonomous Bodies except where withholding of any such application is considered by the competent authority concerned to be justified in the public interest.

(Govt. of India Ministry of Home Affairs O.M. No. 5/2/68-Ests (C) dated 6-5-1968 circulated with H.P. Govt. Appointment department letter No. 12-50/68-Apptt-II dated 11-6-1968-Annexure-26.15.)

(3) Number of chances allowed to scientific and technical personnel.

The instructions contained in Ministry of Home Affairs O.M. No. 70/60/62-Ests (A), dated 25th February, 1963 read with O.M. No. 70/10/60-Ests (A), dated 9th May 1960 provide that scientific and technical personnel even if they are holding permanent posts can be permitted to apply for outside posts twice a year.

The matter was reconsidered in 1968 and instructions were issued in MHA O.M. 5/2/68-Ests (C) dated 6th May, 1968 (para 26.3 (2) above) that in regard to permanent non-scientific and non-technical employees of the Government, four opportunities in a year may be given to them to apply for outside posts. These instructions, however, did not apply to scientific and technical personnel who were continued to be allowed only two such opportunities under the O.M. of 25th February 1963. This matter has now been re-examined and it has been decided that as in the case of non-scientific and non-technical employees of the Government, four opportunities in a year may also be given to the permanent and quasi-permanent scientific and technical personnel to apply for outside posts, except where withholding of any such application is considered by the competent authority to be justified in the public interest. There would, however, be no restriction on

the forwarding of applications of purely temporary employees (unless in any particular case there are compelling grounds of public interest for withholding the application), except in the case of a Department/Institution which is entirely temporary or where the Department/Institution employs a large number of scientific personnel in a temporary capacity, where the restriction as in the case of permanent and quasi-permanent employees should be made applicable to the temporary posts also.

In respect of Government servants who have been given technical training at Government expense and who have executed a Bond to serve the Government for a specified period, it would be reasonable to expect that they should continue to serve in the post or service in which such training was imparted till the expiry of the period of such Bond. Applications for outside posts from this category of Government servants may be forwarded by the competent authority only if such Government servants could be relieved before the expiry of the period specified in the Bond, without any detriment to public interest. If however, after forwarding the application, such a Government servant secures an appointment under the State Government/Public Sector Undertaking/Quasi-Government Organisation, the Bond executed by that Government Servant need not be enforced, but a fresh Bond should be taken from him for serving the new employer as provided in MHA O.M. No. 5/10/69-Ests (C) dated 15th April, 1966.

(Govt. of India, Cabinet Secretariat, Department of Personnel O.M. No. 8/15/71-Ests (C) dated 16-9-1971-Annexure-26.20)

(4) Applications submitted otherwise than in response to advertisement or circular:

Applications from Government servants for employment elsewhere and submitted otherwise than in response to advertisement or circulars inviting applications should not be forwarded.

(Govt. of India, MHA O.M. No. 5/3/65-Ests (C), dated 21-12-1965)

(5) State Government's instructions:

(a) Forwarding of applications to H.P.P.S.C. :

The State Govt. have decided that the employees of Himachal Pradesh can send their applications for posts advertised by the H.P. Public Service Commission direct to the Commission, but simultaneous with the sending of the application they will have to send a copy of the application to their head of Department/Head of Office. If the Head of Department/Head of Office has any objection to the application of any employee, then he should send intimation in this behalf to the Public service Commission within 30 days of the last date for the receipt of applications in the Commission. If no information is received

from the Department of the candidate within this period, then it will be presumed by the Commission that the Head of the Department/Head of Office has no objection to the candidature of the employee.

(H.P. Govt. Department of Personnel (A-II) O.M. No. 8-50/68-Niyukti dated 14-06-1979-Annexure-26.5 and letter No. Per(AP-II) -B (2) -19/75 dated 15-11-1975-Annexure - 26.4)

(b) Forwarding of applications for posts outside the Department:

The State Government follows the policy of the Central Government in the matter of forwarding of applications of H.P. Government employees for posts outside the departments. Instructions on this subject provide that applications of a permanent Government servant can be forwarded four times in a year but there are no restrictions on forwarding of applications of temporary Government servants. Although it is discretion of the competent authority to forward such applications outside the Department yet such discretion should be exercised negatively in very exceptional cases where the competent authority finds that such application cannot be forwarded due to compelling grounds in the public interest.

(H.P. Govt. Deptt. of Personnel letter No. 8-50/68-DP (Apptt-II) dated 15-1-1986-Annexure-26.6)

(6) Forwarding of applications to the U.P.S.C. :

Persons already in Govt. service who wish to appear at a competitive examination conducted by the UPSC or wish to apply for a post recruitment to which is proposed to be made by selection through the UPSC may submit their completed applications in the prescribed printed form direct to the Commission. They should, however, immediately inform the Head of their Office/Department giving details of the examination / post for which they have applied requesting him to communicate his permission to the Commission directly. In case the Head of Office/Department considers it necessary to withhold the requisite permission, he should inform the Commission within 30 days of the closing date for the receipt of the applications. In case no such communication is received from the head of Office/Department, it shall be presumed by the Commission that there is no objection on the part of the employing Department to the candidature of the Government employees in question to be considered by the Commission.

(G.I.MHA Deptt. of P & AR O.M. No. 42015/4/78-Estt (C), dated 1-1-1979, & H.P. Govt. O.M. No. 8-50/68-Niyukti-II (Vol-III), dated 14-06-1979 - Annexure 26.5).

26.4 Forwarding of applications of Central Government servants for posts under the State Government procedure for obtaining of undertaking, grant of pay.

The procedure to be followed in respect of Central Government employees who apply for posts under the State Governments on their Own Volition in response to advertisement of circulars including those by the State Public Service Commission will be as follows: -

- (i) The applications may be forwarded subject to the instructions issued by the Central Government from time to time and within the limits laid down for forwarding applications for outside posts.
- (ii) Temporary central Government servants should, as a matter of rule be asked to resign at the time of release from the parent Department/Office. An undertaking from them to the effect that in the event of selection for the posts applied for they will resign from their posts may be taken from them at the time of forwarding the applications.
- (iii) In respect of the permanent and quasi-permanent employees, the terms on which the Central Government servant goes over to a post under a State Government may be settled mutually between the Central Government and the State Government concerned. The permanent Government servants will be governed by the instructions contained in Finance Ministry circular letter No. F-1(56) C/63, dated 16th November, 1967.

The Permanent/quasi-permanent Government servant should either revert to his parent Department/Office within the period of two years or resign from the parent Department/Office at the end of that period.

Quasi-permanent Central Government servants will be allowed to revert within 2 years or at the end of two years, to the posts held by them in the parent departments under the Central Government if the posts held by them continue to exist on the date of their reversion and if they are eventually confirmed in the parent Department/Office, the liability to pay leave salary and pension contribution for the period of service rendered by them in the State Government shall be borne either by the State Government, if the appointment is treated by that Government as on transfer or by the quasi-permanent Government servants themselves.

An undertaking to abide by these conditions may be taken from permanent/quasi-permanent Govt. servants at the time of forwarding their applications.

- (iv) In exceptional cases where it would take some time for the state Government to confirm the Government servant due to administrative reasons, the permanent/quasi-permanent employee may be permitted to retain his lien, quasi-permanent status for one more year. While granting such permission, a fresh undertaking similar to the one in sub-para (iii) above may be taken from the Government servant concerned.
- (v) During the period of two or three years as referred to above, the pay of the Government servant in the ex-cadre post will be fixed in the pay scale of that post and will be subject to the limits prescribed in Ministry of Finance Office Memorandum No. F. 10 (24) -E-III/60, dated 9th March, 1964, in case, where the minimum of the scale of pay of the new post is substantively in excess of his grade pay in the parent department/office and such other orders as have been/may be issued by the Ministry of Finance from time to time. These orders will also be subject to the orders issued by the Ministry of Home Affairs in respect of members of CCS/CSSS/CSCS. However, in cases where the Central Government Servants are selected for appointment to posts under the State Government on the basis of their application in an open competition through the State Public Service Commission, they will be allowed to draw pay in the scale of the post without applying the restriction laid down in the Ministry of Finance Office Memorandum dated 9-3-1964. No deputation allowance as such will be admissible in such cases.
- (vi) Central Government will not accept any liability to pay any retirement benefits or for carry forward of leave for the period of service rendered under them by the temporary/quasi-permanent Central Government servants going over to the State Governments under these orders.

While forwarding the applications to the State Government concerned, it should be clear that the Central Government Servant if selected for appointment will be permitted to join the State Government on the terms and conditions specified.

(GOI., Cabinet Secretariat, Deptt. of Personnel & AR O.M. No. 8/4/70-Ests (C) dated 6-3-1974-Annexure -26.21)

26.5 Procedure for forwarding of applications of Govt. servants for posts in Public Sector Undertakings/Autonomous Bodies etc.–retention of lien or resignation from Govt. service.

Permanent Government servants who are selected for appointment in public sector undertakings or autonomous semi-government organizations on the basis of their applications for such posts should be allowed to retain a lien on their permanent post in their parent office for a period of two years or till they are permanently absorbed in the undertaking etc. whichever is earlier, subject to the following conditions: -

- (i) The leave salary and pension contributions should be paid either by the Undertaking/Organization or by the Government Servant concerned himself ;
- (ii) The pay allowed to him by the Undertaking/Organization should not exceed the limits specified in Ministry of Finance Office Memorandum No. 10 (24)-E-III/60, dated the 9th March, 1964, and such other orders restricting pay on foreign service as may be issued by the Ministry of Finance from time to time;
- (iii) If it is proposed to absorb the Government servant permanently in the Public Sector Undertakings/Autonomous/Semi-Government Organization before the expiry of the period of two years mentioned above, it would be incumbent on the foreign employer to consult the parent office before issuing orders absorbing the Government servant permanently, and the orders of permanent absorption should be issued by the foreign employer only after the resignation of the Government servant has been accepted by the Government and with effect from the date of such acceptance;
- (iv) Since the transfer in such cases is not in the public interest the Government will not accept any retirement benefits or for carry forward of leave for the period of service rendered under the Government.
- (v) If the Government servant is not permanently, absorbed within a period of two years from the date of his appointment in the Public Sector Undertaking/Autonomous/Semi-Government Organization in the manner indicated at (iii) above, he should immediately on expiry of the said period of two years, either resign from Government service or revert to his parent office.
- (vi) In exceptional cases, where it would take some time for the Public Sector Undertaking, autonomous body etc. to permanently absorb such Government servant due to administrative reasons, the permanent Govt. servant may be permitted to retain his lien in the parent Deptt./office for one more year. While

granting such permission, afresh undertaking similar to the one referred to in the following paragraph may be taken from the permanent Govt. servants by the parent department/office. A similar treatment may be accorded to the quasi-permanent employees.

(Clause (vi) added vide GOI MHA OM No. 70/62/62-Ests (A) dated 27-7-1968 to bring uniformity and has been circulated with H.P. Govt. Appointment –II Deptt. vide letter No. 12/50/68-Apptt-II dated 4-10-68-Annexure -26.16)

Applications from permanent Government servants for posts (whether temporary or permanent in Public Sector Undertakings/Autonomous/Semi-Government Organizations should be forwarded only after taking from them a written undertaking accepting the conditions stipulated above and the foreign employer should also be informed of these conditions.

All quasi-permanent employees who apply for posts in the Public Sector Undertakings/Autonomous/semi-Government Organizations should be treated as on Foreign Service with the Undertakings/Organizations for a period of two years and given the same treatment as permanent employees.

The above will not apply to temporary employees who will have to resign from Government service before they are appointed in such Undertakings/ Organizations on the basis of their own applications. It is, therefore, necessary in such cases to obtain from the Government servants concerned before their applications are actually forwarded, an undertaking that in the event of selection for the post applied for, they will resign from Government service.

(Govt. of India Ministry of Home Affairs, O.M. No. 70/62/68-Ests (A) dated 22-1-1966 as circulated with H.P. Govt. Apptt. Deptt. O.M. No. 18/87/63-Apptt. dated 6-4-66. – **Annexure-26.11**)

26.6 Forwarding of applications of Govt. servants for posts advertised by Foreign Embassies in New Delhi.

(a) Forwarding of applications:

It often happens that Government servants are selected for foreign assignments on direct applications in response to advertisements in News-papers. If such applications have not been made through proper channel, the State Governments are not agreeable to retaining a lien on the post of the selected candidates. The Ministry of External Affairs, is, therefore, approached both by the Foreign Government concerned and the applicant himself for

securing his release. Since it is neither desirable to turn down the request of Foreign Governments nor allow Government servants to proceed abroad without prior permission of their respective State Governments, the following procedure should be followed : -

(i) The Candidates should apply through the proper channel and the State Government concerned may forward the application to the Ministry of External Affairs if they so desire for onward transmission to foreign Embassy or Indian Embassy/High Commission abroad; and

(ii) The applicant in cases of extreme urgency, should seek the written permission from the State Government concerned for applying direct to the Foreign Embassy. His application should only be forwarded by him on receipt of this concurrence. A copy of the letter granting permission should be sent to the Ministry of External Affairs (Economic Division/Home Affairs (FAS Selection).

(b) Release in case of Selection: In the event of the selection of the candidate by the Foreign Government, there should be little delay in the release of selected personnel. Selected candidate should be released within thirty days of the receipt of a firm letter of appointment from the foreign employer.

(c) Retention of lien: Normally, a lien is kept on the post of a Government servant who proceeds abroad on deputation. The State Government while according permission to a Government servant to apply for a foreign assignment should determine the permissibility or otherwise of the Government servant under relevant rules and make it clear whether a lien is to be kept on his post or not. This would avoid any controversy on the subject, later when the applicant is selected.

(Govt. of India, Ministry of External Affairs letter No. B 235/93/67 dated 26-4-1968 circulated with H.P. Govt. Appointment-II Deptt. letter No. 18-87/68-Appt.II dated 17-6-1968-Annexure - 26.14)

26.7 Forwarding of application of Government servants involved in disciplinary proceedings

The following decisions have been taken in regard to the forwarding of applications and/or release of the Govt. servants involved in disciplinary proceedings: -

(a) Cases of Government servants who are under suspension or against whom departmental proceedings are pending:

Applications of such Government servants should not be forwarded, nor should they be released for any assignments, scholarship, fellowship, training, etc. under an international

agency organization or a foreign Government. Such Government servants should also not be sent or allowed to go on deputation or Foreign Service to posts under an authority in India.

- (b) Cases of Government servants on whom the penalty of withholding of increments or reduction to a lower stage in a time scale or to a lower time-scale or to a lower service, grade or post has been imposed.

Applications of such Government servants should not be forwarded, nor should they be released during the currency of the penalty, for any assignment under an international agency/organization or a foreign Government. Such Government servants should not be sent or allowed to go, during the currency of the penalty, on deputation or Foreign Service to posts under an authority in India. Even after the expiry of the penalty, it will have to be examined, having regard to the nature of the offence and the proximity of its occurrence, whether the Government servant concerned should be permitted to go on foreign assignment/deputation to another Department/Foreign Service to an authority in India.

(Govt. of India, Ministry of Home Affairs O.M. No. F. 39/17/63-Ests (A) dated 6-9-1968 as circulated with H.P. Govt. Appointment Deptt. letter No. 12-50/68-Apptt-II dated 23-10-1968-Annexure-26.17)

26.8 Forwarding of application of Central Government servants for posts of private firms:

The instructions contained in Ministry of Home Affairs O.M. No. 170/51-Ests., dated 21st October, 1952 provide that a Government servant seeking permission to apply for employment in a private or industrial firm should first offer to resign or retire from Government service. A question has been raised as to whether such a servant could be permitted to apply for a post in the private sector if he gives an undertaking that in the event of his being selected for the post applied for he would resign from Government service or retire there from. It is clarified that a Government servant should make up his mind before he applies for a post in the private sector whether he would resign from Government service or retire there from (if he is entitled to retire from such service by giving three months' notice) and accordingly he should submit his resignation or notice of retirement as the case may be, before applying for private employment. It might take some time for the competent authority to issue a formal order accepting the resignation. Similarly, retirement from service would be effective only on the expiry of the notice period. Therefore, while tendering resignation from Government service or giving the requisite notice of retirement, the Government servant may ask for permission to apply for employment in the private sector

pending the acceptance of resignation or expiry of the notice of retirement, as the case may be. While considering the request for such permission, the competent authority should keep the following points in view:

- (1) In the case of an employee who tenders his resignation, the competent authority should not grant permission to apply for private employment, or accept the resignation unless it is satisfied that his retention in Government service is not necessary in the public interest. In this connection, particular attention is also invited to the Ministry of Home Affairs O.M. 39/17/69-Ests(A), dated 18th June, 1970.
- (2) If it is decided to accept resignation pending the issue of a formal order accepting the resignation after going through the necessary formalities, the Government servant may apply for private employment. There is no question of Government forwarding the application to the private firm. Where it is decided not to accept the resignation, permission to apply for private employment would not be granted to the individual.
- (3) In the case of those who are eligible to give notice of retirement and want to retire from service, they should send the requisite notice of retirement. If they seek permission to apply for private employment during the notice period, the grant of such permission may be accorded by the competent authority. If permission is given, it should be made clear to the individual that the permission for applying for private employment does not imply grant of permission for taking up commercial employment after retirement, which should be governed by the provisions of Article 531-B of CS Rs, where applicable.

(Govt. of India, Cabinet Secretariat Deptt. of Personnel O.M No. 8/7/69-Ests(C) dated 1-11-1970 – **Annexure 26.19**)

26.9 Release of Government servants applying for posts etc. in response to the U.P.S.C advertisements.

Instructions contained in Home Ministry's O.M No. 81/45- Ests. Dated the 5th March, 1945 lay down that where a department or office allows one of its employees to apply for a post advertised by the U.P.S.C it should, ordinarily, release the employee if selected for such a post, provided no unusual circumstances have arisen in the meanwhile.

Where subsequent to the forwarding of the application but before selection by the Commission any very exceptional circumstances arise, in which it may not be possible to release the officer in the event of his selection by the Commission, the fact should be

communicated immediately to the Commission as well as to the officer concerned. It should be particularly noted that cases of this type should be very rare and the decision not to release the officer should be taken only where the circumstances referred to above are really exceptional.

(Govt. of India, Ministry of Home Affairs O.M No. 60/43/64-Ests(A) dated 24-8-1965 circulated with H.P. Govt. Appointment Deptt. O.M. No. 18-87/63 dated 5-10-1965 – Annexure 26.10)

26.10 Retention of lien.

26.10.1 Retention of lien in the parent Department

In the matter of retention of lien of Government servants working in a particular Department/office who apply in response to advertisements or circulars inviting applications for posts in other Central Government Department/Offices the following procedure should be followed:

- (1) The applications may be forwarded in accordance with the instructions issued from time to time.
- (2) In the case of permanent Government servants, their lien may be retained in the parent department/office for a period of two years. They should either revert to the parent department/ office within that period or resign from the parent department/office at the end of that period. An undertaking to abide by these conditions may be taken from them at the time of forwarding the applications to other departments/Offices.
- (3) In the case of quasi-permanent Government servants who wish to revert to the parent department/office within a period of two years, they may be taken back in the parent Department/Office provided the posts held by them prior to their joining the new Department/Office continue to exist. In any case at the end of two years from the date of release from the parent department/office, they will have to resign from the parent Department/office, if reversion does not take place. An undertaking to abide by these conditions may be taken from them at the time of forwarding the applications.
- (4) As for temporary employees, they should as a matter of rule, be asked to resign from the parent department/office at the time of release from the parent department/office. An undertaking to the effect that they will resign from the parent department/office in the event of their selection and appointment to the post applied for, may be taken from them at the time for forwarding the applications.

- (5) In exceptional cases where it would take some time for the other department/office to confirm such Government servants due to the delay in converting temporary posts into permanent ones, or due to some other administrative reasons, the permanent Government servants may be permitted to retain their lien in the parent department/office for one more year. While granting such permission, a fresh undertaking similar to the one indicated in sub-para (2) above may be taken from the permanent Government servants by the parent department/office. A similar treatment may be accorded to the quasi-permanent employees on their giving an undertaking similar to the one indicated in sub-para(3) above.
- (6) During the period of two years referred to in clause (2) and (3) above, the pay of the officer in the ex-cadre post will be fixed in the pay scale of that post and will be subject to the limits prescribed in Ministry of Finance Office Memorandum No. F.10(4)-E-III/60 dated the 9th March, 1964 in cases where the minimum of the scale of pay of the new post is substantially in excess of his grade pay in the parent department and such other orders as may be issued by them from time to time (and subject also, in the case of members of CSS/CSSS/CSCS, to such orders as have been issued by the MHA). No deputation allowance will be admissible in any case.

(Govt. of India, Ministry of Home Affairs O.M. No. 60/37/63-Ests(A) dated 14-7-1967 as circulated with H.P. Govt. Appointment-I Dept. Memo No. 18-87/63-Apptt dated 1-9-1967 – **Annexure 26.12**)

26.10.2 Clarification regarding date of application of orders on para 26.10.1 :

It is clarified that the instructions contained in Ministry of Home Affairs O.M No. 69/37/63-Ests(A) dated 14th July, 1967, do not apply to Central Government servants who went over to posts in the same/other Central Government offices on their own volition before the date of issue of those orders, viz. 14-7-1967, However, in the case of Government servants who went over to ex-cadre posts on their own volition before 14-7-1967, it is open to the parent department to fix a suitable time limit and ask them either to revert to the parent department or resign from their posts within the time limit.

(Govt. of India, Ministry of Home Affairs letter No. 5769/68-Ests dated 17-9-68 to the H.P. Govt. as circulated to Inspector General of Police, H.P. vide Deptt. of Appointment-II letter No. 18-87/63-Apptt-II dated 22-11-1968 - **Annexure 26.18**)

26.11 Seniority of permanent/quasi-permanent employees on reversion to the original post – cases covered under paras 26.5 and 26.10

It is clarified that permanent and quasi permanent employees appointed to posts in the Public Sector Undertakings/Autonomous Bodies on or after 22-1-66 or to other posts under Government on or after 14-7-67 shall be entitled, in the event of reversion to the parent department within the specified period of two years, to the original seniority in the grade/post from which they proceeded on foreign service to the Public Sector Undertakings and autonomous bodies, or on deputation to other posts under Government.

(Govt. of India Ministry of Home Affairs O.M No. 1/6/67-Ests(D) dated 4-9-1967 – Annexure – 26.13)

26.12. Termination of lien of permanent Government servants on absorption

Rule 14-A(a) of the Fundamental Rules, provides that a Government servant's lien on a post may in no circumstances be terminated even with his consent, if the result will be to leave him without a lien or a suspended lien upon a permanent post.

However, F.R. 14-A applies only so long as a Government servant remains in Government service. The proper course in cases where it is proposed to absorb him in non-government service in public interest would be to ask the Government servant concerned to resign his appointment under the Government with effect from the date of such permanent absorption and the lien will stand automatically terminated with the cessation of Government service.

Such resignation from Government service will be without prejudice to the entitlement of the Government servant to the retirement benefits admissible under the Ministry's office Memorandum No. F 2(33)-FVA/60 dated the 10th November, 1960 provided the transfer to the public sector undertakings or Government or Semi-Government corporations is in the public interest.

In all cases where a Government servant is to be absorbed permanently by the foreign employer under his organization, it would be incumbent on him to consult the parent employer before issuing orders absorbing the Government servant in his service. The orders of permanent absorption should be issued only after the resignation of the Government servant has been accepted by the Government and with effect from the date of such acceptance.

(Govt. of India, Ministry of Finance O.M No. F. 4(3)-E-IV/A/63 dated 1-10-63 as circulated with H.P. Govt. Appointment Deptt. O.M. No. 18-87/63-Apptt. dated 7-10-66 - **Annexure 26.9**)

26.13 Permanent transfer of Government servants to Govt. Companies/Corporations – grant of retirement benefits.

Where a Government servant is deputed or transferred to service under a body corporate owned or controlled by Government, or whose services are lent to such a body and is subsequently permanently absorbed under that body, retirement benefits in respect of his previous pensionable service rendered under Government will be regulated by crediting an amount equal to what Government would have contributed had the office been on Contributory Provident Fund terms under Government, together with simple interest thereon at two percent for the period of his pensionable service under Government to his Contributory Provident Fund Account with the autonomous body as an opening balance on the date of permanent absorption. Government's liability in respect of the officer's pensionable service under them will be treated as extinguished by this payment.

The aforesaid decision will apply however, only where the permanent transfer from Government service to an autonomous body is in the public interest and the transfer is to a Government or quasi-Government Corporation and not to a private institution. In all other cases Government will not accept any liability to pay any retirement benefits for the period of service rendered by the Officer before his transfer.

The concession may not be claimed as a matter of right but may be sanctioned at the discretion of Government in individual cases where it is merited.

(Govt. of India, Ministry of Finance O.M No. F.2(33) EVA/60 dated 10-11-1960 – **Annexure 26.8**)

26.14 Forwarding of applications of bonded employees for employment elsewhere.

The instructions contained in Ministry of Home Affairs O.M. No. 70/10/60-stha (ka) dated 9-5-1960 and subsequent instructions [see para 26.3 (3)] provide how applications of Govt. servants who have executed bond for service for specific period in lieu of technical or scientific training at Govt. expense, can be forwarded and how the bond is enforced. The Govt. Servants who resign their job to take up private employment have to refund the amount of the bond. The procedure does not apply to the Govt. servants who are selected for posts in State Govt. or Public Sector Undertakings which are wholly or partially owned by the Central Govt. or State Govt. or Semi- Govt. Organisation. In such cases a fresh bond is obtained for ensuring service under the new employer for the prescribed remaining period of the bond. The instructions contained in Ministry of Finance Govt. Enterprises Bureau O.M. No. BPE/GL/017/77M.N/2(II) BPE (GM-I) dated 13-6-1977 provide that the

conditions of bond for service may not be enforced in the case of an employee of public enterprise who has received scientific/technical training at the expenses of the enterprises, if he takes up an employment under Central Govt., State Govt., Semi-Govt. organization or any other Govt. enterprises, provided a fresh bond is obtained for service with the new employer for the remaining period of the bond.

The above orders do not automatically apply to the employees of the fully or substantially owned/financed/controlled autonomous bodies, despite the fact that such autonomous bodies, normally follows the instructions of the Govt. of India in the matter of service conditions of their employees. It has been decided that the employees of such autonomous bodies which are fully and substantially owned by Central Govt. financed/controlled by them should be allowed the same facility in relaxation of bond as is provided to the employees of the Central Govt. and Central Government enterprises, provided such employees leave the service of the autonomous bodies for taking up employment other than private employment and they execute a fresh bond for service in the Central Govt./ Govt. enterprise for the remaining period of the original bond.

The Department/organisation in which an incumbent has executed the original bond shall, in order to ensure execution of a fresh bond, make a request in this behalf to the Department/Organisation where he wants to serve either at the time of forwarding of application or before relieving him. The Department can also make it clear that the said incumbent will be relieved on this condition that the new bond for service in the new Department/Organization for the remaining period of the original bond is got executed from him. In case the incumbent does not serve the new Department/Organization for the said period or leaves the said Department/Organization for such service where relaxation of filling bond is not available, then proportional sum of the bond should be recovered and sent to the Department in which he had executed the bond. The Department/Organization where such an incumbent joins should intimate to the original Department/Organization that the said incumbent has executed the bond.

These orders will also apply to an employee of Central Govt./ Central Govt. Enterprise/such an autonomous body which is fully or substantially owned by Central Govt. or financed/controlled by it. When selected for such post/service (excluding private employment) for which he had executed a bond in the Department/Organization, before taking over the charge.

(Govt. of India, Ministry of Home Affairs O.M No. 28021/1/84-Stha (ga) dated 14-11-1984, as adopted and circulated with H.P. Government Department of Personnel O.M No. Per(AP.II)B(16)-3/80 dated 14-6-1985 – **Annexure – 26.22**)

26.15 Forwarding of applications – Provision of Office Manual

Applications for outside posts will ordinarily be forwarded at the discretion of the Secretary/Head of the Department/ Head of Office as the case may be. Such applications should be submitted through the Branch/Section-in-charge.

{Para 8.5.2 of Office Manual (Third Edition) April, 2011}

26.16 Forwarding of applications in certain cases – provisions of CCS (CCA) Rules, 1965

PART-IV - SUSPENSION

(5) Government servants involved in disciplinary proceedings:

A case has come to the notice of this Ministry in which the application of a Government servant against whom departmental proceedings were pending was forwarded for an assignment under an international organisation. The propriety of such an action has been considered carefully and the following decisions have been taken:-

- (i) Cases of Government servants who are under suspension or against whom departmental proceedings are pending :-
Applications of such Government servants should not be forwarded, nor should they be released, for any assignment, scholarship, fellowship, training, etc. under an International Agency/Organization or a Foreign Government. Such Government servants should also not be sent or allowed to go on deputation or Foreign Service to posts under an authority in India.
- (ii) Cases of Government servants on whom the penalty of withholding of increments or reduction to a lower stage in a time-scale or to a lower time scale or to a lower service, grade or post has been imposed :-

Applications of such Government servant should not be forwarded, nor should they be released during the currency of the penalty, for any assignment under International Agency/Organization or a Foreign Government. Such Government servants should also not be sent or allowed to go, during the currency of the penalty, on deputation or Foreign Service to posts under an authority in India. Even after the expiry of the penalty, it will have to be examined, having regard to the nature of the offence and the proximity of its occurrence, whether the Government servant concerned should be permitted to go on foreign assignment/deputation to another Department/Foreign Service to an authority in India.

[MHA OM No. 39/17/63-Ests. (A) dated the 6th September, 1968]

(5A) Forwarding of applications for other posts – Principles regarding –

The question regulating the forwarding of applications to the Ministries/Departments /other Government offices or to the UPSC from candidates serving under the Government has been reviewed.

2. It has been decided to consolidate the instructions on the subject. Therefore, the following instructions in supersession of the instructions contained in this Department's OMs No. 11012/10/75-Estt. (A) dated 18.10.1975 and No. 42015/4/78-Estt. (C) dated 01.01.1979 are issued for guidance of all the Administrative Authorities.

3. Application of a Government servant for appointment, whether by Direct Recruitment, transfer on deputation or transfer, to any other post should not be considered/forwarded if :-

- (i) He is under suspension; or
- (ii) Disciplinary proceedings are pending against him and a charge sheet has been issued; or
- (iii) Sanction for prosecution, where necessary has been accorded by the competent authority; or
- (iv) where a prosecution sanction is not necessary, a charge sheet has been filed in a court of law against him for criminal prosecution.

4. When the conduct of a Government Servant is under investigation (by the CBI or by the controlling Department) but the investigation has not reached the stage of issue of charge sheet or prosecution sanction or filing of charge-sheet for criminal prosecution in a court, the application of such a Government servant may be forwarded together with brief comments on the nature of allegations and it should also be made clear that in the event of actual selection of the Government servant, he would not be released for taking up the appointment, if by that time charge sheet for imposition of penalty under CCS (CCA) Rules, 1965 or sanction for prosecution is issued or a charge sheet is filed in a court to prosecute the Government Servant, or he is placed under suspension.

5. Where Government servants apply directly to UPSC as in the case of direct recruitment, they must immediately inform the Head of their office/Department giving details of the examination/post for which they have applied, requesting him to communicate his permission to the Commission directly. If, however, the Head of the Office/Department considers it necessary to withhold the requisite permission, he should inform the Commission accordingly within 45 days of the date of closing for receipt of applications. In case any situation mentioned in para 3 is obtaining, the requisite permission should not be granted and UPSC should be immediately informed accordingly. In case a situation mentioned in para 4 is obtaining, action may be taken to inform UPSC of this fact as also the nature of allegations against the Government servant. It should also be made clear that in the event of actual selection of Government servant, he would not be relieved for taking up the appointment, if the charge sheet/prosecution

sanction is issued or a charge sheet is filed in a court for criminal prosecution, or if the Government servant is placed under suspension.

6. The administrative Ministries/Departments of the Government of India may also note that, in case of Direct Recruitment by selection viz., "Selection by Interview" it is the responsibility of the requisitioning Ministry / Department to bring to the notice of the Commission any point regarding unsuitability of the candidate (Government servant) from the vigilance angle and that the appropriate stage for doing so would be the consultation at the time of preliminary scrutiny i.e. when the case is referred by the Commission to the Ministry/Departments for the comments of the Ministry's Representatives on the provisional selection of the candidates for interview by the Commission.

[Deptt. Of Personnel & Training OM No. AB14017/101/91-Estt. (RR) dated 14th July, 1993 – **Annexure 26.23**]

26.17 Consolidated instructions on Forwarding of Applications of Government servants for Outside Employment.

Govt. of India, Ministry of Personnel, PG and Pensions, Department of Personnel and Training has issued various instructions/guidelines from time to time regarding forwarding of applications of Government Servants for posts outside their own Cadre and consolidated the instructions for guidance of the administrative authorities vide its OM No. 28011/1/2013-Estt(C) dated 23-12-2013 – **Annexure 26.24**

26.18 Directions regarding issue of No Objection certificate by the Appointing Authority.

After observing that the No Objection Certificate are issued by the authorities below the appointing authority which are not considered valid by the H.P. Public Service Commission and problems faced by the concerned incumbent in appearing interview/written examination, the State Government issued direction that the No Objection Certificate be issued by the appointing authority and also be forwarded to HPPSC in time.

(H.P. Govt. Department of Personnel letter No. Karmik (NI-II)B(19)5/90 dated 27-08-1993 - **Annexure 26. 25**)

Annexures to Chapter 26

Forwarding of applications for employment elsewhere

Annexure No.	Details of communications	Page No.
26.1	Memo No. A 34/9/52 dated 4/5-8-1958	24
26.2	O.M. No. 18-87/63-Apptt. Dated 5-2-1965	25
26.3	O.M. No. 12-30/68-Apptt. Dated 27-1-1969	28
26.4	Letter No. Per(AP.II)B(2)-19/75 dated 15-11-1975	29
26.5	O.M. No 8-50/68-Niyukti dated 14-6-1979	30
26.6	Letter No. 8-50/68-DP(Apptt.) dated 15-1-1986	30
Govt. of India's instructions as circulated by H.P. Govt.		
26.7	Ministry of Home Affairs O.M. No. 170/51-Ests dated 21-10-1952 as circulated with H.P. Government Department of Personnel O.M No. 12-50/68-Apptt. Dated 9-6-1971	31
26.8	Ministry of Finance O.M. No.F.2(33)-EVA/60 dated 10-11-1960	34
26.9	Ministry of Finance O.M. No. F-4(3)-EVA/A/63 dated 1-10-1963 as circulated with H.P. Government Department of Personnel O.M No. 18-87/63-Apptt. Dated 7-10-1966	35
26.10	Ministry of Home Affairs O.M No. 60/43/64-ests (A) dated 24-8-1965 with G.O.I Home Deptt. O.M NO. 81/45-Ests dated 5-3-1945	36
26.11	MHA O.M No. 70/62/68-Ests (A) dated 22-1-1966 as circulated with H.P. Government Department of Personnel O.M No. 18/87/63-Apptt. Dated 6-4-1966	38
26.12	MHA O.M No. 60/37/63-Ests (A) dated 14-7-1967 as circulated with H.P. Government Department of Personnel O.M No. 18/87/63-Apptt. Dated 1-9-1967	40
26.13	Ministry of Home Affairs O.M No. 1/6/67-Ests(D) dated 4-9-1967	42
26.14	Ministry of External Affairs letter No. B-235/93/67 dated 26-4-1968 as circulated with H.P. Government Department of Personnel (Appointment-II) letter No. 18-87/68-Apptt.II dated 17-6-1968	42
26.15	Ministry of Home Affairs O.M No. 5/2/68-Ests©dated 6-5-1968 as circulated with H.P. Government letter No. 12-50/1968-Apptt.II dated 11-6-1968	45

26.16	Ministry of Home Affairs O.M No. 70/62/62-Ests(A)dated 27-7-1968 as circulated with H.P. Government letter No. 12-50/68-Apptt.II dated 4-10-1968	45
26.17	Ministry of Home Affairs O.M No. 39/17/63-Ests(A) dated 6-9-1968 as circulated with H.P. Government letter No. 12-50/68-Apptt.II dated 23-10-1968	45
26.18	Ministry of Home Affairs O.M No. 5769/68-Estts dated 17-9-1968 as circulated with H.P. Government letter No. 18-87/63-Apptt.II dated 22-11-1968	46
26.19	G.O.I Cabinet Secretariat Department of Personnel O.M.No. 8/7/69-Ests(c) dated 1-11-1970	47
26.20	G.O.I Cabinet Secretariat Department of Personnel O.M.No. 8/15/71-Ests(c) dated 16-9-1971	49
26.21	G.O.I Cabinet Secretariat Department of Personnel and AR O.M.No. 8/4/70-Ests(C) dated 6-3-1974	50
26.22	Govt. of India. Ministry of Home Affairs O.M. No. 2802/1/84-Stha (ga) dated 14-11-1984 as adopted and circulated with H.P. Government Department of Personnel O.M. No. Per(AP.II)B(16)-3/80 dated 14-6-1985	53
26.23	Deptt. of Personnel & Training OM No. AB 14017/101/91-Estt. (RR) dated 14 th July, 1993	60
26.24	Govt. of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training O.M. No. 28011/1/2013-Estt (c) dated 23 rd December, 2013	62
26.25	H.P. Govt. Department of Personnel letter No. Karmik(NI-II)B(19)5/90 dated 27-08-1993	67

Annexure 26.1

(Copy of Memo No. A-34-9/52, dated the 4/5th August, 1958, from the Chief Secretary Himachal Pradesh, addressed to all Heads of Departments in HP)

(Referred to in Para 26.2)

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Subject: Principles to be observed in forwarding the applications of the employees of the Himachal Pradesh for posts outside their own offices.

Doubts have been expressed by some Departments regarding the procedure to be observed in forwarding the applications of the employees of their Departments for posts outside their own offices. Instructions were issued in this behalf under this Secretariat memo of even number dated 24th March, 1953 and 14th December, 1955. The matter has been reviewed in the light of the doubts and difficulties expressed by the Departments keeping in view the organisational changes which have since taken place. As a result thereof the following fresh instructions are issued in supersession of the previous instructions referred to:-

A. Applications for employment outside Himachal Pradesh

(i) Permanent employees:-

Persons holding permanent, sustentative posts in a cadre, should not, ordinarily, apply for a post outside their cadre, for in almost all cases there are reasonable chances of their securing due promotions in that cadre on principles of seniority-cum-merit or merit-cum-seniority. In their own interest they should rather devote their energies whole heartedly to the performance of their duties in the office of which they are permanent employees and not to divide their attention and make efforts in search for employment elsewhere. Accordingly, their applications for posts outside Himachal Pradesh should not ordinarily be forwarded. In special cases permission may, however, be granted by the Lieut. Governor with reference to applications of Class-I and II officers and by the Heads of Departments concerned with reference to applications made by other Government servant of the Administrations.

(ii) Temporary employees:

A temporary employee who has no reasonable prospects of being made permanent can hardly be blamed if he on the lookout for better employment. Withholding of his application would result in hardship. Applications from such employees should, therefore,

be readily forwarded to the quarter concerned unless there are compelling grounds of public interest for withholding them.

B. Applications for employment within Himachal Pradesh

Applications for employment within Himachal Pradesh both from permanent and the temporary staff should not be withheld, except in exceptional cases e.g., where the employee have been given specialised training at the expense of the Administration.

C. Applications from employees who have been given some special technical training at the expense of the Administration after commencement of service

The Administration is justified in demanding that, in return for the training given to him at the expense of the Administration an employee of this category should continue to give his service to the Administration, in the post or service in which such training was given. He cannot justifiably complain of hardship if he is not allowed to capitalize the special qualifications so gained by seeking other better employment. Withholding of an application in such cases is, therefore, justifiable.

2. Notwithstanding anything contained in the preceding paragraph, in a case in which a particular employee cannot be spared without serious detriment to some important work in hand, public interest would justify the withholding of his application which otherwise would have been forwarded. It may be added for information that where for good and sufficient reasons, an application is withheld; no infringement of any Constitutional right is involved.

Annexure 26.2

Copy of H.P. Government Department of Personnel O.M No. 18-87/63-Apptt. dated 5-2-65 addressed to all Secretaries, Heads of Departments etc.

(Referred to in para 26.2)

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Subject: Principles to be observed in forwarding the applications of the employees of Himachal Pradesh Government for posts within and outside Himachal Pradesh.

Himachal Pradesh is still very much a developing State. Its staff requirements in many fields of development are still very large, and the number of vacancies in most of these spheres of establishment is still considerable. Moreover, the living conditions in the Pradesh, though better than before, are yet much more difficult than in most of parts of the country. This accentuates the dearth of suitable candidates for posts under the Himachal

Pradesh Government, especially in those technical departments in which there is a country-wide deficiency.

These peculiarities of Himachal Pradesh, far more than the general desirability of continuity and stability, make it necessary for restrictions to be imposed on the forwarding of applications. Past experience shows, to our cost, that in a number of cases, employees make service in Himachal Pradesh as the training ground and the stepping stone for jumps into promotion outside the Pradesh far too soon and too frequently, for the Pradesh Government and the Pradesh public to derive their due of the benefit of service by persons whom Himachal Pradesh had provided employment when they were still unemployed and idle and in some cases on whom the Pradesh had spent time and money for specialised training. In a well established staff structure of long standing comings and goings of individuals would not make so much difference as would be made in the case of an establishment which is still young and growing.

On the other hand, an unqualified hindrance in the way of Government employees seeking wider fields and higher spheres for their careers and for rendering their services would be unfair and undesirable from the point of view both of the individual and the country as a whole.

2. In view of the above circumstances, the question of revising the existing instructions/principles with regard to forwarding of applications of the employees of the Govt. of Himachal Pradesh within and outside the Pradesh has been under consideration of the Government for some time past. As a result thereof, it has now been decided to revise the existing instructions/principles as follows:-

- (1) Except where public interest demands otherwise, the forwarding of applications should be the rule rather than the exception.
- (2) Where there is a conflict between public interest and private interest, public interest will come first but the sacrifice of private interest for public interest should be compensated as far as possible.

The following are examples of how amends might be made to the employee whose personal interest has had to be disregarded for the sake of public interest:-

- (a) In deserving cases, where the application is likely to result in selection, the possibilities of equivalent or near-equivalent promotion within the parent department or in some other department within Himachal Pradesh should be immediately explored.

- (b) Regardless of public interest, application should be forwarded with the following frequencies:-
- (i) Thrice a year, when the application is from a temporary employee and for a permanent post within the parent department.
 - (ii) Twice a year, when the application is from a temporary employee and for a permanent post in another department within Himachal Pradesh.
 - (iii) Once a year, when the application is from a temporary employee and for a permanent post in any department in Himachal Pradesh.
 - (iv) Once every two years, when the application is from a permanent employee for a better post in any department in Himachal Pradesh.
 - (v) Once every three years, when the application is from a permanent employee and for a better post outside Himachal Pradesh.
 - (vi) For these frequencies, a quasi-permanent Government servant will be treated a temporary one.

(3) In every event of the forwarding of an application despite public interest to the contrary, it shall be specifically recorded in the very forwarding letter or endorsement that, if selected, the applicant shall be relieved not earlier than one month, but not later than three months.

(4) Every applicant, whose application has been forwarded as prescribed above, in the face of contrary public interest, shall on selection, be relieved, within the aforesaid period of one to three months, only on his tendering a resignation, except where it is in public interest within Himachal Pradesh for a lien to be retained on the Himachal post.

(5) Nothing in the aforesaid principles and rules shall absolve anyone from the liability to fulfill the terms of a bond, if any bond has been executed by the Government servant concerned. Every case covered by a bond shall be an exception to the general rules and principles to the extent that the terms of the bond shall have to be implemented.

It is usual for a bond to provide for a monetary payment in compensation for any deficiency in the specified length of service. If in any bond, there be no such provision, it will be open for a monetary compensation to be agreed upon to enable release from the bond.

(6) The expression "scientific and technical personnel" means persons holding posts or belonging to services which have been declared by competent authority to be scientific or technical posts/services.

(7) The authority to decide whether or not public interest dictates the withholding of an applications shall vest as below:-

- (i) In respect of Class-III and IV employees, in the Head of the Department concerned.
- (ii) In respect of Class-II employees in the Secretary of the Department concerned.
- (iii) In respect of Class-I employees, in the Chief Secretary to the Government.
- (iv) In respect of the officers of the Joint Cadres, the controlling authority, under the rules pertaining to these cadres.

If there be any extreme case of public interest in which an application just cannot be forwarded, the inherent right of the Government to refuse to forward the application will be exercised only by the Cabinet, and in such an event, the application shall be withheld in total disregard of all the concessions and relaxations permitted above, but nevertheless, very reasonable effort shall be made to render due compensation to the Government servant affected.

3. These instructions principles may kindly brought to the notice of all concerned.

4. Kindly acknowledge receipt.

Annexure 26.3

Copy of H.P. Government Appointment Department O.M. No. 12-30/68-Apptt.-II dated the 27th January, 1969 addressed to all Secretaries, Heads of Department etc.

(Referred to in Para 26.2)

Reference to this Department's Office Memorandum No. 18-87/63-Apptt., dated that 5th February, 1965, regarding the principles to be observed in forwarding applications of the employees of the H.P. Government for posts within and outside Himachal Pradesh.

2. After the issue of the said Office Memorandum, instructions on the same subject have been issued by the Govt. of India, Ministry of Home Affairs which have already been circulated amongst all Departments in this Pradesh and which have come into contrast to some of the instructions of this Government. The question was, therefore, reconsidered by the H.P. Government and it has been decided that the instructions of the Govt. of India on

the subject as are issued from time to time will be applicable to the employees of the H.P. Government also.

3. It has further been decided by the Government that forwarding of names and particulars of suitable officers for maintaining a panel for posts under the U.N or with foreign Governments through the U.N Agency will not be treated as applications for employment outside Himachal Pradesh.

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Annexure 26.4

Copy of H.P. Government Department of Personnel letter No. PER(AP-II)B(2)-19/75 dated 15-11-1975 addressed to all Secretaries, Heads of Departments etc.

[Referred to in Para 26.3(5)(a)]

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Subject: Forwarding of applications through proper channel in case of recruitment through Public Service Commission.

I am directed to say that the Himachal Pradesh Public Service Commission has been experiencing certain difficulties in respect of those candidates who appear before the Commission for interviews, and who are required to produce a no objection certificate from their employers or to get the applications made to the Commission routed through their employers. It has been observed that invariably considerable delay takes place on the part of the parent departments in forwarding the applications to the Commission.

The matter has been considered by Government and it has been decided that in future the in service candidates who apply to the Commission for posts advertised by the Commission, should either send a no objection certificate or get their applications sent to the Commission through proper channel, by the last date of receipt of applications which is mentioned in the advertisement. If this is not possible due to the fact that the candidates are stationed in far off places, and consequent delays in postal delivery, etc. are unavoidable, such candidates should positively produce the no objection certificate on the date of their interviews. All candidates who do not furnish the no objection certificate, would be called for the interviews purely on provisional basis, and there would be a stipulation in the interview letter sent to such candidates that in case the no objection certificate is not produced by them on the day of the interview, they will not be allowed to appear before the Interview Board. In cases where the competent authority decides, in his discretion, not to forward the application of a candidate to the Commission i.e. to withhold his candidature, the matter should be intimated to the Commission immediately so that such a candidate may not be interviewed for the post applied for. It is requested that these instructions may kindly be brought to the notice of all concerned and also conveyed to the

authorities subordinate to you/Heads of Offices, who may happen to enjoy these powers. The Commission would be following this new procedure from mid-November, 1975 i.e. all interviews commencing from 15th November, and after.

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vucU/k 26-5

हिमाचल प्रदेश सरकार, कार्मिक विभाग के ज्ञापन संख्या: 8-50/68-नियुक्ति दिनांक 14-6-1979 जोकि सभी सचिवों व विभागाध्यक्षों को प्रेषित है, की प्रतिलिपि ।

(पैरा 26.3 (5) (ए) में उल्लेखित)

विषय: राज्य सरकार के अधीन सेवा कर रहे उम्मीदवारों के आवेदन पत्रों का प्रदेश लोक सेवा आयोग को अग्रेषित किया जाना ।

उपर्युक्त विषय पर अभी तक जारी किये गए अनुदेशों के अनुसार राज्य सरकार के अधीन सेवा कर रहे उम्मीदवारों को हिमाचल प्रदेश लोक सेवा आयोग द्वारा विज्ञापित किए गए पदों के लिए आवेदन-पत्र उचित माध्यम से भेजने पड़ते हैं । सरकार ने इस विषय पर पुनः विचार करने के उपरान्त यह निर्णय लिया है कि अब हिमाचल प्रदेश सरकार के कर्मचारी हिमाचल प्रदेश लोक सेवा आयोग द्वारा विज्ञापित विभिन्न पदों के लिए आवेदन पत्र सीधे आयोग को भेज सकते हैं, परन्तु आवेदन-पत्र भेजने के साथ-साथ उन्हें अपने विभागाध्यक्ष/कार्यालय अध्यक्ष को आवेदन-पत्र की एक नकल भेजनी होगी । यदि विभागाध्यक्ष/कार्यालय अध्यक्ष को किसी कर्मचारी की उम्मीदवारी पर कोई आपत्ति हो तो वह आयोग में आवेदन प्राप्त करने की निर्धारित अन्तिम तिथि से 30 दिन के भीतर इस सम्बन्ध में लोक सेवा आयोग को सूचना भेज देगा । यदि इस अवधि के भीतर उम्मीदवार के विभाग से कोई भी सूचना प्राप्त नहीं होती है तो आयोग यह मान लेगा कि कर्मचारी के विभागाध्यक्ष/कार्यालय अध्यक्ष को उसकी उम्मीदवारी पर कोई आपत्ति नहीं है ।

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Annexure 26.6

Copy of H.P. Government Department of Personnel letter No. 8-50/68-DP (Apptt.-II) dated 15-1-1986 addressed to all Secretaries, Heads of Department etc.

[Referred to in Para 26.3(5)(b)]

Subject : Forwarding of applications of Government servants for posts outside the Department – Instructions regarding.

I am directed to say that you are already aware that the State Government follows the policy of the Central Government in the matter of forwarding of applications of H.P. Government employees for posts outside the departments. Necessary instructions on this subject also stand issued by this department from time to time according to which though such applications of a permanent Government servant can be forwarded four times in a year yet there are no restrictions on forwarding of applications of temporary Government servants. Although it is a discretion of the competent authority to forward such applications outside the department yet such discretion should be exercised negatively in very exceptional cases where the competent authority finds that such application cannot be forwarded due to compelling grounds in the public interest.

2. But it has been brought to the notice of the Government that such applications are not being forwarded by certain competent authorities on flimsy grounds like that the vacancies which would occur on their selections outside the department would not be allowed to be filled up. Since such vacancies can be filled up by the respective departments in consultation with the F.D., this matter should not become an hindrance in forwarding of such applications to the quarter concerned.

3. In view of the position explained above, it is emphasized upon all the competent authorities that such applications may not ordinarily be withheld as it causes hardship to the Government servants who apply for better jobs outside the departments in order to improve their career.

4. The relevant instructions may kindly be brought to the notice of all concerned for guidance and necessary action.

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Annexure 26.7

Copy of Govt. of India, Ministry of Home Affairs O.M. No. 170/51-Estts. Dated the 21st October, 1952 circulated with Government of Himachal Pradesh Department of Personnel O.M No. 12-50/68-Apptt. dated the 9th June, 1971.

[Referred to in Para 26.3(1)]

Subject: Applications of Central Government servants for employment elsewhere – Principles to be observed in considering the question of forwarding.

The Government servant's applications for posts (Central Service) Rules, 1943, provide that a Government servant who is an applicant for appointment to a post under the

Central Govt. shall not be eligible for it unless he has applied with the permission of the Ministry/Head of Department in which he may be serving. The rules also provide that permission to apply for appointment or transfer to a post in another Department or office shall not be granted except in such cases and in such circumstances as may from time to time be specified by the Government. The current orders issued under the Rules in this Ministry's O.Ms

Home Dept. O.M No.189/43-Ests. dated 24th November, 1944.

Home Dept. O.M No.20/55/44-Ests (s) (para 6) dated 4th Nov.,1944

Home Dept. O.M No.497/45-Ests. dated 5th January, 1946

Home Dept. O.M No. 20/25/44-Ests (s) dated 8th December,1945

lay down that the administrative authorities should ordinarily not refuse to forward applications submitted by Government servants serving under them for employment elsewhere, which are in response to advertisements issued by the U.P.S.C., or requests officially received from other departments or where the applicant is temporary Government servant and is likely to obtain permanent employment elsewhere. Applications in such cases be with held only where the public interest demands it. In cases not covered by the above description the forwarding of applications is entirely in the discretion of the competent authority.

2. The question of formulating specific instructions for the guidance of the administrative authorities in dealing with the applications of the Government servants applying for posts and appointments elsewhere has been under consideration for some time past. The conclusion reached is that no hard and fast rules can be laid down in the matter and that the final decision whether a particular application should be forwarded must rest with the authority through whom the application has to be forwarded. In taking the decision the authority has to balance the interests of the State against the necessity or avoiding hardship to the individual. The general principles to be observed in dealing with such applications are stated below:

(i) Applications from permanent Government Servants:

When a person has been offered and has voluntarily accepted a permanent post or a permanent appointment to a regular service, which offers him the chance of an honourable career with prospects of learning, promotions on merits, he is under a moral obligation to devote his energies wholeheartedly to the performance of his duties in that post or service and not to divide his attention and efforts in search for employment elsewhere. He cannot

justify complain of hardship or harsh treatment if his application for any other post or employment is withheld.

(ii) Applications from purely temporary employees:

A temporary employee, who has no reasonable prospects of being made permanent, can hardly be blamed if he is on the lookout for better and longer lasting employment. Withholding of his application would result in hardship. Applications from such employees should, therefore, be readily forwarded unless there are compelling grounds of public interest for withholding them.

(iii) Applications from temporary employees who may have good prospects of being made permanent in due course.

An employee of this type falls somewhere between the types mentioned under (i) and (ii) above and an application from him should, therefore, be dealt with on its own merits, with reference to the circumstances in each case.

(iv) Applications of employees who have been given some special technical training at Government expense after Commencement of Service.

The state is justified in demanding that, in return for the training given to him at State expense an employee of this category should continue to give his service to the State in the post or service in which such training was given. He cannot justifiably complain of hardship if he is not allowed to capitalize the special qualifications so gained by seeking other better employment. Withholding of application in such a case is therefore, justifiable.

(v) Applications of Government servants for employment in private business and industrial firms etc:

The rules quoted do not specially deal with applications of this category. On general grounds, however, it is highly improper for a Government servant to apply without permission for employment in a private business or industrial firm etc. where a Government servant seeks permission to apply for such employment, he should first offer to resign or retire from Government service. He cannot complain of hardship if he is not granted permission to apply for such employment or if his application is withheld. While a person remains in Government service, the State can legitimately refuse to surrender its claim on his service in favour of a private employer.

(vi) Notwithstanding anything contained in the preceding paragraph, in a case in which a particular employee cannot be spared without serious detriment to important work in hand, public interest should justify withholding of his application even if otherwise the application would have been forwarded.

It may be added for information that where for good and sufficient reasons, an application is withheld, no infringement of any Constitutional right is involved.

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Annexure 26.8

Copy of Govt. of India, Ministry of Finance (Deptt. Fo Expenditure) O.M. No. F.2(33)-EVA/60, dated 10th November, 1960.

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(Referred to in para 26.13)

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Subject: Permanent transfer of Government servants to Govt. Companies/Corporations-Grant of retirement benefits.

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The Government of India have had under consideration the question whether a Government servant who is deputed or transferred to service under a body corporate owned or controlled by Government, or whose services are lent to such a body, should, in the event of his permanent absorption in service under that body, be allowed any retirement benefits in respect of his previous pensionable service rendered under Government and if so to what extent and in what form. After careful consideration, the President has been pleased to decide that in such a case, subject to what is stated in paragraph 2 below, an amount equal to what Government would have contributed had the officer been on Contributory Provident Fund terms under Government, together with simple interests thereon at two percent for the period of his pensionable service under Government may be credited to his Contributory Provident Fund Account with the autonomous body as an opening balance on the date of permanent absorption and Governments liability in respect of the officer's pensionable service under them treated as extinguished by this payment.

2. The aforesaid decision will apply however, only where the permanent transfer from Government service to an autonomous body is in the public interest and the transfer is to a Government or Quasi-Government Corporation and not to a private institution. In all other cases Government will not accept any liability to pay any retirement benefits for the period of service rendered by the officer before his transfer.

The concession may not be claimed as a matter of right but may be sanctioned at the discretion of Government in individual cases where it is merited.

3. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders have been issued after consultation with the Comptroller and Auditor General of India.

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Annexure 26.9

Copy of Govt. of India, Ministry of Finance, Department of Expenditure, O.M. No. F.4(3)-E-IV/A/63, dated 1st October, 1963 as circulated with Govt. of H.P., Appointment Department, O.M. No. 18-87/63-Appnt. Dated the 7th October, 1966.

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(Referred to in para 26.12)

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Subject: Termination of lien of permanent Government servants on Foreign Service in the event of their permanent absorption under the foreign employer.

The undersigned is directed to invite a reference to rule 14-A(a) of the Fundamental Rules, which provides that a Government servant's lien on a post may in no circumstances be terminated even with his consent, if the result will be to leave him without a lien or a suspended lien upon a permanent post.

A question has been raised as to what procedure should be followed for terminating the lien of a permanent Government servant who is transferred on Foreign Service and is subsequently absorbed in the service of the foreign employer.

2. It is hereby clarified that F.R. 14-A applies only so long as a Government servant remains in Government service. Obtaining of consent of the Government servant to the termination of lien is necessary in certain circumstances where the Government servant is to be confirmed in another post under Government. Such consent is not necessary in cases where the Government servant ceases to be in Government service. The proper course in such cases, where it is proposed to absorb him in non-government service in public interest, would be to ask the Government servant concerned to resign his appointment under the Government with effect from the date of such permanent absorption and the lien will stand automatically terminated with the cessation of Government service.

Such resignation from Government service will be without prejudice to the entitlement of the Government servants to the retirement benefits admissible under this Ministry's office Memorandum No. F 2(33)-FVA/60 dated the 10th November, 1960 (See Annexure 26.8), provided the transfer to Public Sector undertakings or Government or Semi-Government Corporations is in the public interest.

3. In all cases where a Government servant is to be absorbed permanently by the foreign employer under his organisation, it would be incumbent on him to consult the parent employer before issuing orders absorbing the Government servant permanently in his service. The orders of permanent absorption should be issued only after the resignation of the Government servant has been accepted by the Government and with effect from the date of such acceptance.

4. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders have been issued in consultation with the Comptroller and Auditor General.

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Annexure 26.10

Copy of Government of India, M.H.A. O.M. No. 60/43/64-Ests(A) dated 24-8-65 circulated with H.P. Government Appointment Department O.M. No. 18-87/63-Apptt. dated 5-10-1985.

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(Referred to in para 26.9)

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Subject: Release of Government servants applying for post etc. in response to the U.P.S.C. advertisements.

The undersigned is directed to invite attention to this Ministry's O.M. No. 81/45-Ests, dated the 5th March, 1945 (Copy enclosed) which lays down that where a Department or Office allows one of its employees to apply for a post advertised by the U.P.S.C., it should, ordinarily, release the employee if selected for such a post, provided no unusual circumstances have arisen in the meanwhile.

2. Instances have come to notice where Government employees, whose applications for posts in other departments were forwarded by the Ministry/Department concerned to the U.P.S.C. were not released by the Ministry, Department after their selection by the Commission for such posts, on grounds which could well have been foreseen when the applications were forwarded to the Commission. Such cases cause embarrassment to the

Commission, apart from hardship to the officers concerned. It has accordingly been decided that if the application of an officer has been forwarded to the U.P.S.C., he should be released in the event of his selection by the Commission. While this should be the general rule, where subsequent to the forwarding of the application but before selection by the Commission, any very exceptional circumstances arise, in which it may not be possible to release the officer in the event of his selection by the Commission, the fact should be communicated immediately to the Commission as well as to the officer concerned. It should be particularly noted that cases of this type should be very rare and the decision not to release the officer should be taken only where the circumstances referred to above are really exceptional.

3. The Ministry of Finance etc. may kindly bring these instructions to the notice of all concerned.

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Copy of Office Memorandum No. 81/45-Ests dated the 5th March, 1945 from the Government of India, Home Department to all Departments of the Government of India etc. etc.

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Enclosure to Annexure 26.10

Subject: Release of Government servants whose applications are forwarded by their departments in response to Federal Public Service Commission advertisements after selection by the Commission for appointment in other posts.

The undersigned is directed to say that in a recent case of recruitment by selection by the Federal Public Service Commission, the candidate recommended for appointment was not released by the Department in which he was serving although his application had been forwarded to the Commission by that Department and he was allowed to appear for interview before the Commission. In such a case the time, labour and money of everybody concerned was wasted. While it is realized that exceptional circumstances may occasionally compel a department to refuse to release an employee in the above circumstances, the Government of India consider that the ordinary practice should be that when a department or office allows one of its men to apply for another post advertised by the Commission it should release the man if selected provided that no unusual circumstances have arisen in the meantime.

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Copy of Government of India, Ministry of Home Affairs, O.M. No. 70/62/68-Ests(A), dated the 22nd January, 1966 as circulated with Government of Himachal Pradesh Appointment Department, O.M. No. 18/87/63-Apptt. dated the 6-4-1966.

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(Referred to in para 26.5)

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Subject: Forwarding of applications of Central Government servants- for posts in Public Sector Undertakings, Autonomous Bodies etc.

The undersigned is directed to refer to para 2(V) of Ministry of Home Affairs Office Memorandum No. 170/51-Ests, dated the 21st October, 1952 under which when a government servant seeks permission to apply for employment in private business or industrial firms etc., he should offer to resign or retire from Government service. The question as to what procedure should be followed in respect of permanent Government servants who apply in response to advertisements or circulation of vacancies to government for posts in public sector undertakings whether incorporated or not, which are wholly or substantially owned by the Govt. of India or the State Government and in autonomous Semi-Government organizations, has been under consideration for some time past.

It has been decided that permanent Government servants who are selected for appointment in Public Sector Undertakings or Autonomous Semi-Government Organisations on the basis of their applications for such posts should be allowed to retain a lien on their permanent post in their parent office for a period of two years or till they are permanently absorbed in the undertaking etc. whichever is earlier, subject to the following conditions:

- (i) The leave salary and pension contributions should be paid either by the Undertaking/Organisation or by the Government servant concerned himself;
- (ii) The pay allowed to him by the Undertaking/Organisation should not exceed the limits specified in Ministry of Finance Office Memorandum No. 10(24)-E-III/60 dated the 9th March, 1964 and such other orders restricting pay on foreign service as may be issued by the Ministry of Finance from time to time;
- (iii) If it is proposed to absorb the government servant permanently in the Public Sector Undertaking/Autonomous Semi-Government Organisation before the expiry of the period of two years mentioned above, it would be incumbent on the foreign employer to consult the parent office before issuing orders

absorbing the Government servant permanently and the orders of permanent absorption should be issued by the foreign employer only after the resignation of the Government servant has been accepted by the Government and with effect from the date of such acceptance- vide Ministry of Finance Office Memorandum No. 4(3)-EIV/A/63, dated the 1st October, 1963;

- (iv) Since the transfer in such cases is not in the public interest the Government will not accept any retirement benefits or for carry forward of leave for the period of service rendered under the Government;
- (v) If the Government servant is not permanently absorbed within a period of two years from the date of his appointment in the Public Sector Undertaking/Autonomous Semi-Government Organisation in the manner indicated at (iii) above, he should immediately on expiry of the said period of two years, either resign from Government service or revert to his parent office.

2. In view of the above decision, applications from permanent Government servants for posts (whether temporary or permanent) in Public Sector Undertakings/Autonomous Semi-Government Organisation should be forwarded only after taking from them a written undertaking accepting the conditions stipulated above and the foreign employer should also be informed of these conditions.

3. As regards quasi-permanent employees, it has been decided that all quasi-permanent employees apply for posts in the Public Sector Undertakings/Autonomous Semi-Government Organizations should be treated as on foreign service with the Undertakings/Organizations for a period of two years and given the same treatment as permanent employees, vide paras 1-2 above.

4. These orders do not apply to temporary employees who will have to resign from Government service before they are appointed in such Undertakings/Organizations on the basis of their own applications. It is, therefore, necessary in such cases to obtain from the Government servants concerned before their application is actually forwarded, an undertaking that in the event of selection for the post applied for, they will resign from Government service.

5. The Ministry of Finance etc. may kindly bring the above instructions to the notice of all concerned and also to the Public Sector Undertakings/Autonomous Semi- Government Organizations with which they are administratively concerned.

6. In so far as the officers serving in the Indian Audit and Accounts Department are concerned these orders have been issued after consultation with the Comptroller and Auditor General of India.

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Annexure 26.12

Copy of Government of India, Ministry of Home Affairs, O.M. No. 60/37/63-Ests (A), dated the 14th July, 1967 as circulated with Government of Himachal Pradesh, Appointment (II) Department Memo No. 18-87/63-Apptt. dated the 1st Sept., 1967.

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(Referred to in para 26.10.1)

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Subject: Forwarding of applications of Government servants working in a Department/Office of the Central Government to posts in other Central Government Departments/Offices-Question regarding the retention of lien in the parent Department.

The undersigned is directed to refer to the office Memorandums.

1. M.H.A. O.M. No. 17051-Ests dated 21-10-1952
2. M.H.A. O.M. No. 130/54-Ests (A)-1 dated 28-2-1955
3. M.H.A. O.M. No. 28/3/59-Ests (A) dated 15-6-1959
4. M.H.A. O.M. No. 70/10/60/-Ests (A) Dated 9-5-1960
5. M.H.A. O.M. No. 2/3/65-Ests (C) Dated 21-12-1965

which lay down the circumstances under which application of Government servants working in a Central Government Department/office for posts in either Central Government Departments/Offices/Public Sector and Autonomous Semi-Govt. Organizations/Private Firms may be forwarded. The procedure to be followed (in the matter of retention of lien, restrictions on pay and leave salary and pension contributions) in respect of Government servants who apply for posts in the public sector Undertakings/Autonomous Semi-Government Organizations has been laid down in this Ministry's Office Memorandum No. 70/62/62-Ests (A) dated the 22nd January, 1966. The question as to what procedure should be followed in respect of Government servants working in a particular Department/Office who apply in response to advertisements or circulars inviting applications for posts in other Central Government Departments/Offices has been under consideration for some time past. It has been decided that the following procedure should be followed in respect of such Government servants:-

- (1) The applications may be forwarded in accordance with the instructions contained in the Office Memorandum noted in the margin irrespective of whether the post applied for in the other Department/Office is permanent or temporary.
- (2) In the case of permanent Government servants, their lien may be retained in the parent Department/Office for a period of two years. They should either revert to the parent Department/office within that period or resign from the Parent Department/Office at the end of that period. An undertaking to abide by these conditions may be taken from them at the time of forwarding the application to other Departments/Offices.
- (3) In the case of quasi-permanent Government servants who wish to revert to the Parent Department/Office within a period of two years, they may be taken back in the Parent Department/Office, provided the posts held by them prior to their joining the new Department/Office continue to exist. In any case at the end of two years from the date of release from the parent department/Office, they will have to resign from the Parent Department/Office, if reversion does not take place. An undertaking to abide by these conditions may be taken from them at the time of forwarding the applications.
- (4) As for temporary employees, they should as a matter of rule, be asked to resign from the parent Department/Office at the time of release from the parent Department/Office. An undertaking to the effect that they will resign from the parent department/office in the event of their selection and appointment to the post applied for, may be taken from them at the time of forwarding the applications.
- (5) In exceptional cases where it would take some time for the other Department/Office to confirm such Government servants due to the delay in converting temporary posts into permanent ones, or due to some other administrative reasons, the permanent Government servants may be permitted to retain their lien in the parent Department/Office for one more year. While granting such permission, a fresh undertaking similar to the one indicated in sub-para (2) above may be taken from the permanent Government servants by the parent Department/Office. A similar treatment may be accorded to the quasi-permanent employees on their giving an undertaking similar to the one indicated in sub-para (3) above.
- (6) During the period of two years referred to in clause (2) and (3) above, the pay of the officer in the ex-cadre post will be fixed in the pay-scale of that post and will be subject to the limits prescribed in Ministry of Finance Office Memorandum No. F 10(24)-E-III/60, dated the 9th March, 1964 in cases where the minimum of the scale of pay of the new post is substantially in

excess of his grade pay in the parent Deptt. and such other orders as may be issued by them from time to time (and subject also, in the case of members of CSS/CSSS/CSCS, to such orders as have been issued by the Ministry of Home Affairs). No deputation allowance will be admissible in any case.

2. These instructions are applicable to the employees in all the Departments/Offices of the Government of India (excluding the Ministry of Railways and Civilians in Defence Services). The members of the Central Secretariat service/Central Secretariat Stenographers service/Central Secretariat Clerical service will also be governed by these instructions in supersession of the practice hitherto followed in respect of them.

3. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these instructions are issued in consultation with the Comptroller and Auditor General of India.

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Annexure 26.13

Copy of Govt. of India, Ministry of Home Affairs O.M. No. 1/6/67-Ests. (D) dated 4th September, 1967.

(Referred to in para 26.11)

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Subject: Seniority of permanent/quasi-permanent employees on reversion to the original post.

The undersigned is directed to refer to this Ministry's Office Memorandum Nos. 70/62/62/-Ests. (A), dated 22-1-66 and 60/37/63-Ests (A), dated 14-7-67 (Annexure 26.12) and to clarify that permanent and quasi-permanent employees, referred to in paragraphs 1-3 of the aforesaid Office Memoranda, who may be appointed to posts in the Public Sector Undertakings/autonomous bodies on or after 22-1-66 or to other posts under Government on or after 14-7-67 shall be entitled, in the event of reversion to the parent department within the specified period of two years, to the original seniority in the grade/post from which they proceeded on foreign service to the Public Sector Undertakings and autonomous bodies, or on deputation to other posts under Government.

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Annexure 26.14

Copy of Government of India Ministry of External Affairs letter No. B.235/93/67 dated 26-4-68, as circulated with H.P. Government Department of Appointment-II letter No. 18/87/68 (Apptt.-II) dated the 17th June, 1968, to all Secretaries, Joint Secretaries to the Govt. of Himachal Pradesh, all Heads of Deptts. in H.P. all Deputy Commissioners in H.P.

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(Referred to in para 26.6)

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Subject: Forwarding of applications of Government servants for posts advertised by Foreign Embassies in New Delhi.

This is to bring to your notice the procedure to be followed when employees of State Governments apply for posts advertised by Foreign Embassies in New Delhi. As you would be aware, State Governments are not expected to correspond directly with Foreign Embassies. A procedure has, therefore, to be evolved regarding applications to be made by Government servants working in the different States and to their subsequent release in the event of their selection.

2. It is the policy of the Govt. of India to assist friendly developing countries by the provision of technical personnel. It often happens that government servants are selected for foreign assignments on direct applications in response to advertisements in Newspapers. If such applications, have not been made through proper channel, the State Governments are not agreeable to retaining a lien on the post of the selected candidates.

3. The Ministry of External Affairs is therefore, approached both by the Foreign Government concerned and the applicant himself for securing his release. Since it is neither desirable to turn down the request of foreign Government nor allow government servants to proceed abroad without prior permission of their respective state Government, if it is felt that the following procedure should be followed:

- (i) The candidates should apply through the proper channel and the State Govt. concerned may forward the application to the Ministry of External Affairs if they so desire for onward transmission to foreign Embassy or Indian Embassy/High Commission abroad; and
- (ii) The applicant in cases of extreme urgency should seek the written permission from the State Government concerned for applying directly to the Foreign Embassy. His application should only be forwarded by him on receipt of this concurrence. A copy of the letter granting permission should be sent to the Ministry of External Affairs (Economic Division)/Home Affairs (FAS Selection).

4. Once applications are made through the proper channel, the concurrence of the State Governments is implicit. In the event of the selection of the candidate by the Foreign Governments, there would, therefore, be little delay in the release of selected personnel. Foreign Governments have often complained about inordinate delay between the selection and the departure of personnel in Government service. It is felt that all selected candidates should be released within thirty days of the receipt of a firm letter of appointment from the foreign employer.

5. Normally, a lien is kept on the post of a Government servant who proceeds abroad on deputation. The State Government while according permission to a Government servant to

apply for a foreign assignment should determine the permissibility or otherwise of the government servant under relevant rules and make it clear whether a lien is to be kept on his post or not. This would avoid any controversy on the subject, later when the applicant is selected.

These instructions are being issued in consultation with the Ministry of Home Affairs.

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Annexure 26.15

Copy of Government of India, Ministry of Home Affairs, O.M. No. 5/2/68 Ests (C) dated the 6th May, 1968 as circulated with H.P. Government Appointment Department Letter No. 12-50/68- Apptt-II dated 11-6-1968.

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[Referred to in para 26.3(2)]

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Subject: Applications of Government Servants for employment elsewhere-principles to be observed in considering the question of forwarding.

As the Ministry of Finance etc. are aware, paragraph 1 of this Ministry's O.M. No. 170/51/Ests. dated the 21st October, 1952, inter alia provides that the administrative authorities should ordinarily not refuse to forward applications submitted by Govt. servants serving under them for employment elsewhere, which are in response to advertisements issued by the Union Public Service Commission or requests officially received from other Departments or where the applicant is temporary Government servant and is likely to obtain permanent employment elsewhere. However, the orders of 21st October, 1952 referred to above vested in the competent authority, a discretion to withhold generally, applications from permanent government servants in consideration of the fact that an employee, who was confirmed, was under a moral obligation to devote his energies whole-heartedly to the performance of his duties in this post and he should not devote his attention and efforts in search of employment elsewhere. This matter has been discussed in the Departmental Council of Joint Consultative body of the Home Ministry. As the aforesaid provision in the case of permanent employees causes hardship to them when their applications are withheld on the ground mentioned above, it has been decided that, in regard to permanent non-scientific and non technical employees of the Government four opportunities in a year may be given to them to apply in response to Union Public Service Commission advertisement/notices of Government Departments/Public Sector Undertakings/Autonomous Bodies except where withholding of any such application is considered by the competent authority concerned to be justified in the public interest.

2. Ministry of Finance etc. are requested to bring these instructions to be notice of all authorities under them.

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Copy of Government of India Ministry of Home Affairs, O.M. No. 70/62/62-Ests (A), dated the 27th July, 1968, as circulated with Government of Himachal Pradesh, Appointment-II Department Letter No. 12-50/68-Apptt.- II dated the 4th October, 1968.

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[Referred to in para 26.5]

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Subject: Forwarding of applications of Central Government servants for posts in Public Sector Undertakings, autonomous etc.

The undersigned is directed to refer to the Ministry of Home Affairs Office Memorandum No. 70/62/72-Ests (A), dated the 22nd January, 1966 and to request that the following sub paragraph may be added as sub-para (vi) in paragraph 1 of the said Office Memorandum:

(vi) In exceptional cases, where it would take some time for the Public Sector undertaking, autonomous body etc. to permanently absorb such Government servant due to administrative reasons, the permanent Govt. servant may be permitted to retain his lien in the parent Deptt./Office for one more year. While granting such permission, afresh undertaking similar to the one referred to in paragraph 2 below may be taken from the permanent Govt. servants by the parent Deptt./Office. A similar treatment may be accorded to the quasi-permanent employees.

(The above amendment has been carried out to bring the contents of the M.H.A. O.M. of 22nd January, 1966 in line with the instructions contained in para 1(5) of the M.H.A. O.M. No. 60/37/63-Ests (A), dated the 14th July 1967)

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Copy of Government of India, Ministry of Home Affairs, O.M. No. F.39/17/63-Ests. (A), dated the 6th September, 1968 as circulated with Government of Himachal Pradesh, Appointment Department letter No. 12-50/68-Apptt-II dated the 23rd October, 1968.

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(Referred to in para 26.7)

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Subject: Government servants involved in disciplinary proceedings-forwarding of applications for foreign assignments etc. and sending on deputation of.

A case has come to the notice of this Ministry in which the application of a Government servant against whom departmental proceedings were pending was forwarded for an assignment under an international organization. The propriety of such an action has been considered carefully and the following decisions have been taken:

(a) Cases of Government servants who are under suspension or against whom departmental proceedings are pending:

Applications of such Government servants should not be forwarded, nor should they be released for any assignment, scholarship, fellowship, training, etc. under an international agency, organisation or a foreign Government. Such Government servants should also not be sent or allowed to go on deputation or Foreign Service to posts under an authority in India.

(b) Cases of Government servants on whom the penalty of withholding of incumbents or reduction to a lower state in a time-scale or to a lower service, grade or post has been imposed:

Applications of such Government servants should not be forwarded, nor should they be released during the currency of the penalty, for any assignment under an International Agency/Organisation or a Foreign Government. Such Government servants should not be sent or allowed to go, during the currency of the penalty, on deputation or Foreign Service to posts under an authority in India. Even after the expiry of the penalty, it will have to be examined, having regard to the nature of the offence and the proximity of its occurrence, whether the Government servant concerned should be permitted to go on Foreign assignment/deputation to another Department/Foreign Service to an authority in India.

2. In so far as the personnel serving in the Indian Audit and Accounts Department are concerned these instructions issue after consultation with the Comptroller and Audit General of India.

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Annexure 26.18

Copy of Government of Himachal Pradesh Appointment Department letter No. 18-87/63-Apptt-II, dated 22-11-1968 to the Inspector General of Police, Himachal Pradesh.

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(Referred to in para 26.10.2)

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Subject: Forwarding of Applications of Government servants working in a department/office of the central government to posts in other Central Government departments/Offices- question relation to the retention of lien in the parent department.

I am directed to refer to the correspondence resting with your letter No. A-13/5/67-VI-3698, dated the 4th October, 1968 and to enclose a copy of the Government of India, Ministry of Home Affairs letter No. 5769/68-Ests (C) dated the 17th September, 1968, for information and necessary action.

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Enclosure to Annexure 26.18

Copy of letter No. 5769/68-Estts. (C) dated 17-9-1968 from Government of India, Ministry of Home Affairs to the Government of Himachal Pradesh.

Subject: Forwarding of applications of Government servants working in a department/office of the Central Government to posts in other Central Government departments/offices question relating to the retention of lien in the parent department.

I am directed to refer to your letter No. 18-87/63-Apptt.-II dated 21st August, 1968 on the above subject, and to clarify that the instructions contained in Ministry of Home Affairs O.M No. 69/37/63-Ests(A) dated 14th July, 1967 do not apply to Central Government servants who went over to posts in the same/other Central Government offices on their own volition before the date of issue of those orders, viz. 14-7-1967. However, in the case of Government servants who went over to ex-cadre posts on their own volition before 14-7-1967, it is open to the parent department to fix a suitable time limit and ask them either to revert to the parent department or resign from their post within the time limit.

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Annexure 26.19

Copy of Govt. of India Department of Personnel, (Cabinet Secretariat) O.M. No. 8/7/69-Estts. (C) dated 1st November, 1970.

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(Referred to in para 26.8)

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Subject: Forwarding of applications of Central Government servants for posts in private firms-question whether they should be asked to resign or give notice of retirement from service before applying for a post in private firms.

The undersigned is directed to invite attention to para 2(v) of Ministry of Home Affairs O.M. No. 170/51 Ests., dated 21st October, 1952 (See Annexure 26.7) according to which a Government servant seeking permission to apply for employment in a private or industrial firm should first offer to resign or retire from Government service. A question has been raised as to whether such a servant could be permitted to apply for a post in the private sector if he gives an undertaking that in the event of his being selected for the post applied for he would resign from Government service or retire therefrom. It is hereby clarified that a Government servant should make up his mind before he applies for a post in the private sector whether he would resign from Government service or retire therefrom (if he is entitled to retire from such service by giving three months notice under F.R. 56 (K) or F.R. 56 (m) or rule 2(2) of the Liberalized Pension Rules or under Article 459, Article 465-A of the Civil Service Regulations as the case may be) and accordingly he should

submit his resignation or notice of retirement as the case may be, before applying for private employment. In the case of those who resign from government service, it might take some time for the competent authority to issue a formal order accepting the resignation. Similarly, in the case of those who give notice of retirement from service, retirement would be effective only on the expiry of the notice period. Therefore, while tendering resignation from Government service or giving the requisite notice of retirement, the Government servant may ask for permission to apply for employment in the private sector pending the acceptance of resignation or expiry of the notice of retirement, as the case may be. While considering the request for such permission, the competent authority should keep the following points in view:

- (1) In the case of an employee who tenders his resignation, the competent authority should not grant permission to him to apply for private employment, or accept the resignation unless it is satisfied that his retention in Government service is not necessary in the public interest. In this connection, particular attention is also invited to the Ministry of Home Affairs O.M. 39/17/69-Ests(A), dated 18th June, 1970.
 - (2) If it is decided to accept resignation pending the issue of a formal order accepting the resignation after going through the necessary formalities, the Government servant may apply for private employment. There is no question of Government forwarding the application to the private firm. Where it is decided not to accept the resignation, permission to apply for private employment would not be granted to the individual.
 - (3) In the case of such of those who are eligible to give notice of retirement and who want to retire from service as already stated, they should send the requisite notice of retirement. If they seek permission to apply for private employment during the notice period, the grant of such permission may be accorded by the competent authority. If permission is given, it should be made clear to the individual that the permission for applying for private employment does not imply grant of permission for taking up commercial employment after retirement. The grant of this letter permission would be governed by the provisions of Article 531-B of C S Rs, where applicable.
2. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these instructions issue after consultation with the Comptroller and Auditor General of India.

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Copy of Govt. of India, Cabinet Secretariat, Department of Personnel O.M. No. 8/15/71-Ests (C) dated 16 September, 1971.

[Referred to in Para 26.3(3)]

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Subject: Applications of Government servants for employment elsewhere-Principles to be observed in considering the question of forwarding- Number of chances allowed to scientific and technical personnel.

Attention of Ministry of Finance etc. is invited to Ministry of Home Affairs O.M. No. 70/60/62-Ests (A), dated 25th February, 1963 read with O.M. No. 70/10/60-Ests (A), dated 9th May 1960 under which the scientific and technical personnel even if they are holding permanent posts can be permitted to apply for outside posts twice a year. The outside posts enumerated in the O.M. of 9th May 1960 are posts in Department under the Central Government, posts under a State Government, posts in Public Sector Undertakings, owned wholly or partly by the Central Government or a State Government and posts in Quasi-Government Organizations. Although it had been laid down in MHA O.M. No. 170/51-Ests., dated 21st October 1952 that applications from purely temporary employees should be readily forwarded unless there are compelling grounds of public interest for withholding them, it was clarified in the O.M. of 9th May, 1960 that in case the employing Department or Institution is entirely temporary or where the Department or Institution employs large number of scientific personnel in a temporary capacity, the restriction on the number of applications to be forward should be make applicable to the holders of temporary posts also.

The matter was reconsidered in 1968 and instructions were issued in MHA O.M. 5/2/68-Ests (C) dated 6th May, 1968 that in regard to permanent non-scientific and non-technical employees of the Government, four opportunities in a year may be given to them to apply for outside posts. These instructions, however, did not apply to scientific and technical personnel who were continued to be allowed only two such opportunities under the O.M. of 25th February 1963. This matter has now been re-examined and it has been decided that as in the case of non-scientific and non-technical employees of the Government, four opportunities in a year may also be given to the permanent and quasi-permanent scientific and technical personnel to apply for outside posts, as mentioned in paragraph 1 above except where withholding of any such application is considered by the competent authority to be justified in the public interest. There would, however, be no restriction on the forwarding of applications of purely temporary employees (unless in any particular case there are compelling grounds of public interest for withholding the application), except in the case of a department/Institution which is entirely temporary or where the Department / Institution employs a large number of scientific personnel in a

temporary capacity, where the restriction as in the case of permanent and quasi-permanent employees should be made applicable to the temporary posts also.

In respect of Government servants who have been given technical training at Government expense and who have executed a Bond to serve the Government for a specified period, it would be reasonable to expect that they should continue to serve in the post or service in which such training was imparted till the expiry of the period of such Bond. Applications for outside posts from this category of Government servants may be forwarded by the competent authority only if such Government servants could be relieved before the expiry of the period specified in the Bond, without any detriment to public interest. If however, after forwarding the application, such a Government servant secures an appointment under the State Government/Public Sector Undertaking/Quasi-Government Organization, the Bond executed by that Government Servant need not be enforced, but a fresh Bond should be taken from him for serving the new employer as provided in MHA O.M. No. 5/10/69-Ests (C) dated 15th April, 1966.

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Annexure 26.21

Copy of Government of India, Cabinet Secretariat Department of Personnel and Administrative Reforms O.M. No. 8/4/70-Ests (C) dated 6th March 1974.

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[Referred to in Para 26.4]

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Subject: Forwarding of applications of Central Government servants for posts under the State Government Procedure for.

The undersigned is directed to refer to the Ministry of Home Affairs Office Memoranda

1. No. 70/62-Ests (A), dated 22nd January, 1966
2. No. 60/37/63-Ests (A), dated 14th July, 1967
3. No. 70/62/62-Ests(A), dated 27th July, 1968
4. No. 8/5/68-Ests(C), dated 19th December, 1969
5. No. 8/10/72 Ests (C) dated 9th November, 1972

Which regulate the procedure under which applications submitted by Central Government employees for posts in other Central Government Departments/Offices/Public Sector Undertakings/Autonomous Semi-Government

Organizations may be forwarded and the adjustment of leave salary and pension contribution between the lending and borrowing authorities may be done.

2. The question as to the procedure that should be followed in respect of those Central Government employees who apply for posts under the State Governments on their own volition in response to advertisements or circulars including those by the State Public Service Commission has been under consideration. It has been decided that the following procedure may be adopted in such cases by the administrative authorities:

- (i) The applications may be forwarded subject to the instructions issued by the Central Government from time to time and within the limits laid down for forwarding applications for outside posts.
- (ii) Temporary Central Government servants should, as a matter of rule be asked to resign at the time of release from the parent department/office. An undertaking from them to the effect that in the event of selection for the posts applied for they will resign from their posts may be taken from them at the time of forwarding the applications.
- (iii) In respect of the permanent and quasi-permanent employees, the terms on which the Central Government servant goes over to a post under a State Government may be settled mutually between the Central Government and the State Government concerned. The permanent Government servants will be governed by the instructions contained in Finance Ministry circular letter No. F-1(56) C/63, dated 16th November, 1967.

The permanent/quasi-permanent Government servant should either revert to parent Department/Office within the period of two years or resign from the parent Department/Office at the end of that period.

Quasi-permanent Central Government servants will be allowed to revert within 2 years or at the end of two years, to the posts held by them in the parent departments under the Central Government if the posts held by them continue to exist on the date of their reversion and if they are eventually confirmed in the parent Department/Office, the liability to pay leave salary and pension contribution for the period of service rendered by them in the State Government shall be borne either by the State Government, if the appointment is treated by that Government as on transfer or by the quasi-permanent Government servants themselves.

An undertaking to abide by these conditions may be taken from permanent/quasi-permanent Govt. servants at the time of forwarding their applications.

- (iv) In exceptional cases where it would take some time for the State Government to confirm the Government servant due to administrative reasons, the permanent/quasi-permanent employee may be permitted to retain his lien, quasi-permanent status for one more year. While granting such permission, a fresh undertaking similar to the one in sub-para (iii) above may be taken from the Government servant concerned.

- (v) During the period of two or three years as referred to above, the pay of the Government servant in the ex-cadre post will be fixed in the pay scale of that post and will be subject to the limits prescribed in Ministry of Finance Office Memorandum No. F. 10 (24) –E- III/60, dated 9th March, 1964, in case, where the minimum of the scale of pay of the new post is substantively in excess of his grade pay in the parent Department/Office and such other orders as have been/may be issued by the Ministry of Finance from time to time. These orders will also be subject to the orders issued by the Ministry of Home Affairs in respect of members of CCS/CSSS/CSCS. However, in cases where the Central Government Servants are selected for appointment to posts under the State Government on the basis of their application in an open competition through the State Public Service Commission, they will be allowed to draw pay in the scale of the post without applying the restriction laid down in the Ministry of Finance Office Memorandum dated 9-3-1964.

No deputation allowance as such will be admissible in such cases.

- (vi) Central Government will not accept any liability to pay any retirement benefits or for carry forward of leave for the period of service rendered under them by the temporary/quasi-permanent Central Government servants going over to the State Governments under these orders.

3. These instructions are applicable to the employees in all the Departments/Offices of the Government of India except the Ministry of Railways and Civilians in Defence Services. The members of the Central Secretariat Service/Central Secretariat Stenographers Service/Central Secretariat Clerical Service will also be governed by these instructions in supersession of the practice hitherto followed in respect of them.

4. While forwarding the applications to the State Government concerned, it should be clear that the Central Government Servant if selected for appointment will be permitted to join the State Government on the terms and conditions contained in this Office Memorandum. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these instructions are issued in consultation with the Comptroller and Auditor General of India.

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अनुबन्ध 26.22

हिमाचल प्रदेश सरकार कार्मिक विभाग कार्यालय ज्ञापन संख्या पर (ए. पी.।।) बी(16)-3/80 दिनांक 14-6-1985 जोकि सभी सचिवों, विभागाध्यक्षों को सम्बोधित है, की प्रतिलिपि ।
(पैरा 26.14 में उल्लेखित)

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विषय: जो केन्द्रीय सरकारी कर्मचारी/सरकारी उद्यमों के कर्मचारी अन्यत्र नौकरी प्राप्त करने के उद्देश्यों से नौकरी छोड़ देते हैं उनके सम्बन्ध में बन्धपत्र लागू किये जाने का प्रश्न।

मुझे भारत सरकार, गृह मंत्रालय के कार्यालय ज्ञापन संख्या 28021/1/84-स्था(ग) दिनांक 14-11-1984 की एक प्रतिलिपि उसके अनुलग्नक सहित समस्त विभागों तथा सरकारी उद्यमों को आवश्यक कार्यवाही हेतु भेजने का निर्देश हुआ है। सरकार ने निर्णय लिया है कि उक्त कार्यालय ज्ञापन द्वारा जारी किए गए अनुदेश हिमाचल प्रदेश की सरकारी सेवाओं एवं अर्ध-सरकारी सेवाओं में भी लागू होंगे।

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भारत सरकार, गृह मन्त्रालय के कार्यालय ज्ञापन संख्या: 28021/1/84-स्था(ग) दिनांक 14-11-1984 की प्रतिलिपि जो कि भारत सरकार के सभी मन्त्रालय, विभाग तथा समस्त राज्यों को व अन्य को सम्बोधित है।

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विषय: जो केन्द्रीय सरकारी कर्मचारी/सरकारी उद्यमों के कर्मचारी अन्य नौकरी प्राप्त करने के उद्देश्य से सेवा छोड़ देते हैं, उनके सम्बन्ध में बंधपत्र लागू किए जाने का प्रश्न।

मुझे गृह मंत्रालय के दिनांक 9-5-1960 के कार्यालय ज्ञापन संख्या 70/10/60-स्था(क) अनुबन्ध. 1 का हवाला देने का निर्देश हुआ है। उक्त कार्यालय ज्ञापन में यह उल्लेख है कि जो सरकारी कर्मचारी कोई निजी रोजगार प्राप्त करने के लिए सरकारी सेवा छोड़ देते हैं, उनके मामले में बंधपत्र (जो सरकारी खर्च पर वैज्ञानिक अथवा तकनीकी प्रशिक्षण प्राप्त करने वाले सरकारी कर्मचारियों को इस आशय से निश्पादित करना होता है कि

वे अपना प्रशिक्षण पूरा करने के बाद निर्दिष्ट वर्षों तक सरकारी सेवा करने में असफल रहे तो राशि लौटा देंगे) की शर्तें लागू होंगी। इसके अतिरिक्त गृह मन्त्रालय के दिनांक 15-4-66 के कार्यालय ज्ञापन संख्या एफ. 5/10/66-स्था(ग) (अनुबन्ध-1।) में यह स्पष्ट किया गया था कि ऐसे सरकारी कर्मचारियों के मामले में इस इस पत्र की शर्तें लागू न की जाएं जो कर्मचारी, राज्य सरकार सरकारी क्षेत्र के उपक्रम में जो पूर्णतयः अथवा अंशतः केन्द्रीय सरकार अथवा राज्य सरकार के स्वामित्व में है, अथवा अर्ध सरकारी संगठन में रोजगार प्राप्त करने के लिए सरकारी सेवा छोड़ देते हैं। ऐसे मामलों में ऐसे सरकारी कर्मचारियों से यह सुनिश्चित करने के लिए एक नया बंधपत्र लेना होगा, कि वे नए नियोक्ता के पास बंधपत्र में निर्दिष्ट शेष अवधि तक सेवा करेंगे।

2. इस सम्बन्ध में सरकारी उद्यम ब्यूरो (वित्त मन्त्रालय) के दिनांक 13-6-77 के कार्यालय ज्ञापन संख्या: बी.पी.ई./जी.एल./017/77/एम.ए.एन./2 (11)75 बी.पी.ई.(जी. एम.-1) (अनुबन्ध-1।।) की ओर ध्यान आकृष्ट किया जाता है। उक्त कार्यालय ज्ञापन में यह निर्धारित है कि सरकारी उद्यम के जिस कर्मचारी ने उद्यम के खर्चे पर वैज्ञानिक/तकनीकी प्रशिक्षण प्राप्त किया है, उसके द्वारा निष्पादित बंधपत्र की शर्तें उस अवस्था में लागू नहीं की जाएंगी जबकि यह केन्द्रीय सरकार, किसी राज्य सरकार, अर्ध सरकारी संगठन अथवा किसी अन्य सरकारी उद्यम में कार्य ग्रहण कर लेता है, बशर्ते कि यह सुनिश्चित करने के लिए एक नया बंधपत्र ले लिया जाए, कि कर्मचारी मूल बंधपत्र में निर्धारित अवधि में से बकाया अवधि तक नए नियोक्ता के पास सेवा करता रहेगा।

3. इस विभाग की जानकारी में ऐसे दृष्टान्त आए हैं कि जिनमें बंधपत्र की शर्तें उन कर्मचारियों, जिन्होंने निजी रोजगार के अलावा कोई अन्य रोजगार प्राप्त करने के लिए अपनी सेवा छोड़ी थी, के मामले में भी लागू की गई थी, और उनसे बंधपत्र की आनुपातिक सेवा राशि वापिस करने को भी कहा गया था जबकि विद्यमान अनुदेशों की शर्तों के अनुसार ऐसी राशि वापिस नहीं होनी थी और आवश्यकता केवल यही थी कि ऐसे कर्मचारी को नए नियोक्ता के पास इस आशय का एक नया बंधपत्र निष्पादित करना था कि वह मूल बंधपत्र की शेष अवधि में उनके पास सेवा करता रहेगा। यह स्पष्ट कर दिया जाए कि इन अनुदेशों के प्रयोजनार्थ, केन्द्रीय सरकार, राज्य सरकार, सरकारी उद्यम जो पूर्णतः अथवा अंशतः केन्द्रीय सरकार अथवा राज्य सरकार के स्वामित्व में हैं अथवा एक सवायत्त निकाय जो पूर्णतः अथवा पर्याप्त रूप में केन्द्रीय सरकार अथवा राज्य सरकार के स्वामित्व में है उसके द्वारा वित्तपोषित/नियन्त्रित है, के अधीन सेवा के ईलावा कोई भी नौकरी, निजी रोजगार ही माना जाएगा।

4. जब कि उपर्युक्त पैरा 1 और 2 में संदर्भित अनुदेशों के अन्तर्गत केन्द्रीय सरकार के कर्मचारी और केन्द्रीय सरकारी उद्यमों के कर्मचारी आ जाते हैं, तो भी केन्द्रीय सरकार द्वारा पूर्णतया अथवा पर्याप्त स्वामित्व प्राप्त/वित्तपोषित/नियन्त्रित स्वायत्त निकायों के कर्मचारियों पर ये अनुदेश स्वतः लागू नहीं होते। तथापि इस विभाग के ध्यान में यह बात आई है कि

यद्यपि ऐसे स्वायत्त निकाय अपने कर्मचारियों की सेवा शर्तों के बारे में आमतौर पर भारत सरकार के ही अनुदेशों का पालन करते हैं, फिर भी उपर्युक्त पैरा 1 और 2 में यथासंदर्भित बंधपत्र से छूट देने के बारे में उन पर लागू होने वाले विशेष अनुदेशों के अभाव में कभी-कभी इन कर्मचारियों को अनावश्यक कठिनाईयों में डाला जाता है। विभाग में इस मामले की जांच की गई है और यह निर्णय लिया गया है कि ऐसे स्वायत्त निकायों जो पूर्णतया अथवा पर्याप्त रूप में केन्द्रीय सरकार के स्वामित्व में हैं उनके द्वारा वित्तपोषित/नियन्त्रित हैं, के कर्मचारियों को भी बंधपत्र में छूट देने की वही सुविधा दी जानी चाहिए जो कि केन्द्रीय सरकार और केन्द्रीय सरकारी उद्यमों के कर्मचारियों को उपलब्ध करवाई जाती है, बशर्ते कि ऐसे कर्मचारी उपर्युक्त पैरा 3 में यथोलिखित निजी रोजगार के अलावा कोई और नौकरी करने के लिए स्वायत्त निकाय की सेवा छोड़ते हैं।

5. सारांश में, इस बंधपत्र की शर्तों को जिसे केन्द्रीय सरकार के कर्मचारी, केन्द्रीय सरकार के उद्यम कर्मचारी अथवा एक ऐसे स्वायत्त निकाय, जो पूर्णतया अथवा पर्याप्त रूप में केन्द्रीय सरकार के स्वामित्व में हो/उसके द्वारा वित्तपोषित/नियन्त्रित हों, के कर्मचारी, जिसने सरकार उद्यम/स्वायत्त निकाय के खर्च पर वैज्ञानिक और तकनीकी प्रशिक्षण प्राप्त करके इस आशय का बंधपत्र भरना होता है कि वह अपने प्रशिक्षण के पूरे होने के बाद निर्धारित समयावधि के लिए सरकार/उद्यम/स्वायत्त निकाय में सेवा करने में असफल हो जाने पर प्रशिक्षण खर्च की अदायगी कर देगा ऐसे कर्मचारी पर लागू नहीं किया जाना चाहिए जो सरकार/उद्यम/स्वायत्त निकाय की सेवा करे—उचित अनुमति से केन्द्रीय सरकार और ऐसे सरकारी उद्यम, जो पूर्णतया अथवा अंशतः केन्द्रीय सरकार अथवा राज्य सरकार के स्वामित्व में हैं अथवा एक ऐसे स्वायत्त निकाय जो पूर्णतया अथवा पर्याप्त रूप से केन्द्रीय सरकार के स्वामित्व में हो/उसके द्वारा वित्तपोषित/नियन्त्रित किया जाता हो, के अधीन रोजगार प्राप्त करने के लिए छोड़ देता है। ऐसे मामलों में संबधित व्यक्ति में यह बात सुनिश्चित करने के लिए एक नया बंधपत्र भरवाया जाना चाहिए कि वह मूल बंधपत्र की बकाया अवधि तक नये नियोक्ता के पास काम करता रहेगा।

6. एक संदेह व्यक्त किया गया है कि क्या प्रशिक्षण शब्द में प्रशिक्षता सम्मिलित हो जाती है और क्या इन अनुदेशों में यथानिर्धारित खर्च की वसूली की छूट में, एक व्यक्ति की प्रशिक्षण भत्ते अथवा वजीफे के रूप में की गई अदायगी भी शामिल है। यहां यह स्पष्ट किया जाता है कि ये अनुदेश प्रतिबन्धक नहीं हैं। परन्तु इनमें प्रशिक्षण, जिसमें प्रशिक्षता भी शामिल है, के सभी पहलू आ जाते हैं। इसके अतिरिक्त यह भी स्पष्ट किया जाता है कि खर्च की वसूली में छूट प्रत्यक्ष अथवा अप्रत्यक्ष खर्च, जिसमें प्रशिक्षण भत्ते अथवा बजीफे के रूप में किए गए भुगतान भी शामिल हैं, की सभी किस्मों पर लागू होती है।

7. यह सुनिश्चित करने के लिए कि जहां भी आवश्यक हो, एक व्यक्ति से नया बंधपत्र प्राप्त करने सम्बन्धी सभी अपेक्षाएँ पूरी की जा सकें, सम्बधित विभाग/संगठन इत्यादि, जिसमें कर्मचारी ने मूल बंधपत्र भरा है, किसी और पद के लिए उस कर्मचारी के आवेदन पत्र को

अग्रेषित करने के समय और यदि ऐसा करना सम्भव न हो तो उसे कार्यमुक्त करने से पहले उस विभाग/संगठन इत्यादि को, जिसमें ऐसा कर्मचारी दूसरी नौकरी पर कार्य करना चाहता है, इस आशय का अनुरोध कर सकता है कि इस व्यक्ति को बंधपत्र भरना है, और विभाग यह बात भी स्पष्ट कर सकता है कि इस व्यक्ति के अन्य पद के लिए चयन हो जाने पर इसे इस शर्त पर कार्यमुक्त किया जाएगा कि नया विभाग/संगठन इत्यादि उससे इस उद्देश्य का नया बंधपत्र भरवाएगा कि वह मूल बंधपत्र की शेष अवधि के लिए नये विभाग/संगठन में कार्य करता रहेगा और यदि वह नये विभाग/संगठन में कार्य नहीं कर पाता अथवा मूल बंधपत्र की अवधि तक कार्य करने से पहले ऐसी नौकरी के लिए इसे छोड़ देता है जिसमें बंधपत्र भरने की छूट विद्यमान नहीं है, तो ऐसे व्यक्ति के बंधपत्र राशि का अनुमासिक अंश वसूल करके उस विभाग को वापिस दे दिया जाना चाहिए, जिसमें कि इस व्यक्ति ने मूल रूप में बंधपत्र भरा था। उस मन्त्रालय/विभाग अथवा संगठन को जहां कोई ऐसा नया व्यक्ति भर्ती किया जाता है उस मन्त्रालय/विभाग अथवा संगठन को विधिवत यह तथ्य सूचित कर देना चाहिए कि इस व्यक्ति ने वहां बंधपत्र भर दिया है।

8. ये अनुदेश ऐसे मामलों पर भी लागू होंगे जहां केन्द्रीय सरकार/केन्द्रीय सरकारी उद्यम/एक ऐसा स्वायत्त निकाय, जो पूर्णतया अथवा पर्याप्त रूप में केन्द्रीय सरकार के स्वामित्व में हो/उसके द्वारा वित्तपोषित/नियन्त्रित हो, के कर्मचारी को ऐसे पद/सेवा (निजी रोजगार के अलावा) के लिए चयन किया गया हो, जिसके लिए उस विभाग/संगठन इत्यादि जिसमें उसने बंधपत्र भरा था, में कार्यभार सम्भालने से पहले ही आवेदन पत्र भेज दिया हो।

9. वित्त मन्त्रालय आदि से अनुरोध है कि वे इन अनुदेशों को सभी सम्बंधितों द्वारा कड़ाई से अनुपालन किये जाने के लिए उनकी जानकारी में ला दें।

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अनुबन्ध 26.22 का अनुलग्नक

अनुबन्ध-।

प्रतिलिपि कार्यालय ज्ञापन संख्या 70/10/60-स्था(क) गृह मंत्रालय भारत सरकार, (कार्मिक और प्रशासनिक सुधार विभाग) नई दिल्ली, दिनांक 9 मई, 1960

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विषय: केन्द्रीय सरकारी कर्मचारियों की अन्यत्र नौकरी प्राप्त करने के उद्देश्य से आवेदन पत्रों को अग्रेषित करने के प्रश्न पर विचार करने के लिए अपनाए जाने वाले सिद्धान्त।

[गृह मन्त्रालय का दिनांक 21-10-52 का कार्यालय ज्ञापन सं० 170/51/-स्थापना

गृह मन्त्रालय का दिनांक 28-2-55 का कार्यालय ज्ञापन सं० 20/84-स्थापना

(क) गृह मंत्रालय का दिनांक 6-6-59 का कार्यालय ज्ञापन सं० 28/3/59-स्थापना(क)]

सरकारी कर्मचारियों द्वारा वाह्य पदों के लिए आवेदन पत्र अग्रेषित करने से सम्बन्धित मौजूदा अनुदेश इस मंत्रालय के ऊपरलिखित ज्ञापनों में दिए गए हैं। संक्षेप में कहा जाए तो उक्त आदेशों में यह व्यवस्था है कि उन स्थितियों को छोड़कर, जिनमें लोकहित की दृष्टि से अन्यथा कार्यवाही करना अपेक्षित हो, प्रशासनिक प्राधिकारियों को साधारणतया ऐसे आवेदन पत्र अग्रेषित करने चाहिए जो या तो संघ लोक सेवा आयोग द्वारा जारी किए गए विज्ञापनों के प्रत्युत्तर में दिए गए हों अथवा अन्य विभागों से सरकारी तौर पर प्राप्त हुए अनुरोधों के प्रत्युत्तर में अस्थायी सरकारी कर्मचारियों द्वारा स्थायी पदों के लिए प्रस्तुत किये गये हों। आदेश में यह भी निर्दिष्ट किया गया है कि इस बात का निर्णय करने के लिए कि क्या लोकहित के आधार पर आवेदन पत्र को अग्रेषित किया जाए, अथवा रोक लिया जाए, सक्षम प्राधिकारी को लोकहित और सम्बन्धित व्यक्ति की कठिनाईयों को दूर करने की अपेक्षा के बीच तालमेल बैठाना होगा। एक ओर तकनीकी और वैज्ञानिक कार्मिकों तथा दूसरी तरफ सरकारी कर्मचारियों के अन्य प्रवर्गों के बीच में कोई भेद-भाव नहीं रखा जाना चाहिए।

2. इस प्रश्न पर कि क्या उक्त विषय में सम्बन्धित अनुदेशों में कोई संशोधन किए जाने की आवश्यकता है या नहीं। सरकार द्वारा विचार किया गया है ऐसा समझा जाता है कि मौजूदा व्यवस्थाओं में प्रशासनिक प्राधिकारियों को, जहां तक कि मूल कार्यालय के हितों और सम्बन्धित अधिकारी की अपनी सेवा सम्बन्धी बेहतरी की इच्छा के बीच तालमेल बैठाने के मामले में पर्याप्त विवेकाधिकार मिले हुए हैं। आवश्यकता इस बात की है कि विवेक को केवल विवर्तन न अपना कर न्यायपूर्ण ढंग से अपनाया जाना चाहिए।

3. विभागाध्यक्षों को लोकहित शब्द की पूर्णतः सही अर्थों में विवेचना करनी चाहिए तथा उस धारणा के अध्यधीन आवेदन पत्रों को अग्रेषित करना अपवाद रूप में नहीं बल्कि नियम के रूप में होना चाहिए। साधारणतया प्रत्येक कर्मचारी की वाह्य पदों के लिए आवेदन पत्र भेजने की अनुमति होनी चाहिए भले ही वह स्थाई पद पर ही क्यों न कार्य कर रहा हो, किन्तु यह अनुमति वर्ष में एक बार से अधिक नहीं दी जानी चाहिए। यदि नियोक्ता विभाग अथवा प्रतिष्ठान पूर्णतः अस्थायी स्वरूप का हो अथवा जहां विभाग या प्रतिष्ठान परमाणु उर्जा आयोग की भान्ति बड़ी संख्या में वैज्ञानिक कार्मिकों को अस्थायी तौर पर नियुक्त करता हो यह प्रतिबन्ध अस्थायी पदों पर कार्य कर रहे व्यक्तियों के मामले में भी लागू किया जाना चाहिए।

केन्द्रीय सरकार के अधीन किसी विभाग के पदों, राज्य सरकार के अधीन पदों, केन्द्रीय सरकार अथवा राज्य सरकार के पूर्णतः अथवा अंशतः स्वामित्व के सरकारी क्षेत्र के उद्यमों के पदों और अर्ध सरकारी प्रतिष्ठानों के पदों के लिए प्रस्तुत किये जाने वाले आवेदन पत्रों के बीच कोई भेद-भाव नहीं बरता जाना चाहिए। जहां तक आवेदन पत्रों को अग्रेषित किए जाने

का सम्बन्ध है इन सभी आवेदन पत्रों को एक समान समझा जाना चाहिए। तथापि यदि कोई सरकारी कर्मचारी किसी निजी प्रतिष्ठान के किसी पद पर विशेषकर ऐसे किसी प्रतिष्ठान में जिसके साथ वह सरकारी तौर पर सम्बन्धित रहा हो आवेदन पत्र भेजना चाहता है तो उसे सबसे पहले सरकारी सेवा से त्यागपत्र अथवा सेवा निवृत्ति का प्रस्ताव भेजना चाहिए।

4. सरकार ने इस बात पर भी विचार किया है कि सरकारी खर्च पर वैज्ञानिक अथवा तकनीकी प्रशिक्षण प्राप्त करने वाले सरकारी कर्मचारियों को बंधपत्र निष्पादित करते समय जो यह वचन देना होता है कि यदि वे अपने प्रशिक्षण के पूरा होने के बाद निर्धारित वर्षों की अवधि के लिए सरकार की सेवा करने में असफल रहें तो वे प्रशिक्षण के खर्च की रकम लौटा देंगे— क्या यह शर्त उन सरकारी कर्मचारियों के मामलों में भी लागू की जानी चाहिए जिन्हें उपर्युक्त मार्गदर्शक सिद्धान्तों के अनुसरण में सक्षम प्राधिकारियों द्वारा वाह्य पदों के लिए आवेदन पत्र भेजने की अनुमति दे दी जाती है। यह निर्णय किया गया है कि इस बन्धपत्र की पूर्व शर्तें केवल उन कर्मचारियों के मामले में लागू की जानी चाहिए जो गैर-सरकारी रोजगार प्राप्ति के उद्देश्य से सरकारी सेवा छोड़ते हैं।

5. जहां तक वैज्ञानिक तथा तकनीकी कार्मिकों के मामले में विद्यमान अनुदेशों को लागू किए जाने का प्रश्न है, उक्त अनुदेशों को उपर्युक्त सीमा तक असंशोधित हुआ समझ लिया जाना चाहिए और "वैज्ञानिक तथा तकनीकी कार्मिकों" का आशय ऐसे व्यक्तियों से समझा जाना चाहिए जो ऐसे पदों के धारक अथवा ऐसी सेवाओं से सम्बन्ध हों जिन्हें इस प्रयोजन के लिए स्थापित सचिवों की तदर्थ समिति द्वारा वैज्ञानिक अथवा तकनीकी पद अथवा वैज्ञानिक या तकनीकी सेवाएं घोषित किया गया हो।

अनुबन्ध- ॥

प्रतिलिपि कार्यालय ज्ञापन संख्या: एफ.5/10/66-स्था(ग), भारत सरकार नई दिल्ली, दिनांक 15 अप्रैल 1966।

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विषय: अन्यत्र रोजगार प्राप्त करने के लिए सरकारी कर्मचारियों के आवेदन पत्रों को अग्रेषित करने के प्रश्न पर विचार करते समय अपनाए जाने वाले सिद्धान्त।

मुझे इस मन्त्रालय के दिनांक 9-5-1960 के कार्यालय ज्ञापन संख्या 70/10/60-स्था (क) के पैरा 4 का हवाला देने का निर्देश हुआ है जिसके अनुसार बंधपत्र (जो कि सरकारी खर्च पर वैज्ञानिक अथवा तकनीकी प्रशिक्षण प्राप्त करने वाले सरकारी कर्मचारियों को इस

आशय से निष्पादित करना होता है कि यदि वे अपना प्रशिक्षण पूरा करने के बाद निर्दिष्ट वर्षों तक सरकारी सेवा करने में असफल रहे तो राशि लौटा देंगे) की शर्तें केवल उन्हीं सरकारी कर्मचारियों के मामले में लागू की जानी है जो गैर सरकारी रोजगार प्राप्त करने के उद्येश्य से सरकारी सेवा छोड़ देते हैं। वित्त मन्त्रालय के परामर्श से अब यह निर्णय किया गया है कि जबकि उपर्युक्त बंधपत्र की शर्तें वर्तमान की तरह ऐसे सरकारी कर्मचारियों के मामले में न लागू की जाएं जो कि किसी राज्य सरकार के अधीन केन्द्रीय सरकार अथवा किसी राज्य सरकार के अधीन, केन्द्रीय सरकार अथवा किसी राज्य सरकार के पूर्ण अथवा आंशिक स्वामित्व वाले सरकारी क्षेत्र के किसी उपक्रम के अधीन अथवा अर्ध-सरकारी प्रतिष्ठानों के अधीन रोजगार प्राप्त करने के लिए सरकारी सेवा त्याग देते हैं, तो भी ऐसे सरकारी कर्मचारियों से यह सुनिश्चित करने के लिए एक नया बंधपत्र लेना होगा कि वे नए नियोक्ता अर्थात् राज्य सरकार/उपक्रम/प्रतिष्ठान में तीन से पांच वर्ष की अवधि के लिए सेवा करेंगे और प्रत्येक मामले में वास्तविक अवधि का निर्धारण मन्त्रालय विभाग द्वारा उनके प्रशिक्षण पर खर्च की गई राशि को ध्यान में रखकर किया जाएगा।

मन्त्रालयों इत्यादि से अनुरोध है कि वे उपर्युक्त अनुदेशों को सभी सम्बन्धितों की जानकारी में लायें।

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अनुबन्ध-III

प्रतिलिपि पत्र संख्या: वी. पी.ई.जी.एल.-017/17/एम.ए.एन/2(11)/75 वी.पी.ई.जी.एम. (1), दिनांक 13 जून, 1984, प्रेषक एस. कृष्णमूर्ति, संयुक्त निदेशक भारत सरकार, नई दिल्ली, प्रेषित भारत सरकार के सभी मन्त्रालय/विभाग तथा अन्य।

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विषय: सार्वजनिक क्षेत्रों के उद्यमों के ऐसे कर्मचारियों के सम्बन्ध में बंधपत्रों का भरा जाना जो एक उपक्रम को छोड़कर अन्य उपक्रम /सरकार का कार्यभार ग्रहण करते हैं।

सरकार के ध्यान में ऐसे मामले आए हैं जहां सार्वजनिक क्षेत्र के ऐसे कर्मचारियों से, जो अखिल भारतीय सेवाओं अथवा केन्द्रीय/राज्य सरकार की सेवाओं के लिए संघ लोक सेवा आयोग, राज्य लोक सेवा आयोगों के माध्यम से अथवा अर्ध-सरकारी संगठनों/सार्वजनिक क्षेत्र के उद्यमों की सेवाओं के लिए, परीक्षाओं/साक्षात्कारों के आधार पर चुने जाते हैं, उनके द्वारा सार्वजनिक क्षेत्रों के खर्च पर उच्च वैज्ञानिक/तकनीकी प्रशिक्षण पाने के समय भरे गए बंधपत्रों के खर्च से अपने को मुक्त करवाने के लिए भिन्न भिन्न राशि का भुगतान करने के लिए आग्रह किया जाता रहा है। इस प्रकार की अड़चनें, न केवल योग्य उम्मीदवारों के उज्ज्वल भविष्य के लिए ही बाधाएं बनती रहीं हैं, अपितु वे एक तरफ सार्वजनिक क्षेत्रों के उद्यमों और दूसरी ओर केन्द्रीय/राज्य सरकार और अर्धसरकारी संगठनों के बीच ऐसे कर्मचारियों के आने जाने में भी रुकावट साबित हुई है।

2. 1966 में सरकार द्वारा जारी किए गये वर्तमान अनुदेशों के अनुसार यदि केन्द्रीय सरकार का एक कर्मचारी केन्द्रीय सरकार में अथवा राज्य सरकार में अथवा केन्द्रीय सरकार या राज्य सरकार द्वारा पूर्णतया अथवा आंशिक रूप से नियंत्रित सार्वजनिक क्षेत्र के उपक्रम में अथवा अर्धसरकारी संगठन में नौकरी करने के लिए, अपनी पहली नौकरी छोड़ देता है, तो ऐसी स्थिति में, किसी बंधपत्र, जो उसके द्वारा भरा गया हो, की ऐसी शर्तें कि उसे एक निर्धारित समयावधि के लिए सरकारी नौकरी करनी होगी, को लागू करने की आवश्यकता नहीं है, हालांकि ऐसे सरकारी कर्मचारी से यह बात सुनिश्चित करने के लिए एक नया बंधपत्र लिया जाये कि वह नये नियोक्ता, राज्य सरकार, सार्वजनिक क्षेत्र के उपक्रम/अर्ध-सरकारी संगठन में ऐसी उपयुक्त समयावधि के लिए, जो कि प्रत्येक मामले में, पूर्ववर्ती मंत्रालय/विभाग द्वारा, इस बात का ध्यान रखते हुए कि उन्होंने उसके प्रशिक्षण पर कितनी धन राशि खर्च की है, निर्धारित की जाएगी, सेवा करेगा।

3. यह प्रश्न, कि सार्वजनिक उद्यमों के ऐसे कर्मचारियों, जिन्होंने सार्वजनिक उद्यमों के खर्च पर वैज्ञानिक/तकनीकी प्रशिक्षण प्राप्त किया है, द्वारा भरे गये बन्ध पत्र की शर्तों को लागू किया जाना चाहिए अथवा ऐसे मामलों में इन्हें लागू नहीं किया जाना चाहिए जहां ऐसे कर्मचारी केन्द्रीय सरकार/राज्य सरकार की सेवाओं में अथवा अर्ध सरकारी संगठनों/सार्वजनिक उद्यमों में, या तो इन संगठनों अथवा संघ लोक सेवा आयोग/राज्य लोक सेवा आयोगों द्वारा आयोजित प्रतियोगी परीक्षाओं/साक्षात्कारों के आधार पर अथवा अन्यथा कार्यभार सम्भालते हैं, गत कुछ समय से विचाराधीन है। अब यह निर्णय लिया गया है कि सार्वजनिक उद्यम के ऐसे कर्मचारी के मामले में बन्ध पत्र को लागू करने पर जोर नहीं दिया जाना चाहिए, जो कर्मचारी केन्द्रीय सरकार/राज्य सरकार, अर्ध सरकारी संगठन अथवा अन्य सार्वजनिक उद्यम में इस शर्त पर कार्यभार सम्भालता है कि उससे इस आशय का एक नया बन्ध पत्र लिया जाएगा कि वह नए नियोक्ता के पास अपने मूल बन्ध पत्र को निर्धारित अवधि के शेष भाग तक कार्य करता रहेगा।

4. उद्योग मन्त्रालय इत्यादि से अनुरोध है कि वे अपने प्रशासनिक नियन्त्रणाधीन सार्वजनिक उद्योगों के ध्यान में अनुपालनार्थ, पूर्वलिखित अनुदेशों को लाएं।

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Annexure 26.23

Copy of Govt. of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training O.M. No. AB 14017/101/91-Estt. (RR) dated 14th July, 1993.

(Referred to in Para 26.16)

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Subject: Forwarding of applications for other posts - principles regarding.

The undersigned is directed to say that the question regulating the forwarding of applications to the Ministries/Departments/other Government offices or to the UPSC from candidates serving under the Government has been reviewed.

2. It has been decided to consolidate the instructions on the subject. Therefore, the following instructions in supersession of the instructions contained in this Department's OMs* mentioned in the margin are issued for guidance of all the Administrative Authorities.

3. Application of a Government servant for appointment, whether by Direct Recruitment, transfer on deputation or transfer, to any other post should not be considered/forwarded if:-

- (i) He is under suspension; or
- (ii) Disciplinary proceedings are pending against him and a charge sheet has been issued; or
- (iii) Sanction for prosecution, where necessary has been accorded by the competent authority; or
- (iv) Where a prosecution sanction is not necessary, a charge sheet has been filed in a court of law against him for criminal prosecution.

4. When the conduct of a Government Servant is under investigation (by the CBI or by the controlling Department) but the investigation has not reached the stage of issue of charge sheet or prosecution sanction or filing of charge sheet for criminal prosecution in a court, the application of such a Government servant may be forwarded together with brief comments on the nature of allegations and it should also be make clear that in the event of actual selection of the Government servant, he would not be released for taking up the appointment, if by that time charge sheet for imposition of penalty under CCS(CCA) Rules, 1965 or sanction for prosecution is issued or a charge sheet is filed in a court to prosecute the Government Servant, or he is placed under suspension.

5. Where Government servants apply directly to UPSC as in the case of direct recruitment, they must immediately inform the Head of their Office/Department giving details of the examination/post for which they have applied, requesting him to communicate his permission to the Commission directly. If, however, the Head of the Office/Department considers it necessary to withhold the requisite permission, he should inform the commission accordingly within 45 days of the date of closing for receipt of applications. In case any situation mentioned in para 3 is obtaining, the requisite permission should not be granted and UPSC should be immediately informed accordingly.

In case a situation mentioned in para 4 is obtaining, action may be taken to inform UPSC should be immediately informed accordingly. In case a situation mentioned in para 4 is obtaining, action may be taken to inform UPSC of this fact as also the nature of allegations against the Government servant. It should also be made clear that in the event of actual selection of Government servant, he would not be relieved for taking up the appointment, if the charge sheet/prosecution sanction is issued or a charge sheet is filled in a court for criminal prosecution or if the Government servant is placed under suspension.

6. The administrative Ministries/Departments of the Govt. of India may also note that, in case of Direct Recruitment by selection viz., "Selection by Interview" it is the responsibility of the requisitioning Ministry/Department to bring to the notice of the Commission any point regarding unsuitability of the candidate (Govt. servant) from the vigilance angle and that the appropriate stage for doing so would be the consultation at the time of preliminary scrutiny i.e. when the case is referred by the Commission to the Ministry/Departments for the comments of the candidates for interview by the Commission.

7. In so as personnel serving in Indian Audit & Accounts Departments are concerned, these instructions are issued in consultation with the Comptroller and Auditor General of India.

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Annexure 26.24

Copy of GOI, Ministry of Personnel, PG & Pensions, Department of Personnel & Training
O.M No.28011/1/2013-Estt(C) dated the 23rd December, 2013

(Referred to in Para 26.17)

Subject: Consolidated Instructions on Forwarding of Applications of Government Servants for Outside Employment-regarding.

The undersigned is directed to refer to the subject mentioned above and to say that various instructions/guidelines have been issued by the Government from time to time regarding forwarding of applications of Government Servants for posts outside their own Cadre. All such instructions issued till date have been consolidated under easily comprehensible headings for the facility of reference and placed as Annexure to this O.M. All Ministries/ Departments are requested to bring the above guidelines to the notice of all concerned.

Annexure to DOPT O.M.No.28020/1/2010-Estt(C) dated 23rd December,2013.

FORWARDING OF APPLICATIONS

GENERAL GUIDELINES

These guidelines relate to forwarding of applications of Government servants as direct recruit for posts within the Central Government, State Governments, Autonomous/ Statutory Bodies, CPSEs etc. It may be noted that in a case in which a particular employee cannot be spared without serious detriment to important work in hand, public interest would justify withholding of his application even if otherwise the application would have been forwarded. It may be added for information that where for good and sufficient reasons an application is withheld no infringement of any Constitutional right is involved.

[O.M. No. 170/51-Ests., dated the 21.10.1952]

2. INTERPRETING THE TERM 'PUBLIC INTEREST'

a. The Heads of Departments should interpret the term 'public interest' strictly and subject to that consideration, the forwarding of applications should be the rule rather than an exception. Ordinarily, every employee (whether scientific and technical or non-scientific and non-technical personnel) should be permitted to apply for an outside post even though he may be holding a permanent post.

b. No distinction need be made between applications made for posts in a Department under the Central government, Autonomous Bodies or Sub-Ordinate Offices, posts under the State Governments, posts in Public Sector Undertakings owned wholly or partly by the Central Government or a State Government and posts in quasi-Government organizations. They should all be treated alike so far as the forwarding of applications is concerned. **If, however, a Government servant desires to apply for a post in a private concern, he should submit his resignation or notice of retirement, as the case may be, before applying for private employment.**

c. For this purpose, "scientific and technical personnel", may be interpreted to mean persons holding posts or belonging to services which have been declared to be scientific or technical posts or scientific or technical service.

[O.M. No. 70/10/60-Estt. (A), dated 09.05.1960 and
O.M. No. 8/7/69-Ests(C) dated the 01.11.1970]

3. GENERAL PRINCIPLES FOR DEALING WITH SUCH APPLICATIONS

The general principles to be observed in dealing with such applications are as under:

a. Applications from purely temporary Government servants - Applications from such Government servants should be readily forwarded unless there are compelling grounds of public interest for withholding them.

b. Applications from permanent Government servants — Both permanent non-scientific and non-technical employees as well as permanent scientific and technical employees could be given four opportunities in a year to apply for outside posts, except where withholding of any application is considered by the competent authority to be justified in

the public interest. A permanent Government servant cannot justly complain of hardship or harsh treatment if his application for any other post or employment is withheld.

c. Applications of Government servants who have been given some technical training at Government expenses after commencement of service - Such Government servant cannot justifiably complain of hardship if he is not allowed to capitalize the special qualifications so gained by seeking other better employment. Withholding of application in such a case is therefore justifiable.

d. Applications of Government servants belonging to Scheduled Castes and Scheduled Tribes, other than 'scientific and technical personnel — Applications for employment of temporary or permanent Central Government servants belonging to Scheduled Castes and Scheduled Tribes should be readily forwarded except in very rare cases where there may be compelling grounds of public interest for withholding such application. The withholding of application should be the exception rather than the rule in the case of employees belonging to Scheduled Castes and Scheduled Tribes who should be afforded every facility to improve their prospects.

e. Application of Government servants for employment in private business and industrial firm, etc.- Where a Government servant (including a temporary Government servant) seeks permission, to apply for such employment, he should submit his resignation or notice of retirement, as the case may be, before applying for private employment. He cannot complain of hardship if his application is withheld. While a person remains in Government service, the State can legitimately refuse to surrender its claim on his services in favour of a private employer.

[O.M. NO. 170/51-ESTS., DATED THE 21.10.1952; OM NO. 70/10/60-ESTS(A) DATED 09.05.1960; OM NO. 1/6/64-SCT.I DATED 19.03.1964; O.M. NO. 5/2/68-ESTT.(C) DATED 06.05.1968; OM NO. 8/7/69-ESTS(C) DATED 01.11.1970; OM NO. 8/15/71-ESTS(C) DATED 16.09.1971; OM NO. 8/22/71-ESTS(C) DATED 16.10.1971]

4. PROCEDURE TO BE FOLLOWED IN THE CASE OF THOSE WHO APPLY FOR POSTS IN THE SAME/ OTHER CENTRAL GOVERNMENT DEPARTMENTS/ STATE GOVERNMENT/ AUTONOMOUS BODY/ CENTRAL PUBLIC SECTOR ENTERPRISES ETC.

a) Applications from Government servants for employment elsewhere, submitted otherwise than in response to advertisement or circulars inviting applications, should not be forwarded.

[O.M. No. 5/3/65-Ests(C) dated the 21.12.1965]

b) The applications may be forwarded in accordance with the general principles given in preceding paragraphs, irrespective of whether the post applied for in the other department/office is permanent or temporary.

c) As for temporary Government servants they should, as a matter of rule, be asked to resign from the parent Department/Office at the time of release from the parent

Department/Office. An undertaking to the effect that he/she will resign from the parent Department/Office in the event of his/her selection and appointment to the post applied for may be taken from his/her at the time of forwarding the application. This procedure is to be followed even in case of a temporary Government servant applying as a direct recruit for a post in the same organisation.

d) In the case of permanent Government servants, their lien may be retained in the parent Department/Office for a period of two years in case of the new post being in the Central/state Government. They should either revert to the parent Department/Office within that period or resign from the parent Department/Office at the end of that period. An undertaking to abide by these conditions may be taken from them at the time of forwarding the applications to other Departments/Office. In exceptional cases where it would take some time for the other Department/Office to confirm such Government servants due to the delay in converting temporary posts into permanent ones, or due to some other administrative reasons, the permanent Government servants may be permitted to retain their lien in the parent Department/Office for one more year. While granting such permission, a fresh undertaking similar to the one indicated above may be taken from the permanent Government servants by the parent department.

e) Permanent Government servants on their being selected for appointment in an autonomous Body/ CPSE will have to resign before they are permitted to join the new organization. In their case no lien shall be retained and they will be governed by the orders issued by Department of Pensions & Pensioners' Welfare regulating mobility of personnel between Central Govt. and Autonomous Bodies/ CPSEs etc.

f) The Terms of the bond need not be enforced in the cases of those who apply for appointment elsewhere, other than private employment, through proper channel. However, the obligations under the bond would be carried forward to the new employment. An undertaking to this effect may be obtained from the Govt. servant before he is relieved.

[O.M. No. 60/37/63-Ests(A) dated 14.07.1967;
OM No. 8/4/70-Ests(C) dated 06.03.1974;
O.M. No. 28016/5/85-Estt(C) dated 31.01.1986]

5. POSTS ADVERTISED BY UNION PUBLIC SERVICE COMMISSION (UPSC)/STAFF SELECTION COMMISSION(SSC)

a) Where Government servants apply directly to UPSC/SSC as in the case of direct recruit, they must immediately inform the head of their Office/Department giving details of the examination/post for which they have applied, requesting him to communicate his permission to the Commission directly. If, however, the Head of the Office/Department considers it necessary to withhold the requisite permission, he should inform the Commission accordingly within thirty days of the date of closing for receipt of applications.

In case any situation mentioned in para 6 below is existing, the requisite permission should not be granted and UPSC/SSC should be immediately informed of this fact as also the nature of allegations against the Government servant. It should also be made clear that in the event of actual selection of Government servant, he would not be relieved for taking up the appointment, if the charge-sheet/prosecution sanction is issued or a charge-sheet is filed in a court for criminal prosecution, or if the Government servant is placed under suspension.

b) It may be noted that in case of direct recruitment by selection, i.e., "selection by interview", it is the responsibility of the requisitioning Ministry/Department to bring to the notice of the Commission any point regarding unsuitability of the candidate (Government servant) from the vigilance angle and that the appropriate stage for doing so would be the consultation at the time of preliminary scrutiny, i.e., when the case is referred by the Commission to the Ministry/Departments for the comments of the Ministry's representatives on the provisional selection of the candidate for interview by the Commission.

[O.M. No. 14017/101/91-Estt.(RR) dated the 14th July, 1993
& O.M. No. 20016/1/88-Estt.(C) dated 18/07/1980]

c) When once the Administrative Authority has forwarded an application, it is mandatory that the Government employee concerned should be released to take up the new appointment. However, where subsequent to the forwarding of the application, but before selection if exceptional circumstances arise in which it may not be possible to release the official, the fact should be communicated to the Commission as well as to the official concerned. The decision not to release an official should be taken only where the circumstances referred to above are really exceptional.

[O.M. No. 60/43/64-Ests(A) dated the 24.08.1965]

6. CIRCUMSTANCES IN WHICH APPLICATION SHOULD NOT BE FORWARDED

Application of a Government servant for appointment, whether by direct recruitment, transfer on deputation or transfer, to any other post should not be considered/ forwarded, if-

- (a) (i) he is under suspension; or
- (ii) disciplinary proceedings are pending against him and a charge sheet has been issued; or
- (iii) sanction for prosecution, where necessary has been accorded by the competent authority; or
- (iv) where a prosecution sanction is not necessary, a charge-sheet has been filed in a Court of law against him for criminal prosecution.

- (v) where he is undergoing a penalty — no application should be forwarded during the currency of such penalty.

(b) When the conduct of a Government servant is under investigation (by the CBI or by the Controlling Department) but the investigation has not reached the stage of issue of charge-sheet or prosecution sanction or filing of charge-sheet for criminal prosecution in a court, the application of such a Government servant may be forwarded together with brief comments on the nature of allegations and it should also be made clear that in the event of actual selection of the Government servant, he would not be released for taking up the appointment, if by that time any of the situations in (a) above arises.

[O.M. No. 14017/101/9I-Estt.(RR) dated the 14th July, 1993]

7. FORWARDING OF APPLICATIONS FOR POSTS ADVERTISED BY CENTRAL/ PUBLIC SECTOR UNDERTAKINGS/ CENTRAL AUTONOMOUS BODIES

Applications of Central Government Servants in response to press advertisement for posts in Central Public Enterprises/Autonomous Bodies may be forwarded with a clear understanding with the employee that in the event of their selection for the post applied for they will sever their connections with the Government before joining the Public Sector Undertakings/Autonomous Bodies. No lien shall be retained in such cases. The relieving order should indicate the period within which the official should join the Public Sector Undertaking/Autonomous Body. Normally this period should not be more than 15 days. This period may be extended by the competent authority for reasons beyond the control of the official. Necessary notification/ orders accepting the resignation of the Govt. servant from Govt. service should be issued from the actual date of his/her joining the Public Sector Undertaking/Autonomous Body. The period between the date of relieving and the date of joining Public Sector Undertaking/ Autonomous Body can be regulated as leave of the kind due and admissible and if no leave is due, by grant of extra ordinary leave. In case he/she is not able to join the Public Sector Undertaking/Autonomous Body within the period allowed by the competent authority, he/she should report back to the parent office forthwith.

[Department of Pension & Pensioner's Welfare OM No. 4/15/88-P&PW(D) dated 13.11.1991]

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Annexure 26.25

Copy of H.P. Govt. Department of Personnel letter No. Karmik(NI-II)B(19)5/90 dated 27-08-1993 addressed to all Administrative Secretaries/HoD's/Divisional Commissioners /DC's /MD's of Boards/ Corporations in H.P.

(Referred to in Para 26.19)

विषय: अनापति प्रमाण पत्र जारी करने सम्बन्धी निर्देश।

उपरोक्त विषय पर मुझे यह कहने का निदेश हुआ है कि किसी उच्च पद के लिए राज्य लोक सेवा आयोग द्वारा आयोजित साक्षात्कार/लिखित परीक्षा में उपस्थित होने के लिए सम्बन्धित अभ्यर्थी को यदि वह सरकारी/अर्ध सरकारी संस्थान में सेवारत हो, अपने नियोक्ता से अनापति प्रमाण पत्र प्राप्त करना होता है जिसे अभ्यर्थी द्वारा भर्ती/चयन करने वाले कार्यालय/संस्थान को साक्षात्कार/लिखित परीक्षा के दिन या उससे पहले प्रस्तुत करना होता है। परन्तु राज्य सरकार के ध्यान में लाया गया है कि कई बार वांछित अनापति प्रमाण पत्र नियोक्ता से नीचे के अधिकारियों द्वारा ही जारी कर दिये जाते हैं जो कि मान्य नहीं समझे जा सकते। इसके अतिरिक्त कई बार अभ्यर्थियों के विभिन्न पदों के लिये आवेदन पत्र या उसके द्वारा निवेदित अनापति प्रमाण पत्र सम्बन्धित विभागों द्वारा बहुत विलम्ब से अग्रेषित किये जाते हैं या कई मामलों में न तो अनापति प्रमाण पत्र समय पर जारी किये जाते हैं और न ही लोक सेवा आयोग या सम्बन्धित अभ्यर्थी को विभाग द्वारा अभ्यर्थी के साक्षात्कार/लिखित परीक्षा में बैठने हेतु अनापति सूचित की जाती है।

विभागों/कार्यालयों की इस शिथिलता के कारण सम्बन्धित अभ्यर्थियों को अनावश्यक कठिनाईयों का सामना करना पड़ता है और लोक सेवा आयोग को भी चयन को अन्तिम रूप देने में अनावश्यक विलम्ब हो जाता है। अतः सरकार द्वारा यह निर्देश जारी किये जाते हैं कि उपरोक्त अनापति प्रमाण पत्र केवल नियुक्ति प्राधिकारी द्वारा ही जारी किये जाने चाहिए और यह भी ध्यान रखा जाये कि यह अनापति प्रमाण पत्र समय पर हिमाचल प्रदेश लोक सेवा आयोग को प्रेषित कर दिये जाएं।

इन निर्देशों का कठोरता से पालन किया जाए।

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CHAPTER 27

VISITS AND TRAINING ABROAD

27.1 All matters relating to training abroad, foreign visits and Study tours to be routed through the Department of Personnel (Training).

All matters falling under ambit of the entries made under Sub-head "E-Training and Foreign Assignment" at page 18 of the Business of the Government of Himachal Pradesh (Allocation) Rules, 1971, will now be dealt with in the Department of Training and Foreign Assignment. The instructions heretofore issued by the Department of Personnel (Appointment), will continue to apply/operate mutadis mutandis as if issued by the Department of Personnel-Training and Foreign Assignment.

(No. Per (AP-II)B(12)2/75, dated 28th November, 1985 and No. Per.(Trg. & FA)F(I)-1/85, dated 28th January, 1986 Annexures 27.6 and 27.9)

27.2 Need for evolving Procedure for Selection of candidates to be sponsored for Technical and other Training Abroad.

Suitable candidates are required to be sponsored for technical and other training abroad in the subject/field in which facilities are not available in India and in which higher standards of training are available in foreign countries. It has not been possible to have as coordinated programme for proper assessment of manpower requirements in various fields sufficiently in advance. Occasionally it has not been possible to avail of the facilities offered under various schemes due to either procedural delays or obtaining approval of the competent authorities in time. Moreover, selection of candidates has to be in keeping with the essential requirements of training conditions such as age qualifications, sphere of duties, trainings already undergone etc. In order to ensure proper utilisation of available facilities and selection of proper candidates, a precise procedure is essentially required to be observed for selection of candidates for training abroad.

27.3 Procedure of selection from 18-9-1968 to 22-7-1990

(1) (i) Preparation of panel by the Deptts.

Procedure for selection of candidates for higher training programmes was laid down by the Personnel Deptt. vide letter No. 8-50/68-Appnt. dated 18-9-1968 and 20-3-1969, wherein it has been laid down that it is primarily the responsibility of the Head of each Department to draw up a panel of suitable candidates. The names in the panel can be grouped in different categories having due regard to the character of training, period of the course and other relevant factors, besides academic records, length, field of specialisation etc. of the selected officers.

Considerable time is taken in completing the process of selection of officers and sponsoring their names to the Government of India and sometimes, the last date is over before a case is finalized. This leads to under-utilisation of the training facilities available to us. Therefore, the Department may consider whether an annual panel of officials of the department can be prepared for training courses which are conducted every year so that the panel may be made use of as and when names for a course are actually invited. The department will have to ensure against the sponsoring of an official who may have forfeited his right to undergo training abroad for any reasons subsequent to empanelment.

In case, there is a ban on foreign training in consideration of economy, then a proposal may be got cleared from the Finance Department before it is sent to the Personnel Department.

(H.P. Govt. Deptt. of Personnel letter No. Per(Trg. & FA)B(12)-50/86 Dated 23-2-1988- Annexure- 27.13)

(ii) Consideration by Screening Committee

The panel drawn by the Department is to be forwarded to the chief Secretary in the Department of Personnel (Training and Foreign Assignment) for preliminary check and submission of the case to a committee to be presided over by the Chief Secretary. The Joint Secretary, Appointment Deptt. (now Personnel Deptt., Training and Foreign Assignment) who will function as Member-Secretary will arrange to obtain full particulars and the confidential records and other relevant information of the candidates sponsored by the department heads.

The Screening Committee will consider the material made available to it and finalise the names of deserving candidates in order of preference.

(iii) The Screening Committee

The constitution of the Screening Committee is as under:-

Chief Secretary	-Chairman
Secretary of Department concerned	-Member
Head of the Department concerned	-Member
Joint Secretary (Appointment) (now Personnel Training and Foreign Assignment)	-Member-Secretary

(H.P. Govt. Department of Appointment letter No. 8-50/68-Appptt. dated 18-9-1968 and 20-3-1969 Annexures 27.1 and 27.2 and No. Per(Trg. And FA.B(12)-50/86 dated 23-2-1988 Annexure 27.13)

(2) (i) Procedure for sending cases to Screening Committee:

The following procedure will be observed for sending cases to the Screening Committee:

- (a) In case of a regular programme such as Colombo Plan, case will be placed before the Screening Committee for preparation of panels for each category of training without waiting for a formal reference from Government of India.

As and when such a reference is received, names will be sponsored from the panel by the concerned Department.

- (b) In respect of trainings/visits/assignments which are not a normal annual feature, as soon as a reference is received, case should be referred for approval of names to the Screening Committee. In case last date has already expired, in no case should the matter be referred to the Committee. As such all Departments should ensure speedy processing of the case at all levels.

(ii) Documents required to be submitted before the Screening Committee

The following documents are required in all cases:-

- (i) Vigilance Clearance Certificate
- (ii) Certificate that no departmental/vigilance cases are pending/contemplated
- (iii) Certificate, in case proposed training exceeds 30 days, that the officer has not undergone training abroad for period exceeding 30 days in the past.
- (iv) Annual Confidential Reports.
- (v) Copy of letter of Government of India/Training Institute giving details of course, charges etc.

The documents are to be accompanied by a memorandum which should contain information to the above effect and also the following:

- (a) Relevance of course to the Department and the sponsored officers.
- (b) Mode of selection of officer, i.e. seniority, special knowledge etc. In case of general courses, seniority should be given preference.

- (c) Before sending the names to the Screening Committee, the Department should obtain approval of Minister-in-Charge and this should be mentioned in the memorandum.
- (d) The fact that the sponsored officers qualify the eligibility criteria for the training/visit should be brought out in detail with specific reference to the actual criteria.

The relevant file of the Department alongwith documents should be forwarded to the Joint Secretary (Personnel) (now Joint Secretary, Training and Foreign Assignment) who is the Member-Secretary of the Committee.

The Departments while sending proposals for screening of officers for undergoing training abroad should furnish information on the following points:-

- i) Whether the proforma prescribed has been properly filled in and attached with the recommendation of the Department for consideration by the screening?
- ii) Whether the expenditure on the course will be borne by the State Government or by the Government of India or the agency which has to impart foreign training to the officer?

While recommending an official, his placement in the seniority list of the eligible may ordinarily be reported, so that a senior eligible and suitable official may not be lightly ignored. A Department would be quite justified to ignore a senior official for sufficient reasons, if he is ineligible or has already undergone a similar course of training abroad during the last five years or so.

(Personnel Department Letter No. Per(Trg. & FA)-B(12)-50/86, dated the 26th June, 1986 and 23-2-1988 –Annexure 27.10 and 27.13)

27.4 Procedure for selection from 23-7-1990 onwards

On the basis of the recommendations of the Secretaries Committee it has been decided that instead of Screening Committee, the administrative departments should nominate officers for foreign training and foreign tour. The following instructions should be strictly observed while making nominations:-

- (i) No departmental disciplinary proceeding is either pending or under consideration in the near future against the nominated officer;
- (ii) If the proposed training exceeds 30 days then it may be ensured that the nominated officer has not received training of more than 30 days abroad during the last five years;

- (iii) A seniority list of officers eligible according to qualifications and experience prescribed for foreign training be prepared and out of this list, officer be nominated on the basis of annual confidential reports for the last 5 years;
- (iv) Thereafter approval of the Minister Incharge be obtained;
- (v) The officer sent for training abroad will present a detailed analytical report of at least 10 pages within two months of the completion of the training from which the other officers of the Department and successor of the trained officer may also be benefitted.

After the nomination, the administrative Department may ensure sending information to the Government of India before the last date and information may also be sent to the Department of Personnel (Training and Foreign Assignment). Special relaxation from instructions of economy has been given for foreign training on which expenditure (excluding expenditure ongoing to and coming back from Delhi) is to be borne by the foreign agency or Govt. of India and concurrence of the Finance Department for the same is not required to be obtained. Prior concurrence of the Finance Department is essential for foreign training and tour on which expenditure is to be borne by the State Government.

[H.P. Govt. Deptt. of Personnel (Training and Foreign Assignment) letter No. Per-Avem Bi. Sa-B(12)50/86 dated 23-7-1990 and 19-4-1991-Annexures-27.14 and 27.15]

27.5 Deputation of officers falling within the purview of the Central Establishment Board, Civil Services Board for training abroad

The policy currently followed for selecting officers belonging to the IAS/CSS and officers of other organised services on deputation to the Central government for training programmes/seminars abroad is contained in letter No. 28(138)-EO(F)/85 dated the 16th September, 1987. The Civil Services Board has now recommended that the period of training of the officers, whether within the country or abroad, irrespective of the duration of training should be counted towards tenure of the officer who are presently on deputation to the Central Government. This has been considered by the Government and it has been decided that the following guidelines may henceforth be followed while nominating officers for training programmes/seminars abroad:-

{i} For long-term courses (duration-six months or more)

- (a) Officers should have completed nine years of service on the date of commencement of the course.

- (b) Officers should not be more than 45 years of age on the date of commencement of the course. In special cases, relaxation of the age limit upto 48 years may be granted provided a special justification is given.
 - (c) Officers who have attended a long-term training programme earlier should not be nominated again for such training.
 - (d) Only officers whose service records are in 'Very Good' or 'Outstanding' categories should be nominated for such training programmes.
- (ii) For short-term courses (Duration 15 days or more but less than six months)
- (a) Officers should have completed nine years of service on the date of commencement of the course.
 - (b) Officers should not be more than 52 years of age on the date of commencement of the course.
 - (c) Officers who have earlier attended training programme abroad may be nominated again only if suitable officers who have not attended training programme earlier are not available.
 - (d) Only officers who are working in the field connected with the subject of the course should be nominated to short term courses. Ministry of Personnel, P.G. and Pensions, Department of Personnel will give clearance to officers so nominated on the understanding that the concerned State Government/ Central Ministries will make use of officer on the field connected with the training programme on his return. This stipulation is being imposed because instances have come to the notice of this Department where officers returning from training do not get back to the same post or a post of similar field where their training could be put to use.
- (iii) Officers should be cleared from disciplinary proceedings and vigilance angle.
- (iv) There should be a gap of five years between two consecutive spells of foreign training, including short-term training programmes.
- (v) A study tour/seminar/workshop which is in the nature of a training programme and which is of the duration of more than 15 days would be governed by the instructions relating to short-term course contained in the circular dated 16-9-1987. Study tours/seminars/workshops which are of less than 15 days duration would not be treated as short-term training programmes in respect of the upper age limit laid down for the same. The officers should however, have completed nine years of service on the date of commencement of the course. Such study tours/seminars/workshops would also not be

counted as foreign training while calculating the minimum gap of 5 years between two consecutive spells of training abroad. However, the clearance of the Govt. of India, Ministry of Personnel, P.G. and Pensions, Deptt. of Personnel and Training should be taken for all such seminars/study tours/workshops having a training content before deputing any officer belonging to the IAS, CSS and officers on deputation to the Central Government irrespective of the period of such deputation.

(vi) An officer nominated by the State Government/administrative Ministry and selected by the Department of Personnel and Training of the Ministry of Personnel, P.G. & Pensions for a training programme abroad will be debarred from foreign training for three years if he/she fails to attend the course for which he/she was selected. It is suggested that Ministries/State Governments may obtain the willingness of the officers before sponsoring them for training programme particularly for long-term training courses.

(vii) For nomination/deputing officers for training who are currently on deputation to Central Government, the guidelines are:-

(a) Officers may be sponsored for training courses abroad which commence after the expiry of their approved tenure at the Centre, or for courses which commence before expiry of the guidelines are:-

(a) Officers may be sponsored for training courses abroad which commence after the expiry of their approved tenure at the Centre, but extend beyond it, only with the concurrence of the cadre controlling authority concerned. In the case of IAS officers, the concurrence of the State Government concerned on whose strength the officer is borne, shall be obtained.

(b) Officers who are left with a balance of tenure of less than one year on return from a long-term training programme abroad may be asked to revert to their respective parent cadre as it is difficult to arrange posting in Government of India for such short periods.

(c) The period of training undergone by the officers will not be excluded for the purpose of calculating their tenure at the Centre.

(viii) For the purpose of calculation of tenure these instructions would also apply to:-

(a) Officers sponsored for training before the issue of these instructions, provided that they are deputed for courses commencing after issue of these instructions.

(b) Officers who have been on training courses earlier and who would complete their normal tenure, without extension on the ground of training, on or after 30-6-1988.

(c) Officers whose cases are not covered by (a) and (b) above would be allowed extensions in their tenure on the ground of training, in accordance with past practice.

(G.O.I., Ministry of Personnel, P.G. and Pensions, Deptt. of Personnel and Training letter No. 28(138)-EO(F)/85 dated 4/5-1-1988, as circulated with H.P. Govt. Deptt. of Personnel, Training and Foreign Assistant letter No. Karmik (Pra.Avam. B-C.Kha (12)-8/88 dated 30-5-1988-Annexure-27.11)

27.6 Sponsoring of officers for training programmes abroad under Technical Assistance from Japan, Australia, New-Zealand and U.K. etc.

India has been receiving technical assistance from Japan, Australia, New Zealand, and U.K. etc. in the form of training facilities abroad for Indian personnel under the Colombo Plan. Whenever training slots for any particular training course are available, the Govt. of India invites names through sponsoring Ministries. The proposals in this regard have to be forwarded to the Ministry of Finance, Department of Economic Affairs, New Delhi, in the prescribed proforma through the Central Ministries concerned with the subject matter or field in which the training is required (Universities and institutions under them have to route their proposals through the university Grants Commission). Before a proposal is finalised and sent to the Ministry of Finance, Department of Economic Affairs, the Central Ministry concerned has to ensure that the proposal has received the administrative approval of the Heads of the Department and/or of the Secretary of the Department concerned and has been concurred in by competent financial authority, besides from the competent cadre controlling authority.

The various proposals are screened in the Department of Economic Affairs of the Ministry of Finance by the Technical Assistance Selection Committee (TASC) constituted in the Department, before these are transmitted to the donor country concerned. In determining the selection of persons for training abroad, apart from ensuring the prescribed administrative and financial clearance, the Technical Assistance Selection Committee applies various criteria particularly those listed in Department of Economic Affairs letter No. F.14/11/70. UN, dated 21.4.71, which interalia spelt out that:-

- (i) The proposal training should be:-
 - (a) Essential to the economic development of the country; and
 - (b) Critical to the project/institution in which the candidate is working.
- (ii) The training facilities desired abroad are not easily available in India.
- (iii) The candidate nominated for the training should have the basic educational and technical qualifications and also adequate practical experience in the proposed field of training so that he may be able to derive the optimum benefit. He should be the most appropriate person as compared to others working in the same field.

- (iv) The candidate should not be more than 45 years old (relaxable in exceptional cases upto 48).
- (v) On completion of training, the candidate should return to the same area of activity for a period of 1 ½ years at least so that he may transmit the benefit of his training adequately to the field of work.
- (vi) An officer, who has already attended a foreign training programme of duration of one month or more earlier, should not be nominated again for a fresh training programme of more than one month's duration. However, such officers should not be debarred from being nominated for courses/seminars which are of less than one month's duration. Also officers who have attended course abroad on study leave or any other leave are not ineligible.
- (vii) The nominated officer should be clear from disciplinary proceedings and vigilance angles. Officers having inferior service records or adverse remarks of serious nature in their ACRs should not be nominated.
- (viii) In exceptional cases where relaxation of a particular criteria is sought to be made full and sufficient justification has to be given in the initial proposal itself.

Proposals not containing complete documentation and requisite clearances cannot be processed in the Department of Economic Affairs. The various sponsoring authorities are requested that the officers sponsored for training programmes abroad should be asked to complete predeparture formalities etc. and relieved of their duties only after knowing about their final selection from the Department of Economic Affairs.

It has also been observed that the various Ministries/Departments have been sponsoring candidates who are much above the permissible age-limits. This also generally results in eventual non-selection by the Technical Assistance Selection Committee and avoidable disappointment of the sponsoring authorities.

The foreign Governments/institutions are quite particular in enforcing deadlines for receipt of nominations and there is little possibility of delayed nominations being finally accepted. The various sponsoring authorities are requested to ensure that no nominations are sent to Deptt. of Economic Affairs after the specified date as it involves unnecessary hopes in the minds of the officers concerned.

(G.O.I., Ministry of Finance, Deptt. of Economic Affairs letter No. 1(3)CP/85 dated 10-12-1985 addressed to Chief Secretaries of all States as circulated with H.P. Govt. Deptt. of Personnel letter No. Per (AP-II)B(12)10/85 dated 22-1-1986 Annexure-27.7)

27.7 Foreign travel of Ministries of State Governments/Union Territories, Members of State Legislatures/Union Territories and State Government officials.

27.7.1 Clearance by concerned Ministries of Govt. of India

Detailed guidelines have been issued by the Government of India, Cabinet Secretariat and Ministry of Finance for foreign visits on official account by Ministers/officials from State/U.T. Governments and brief details of the same are as under:

- (1) In the case of Ministers (including Chief Ministers) approval of the Hon'ble Prime Minister is obtained in each individual case. The Prime Minister had emphasized that proposals for Ministerial tours should be submitted well in advance so that his orders are obtained and communicated before the Hon'ble Minister departs on tour.
- (2) The proposals for foreign visits are considered in the Ministry of Finance, Department of Economic Affairs and should be in conformity with the prescribed guidelines. The proposal should be received in the Deptt. of Economic Affairs at least three weeks in advance to enable them to examine and seek the approval of the competent authority. Instructions exist with the India Missions/Posts abroad not to make any payment without prior authorisation and as such in order to avoid any inconvenience or embarrassment the proposals of Chief Ministers/Ministers should be sent at least three weeks before the date of their departure.
- (3) All proposals are to be sent to the Secretary to Government of India in the Ministry of Finance, Department of Economic Affairs for approval and release of foreign exchange and copies of the letter be endorsed to:-
 1. Ministry of External Affairs;
 2. Central Administrative Ministry concerned with the subject matter of the visit; and
 3. Ministry of Home Affairs.

The Ministry of Home Affairs have also to consider the applications under FCRA specifically when foreign hospitality or financial assistance is involved. It is the responsibility of the person concerned to obtain this clearance where such hospitality is involved. This procedure will be applicable even in the case of proposals where the expenditure is borne by Station Public Sector Undertakings or Corporations.

- (4) In the case of officials delegations their composition and background of the members need be indicated.
- (5) The work proposed to be transacted in each place of visit together with duration need be indicated, specifically where official meetings are to take place with

functionaries of foreign Governments. In view of the need for conserving foreign exchange, the duration of stay abroad should be the minimum necessary.

- (6) The Department of Economic Affairs will issue final orders regarding clearance of the visit, the number of persons to go abroad, the places to be visited and duration of visit at each place. The Department of Economic Affairs will issue final orders regarding clearance of the visit, the number of persons to go abroad, the places to be visited and duration of visit at each place. The Department of Economic Affairs will thereafter issue instructions to the Reserve Bank of India for release of foreign exchange of External Affairs would be advised to issue instructions to the Missions for release of Daily Allowance and other allowance as per rates prevalent in the country of visit and also for extending appropriate courtesies to the official delegation.
- (7) On the basis of formal clearance from the Department of Economic Affairs, State Government would issue necessary formal deputation orders endorsing copies thereof to all concerned Ministries of the Central Government and Missions in the places to be visited. The number and date of clearance received from the Department of Economic Affairs should be quoted in the deputation orders. Without the Department of Economic Affairs reference number, the Missions will not be in a position to honour the deputation orders.
- (8) In places of visit where there are no Missions, or if otherwise DA etc. is required to be released in India itself, a certificate of entitlement may be obtained from the Ministry of External Affairs for release of foreign exchange. In making a reference to the Department of Economic Affairs, the name of the branch of the Reserve Bank of India from where the foreign exchange is required to be release should be clearly indicated.
- (9) Within three weeks of the completion of the visit, the leader of the delegation should send a report to the Ministry of Finance, Department of Economic Affairs with copies to the Ministry concerned with the subject matter of the visit.
- (10) Foreign Contribution (Regulation) Act of 1976 lays down certain restrictions on acceptance of foreign hospitality. Prior permission of the Central Government is necessary before such hospitality (including travel assistance or concession) can be accepted by a Minister, Member of Legislature, office bearer of a political party, Government servant or employee of a Corporation. In cases where foreign hospitality is involved, including travel expenses, specific and prior clearance of the Ministry of Home Affairs is required before any acceptance is conveyed. A separate reference in the prescribed Form FC-2 indicating the source from which the travel and stay expenses are proposed to be met should be made directly to that Ministry well in time.

(Govt. of India, Cabinet Secretariat letter No. 21/1/82-Cab dated 16-8-1982 as circulated to all Secretaries and Heads of Depts. with H.P. Govt. Deptt. of Personnel (Training and Foreign Assignment) letter No. Per (Trg.)B(12)22/95 dated 17-5-1995 and Govt. of India, Ministry of Finance, Deptt. of Economic Affairs D.O. letters Nos. F. 32/32/EC/94 dated 20-6-1994 and 4-4-1995 as circulated to all Secretaries and Heads of Departments with H.P. Govt. Deptt. of Personnel (Training and Foreign Assignment) letter No. PER (TRG)B(12)22/95 dated 18-5-1995. Copies of these communications have not been added being confidential).

27.7.2 Guidelines for considering proposals for travel abroad

The Govt. of India have prescribed the following guidelines for considering the proposals regarding travel abroad by Ministers of State Governments/Union Territories, Members of State Legislatures/Union Territories and State Government officials.

A. Study tours/exploratory visits

- i) Visits abroad for gathering general information or knowledge which are in the nature of general purpose study tours need not be approved in any circumstances.
- ii) If, however, the study tour abroad is related to any pending scheme of development in the State, such a visit may be approved for a period not exceeding ten days provided some specific issue or aspect need to be studied. In such cases, the visit abroad will be approved only if the development project is an approved one and is covered by Plan allocation.
- iii) Pre/post conference study tours would be restricted to six days duration only. Such pre-post conference study tours would be allowed only when they are of the nature indicated at (ii) above.
- iv) In the case of delegates participating in the Common Wealth Parliamentary Conferences, the duration of study tours would be restricted to six days and three countries, excluding travel time.

B. Visits abroad on hospitality basis

Visits abroad on an invitation from a private source/Organisation would not be encouraged/approved. Visits on hospitality basis will, however, be regulated keeping in view the following criteria:-

- i) Invitations should have been received either from a foreign Government or from an international body (like U.N. and its specialised agencies, recognised international organisations, regional groups or any other such body with the

approval of the Ministry of External Affairs, etc.). These should have been received through Ministry of External Affairs.

- ii) In case of national political parties, the expenditure relating to international travel should be borne by the concerned political parties/individual etc. as the case may be, and not by any foreign Government/organisation etc.
- iii) In the case of Ministers, the invitations should bear a relationship to their portfolio.
- iv) The invitation should have been extended on some important occasion like National Day, or an anniversary, etc. being celebrated by the host country. The period should not exceed normally two weeks.

C. Visits abroad for attracting NRI investment/external assistance/finalising collaboration agreement

a) NRI Investment

- i) The projects (promoted) by the State Government in the State Sector should be approved plan projects covered by Plan allocations.
- ii) Sufficient advance planning should have been made before delegations are sent for attracting NRI investment for specific projects.
- iii) It would be necessary to send projects profile to the concerned officers abroad of the Indian Investment Centre to enable them to locate potential investors etc.
- iv) Chief Ministers/Ministers need not be excluded from undertaking the visits.

(b) External assistance

Separate visits abroad by Ministers of State Governments/Officials to negotiate external assistance for such projects need not be approved as this subject is within the purview of the Central Government which coordinates all external assistance.

(C) Collaboration agreements

Collaboration agreement proposals both from the public sector and private sector are considered on merits of each case. Among other things, profitability aspect of the proposal is to be justified fully in each case. Negotiations with foreign parties in connection with collaboration agreements are matters which are required to be carried out by technical authorities concerned with the project. While giving its approval in principles, in these

cases, Government of India indicates broad parameter within which agreement has to be finalised with the overseas parties. In cases where any change is sought by the Project authorities they have to seek Govt. of India's approval first. It is, therefore, proposed that the visits abroad by Ministers/Chief Ministers for discussion/negotiations in connection with collaboration agreements need not be encouraged. The above guidelines should be kept in view while forwarding the proposals to the Department of Economic Affairs. It is clarified that unless all procedural requirements are met and proposals are submitted to the department of Economic Affairs at least three weeks in advance, it would be difficult for the Department of Economic Affairs (Ministry of Finance) to clear such proposals in time.

(G.I.M.O.F. Deptt. of Economic Affairs No. F-I/67/EC/84, dated 17th December, 1985 circulated with H.P. Govt. Deptt. of Personnel (Trg. and FA) letter No. Per (Trg. & FA)F(I)-1/85 dated 13th January, 1986- Annexure-27.8)

27.8 Extension in the period of deputation abroad beyond 5 years-policy regarding conditions for permitting Government servants for.

Vide Govt. of India, Deptt. of Personnel and Training circulars No. 1/15/82-FAS dated 22nd August, 1985, 1/5/86-FAS dated 3rd March, 1986 and No. 23/13/87-FAS dated 25.2.1987 addressed to all State Govts./Union Territories it was requested to maintain a strict vigil on unauthorised overstay of experts under Bilateral/ITEC assignments under international bodies.

It has been observed that despite repeated instructions, the concerned Organisations/Autonomous Bodies/Public Sector Undertakings have failed to maintain a check on unauthorised overstay of experts beyond the maximum permissible period of 5 years. The cases for regularisation of overstay are being submitted to the Central Government on minor grounds and that too, after a considerable lapse of time, and well after the return of experts for ex-post-facto approval. All concerned should ensure that the policy laid down in the matter by the Government is strictly observed by the Autonomous Bodies/Public Sector Undertakings and State Governments and Central Ministries/Departments. It is also pointed out that in future, before processing cases of such unauthorised overstay, it will be checked if the organisation in question has complied with the Central Government directions in the past.

It is, therefore, again emphasized that necessary action to recall the experts may be initiated at least six months in advance before the assignment is to end so as to minimise the cases of such unauthorised overstay. The cases of extension may be sent by the State Governments only in very deserving cases with full justification.

(Govt. of India, Deptt. of Personnel and Training letter No. 25/18/87-FAS dated 15.1.1988, as circulated with H.P. Govt. Deptt. of Personnel (Training and Foreign Assignment) letter No. Per (Trg. & FA) B(12)-8/88 dated 30-5-1988-Annexure 27.12)

27.9 Competent authority in H.P. to approve deputation/tour abroad

As a measure of economy, it has been decided that apart from prescribed training no officer should be deputed for Training/Seminar/Workshop till further orders. If, however, it is absolutely necessary to depute an officer for training, orders of the Chief Secretary may be obtained before proceeding for training by Secretaries/Heads of Departments, giving full justification.

In so far as proposal regarding deputation of officers for Training/Seminar/Workshop etc. abroad is concerned, approval of the Chief Minister is required to be obtained. Approval of Chief Secretary should invariably be obtained before deputing an officer for training/seminar/workshop etc. ever within India. Before submitting such cases to the Chief Secretary, the Administrative Department should obtain the approval of the competent authority in the Administrative Department.

As regards deputation of officers for training/seminar/workshop abroad, the Administrative Department should obtain the approval of the competent authority in the Administrative Department before submitting such cases to the Department of Personnel for obtaining the approval of Chief Secretary/Chief Minister, Cases relating the approval of Chief Secretary/Chief Minister. Cases relating to IAS and HPAS officers will be referred to the Department of Personnel (Appointment –I) while those relating to other officers will be referred to the Department of Personnel (Appointment-II). Cases relating to IPS/HPS officers will continue to be submitted by the Home Department to the Chief Minister through the Chief Secretary.

(H.P. Govt. Deptt. of Personnel letters No. Per(A.I) B(12)1/81, dated 16-3-81 and No. Per (A-I)B(12)-1/81-Vol.II dated 12-8-85-Annexures-27.5 and 27.5-A)

27.10 Submission of nomination forms with complete particulars in time and names of only willing candidates to be sponsored.

It has been observed by the Government of India that generally the nominations are received after the expiry of last date prescribed by them and those too without the requisite particulars and documents with the result that the nominations are not accepted by the training authorities. The State Government thus loses the opportunity of availing of a few fellowships only because of the delay on the part of the sponsoring authorities to send the details in time. It is, therefore, emphasised that the nominations of candidates alongwith their complete particulars in the prescribed forms must reach the Government of India on or before the prescribed date.

It has also been observed that candidates selected for the training sometimes withdraw at the last moment on one ground or the other. This causes great inconvenience to the Government of India as well as the training authorities for selecting a substitute. It is primarily the responsibility of the sponsoring authority to recommend the names of the officers who are willing and can be spared. The sponsoring authorities should

ensure that the names of only such candidates are recommended who are willing and while recommending the names of such officers it should be made clear to the candidates that once selected, they would not be allowed to withdraw at the last moment.

(H.P. Govt. Deptt. of Personnel letter No. PER(AP-II)B(12)-2/75 dated 29-11-1975)

27.11 Execution of bond by Government servants deputed/allowed to undergo Training Courses-Prescription of minimum and maximum tenure of service after the completion of Training.

A bond for serving Himachal Pradesh Government is generally required to be got executed from all Government servants who are deputed/allowed to undergo various training courses, but no uniform procedure as to the minimum and maximum period of service which such a Government servant is required to render after the completion of the training course has been laid down. The question of laying down minimum and maximum tenure of service after the completion of training course has been considered by the Government and the following norms have been prescribed:

Duration of training course -----	Period of service after completion of training course as is required to be indicated in the bond -----
(i) Short term training courses of less than three months	No bond is required.
(ii) Training courses for three months and above.	Five years.

All Govt. servants who are deputed/allowed to undergo training courses should invariably execute a bond for service in Himachal Pradesh after the completion of the training course for the above period and such a bond should be obtained before actually relieving the officials/officers to undergo the training.

(Letter No. 1-23/74-DP(Apptt. II) dated 3.4.74 and 10.4.75- Annexures-27.3 and 27.4)

27.12 Stop-over/Stay-over in foreign countries by Indian trainees after the completion of their scheduled training.

In supersession of all previous instructions and on reconsideration it has been decided that the Indian trainees going abroad under various Aid Programmes may, subject to exigencies of public service, be granted leave while abroad and can avail themselves of stop over/stay over concessions for a period not exceeding 50% of the actual period of duty/training abroad (excluding the transit time from India to the country of deputation/training and back and enforced hauls) or a fortnight whichever is less, for personal reasons.

(G.O.I., Ministry of Finance, Deptt. of Economic Affairs O.M. No. F.2/5/91-UN dated 5-8-1991 as circulated with H.P. Govt. Deptt. of Personnel (Training and Foreign Assignment) letter No. Per(Trg. & FA)B(12)-5/88 dated 6-5-1992- Annexure-27.16)

27.13 Drawal of foreign exchange towards personal incidentals by persons going abroad on deputation/delegations sponsored by Govt. of India.

In terms of Ministry of Finance, Deptt. of Economic Affairs O.M. No. 1/43/EC/83 dated the 24th November, 1984, Govt. officials proceeding abroad on deputation/delegation sponsored by Govt. of India are eligible to draw, among other things, personal incidentals @ US \$10 per day for the first 10 days and US \$ 5 per day thereafter for a maximum period of 90 days. The foreign exchange equivalent to US \$ 20 as conversion facility is also drawable by them at the airport at the time of departure as is allowed to all Indians going abroad. Foreign exchange on these two accounts is purchased by deputationists from out of their own resources.

The question of entitlement towards personal incidentals of officials going abroad on Govt. account has been further reviewed. It has now been decided that Govt. officials proceeding abroad on deputation/delegation sponsored by Govt. of India will be entitled to draw personal incidentals @ \$ 20 per day, subject to minimum being US \$ 150 and a maximum of US \$ 500. As in the past the Administrative Ministries/Deptts. will continue to authorise release of foreign exchange towards personal incidentals to Govt. officials going abroad on deputations/delegations sponsored by Govt. of India without such cases being referred to the Deptt. of Economic Affairs. For the convenience of the State Govts., a copy of the format of the release order is attached to Annexure 27.17. Break-up of the requirement of foreign exchange for a trip may please be furnished accordingly, to enable the concerned Govt. of India Ministry to analyse and examine the case properly. Release of foreign exchange towards incidentals for State Govt. officials will continue to be authorised by Exchange Control Division of Department of Economic Affairs.

(Govt. of India, Ministry of Finance, Deptt. of Economic Affairs O.M. No. F. 1/37/EC/91 dated 19-12-1991, as circulated with Deptt. of Personnel (Training and Foreign Assignment) letter No. Per. Ka (Prashi. Bi-Sa)-B(12)8/88 dated 7-3-1992-Annexure-27.17)

27.14 - Frequent tours of Administrative Secretaries.

After observing that the work of public interest and grievances of the general people are not being attended on day to day basis due to frequent and long tours of the administrative Secretaries during the tours of the concerned Ministers and are not available even in the Secretariat, the Government decided that all the Administrative Secretaries should remain at headquarter during the tours of the concerned Ministers, except under unavoidable circumstances, so that the official work involving public interest does not suffer and citizen grievances are promptly redressed.

(H.P. Govt. Department of Personnel letter No. Per(AP.IV)B(15)-7/86-Part dated 15-12-2015 - Annexure 27.18)

27.15 - Nomination/forwarding of applications of various Heads of Departments/IAS/HPAS Officers for Foreign training/visits, etc.

(a) It come to the notice of Government that some Departments are still recommending the names of some IAS/HPAS Officers for foreign training/visits at their own level and approach the Personnel Department only when the nominations are accepted. Therefore, decided that in future, IAS/HAS Officers/Heads of Departments will not be released for any foreign visit unless the same has been recommended after obtaining approval of Department of Personnel.

(H.P. Govt. Department of Personnel letter No. Per(AP.IV)B(15)-3/2009 dated 25-08-2010 - **Annexure 27.19**)

(b) Department of Personnel is the cadre controlling authority of Heads of Departments/IAS/HPAS/HPSS officers and the names of the officers cannot be recommended for any foreign training programmes/visits directly without obtaining the prior approval of Personnel Department. Department of Personnel noticed that some Departments are recommending the names of some officers for foreign training/visits at their own level and approach the Personnel Department only when the nominations are accepted. Instances also come to notice of the DoP where these officers have proceeded on foreign visit without cadre clearance from the Department of Personnel that is highly irregular and violative of the Conduct Rules. Department of Personnel reiterated that in future, IAS/HAS/HPSS Officers/Heads of Departments will not be released for any foreign visit unless the same has been approved by the Department of Personnel.

(H.P. Govt. Department of Personnel letter No. Per(AP.IV)B(15)-3/2009 dated 11-01-2016 - **Annexure 27.20**)

(c) Department of Personnel re-affirmed the vital fact that functions as the cadre controlling authority in respect of IAS/Heads of Departments/ HPAS/HPSS Officers and these officers cannot be recommended/ sponsored for any foreign training programmes/visits directly without obtaining prior approval of the Department of Personnel. It again come to the notice of Department of Personnel that some Departments are still recommending the names of some officers for foreign training/visits at their own level and approach the Personnel Department only when the nominations are accepted. Instances also come to notice of Department of Personnel where some departments recommended the names of some officers for foreign visits sponsored by the interested/stakeholder companies with whom they have official dealings. Department of Personnel clearly observed that such foreign visits funded by interested/stakeholder companies are highly irregular and violative of the Conduct Rules and the cadre clearance by the Department of Personnel for such visits may not be treated as mere formality and not to be presumed as an ex-post approval taken for granted even without completing

codal formalities. Department of Personnel firmly reiterated that such foreign visits sponsored by the interested/stakeholder companies with whom the department(s) have official dealings, may not be recommended and made it clear that in future, IAS/HAS/HPSS Officers/Heads of Departments will not be released for any foreign visit unless the same has been approved by the Department of Personnel.

(H.P. Govt. Department of Personnel letter No. Per(AP.IV)B(15)-3/2009 dated 09-10-2017 - **Annexure 27.21**)

(d) Instances come to the notice of the Department of Personnel that some departments are still releasing of IAS/HPAS officers for foreign training/visit without prior cadre clearance from the Department of Personnel and sending the proposals for foreign visits of IAS/HPAS officers directly to the Hon'ble Chief Minister and submitting the files to the Department of Personnel afterwards in violation of Government instructions. Accordingly, the Department of Personnel directed that proposal for foreign visits of IAS/HPAS/HPSS officers should not be sent to the Hon'ble Chief Minister directly even in cases where Hon'ble Chief Minister is the Minister-in-charge of the concerned department. Department of Personnel reiterated that henceforth, if IAS/HoD/HPAS/HPSS Officers proceed on unauthorized foreign visit without prior cadre clearances, stern disciplinary action will be initiated not only against such erring officer but also against the Controlling Officer also who allows/releases such officers to proceed in violation of these instructions. The Administrative Departments should also desist from sending files directly to the Hon'ble Chief Minister for permission to undertake foreign visits and follow the channel prescribed.

(H.P. Govt. Department of Personnel letter No. Per(AP.IV)B(15)-3/2009 dated 29-06-2018 - **Annexure 27.21**)

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Annexures to Chapter-27

(Procedure for selection of candidates under the various schemes for Technical and other Training Abroad)

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Annexure No.	Detail of communications	Page No.
27.1.	H.P. Govt. Deptt. of Personnel letter No. 8-50/68-Applt. dated 18-9-1968.	90
27.2.	H.P. Govt. Deptt. of Personnel letter No. 8-50/68-Applt. dated 20-3-1969.	91
27.3.	H.P. Govt. Deptt. of Personnel letter No. 1-23/74-DP(Applt-II) dated 3-4-1974.	91
27.4.	H.P. Govt. Deptt. of Personnel O.M. No. 1-23/74-DP(Applt-II) dated 10-4-1975.	92
27.5.	H.P. Govt. Deptt. of Personnel letter No. Per (A-I)B(12)1/81 dated 16-3-1981.	92
27.5-A.	H.P. Govt. Deptt. of Personnel letter No. Per(A-I)B(12)1/81-Vol.II dated 12-8-1985.	94
27.6.	H.P. Govt. Deptt. of Personnel letter No. Per(AP-II)B(12)2/75 dated 28-11-1985.	94
27.7.	G.O.I., Ministry of Finance, Deptt. of Economic Affairs letter No. 1(3)CP/85 dated 10-12-1985, as circulated with H.P. Govt. Deptt. of Personnel letter No. Per(AP-II)B(12)10/85 dated 21-1-1986	94
27.8.	G.O.I., Ministry of Finance, Deptt. of Economic Affairs letter No. F.1/67/EC/84 dated 17-12-1985, as circulated with H.P. Govt. Deptt. of Personnel (Trg. & FA) letter No. Per(Trg. & FA)F(1) 1/85 dated 13-1-1986.	97
27.9.	H.P. Govt. Deptt. of Personnel (Trg. & FA) letter No. Per (Trg. & FA)F(1)-1/85 dated 28-1-1986.	99
27.10.	H.P. Govt. Deptt. of Personnel (Trg. & FA) letter No. Per (Trg. & FA) B(12)-50/86 dated 26-6-1986.	100
27.11.	G.O.I., Ministry of Personnel, PG & Pension, Deptt. of Personnel and Training letter No. 28(138)-EO (F)/85 dated 4/5-1-1988 as circulated with H.P. Govt. Deptt. of Personnel (Trg. & FA) letter No. Karmik-Pra-Avam B-C-Kha (12)-8/88 dated 30-5-1988.	102
27.12	G.O.I., Deptt. of Personnel and Training letter No. 25/18/87-FAS dated 15-1-1988 as circulated with H.P. Govt. Deptt. of Personnel (Trg. & FA) letter No. Per (Trg. & FA) B(12)-8/88 dated 30-5-1988.	105
27.13	H.P. Govt. Deptt. of Personnel (Trg. & FA) letter No. Per (Trg.	106

	& FA) B(12)-50/86 dated 23-2-1988.	
27.14	H.P. Govt. Deptt. of Personnel (Trg. & FA) letter No. Pra. Avam Bi-Sa-B(12)50/86 dated 23-7-1990.	107
27.15	H.P. Govt. Deptt. of Personnel (Trg. & FA) letter No. Prashi Avam Bi-Sa-B(12)50/86 dated 19-4-1991.	108
27.16	G.O.I., Ministry of Finance, Deptt. of Economic Affairs O.M. No. F.2/5/91-UN dated 5-8-1991, as circulated with H.P. Govt. Deptt. of Personnel (Trg. & FA) letter No. Per(Trg. & FA)B(12)-5/88 dated 6-5-1992.	108
27.17	Govt. of India, Ministry of Finance, Deptt. of Economic Affairs O.M. No. F.1/37/EC/91 dated 19-12-1991 as circulated with H.P. Govt. Deptt. of Personnel (Trg. & FA) letter No. Per. Ka (Prashi-Bi-Sa-B(12)8/88 dated 7-3-1992.	109
27.18	H.P. Govt. Department of Personnel letter No. Per(A.IV)B(15)-7/86-Part dated 15-12-2015	111
27.19	H.P. Govt. Department of Personnel letter No. Per(AP-IV) B(15)-3/2009 dated 25-08-2010	111
27.20	H.P. Govt. Department of Personnel letter No. Per(AP-IV) B(15)-3/2009 dated 11-01-2016	112
27.21	H.P. Govt. Department of Personnel letter No. Per(AP-IV) B(15)-3/2009 dated 09-10-2017	112
27.22	H.P. Govt. Department of Personnel letter No. Per(AP-IV) B(15)-3/2009 dated 29-06-2018	113

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Copy of H.P. Govt. Deptt. of Personnel letter No. 8-50/68-Apptt. dated 18th September 1968 addressed to All Secys./Jt. Secys. and Heads of Deptt. in H.P.

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(Referred to in para 27.3.)

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Subject: Training abroad under different Aid Programmes and other schemes.

It has been observed that there is no uniform procedure in the matter of selection of candidates for training under the various schemes for technical and other training abroad under the Colombo Plan and other Technical Training Schemes etc. Suitable candidates are generally required to be sponsored for technical and other training in those subjects in which facilities are not available in India or in which higher standards of training are available in foreign countries. It has not been possible to have any coordinated programme for this purpose as a proper assessment of the manpower requirements in the various fields is not made sufficiently in advance. Occasionally it has not been possible to avail of the facilities offered under the various schemes due to some procedural delays at various levels. In order to ensure proper utilization of available facilities it has been decided that the procedure for the selection of candidates for such training programmes should be laid down in precise terms.

2. It is primarily the responsibility of the head of each department to draw up a panel of suitable candidates. The names in the panel can be grouped in different categories, having due regard to the character of the training, period of the course and other relevant factors. In preparing the panel due regard would naturally have to be paid to the academic record, length of service, field of specialization etc. of the selected officers. The panel should be forwarded to the Chief Secretary in the Appointment Department for preliminary check and submission of the case to a Committee which will be presided over by the Chief Secretary personally. The joint Secretary, Appointment Department, who will function as Secretary to this Committee will arrange to obtain the full particulars and the confidential records of all the candidates sponsored by the departmental heads alongwith other relevant information. The committee will consider the material made available and finalize the names of the deserving candidates in order of preference. It might be useful to make a periodic review of the panels, preferably once a year, in order to bring them up-to-date. This will help in finding sufficient number of candidates for short courses and other training programmes held at regular intervals. Nominations for the various training/programmes would be made strictly from the selected panel. If deviation in any particular case is found necessary prior clearance of the Personnel Department should be obtained.

In respect of the current financial year panels of suitable candidates may be immediately drawn up and sent to the Appointment Department by 31st October, 1968.

Kindly acknowledge receipt of this communication.

.....

Annexure 27.2

Copy of H.P. Govt. Deptt. of Personnel letter No. 8-50/68-Apptt., dated 20th March, 1969 addressed to all Secy's/Jt. Secy's /Heads of the Departments in Himachal Pradesh.

.....

(Referred to in para 27.3)

.....

Subject: Training abroad under different Aid programmes and other schemes.

I am directed to refer to this Department's letter of even number, dated the 18th September, 1968 and to say that the committee referred to in para 2 thereof shall consist of the following officers of this Government:-

(1)	Chief Secretary	Chairman
(2)	Secretary of the Department concerned	Member
(3)	Head of the Department concerned	Member
(4)	Joint Secretary (Apptt.)	Member Secretary

2. Please acknowledge receipt.

.....

Annexure 27.3

Copy of H.P. Govt., Deptt. of Personnel letter No. 1-23/74-DP (Apptt.-II) dated 3-4-1974 addressed to all Secretaries, Heads of Departments etc.

.....

(Referred to in para 27.11)

.....

Subject: Execution of Bond by Government servants deputed/allowed to undergo training courses-prescription of minimum and maximum tenure of service after the completion of training.

I am directed to say that a bond for serving Himachal Pradesh Government is generally required to be got executed from all Government servants who are deputed/allowed to undergo various training courses, but no uniform procedure as to the minimum and maximum period of service which such a Government servant is required to render after the completion of the training course has been laid down. The question of laying down minimum and maximum tenure of service after the completion of training course has been considered by the Government and the following norms are hereby prescribed:-

Duration of training	Period of service after completion of training course as is required to be indicated in the bond.
(i) Short term training courses of less than three months.	Three years.
(ii) Training courses for three months and above.	Five years.

I am, therefore, to request that in future all Government servants who are deputed/allowed to undergo training courses should invariably execute a bond for service in Himachal Pradesh after the completion of the training course for the above period and such a bond should be obtained before actually relieving the officials/officers to undergo the training.

The receipt of this letter may kindly be acknowledged.

.....

Annexure 27.4

Copy of HP Govt. Department of Personnel Office Memorandum No. 1-23/74-DP (Apptt-II) dated the 10th April, 1975 addressed to all Secretaries, Heads of Departments.

(Referred to in para 27.11)

.....

Subject: Execution of Bond by Government Servants deputed/allowed to undergo training courses-prescription of minimum and maximum tenure of service after the completion of training.

.....

The undersigned is directed to invite reference to this Department's letter of even No. dated 3rd April, 1974 on the subject noted above and to say that in partial modification of the instructions contained therein it has been decided by the Government that Government servants deputed/ allowed to undergo training courses of less than three months duration should not be asked to execute bond for service in H.P. after the completion of the training course. Accordingly, no bond would be required for training courses of less than three months duration in future.

.....

Annexure 27.5

Copy of HP Govt. Department of Personnel letter No. Per (A-I)B(12)1/81 dated 16 March, 1981 addressed to all Secretaries/Heads of Departments.

.....

(Referred to in para 27.9)

.....

Subject: Nomination of officers for training/seminars/workshop- Instructions regarding.

.....

I am directed to say that, as an economy measure, it has been decided that apart from prescribed training no officer should be deputed for training/seminar/workshop till further orders. If, however, it is absolutely necessary to depute an officer for training, orders of the Chief Secretary may kindly be obtained before proceeding for the training by the Secretaries/Heads of Departments, giving full justification. The receipt of this letter may kindly be acknowledged.

.....

Annexure 27.5-A

Copy of HP Govt. Personnel Deptt. letter No. Per (A-I)B(12)-1/81-Vol-II dated 12-8-85 addressed to all Secretaries/Heads of Departments etc.

.....

(Referred to in para 27.9)

.....

Subject: Deputation of officers for training/seminar/workshop-Instructions regarding.

.....

I am directed to invite your attention to the instructions contained in this department's letter of even No. dated 16th March, 1981 in which it was stated that apart from prescribed training, no officer should be deputed for training/seminar/workshop. In such cases, however, where it is absolutely necessary to depute an officer for training etc. within India, orders of Chief Secretary are required to be obtained.

2. In so far proposal regarding deputation of officers for training/seminars/workshop etc. abroad is concerned approval of the Chief Minister is required to be obtained.

3. It has been observed that the above instructions are not being followed strictly. It has further been decided that, approval of the Chief Secretary should invariably be obtained before deputing an officer for training/seminar/workshop etc. even within India. Before submitting such cases to the chief Secretary, the Administrative Department should obtain the approval of competent authority in the Administrative Department.

4. As regards deputation of officers for training/seminar/workshop etc. abroad, the Administrative Department should obtain the approval of the competent authority in the Administrative Department before submitting such cases to the Department of Personnel for obtaining the approval of Chief Secretary/Chief Minister. Cases relating to IAS & HPAS officers will be referred to the Department of Personnel (AP-I) while those relating to other officers will be referred to Department (Apptt-II). Cases relating to IPS/HPS officers will continue to be submitted by the Home Department to the Chief Minister through the Chief Secretary.

The receipt of this letter may kindly be acknowledged.

.....

Copy of HP Govt. Department of Personnel letter No. Per (AP-II)B(12)2/75 dated the 28th November, 1985 addressed to all the Secretaries, Heads of Departments etc.

.....
(Referred to in para 27.1)

.....

I am directed to state that under the Business of the Government of Himachal Pradesh (Allocation) Rules, 1971 a new sub-head "E" Training and Foreign Assignments has been inserted to deal with

- (a) All matters relating to deputation of officers for training abroad.
- (b) Foreign visits of official delegations including officers of the State Government, Government Corporations and Government aided Boards, and
- (c) Study tours by officials

It is, therefore, requested that all matters pertaining to training abroad visits of foreign delegations abroad and foreign study tours may be routed through the Department of Personnel (Training) in the Training and Foreign Assignments Section in all cases.

2. In this regard it may also be mentioned that cases being referred to the Department of Personnel (Appointment-II) for training abroad which are to be placed before the Screening Committee in the Department of Personnel may be routed to the Secretary (Training) henceforth for processing. Detailed guidelines in this regard are being issued separately.

3. Receipt of this letter may please be acknowledged.

.....

Copy of G.O.I., Ministry of Finance, Department of Economic Affairs, letter No. 1(3)CP/85, dated the 10th December 1985, to the address of the Chief Secretaries of all State Governments/Union Territories, circulated with H.P. Govt. Department of Personnel letter No. Per(AP-II)B(12)10/85 dated 21-1-1986 for strict adherence with making out proposals for training abroad.

.....
(Referred to in para 27.6)

.....

As the State Govts. and Central Ministries are aware, India has been receiving technical assistance from Japan, Australia, New Zealand and U.K. etc. in the form of training facilities abroad for Indian personnel under the Colombo Plan. Whenever training slots for any particular training course are available, were invite names through sponsoring Ministries through specific letters. The proposals in this regard have to be forwarded to this Department in the prescribed proforma through the Central Ministries concerned with the subject matter of field in which the training is required (Universities and institutions under them have to route their proposals through the University Grants Commission). Before a proposal is finalised and sent to this Department, the Central Ministry concerned has to ensure that the proposal has received the administrative approval of the Head of the Department and/or of the Secretary of the Department concerned and has been concurred in by competent financial authority, besides clearance from the competent cadre controlled authority.

2. The various proposals in this regard are screened in the Department of Economic Affairs of the Ministry of Finance by the Technical Assistance Selection Committee (TASC) constituted in this Department, before these are transmitted to the donor country concerned. In determining the selection of persons for training abroad, apart from ensuring the prescribed administrative and financial clearances, the Technical Assistance Selection Committee applies various criteria, particularly those listed in this Department's circular letter No. F. 14/11/70-UN dated 21-4-1971 which interalia spelt out that:-

- (i) The proposed training should be (a) essential to the economic development of country, and (b) critical to the project/institution in which the candidate is working.
- (ii) The training facilities desired abroad are not easily available in India.
- (iii) The candidate nominated for training should have the basic educational and technical qualifications and also adequate practical experience in the proposed field of training so that he may be able to derive the optimum benefit. He would be the most appropriate person as compare to others working in the same field.
- (iv) The candidate should not be more than 45 years old (relaxable in exceptional cases upto 48.)
- (v) On completion of the training, the candidate should return to the same area of activity for a period of 1½ (one and half) years atleast so that he may transmit the benefit of his training adequately to his field of work.
- (vi) An officer who has already attended foreign training programme of duration of one month or more earlier, should not be nominated again for afresh training programme of more than one month's duration. However,

such officers should not be debarred from being nominated for courses/seminars which are of one month's duration. Also officers who have attended courses abroad on study leave or any other kind of leave are not in-eligible.

- (vii) Nominated officers should be clear from disciplinary proceedings and vigilance angles. Officers having inferior service records or adverse remarks of serious nature in their ACRs should not be nominated.
- (viii) In exceptional cases where relaxation of an particular criterion is sought to be made, full and sufficient justification has to be given in the initial proposal itself.

3. It has been observed that in a number of proposals received in the Department the complete documentation was not furnished and requisite clearances has also not been ensured. Such proposals cannot obviously be processed in Department of Economic Affairs. Further some of the Ministries, while forwarding the proposals to the Department of Economic Affairs assumed that the officers sponsored by them has been finally accepted. The trainee officer concerned was accordingly asked to complete all the pre-departure facilities viz. passport, health document etc. and his employer was asked to relieve the officer for the particular training/courser/programme. In some cases the officers so sponsored had to be disappointed either because his nomination was not approved by the Technical Assistance Selection Committee in the Department of Economic Affairs or not finally accepted by the donor country/institution concerned. To avoid such a situation and unnecessary controversies the various sponsoring authorities are requested that the officers sponsored for training programmes abroad should be asked to complete pre-departure formalities etc. and relieved of their duties only after knowing about their final selection from the Deptt. of Economic Affairs.

4. Of late it has been observed that various Ministries/Departments have been sponsoring candidates who are much above the permissible age-limits. This also generally results in eventual non-selection by the Technical Assistance Selection Committee and avoidable disappointment of the sponsoring authorities.

5. In a number of cases the nominations are received in the Department of Economic Affairs much after the date indicated for receipt of such nominations. Since the foreign Govts./institutions are quite particular in enforcing such deadlines, there is little possibility of delayed nominations being finally accepted. The various sponsoring authorities are requested to ensure that no nominations are sent to Deptt. of Economic Affairs after the specified date as it involves unnecessary work all around besides creating unnecessary hopes in the minds of the officers concerned.

.....

Copy of HP Govt. Deptt. of Personnel (Trg. & FA) letter No. Per (Trg. & FA) F(1)1/85 dated 13.1.1986 addressed to all Secretaries, Heads of Departments etc.

.....
(Referred to in para 27.7)
.....

Subject: Guidelines regarding foreign travel of Ministers of State Govts/Union Territories, Members of State Legislatures/Union Territories and State Govt. Officials.

I am directed to forward herewith copy of letter No. F/167/EC/84 dated the 17th December, 1985 received from the Joint Secretary to the Government of India, Ministry of Finance (Department of Economic Affairs) New Delhi, on the above subject, for information/guidance. It is requested that the guidelines contained therein may be strictly adhered to and followed in its true spirit while making out proposals regarding travel abroad by Ministers/Members of State Legislature and State Government Officials.

2. This may kindly be treated as Confidential.

Enclosure to Annexure 27.8

Copy of letter No. F-1/67/EC/84 dated 17th December, 1985 from the Govt. of India, Ministry of Finance, Department of Economic Affairs, New Delhi addressed to the Chief Secretaries to the State Govts/UTs.

Subject: Guidelines regarding foreign travel of Ministers of State Govts./Union Territories. Members of State Legislatures/Union territories and State Govt. officials.

I am directed to invite a reference to Cabinet Sectt. Letter No. 21/1/1/81-Cab. Dated the 16th August, 1982 on the above mentioned subject. In this connection it has been decided to prescribe the following guidelines for considering the proposals regarding travel abroad by Ministers of State Govts./Union Territories, Members of State Legislatures/Union Territories and State Govt. Officials:

A. Study tours/exploratory visits:

- (i) Visits abroad for gathering general information or knowledge which are in the nature of general purpose study tours need not be approved in any circumstances.
- (ii) If, however, the study tour abroad is related to any pending scheme of development in the State, such a visit may be approved for a period not exceeding 10 days provided some specific issue or aspect need to be

studied. In such cases, the visit abroad will be approved only if the development project is an approved one and is covered by Plan allocation.

- (iii) Pre/post conference study tours would be restricted to six days duration only. Such pre/post conference study tours would be allowed only when they are of the nature indicated at (ii) above.
- (iv) In the case of delegates participating in the Common Wealth Parliamentary conferences the duration of study tours would be restricted to six days and three countries, excluding travel time.

B. Visits abroad on hospitality basis:

Visits abroad on an invitation from a private source/organisations would be encouraged/approved. Visits on hospitality basis will, however, be regulated keeping in view the following criteria:

- (i) Invitations should have been received either from a foreign government or from an international body (like UN and its specialised agencies, recognised international organisations, regional groups or any other such body with the approval of the Ministry of External Affairs, etc.). These should have been received through Ministry of External Affairs.
- (ii) In case of national political parties, the expenditure relating to international travel should be borne by the concerned political parties/individual, etc. as the case may be, and not by any foreign government/organisation etc.
- (iii) In the case of Ministers, the invitations should bear a relationship to their portfolio.
- (iv) Invitation should have been extended on some important occasion like National Day, or an anniversary, etc. being celebrated by the host country. The period should not exceed normally 2 weeks.

C. Visits abroad for attracting NRI investment/external assistance, finalising collaboration agreement.

- (a) NRI Investment.
 - (i) The projects (promoted) by the State Govt. in the State Sector should be approved plan projects covered by plan allocations.
 - (ii) Sufficient advance planning should have been made before delegations are sent for attracting NRI investment for specific projects.

- (iii) It would be necessary to send projects profile to the concerned officers abroad of the Indian Investment Centre to enable them to locate potential investors, etc.
- (iv) Chief Ministers/Ministers need not to be excluded from undertaking the visits.
- (b) External Assistance.

Separate visits abroad by Ministers of State Governments/Officials to negotiate external assistance for such projects need not be approved as this subject is within the purview of the Central Government which coordinates all external assistance.

(c) Collaboration agreements.

Collaboration agreement proposals both from the public sector and private sector are considered on merits of each case. Among other things, profitability aspect of the proposal is to be justified fully in each case. Negotiations with foreign parties in connection with collaboration agreements are matters which are required to be carried out by technical authorities connected with the project. While giving its approval in principle, in these cases Govt. of India indicates, broad parameters within which agreement has to be finalised with the overseas parties. In cases where any change is sought by the Project authorities they have to seek Govt. of India's approval first. It is, therefore, proposed that the visits abroad by Ministers/Chief Ministers for discussions/negotiations in connection with collaboration agreements need not be encouraged.

4. It is requested that the above guidelines may please be kept in view while forwarding the proposals to the Department of Economic Affairs. It is hereby clarified that unless all procedural requirements are met and proposals are submitted to the Department of Economic Affairs at least three weeks in advance, it would be difficult for this Department to clear such proposals in time.

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Annexure 27.9

Copy of H.P. Govt. Deptt. of Personnel (Trg. & FA) letter No. Per (Trg. & FA) F(1)-1/85 dated 28th January, 1986 addressed to all Secretaries and Heads of Departments etc.

.....

(Referred to in para 27.1)

.....

Subject: Matters regarding Training & Foreign Assignment.

I am directed to invite reference to letter No. 5-2/71-GAD(CC) dated 20/21st November, 1985 from the Secretary (GAD) to the Govt. of Himachal Pradesh forwarding

therewith Notification of same number dated 16.11.85 where under the sub-head "E-Training" has been re-named as "Training and Foreign Assignments" besides inserting the following two entries at page 18 of the Business of the Government of Himachal Pradesh (Allocation) Rules, 1971:

6. All matter relating to deputation of officers for training abroad; and

7. Foreign visits of official delegations which include officers of the State Government Public Sector, corporations and Government aided Boards.

A reference is further made to the Department of Personnel (Appointment-II) letter No. Per(AP-II)B(12)-2/75 dated 28.11.85 wherein it has been stated that all matters pertaining to training abroad, visits of foreign delegates abroad and foreign study tours may be routed through Department of Personnel (Training) in the Training and Foreign Assignment Section. The perusal of the entries Nos. 6 & 7 reproduced above would reveal that these hardly need more elaboration and for all conceivable reasons covers all kind so visits/trips abroad for the purposes mentioned or not specifically mentioned in the instructions on the subject issued from time to time.

2. It is, therefore, made clear that all matters falling under ambit of the entries made under Sub-head "E Training and Foreign Assignment" at page 18 of the Business of the Govt. of Himachal Pradesh Allocation Rules, 1971 will now be dealt within the department of Personnel-"Training and Foreign Assignment and the same be addressed as the case may be, to Secretary (Training & Foreign Assignment) to H.P. Government. The instructions hereto before issued by the Department of Personnel -Appointment, will continue to apply/operate mutatis-mutandis as if issued by the Department of Personnel Training & Foreign Assignment and adhered to as such. The requisite guidelines/instructions on the subject will henceforth, be issued by the Department of Personnel Training and Foreign Assignment.

3. The instructions relating to Training, Foreign Assignment and all kinds of visits abroad may also be brought to the notice of the Public Sector Undertakings/Boards/Corporations by the Administrative Departments for strict compliance.

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Annexure 27.10

Copy of HP Govt., Deptt. of Personnel (Trg. & FA) B(12)-50/86 dated the 26th June, 1986 to all Secretaries and Heads of Departments.

.....

[Referred to in para 27.3 (2)]

Subject: Procedure for sending names to Screening Committee.

I am directed to refer to this department letter No. 8-50/68-Apptt., dated 18.9.1968 in which it has been stipulated that all cases of training/visits/assignments/empanelment abroad will be referred to Department of Personnel(Training & FA) for placement before a Screening Committee.

2. It has been observed that the procedure prescribed for the purpose is not being followed. As such it is reiterated that the following will be the procedure:

- (i) In case of regular programmes such as Colombo Plan, case will be placed before the Screening Committee for preparation of panels for each category of training without waiting for a formal reference from Government of India. As and when such a reference is received names will be sponsored from the panel by the concerned department.
- (ii) In respect of training/visits/assignments which are not a normal annual feature, as soon as reference is received, case should be referred for approval of names to the Screening Committee. In case last date has already expired, in no case should the matter be referred to the Committee. As such all departments should ensure speedy processing of the case at all levels.

3. It has been observed that departments do not comply with instructions regarding method of submitting cases to the Screening Committee. It is clarified that the following documents are required in all cases:-

- (i) V.C.C.
- (ii) Certificate that no departmental/vigilance cases are pending/contemplated.
- (iii) Certificate, in case proposed training exceeds 30 days, that the officer has not undergone training abroad for period exceeding 30 days in the post.
- (iv) ACRs.
- (v) Copy of letter of Govt. of India/Training Institute giving details of course, charges etc.

The documents are to be accompanied by a memorandum which should contain information to the above effect and also the following.

- (i) Relevance of course to the department and the sponsored officers.
- (ii) Mode of selection of officers i.e. seniority, special knowledge etc. In case of general courses, seniority should be given preference.

- (iii) Before sending the names to the Screening Committee the department should obtain approval of Minister-in-Charge and this should be mentioned in the memorandum.
- (iv) The fact that the sponsored officers qualify the eligibility criteria for the training/visit should be brought out in detail with specific reference to the actual criteria.

The relevant file of the department alongwith documents should be forwarded to Joint Secretary (Personnel) who is the Member-Secretary of the Committee.

Kindly acknowledge receipt.

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Annexure 27.11

Copy of Govt. of India, Ministry of Personnel, PG & Pensions, Department of Personnel and Training letter No: 28(138)-EO(F)/85 dated 4/5th January, 1988 as circulated with HP Govt. Deptt. of Personnel (Trg. & FA) letter No. Karmik Pra. Avem B-C-Kha (12)-8/88 dated 30-5-1988 to all Secretaries and Heads of Departments.

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(Referred to in para 27.5)

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Subject: Deputation of officers falling within the purview of the Central Establishment Board, Civil Services Board for training abroad.

I am directed to say that the policy currently followed for selecting officers belonging to the IAS/CSS and officers of other organised services on deputation to the Central Government for training programmes/seminars abroad is contained in letter No. 28 (138)-EO (F)/85 dated the 16th September, 1987. The Civil Services Board has now recommended that the period of training of the officers, whether within the country or abroad, irrespective of the duration of training should be conuted towards tenure of the officers who are presently on deputation to the Central Government. This has been considered by the Government and It has been decided that the following guidelines may henceforth be followed while nominating officers for training programmes/seminars abroad:-

2. (i) For long-term courses (duration –six months or more)

- (a) Officers should have completed nine years of service on the date of commencement of the course.

- (b) Officers should not be more than 45 years of age on the date of commencement of the course. In special cases, relaxation of the age limit upto 48 years may be granted provided a special justification is given.
 - (c) Officers who have attended a long-term training programme earlier should not be nominated again for such training.
 - (d) Only officers whose service records are in 'Very Good' or 'Outstanding' categories should be nominated for such training programmes.
- (ii) For short-term courses (Duration 15 days or more but less than six months.)
- (a) Officers should have completed nine years of service on the date of commencement of the course.
 - (b) Officers should not be more than 52 years of age on the date of commencement of the course.
 - (c) Officers who have earlier attended training programme abroad may be nominated again only if suitable officers who have not attended training programme earlier are not available.
 - (d) Only officers who are working in the field connected with the subject of the course should be nominated to short term courses. This Department will give clearance to officers so nominated on the understanding that the concerned State Governments/Central Ministries will take use of officer in the field connected with the training programme on his return. This stipulation is being imposed because instances have come to the notice of this Department where officers returning from training do not get back to the same post or a post of similar field where their training could be put to use.
- (iii) Officers should be cleared from disciplinary proceedings and vigilance angle.
- (iv) There should be a gap of five years between two consecutive spells of foreign training, including short-term training programmes.
- (v) A study tour/seminar/workshop which is in the nature of a training programme and which is of the duration of more than 15 days would be governed by the instructions relating to short-term course contained in the circular mentioned above. Study tours/seminars/workshops which are of less than 15 days duration would not be treated as short-term training programmes in respect of the upper age limit laid down for the same. The officers should however, have completed nine years of service on the date of

commencement of the course. Such study tours/seminars/workshops would also not be counted as foreign training while calculating the minimum gap of 5 years between two consecutive spells of training abroad. However, the clearance of this Department should be taken for all such seminars/study tours/workshop having a training content before deputing any officer belonging to the IAS, CSS and officers on deputation to the Central Government irrespective of the period of such deputation.

(vi) An officer nominated by the State Government/administrative Ministry and selected by this Department for a training programme abroad will be debarred from foreign training for three years if he/she fails to attend the course for which he/she was selected. It is suggested that Ministries/State Governments may obtain the willingness of the officers before sponsoring them for training programme particularly for long-term training courses.

(vii) For nominating/deputing officers for training who are currently on deputation to Central Government, the guidelines are:-

- (a) Officers may be sponsored for training courses abroad which commence after the expiry of their approved tenure at the Centre, or for courses which commence before expiry of the approved tenure at the Centre, but extend beyond it, only with the concurrence of the cadre controlling authority concerned. In the case of IAS officers, the concurrence of the State Government concerned on whose strength the officer is borne, shall be obtained.
- (b) Officers who are left with a balance of tenure of less than one year on return from a long-term training programme abroad may be asked to revert to their respective parent cadre as it is difficult to arrange posting in Government of India for such short periods.
- (c) The period of training undergone by the officers will not be excluded for the purpose of calculating their tenure at the Centre.

(viii) For the purpose of calculation of tenure these instructions would also apply to:-

- (a) Officers sponsored for training before the issue of these instructions, provided that they are deputed for courses commencing after issue of these instructions.
- (b) Officers who have been on training courses earlier and who would complete their normal tenure, without extension on the ground of training, on or after 30-6-1988.
- (c) Officers whose cases are not covered by (a) and (b) above would be allowed extensions in their tenure on the ground of training, in accordance with past practice.

3. These guidelines will come into force with immediate effect in supersession of all previous instructions on the subject.

4. Hindi version will follow.

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Annexure 27.12

Copy of letter No. 25/18/87-FAS dated 15-1-1988, from the Government of India, Department of Personnel & Training addressed to the Chief Secretaries of all the State Government/Union Territories, as circulated with H.P. Govt. Department of Personnel (Training & Foreign Assignment) letter No. Per (Trg. & FA) B(12)-8/88 dated 30.5.1988 addressed to all Secretaries, Heads of Department etc.

(Referred to in para 27.8)

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Subject: Extension in the period of deputation abroad beyond 5 years-policy regarding conditions for permitting-Government servants for.

Kindly refer to our earlier circulars No. 1/15/82-FAS dated 22nd August, 1985m 1/5/86-FAS dated 3rd march, 1986 and No. 23/13/87-FAS dated 25.2. 1987 addressed to all State Govts./ Union Territories wherein we had requested to maintain a strict vigil on unauthorised overstay of experts under Bilateral/ITEC assignments under international bodies.

2. It has been observed that despite repeated instructions, the concerned Organisations/Autonomous Bodies/Public Sector Undertakings have failed to maintain a check on the unauthorised overstay of experts beyond the maximum permissible period of 5 years. The cases for regularisation of overstay are being submitted to the Central Government on minor grounds and that too, after considerable lapse of time, and well after the return of experts for ex-post-facto approval. All concerned should ensure that the policy laid down in the matter by the Government is strictly observed by the Autonomous Bodies/Public Sector undertakings and State Government and Central Ministries/Departments. It is also pointed out that in future, before processing cases of such unauthorised overstay, it will be checked if the organisation in question has complied with the Central Government directions in the past.

3. It is, therefore, again emphasized that necessary action to recall the experts may be initiated at least six months in advance before the assignment is to end so as to minimise the cases of such unauthorised overstay. The cases of extension may be sent by the State Governments only in very deserving cases with full justification.

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Copy of H.P. Govt. Department of Personnel (Training & FA) letter No. Per (Trg. & FA) B(12)-50/86 dated 23-2-1988 addressed to all Secretaries, Heads of Departments etc.

[Referred to in para 27.3 (1) and (2)]

.....

Subject: Screening of Officers before recommending their names to abroad in the various courses.

I am directed to say that the Departments while sending proposals with regard to the screening of officers for undergoing training abroad do not furnish information to this Department on the following points:-

- i) Whether vigilance/departmental proceedings are pending or contemplated against the official(s) recommended for undergoing training abroad?
- ii) Whether the official(s) recommended is /are eligible to undergo training abroad in terms of the qualifications and work-experience and the age limit prescribed for the relevant course?
- iii) Whether the proforma prescribed has been properly filled in and attached with the recommendation of the department for consideration by the screening committee?
- iv) If the expenditure on the course will be borne by the State Government or by the Government of India or the agency which has to impart training to the officer abroad.

2. With a view to examine the cases properly before placing the same to the screening committee, it is requested that the above information together with the C.R. dossiers of the officials concerned may invariably be furnished to this Department well in time so that the officers are screened by the Committee within the stipulated period mentioned in the Government of India's letter for such courses.

3. While recommending an official, his placement in the seniority list of the eligible may ordinarily be reported. Thus, a senior but eligible and suitable official may not be lightly ignored. Of course a department would be quite justified to ignore senior official if he is ineligible or if he has already undergone a similar course of training abroad during the last five years or so.

4. Experience has shown that considerable time is taken in completing the process culminating in the communication of the names and particulars of the sponsored officials to the Government of India. Sometimes, the last date is over before a case is Finalised. This

leads to under-utilisation of the training facilities available to us. Therefore, you may like to consider whether an annual panel of officials of your department may be prepared for training courses which are conducted every year so that the panel may be made use of as and when names for a course are actually invited. Of course, in that case, the department will have to ensure against the sponsoring of an official who may have forfeited his right to undergo training abroad for any reasons subsequent to empanelment.

5. At times, a ban is imposed on foreign training owing to considerations of economy. Should that be the case, a proposal may kindly be got cleared from the Finance Department before it is sent to this Department.

Kindly acknowledge receipt.

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Annexure 27.14

हिमाचल प्रदेश सरकार कार्मिक विभाग (प्रशिक्षण एवं विदेशी समनुदेशन) के पत्र संख्या का (प्र. एवं वि. स) बी (12)50/86 दिनांक 23-7-1990 जो कि सभी सचिवों एवं सभी विभागाध्यक्षों को प्रेषित है, की प्रतिलिपी।

(पैरा 27.4 में उल्लेखित)

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विषय: अधिकारियों को विदेशों में प्रशिक्षण/यात्रा मनोनीत के बारे।

विदेशी प्रशिक्षण व विदेशी यात्रा के लिये अधिकारियों को मनोनीत करने के लिये एक उच्चस्तरीय स्क्रीनिंग समिति का गठन किया गया है। प्रयायशः इस पद्धति से मनोनीत करने की अन्तिम तिथि समाप्त हो जाती है। इसको ध्यान में रखते हुये सचिव समिति ने यह निर्णय लिया कि स्क्रीनिंग समिति के बजाये विदेशी प्रशिक्षण व विदेशी यात्रा पर भेजने के लिये अधिकारियों को प्रशासनिक विभाग ही मनोनीत करते समय निम्नलिखित हिदायतों का कड़ाई से अनुपालन किया जाये:-

1. मनोनीत अधिकारी के विरुद्ध कोई विभागीय अनुशासनिक कार्यवाही लम्बित नहीं है या उन पर ऐसे कार्यवाही निकट भविष्य में विचारणीय नहीं है।
2. सतर्कता विभाग से सतर्कता शोधन प्रमाण लिया जावे।
3. यदि प्रस्तावित प्रशिक्षण 30 दिन से अधिक का है तो सुनिश्चित किया जावे कि इससे पूर्व मनोनीत अधिकारी ने विदेश में 30 दिन से अधिक प्रशिक्षण पिछले 5 वर्षों में प्राप्त नहीं किया है।
4. विदेशी प्रशिक्षण में उल्लेखित योग्यता व अनुभव के अनुसार विभाग में पात्र अधिकारियों की वरिष्ठता बारे सूची तैयार कर ली जाये इस सूची से वार्षिक गोपनीय रिपोर्ट पांच साल के आधार पर अधिकारी मनोनीत किया जावे। यह चयन प्रशासनिक सचिव के स्तर कर किया जावे।
5. इसके पश्चात प्रभारी मन्त्री का अनुमोदन किया जावे।

6. विदेश प्रशिक्षण में भेजा गया अधिकारी प्रशिक्षण की समाप्ति के दो महीने के अन्दर कम से कम 10 पृष्ठ की एक विस्तृत विश्लेषणात्मक रिपोर्ट करेगा जिससे विभाग की अन्य अधिकारीगण व प्रशिक्षित अधिकारी के उत्तराधिकारी को भी ज्ञान प्राप्त हो।

मनोनीत करने के उपरांत प्रशासनिक विभाग स्वयं भारत सरकार को सूचना अन्तिम तारीख से पहले भेजना सुनिश्चित करें तथा सूचना इस विभाग को भेजें।

विदेशी प्रशिक्षण जिस पर खर्चा एजेन्सी या भारत सरकार द्वारा वहन किया जाना है (दिल्ली तक जाने आने का खर्चा के इलावा) उनके लिये मितव्ययिता हिदायत से विशेष छूट दी गई है। अतः उपरोक्त प्रशिक्षण में वित्त विभाग की सहमति लेना आवश्यक नहीं है। विदेशी प्रशिक्षण व यात्रा जिस पर खर्चा प्रदेश सरकार ने वहन करना है उसके लिये वित्त विभाग की पूर्व सहमति लेनी आवश्यक है।

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अनुबन्ध 27.15

हिमाचल प्रदेश सरकार कार्मिक विभाग (प्रशिक्षण एवं विदेशी समनुदेशन) के पत्र संख्या का (प्रशिक्षण एवं विदेशी समनुदेशन)बी(12)50/86 दिनांक 19-4-1991 जो कि सभी सचिवों तथा विभागाध्यक्षों को प्रेषित है की प्रतिलिपि।

(पैरा 27.4 में उल्लेखित)

विषय: अधिकारियों की विदेशों में प्रशिक्षण/यात्रा मनोनीत के बारे।

उपरोक्त विषय पर मुझे इस विभाग के समसंख्यक पत्र दिनांक 23.7.90 के प्रसंग को जारी रखते हुये यह कहने का निदेश हुआ है कि इस पत्र में जारी की गई हिदायतों में से क्रमांक 2 को निकाल दिया गया है तथा शेष क्रम संख्या 3,4,5 और 6 को 2,3,4 और 5 पढ़ा जाये।

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Annexure 27.16

Copy of Govt. of India, Ministry of Finance, Department of Economic Affairs letter No. F.2/5/91-UN dated 5-8-1991 as circulated with HP Govt., Department of Personnel (Trg. & Foreign Assignment) letter No. Per (Trg. & FA) B(12)-5/88 dated 6.5.1992 to all Secretaries & Heads of Departments.

(Referred to in para 27.12)

.....

Sub: Stop-over/stay-over in foreign countries by Indian trainees after the completion of their scheduled training under the various Technical Assistance Schemes viz, Colombo Plan, Under Secretary (AR) to the AID Programmes, UNTA Programmes etc. - Instructions regarding.

In supersession of all previous instructions issued by this Department on the subject mentioned above in the O.M. Nos. 2/5/61-UN dated 23.9.61, 8.5.62, 22.3.63 and 28.9.63, the undersigned is directed to say that on reconsideration it has been decided that the Indian Trainees going abroad under various Aid Programmes may, subject to exigencies of public service, be granted leave while abroad & can avail themselves of stop/over/stay over concession for a period not exceeding 50% of the actual period of duty/training abroad (excluding the transit time from Indian to the country of deputation/training and back and enforced halts) or a fortnight whichever is less for personal reasons.

2. The above order will, however, not automatically entitle the trainee to secure travel arrangements matching with the period of leave abroad. While due consideration will be given to the request of the trainees for making travel arrangements according to the leave granted the same will be subject to convenience of the concerned external donor Agency.

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Annexure 27.17

Copy of Govt. of India, Ministry of Finance, Deptt. of Economic Affairs letter No. F.1/37/EC/91 dated 19-12-1991 as circulated with HP Govt. Department of Personnel (Training & FA) letter No. Per Ka (Prashi-Bi-Sa B (12) 8/88 dated 7-3-1992.

(Referred to in para 23.13)

.....

Subject: Drawl of foreign exchange towards personal incidentals by persons going abroad on deputations/delegations sponsored by Govt. of India.

The undersigned is directed to say that in terms of this Deptt's O.M. No. 1/43/EC/83 dated the 24th November, 1984 Govt. officials proceeding abroad on deputation/delegation sponsored by Govt. of India are eligible to draw, among other things, personal incidentals @ US \$ 10 per day for the first 10 days and US \$ 5 per day thereafter for a maximum period of 90 days. The foreign exchange equivalent to US \$ 20 as conversion facility is also drawable by them at the airport at the time of departure as is allowed to all Indians going abroad. Foreign exchange on these two accounts is purchased by deputationists from out of their own resources.

2. The question of entitlement towards personal incidentals of officials going abroad on govt. account has been further reviewed. It has now been decided that Govt. officials proceeding abroad on deputation/delegation sponsored by got. Of India will be entitled to draw personal incidentals @ \$ 20 per day, subject to minimum being US \$ 150 and a maximum of US \$500. As in the past the administrative Ministries/Deptts. will continue to authorise release of foreign exchange towards personal incidentals to Govt. officials going abroad on deputations/delegations sponsored by Govt. of India without such cases being referred to this Deptt. For the convenience of the State Govts., a copy of the format of the release order is enclosed. Break-up of the requirement of foreign exchange for a trip may please be furnished accordingly, to enable the concerned Govt. of India Ministry to analyze and examine the case properly. Release of foreign exchange towards incidentals for State

Govt. officials will continue to be authorised by Exchange Control Division of Department of Economic Affairs.

No. F.
Government of India (Bharat Sarkar)
Ministry of Finance (Vitta Mantralaya)
Department of Economic Affairs (Arthik Karya Vibhag)

New Delhi, the19

To

The Deputy/Assistant Exchange Controller,
Reserve Bank of India,

Sir

Sanction of the Government of India is accorded to the release of foreign exchange and/or passage clearance as per details given below:

1. Name, Designation and other particulars.
2. Purpose of visit.
3. Countries to be visited.
4. Period.
5. Amount of foreign exchange to be release.
6. Any other instructions.

Yours faithfully,

Under Secretary to the Govt. of India

Copy to:

1. Ministry/Department of with one spare copy with reference to their No..... dt.
2.

Under Secretary to the Government of India

.....

Copy of H.P. Govt. Department of Personnel letter No. Per(A-IV)-B(15)-7/86-part dated 15-12-2015 addressed to all Administrative Secretaries, in H.P. etc.

[Referred to in Para 27.14]

.....

Subject: Regarding frequent tours of Administrative Secretaries.

Instructions have been issued by this Department from time to time on the need to curtail frequent tours of the officers. During recent times, it has been observed that the work of public interest and grievances of the general people are not being attended on day to day basis due to frequent and long tours of the administrative Secretaries to the Government of Himachal Pradesh during the tours of the concerned Ministers. It has been further observed that even the Secretaries are not available in the Secretariat. Therefore, it has been decided by the Government that all the Administrative Secretaries should remain at headquarter during the tours of the concerned Ministers, except under unavoidable circumstances, so that the official work involving public interest does not suffer and citizen grievances are promptly redressed.

2. These instructions may kindly be adhered to strictly.
3. This has the approval of the Hon'ble Chief Minister.

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Annexure 27.19

Copy of H.P. Govt. Department of Personnel letter No. Per(A-IV)-B(15)-3/2009 dated 25-08-2010 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioner/Deputy Commissioners and all Managing Directors of Board/Corporations, in H.P. etc.

{Referred to in Para 27.15 (a)}

.....

Subject: Regarding nominating/forwarding applications of various Heads of Departments/ IAS/HPAS Officers for Foreign training/visits, etc.- instructions thereof.

I am directed to invite a reference to the subject mentioned above and to say that from time to time, Department of Personnel has issued instructions that names of Heads of Departments/IAS/HPAS Officers may not be recommended for any foreign training programmes/visits directly without obtaining the prior approval of Personnel Department. But it has come to the notice of this Department that some Departments are still

recommending the names of some IAS/HPAS Officers for foreign training/visits at their own level and approach the Personnel Department only when the nominations are accepted. It has therefore, been decided that in future, IAS/HAS Officers/Heads of Departments will not be released for any foreign visit unless the same has been recommended after obtaining approval of Department of Personnel.

This may kindly be given Personal Attention.

Annexure 27.20

Copy of H.P. Govt. Department of Personnel letter No. Per(A-IV)-B(15)-3/2009 dated 11-01-2016 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioners and all Managing Directors of Board/Corporations, in H.P. etc.

{Referred to in Para 27.15 (b)}

.....

Subject Regarding nominating/forwarding applications of various Heads of Departments/IAS/HPAS/HPSS Officers for Foreign training/visits, etc.-instructions thereof.

I am directed to invite a reference to the subject mentioned above and to say that Department of Personnel is the cadre controlling authority of Heads of Departments/IAS/HPAS /HPSS officers. Therefore, their names cannot be recommended for any foreign training programmes/visits directly without obtaining the prior approval of Personnel Department. But it has come to the notice of this Department that some Departments are still recommending the names of some officers for foreign training/visits at their own level and approach the Personnel Department only when the nominations are accepted. Instances have also come to notice where these officers have proceeded on foreign visit without cadre clearance from the Department of Personnel. This is highly irregular and violative of the Conduct Rules.

It is, therefore, reiterated that in future, IAS/HAS/HPSS Officers/Heads of Departments will not be released for any foreign visit unless the same has been approved by the Department of Personnel.

This may kindly be given Personal Attention.

Annexure 27.21

Copy of H.P. Govt. Department of Personnel letter No. Per(A-IV)-B(15)-3/2009 dated 09-10-2017 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioners and all Managing Directors of Board/Corporations, in H.P. etc.

{Referred to in Para 27.15(c)}

.....

Subject: Regarding nominating/forwarding applications of various Heads of Departments/IAS/HPAS Officers for Foreign training/visits, etc.- instructions thereof.

I am directed to invite a reference to the subject mentioned above and to re-affirm that the Department of Personnel is the cadre controlling authority of Heads of Departments/IAS/HPAS/HPSS officers. These officers cannot be recommended/ sponsored for any foreign training programmes/visits directly without obtaining prior approval of the Department of Personnel. But it has come to the notice of this Department that some Departments are still recommending the names of some officers for foreign training/visits at their own level and approach the Personnel Department only when the nominations are accepted. Instances have also come to notice where some departments have recommended the names of some officers for foreign visits sponsored by the interested/stakeholder companies with whom they have official dealings. Such foreign visits funded by interested/stakeholder companies are highly irregular and violative of the Conduct Rules. Cadre clearance by the Department of Personnel for such visits may not be treated as mere formality and not to be presumed as an ex post approval taken for granted even without completing codal formalities.

It is, therefore, reiterated that such foreign visits sponsored by the interested/stakeholder companies with whom the department(s) have official dealings, may not be recommended. Further, in future, IAS/HAS/HPSS Officers/Heads of Departments will not be released for any foreign visit unless the same has been approved by the Department of Personnel.

This may be given Personal Attention.

Annexure 27.22

Copy of H.P. Govt. Department of Personnel letter No. Per(A-IV)-B(15)-3/2009 dated 29-06-2018 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioners and all Managing Directors of Board/Corporations, in H.P. etc.

{Referred to in Para 27.15 (d)}

.....

Subject: Regarding nominating/forwarding applications of various Heads of Departments/IAS/HPAS Officers for Foreign training/visits, etc.- instructions thereof.

I am directed to invite your attention to this departments letters of even number dated 11th January, 2016 and 9th October, 2017, on the subject captioned above and to say that despite these instructions, instances have come to the notice that some departments are still releasing of IAS/HPAS officers for foreign training/visit without prior cadre clearance from the Department of Personnel.

Instances have also come to the notice that some departments have been sending proposals for foreign visits of IAS/HPAS Officers directly to the Hon'ble Chief Minister and submit the files to the Department of Personnel afterwards. This is also violative of Government instructions.

It is hereby directed that proposal for foreign visits of IAS/HPAS/HPSS Officers should not be sent to the Hon'ble Chief Minister directly. Even in cases where Hon'ble Chief Minister is the Minister-in-charge of the concerned department, the file will be routed through the Chief Secretary to the Government of H.P.

It is, therefore, reiterated that henceforth, if IAS/HoD/HPAS/HPSS Officers proceed on unauthorized foreign visit without prior cadre clearances, stern disciplinary action will be initiated not only against such erring officer but also against the Controlling Officer also who allows/releases such officers to proceed in violation of these instructions. The Administrative Departments should also desist from sending files directly to the Hon'ble Chief Minister for permission to undertake foreign visits and follow the channel prescribed.

CHAPTER 28

CENTRAL CIVIL SERVICES (CONDUCT) RULES, 1964 AND INSTRUCTIONS ISSUED THEREUNDER

28.1 Applicability

As per detailed position stated in Chapter 1, the Central Civil Services (Conduct) Rules, 1964 were made the State Rules w.e.f. 1-1-1972 with meanings of terms used in these Rules as indicated in para 1.2 of the said Chapter. Subsequent amendments to these Rules as made by the Central Govt. are not to ipso-facto applied in Himachal Pradesh, unless adopted by the State Govt.

Note :

1. On the subject i.e. Civil Services Rules of States, the Department of Personnel (AP.II) vide letter No. Per (AP.B)B(17)-1/2005 dated 4th June, 2008 has conveyed to the Joint Secretary , GOI, M/O Personnel, PG & Pensions, Dept. of Personnel & Training, New Delhi that the State Government follows the Central Civil Services Rules and any amendment thereto is *ispo facto* applicable to Himachal Pradesh.
2. Vide notification dated 09-10-2020 (Annexure 1.10), it has been ordered that henceforth subsequent amendment(s) made in the CCS (Conduct) Rules, 1964, by Govt. Of India shall be applicable to State Services only when adopted and circulated by the State Government.

28.2 Conduct rules vis-a-vis the provisions of the Constitution

Articles 12 to 35-A of the Constitution of India deal with the Fundamental Rights of citizens of India. Article 19(1) of the Constitution of India provides that all citizens shall have the right:

- a) to freedom of speech and expression;
- b) to assemble peaceably and without arms;
- c) to form associations or unions;
- d) to move freely throughout the territory of India;
- e) to reside and settle in any part of the territory of India; and
- f) omitted
- g) to practice any profession or to carry on any profession trade or business.

Clauses (2) to (6) of Article 19, however, read as under:-

“19 (2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with

foreign State, public order, decency or morality, or in relation to contempt of court defamation or incitement to an offence.

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposed, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(5) Nothing in sub-clause (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said-clause, and in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to or prevent the State from making any law relating to-

- (i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or
- (ii) the carrying on by the State or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise”.

Clauses (2) to (6) of Article 19 provide for the operation of existing laws and also empowers the State Government to make any law imposing reasonable restrictions in the interest of sovereignty and integrity of India or public order or morality etc. on the exercise of the rights under Article 19 (1). The term “Law”, as per provisions of Article 13(3) of the Constitution, includes any ordinance, order, by law, rule, regulation, notification, custom or usage having the force of Law.

Proviso to Article 309 of the Constitution provides that it shall be competent for the Governor or such person as he may direct to make rules regulating the recruitment and conditions of service of persons appointed to such services and posts until provisions in that behalf is made by or under an Act of the Legislature under Article 309 and any rules so made shall have effect subject to the provisions of such Act. The State Legislature having not so far made any provision regarding recruitment and conditions of service of Govt. servants, the rules framed by the Governor under proviso to Article 309 of

the Constitution governing recruitment and conditions of service of Govt. servants are applicable.

The Central Civil Services (Conduct) Rules, 1964 framed by the Central Govt. under provision to Article 309 of the Constitution have been adopted and made applicable in H.P. as state in para 28.1 above. Accordingly the provisions of these rules which govern the conduct of a Govt. servant during his tenure of Govt. service are required to be kept in view even for the purpose of rights under Article 19(1) of the Constitution of India.

28.3 Provisions of the Central Civil Services (Conduct) Rules 1964 in brief (Upto 29-07-2019)

3. General

(1) Every Government servant shall at all times--

- (i) maintain absolute integrity;
- (ii) maintain devotion to duty; and
- (iii) do nothing which is unbecoming of a Government servant.
- (v) commit himself to and uphold the supremacy of the Constitution and democratic values;
- (v) defend and uphold the sovereignty and integrity of India, the security of the State, public order, decency and morality;
- (vi) maintain high ethical standards and honesty;
- (vii) maintain political neutrality;
- (viii) promote the principles of merit, fairness and impartiality in the discharge of duties;
- (ix) maintain accountability and transparency;
- (x) maintain responsiveness to the public, particularly to the weaker section;
- (xi) maintain courtesy and good behaviour with the public;
- (xii) take decisions solely in public interest and use or cause to use public resources efficiently, effectively and economically;
- (xiii) declare any private interests relating to his public duties and take steps to resolve any conflicts in a way that protects the public interest;
- (xiv) not place himself under any financial or other obligations to any individual or organisation which may influence him in the performance of his official duties;
- (xv) not misuse his position as civil servant and not take decisions in order to derive financial or material benefits for himself, his family or his friends;
- (xvi) make choices, take decisions and make recommendations on merit alone;
- (xvii) act with fairness and impartiality and not discriminate against anyone, particularly the poor and the under-privileged sections of society;

- (xviii) refrain from doing anything which is or may be contrary to any law, rules, regulations and established practices;
 - (xix) maintain discipline in the discharge of his duties and be liable to implement the lawful orders duly communicated to him;
 - (xx) maintain confidentiality in the performance of his official duties as required by any laws for the time being in force, particularly with regard to information, disclosure of which may prejudicially affect the sovereignty and integrity of India, the security of the State, strategic, scientific or economic interests of the State, friendly relation with foreign countries or lead to incitement of an offence or illegal or unlawful gain to any person;
 - (xxi) perform and discharge his duties with the highest degree of professionalism and dedication to the best of his abilities.
- (2) (i) Every Government servant holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all Government servants for the time being under his control and authority;
- (ii) No Government servant shall, in the performance of his official duties, or in the exercise of powers conferred on him, act otherwise than in his best judgement except when he is acting under the direction of his official superior;
- (iii) The direction of the official superior shall ordinarily be in writing. Oral direction to subordinates shall be avoided, as far as possible. Where the issue of oral direction becomes unavoidable, the official superior shall confirm it in writing immediately thereafter;
- (iv) A Government servant who has received oral direction from his official superior shall seek confirmation of the same in writing as early as possible, whereupon it shall be the duty of the official superior to confirm the direction in writing.

Explanation I.- A Government servant who habitually fails to perform the task assigned to him within the time set for the purpose and with the quality of performance expected to him shall be deemed to be lacking in devotion to duty within the meaning the cause (ii) of sub-rule (1).

Explanation II.- Nothing in clause (ii) of sub-rule (2) shall be construed as empowering a Government servant to evade his responsibilities by seeking instructions from, or approval of, a superior officer or authority when such instructions are not necessary under the scheme of distribution of powers and responsibilities.

3A. Promptness and Courtesy

No Government servant shall

- (a) in the performance of his official duties, act in a discourteous manner;
- (b) in his official dealings with the public or otherwise adopt dilatory tactics or willfully cause delays in disposal of the work assigned to him.

3B. Observance of Government's policies

Every Government servant shall, at all times-

- (i) act in accordance with the Government's policies regarding age of marriage, preservation of environment, protection of wildlife and cultural heritage;
- (ii) observe the Government's policies regarding prevention of crime against women.

3C. Prohibition of sexual harassment of working women

(1) No Government servant shall indulge in any act of sexual harassment of any woman at any work place.

(2) Every Government servant who is incharge of a work place shall take appropriate steps to prevent sexual harassment to any woman at the work place.

Explanation. - (I) For the purpose of this rule, -

(a) "sexual harassment" includes any one or more of the following acts or behaviour (whether directly or by implication) namely : -

- (i) physical contact and advances; or
- (ii) a demand or request for sexual favours; or
- (iii) making sexually coloured remarks; or
- (iv) showing pornography; or
- (i) any other unwelcome physical, verbal, non-verbal conduct of a sexual nature.

(b) the following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment : -

- (i) implied or explicit promise of preferential treatment in employment; or
- (ii) implied or explicit threat of detrimental treatment in employment; or
- (iii) implied or explicit threat about her present or future employment status; or
- (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- (v) humiliating treatment likely to affect her health or safety.

(c) "workplace" includes,-

- (i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the Central Government;
- (ii) hospitals or nursing homes;
- (iii) any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto;
- (iv) any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey;
- (iv) a dwelling place or a house.'

4. Employment of near relatives of Government servant in Companies or firms-

(1) No Government servant shall use his position or influence directly or indirectly to secure employment for any member of his family in any company or firm;

(2) (i) No Class I Officer shall, except with the previous sanction of the Government, permit his son, daughter or other dependant, to accept employment in any company or firm with which he has official dealings or in any other company or firm having official dealings with the Government:

Provided that where the acceptance of the employment cannot await prior permission of the Government or is otherwise considered urgent, the matter shall be reported to the Government; and the employment may be accepted provisionally subject to the permission of the Government.

(ii) A Government servant shall, as soon as he becomes aware of the acceptance by a member of his family of an employment in any company or firm, intimate such acceptance to the prescribed authority and shall also intimate whether he has or has had any official dealings with that company or firm:

Provided that no such intimation shall be necessary in the case of a Class I officer if he has already obtained the sanction of, or sent a report to the Government under clause (i).

(3) No Government servant shall in the discharge of his official duties deal with any matter or give or sanction any contract to any company or firm or any other person if any member of his family is employed in that company or firm or under that person or if he or any member of his family is interested in such matter or contract in any other manner and the Government servant shall refer every such matter or contract to his official superior and the matter or contract shall thereafter be disposed of according to the instructions of the authority to whom the reference is made.

5. Taking part in politics and elections

(1) No Government servant shall be a member of, or be otherwise associated with, any political party or any organisation which takes part in politics nor shall he take part in, subscribe in aid of, or assist in any other manner, any political movement or activity.

(2) It shall be the duty of every Government servant to endeavour to prevent any member of his family from taking part in, subscribing in aid of, or assisting in any other manner any movement or activity which is, or tends directly or indirectly to be, subversive of the Government as by law established and where a Government servant is unable to prevent a member of his family from taking part in, or subscribing in aid of, or assisting in any other manner, any such movement or activity, he shall make a report to that effect to the Government.

(3) If any question arises whether a party is a political party or whether any organisation takes part in politics or whether any movement or activity falls within the scope of sub-rule

(2) the decision of the Government thereon shall be final.

(4) No Government servant shall canvass or otherwise interfere with, or use his influence in connection with or take part in an election to any legislature or local authority:

Provided that -

- (i) a Government servant qualified to vote at such election may exercise his right to vote, but where he does so, he shall give no indication of the manner in which he proposes to vote or has voted;
- (ii) a Government servant shall not be deemed to have contravened the provisions of this sub-rule by reason only that he assists in the conduct of an election in the due performance of a duty imposed on him by or under any law for the time being in force.

EXPLANATION.- The display by a Government servant on his person, vehicle or residence of any electoral symbol shall amount to using his influence in connection with an election within the meaning of this sub-rule.

6. Joining of associations by Government servants

No Government servant shall join or continue to be a member of, an association the objects or activities of which are prejudicial to the interests of the sovereignty and integrity of India, or public order or morality.

7. Demonstration and strikes

No Government servant shall -

- (i) engage himself or participate in any demonstration which is prejudicial to the interests of the sovereignty and integrity of India, the security of the state, friendly relations with foreign States, public order, decency or morality, or which involves contempt of court, defamation or incitement to an offence, or
- (ii) resort to or in any way abet any form of strike or coercion or physical duress in connection with any matter pertaining to his service or the service of any other Government servant.

8. Connection with press or other media

- (1) No Government servant shall, except with the previous sanction of the Government, own wholly or in part, or conduct or participate in the editing or management of, any newspaper or other periodical publication or electronic media.
- (2) Nothing in sub-rule (1) shall apply in case a Government servant in the bonafide discharge of his official duties publishes a book or participates in a public media.
- (3) A Government servant publishing a book or participating in a public media shall at all times make it clear that the views expressed by him are his own and not that of Government.

9. Criticism of Government

No Government servant shall, in any radio broadcast, telecast through any electronic media or in any document published in his own name or anonymously, pseudonymously or in the name of any other person or in any communication to the press or in any public utterance, make any statement of fact or opinion -

- (i) which has the effect of an adverse criticism of any current or recent policy or action of the Central Government or a State Government:

Provided that in the case of any Government servant included in any category of Government servants specified in the second proviso to sub-rule (3) of rule 1, nothing contained in this clause shall apply to bonafide expression of views by him as an office-bearer of a trade union or association of Government servants for the purpose of safeguarding the conditions of service of such Government servants or for securing an improvement thereof; or

- (ii) which is capable of embarrassing the relations between the Central Government and the Government of any State; or
- (iii) which is capable of embarrassing the relations between the Central Government and the Government of any foreign State;

Provided that nothing in this rule shall apply to any statements made or views expressed by a Government servant in his official capacity or in the due performance of the duties assigned to him.

10. Evidence before Committee or any other authority

(1) Save as provided in sub-rule (3), no Government servant shall, except with the previous sanction of the Government, give evidence in connection with any enquiry conducted by any person, committee or authority.

(2) Where any sanction has been accorded under sub-rule (1), no Government servant giving such evidence shall criticise the policy or any action of the Central Government or of a State Government.

(3) Nothing in this rule shall apply to-

- (a) evidence given at an enquiry before an authority appointed by the Government, Parliament or a State Legislature; or
- (b) evidence given in any judicial enquiry; or
- (c) evidence given at any departmental enquiry ordered by authorities subordinate to the Government.

11. Communication of Official Information.-

Every Government servant shall, in performance of his duties in good faith, communicate information to a person in accordance with the Right to Information Act, 2005 (22 of 2005) and the rules made thereunder :

Provided that no Government servant shall, except in accordance with any general or special order of the Government or in performance in good faith of the duties assigned to him, communicate, directly or indirectly, any official document or any part thereof or classified information to any Government servant or any other person to whom he is not authorized to communicate such document or classified information.

12. Subscriptions

No Government servant shall, except with the previous sanction of the Government or of the prescribed authority, ask for or accept contributions to, or otherwise associate himself with the raising of, any funds or other collections in cash or in kind in pursuance of any object whatsoever.

13. Gifts

(1) Save as provided in these rules, no Government servant shall accept, or permit any member of his family or any other person acting on his behalf to accept, any gift.

EXPLANATION.- The expression "gift" shall include free transport, boarding, lodging or other service or any other pecuniary advantage when provided by any person other than a near relative or personal friend having no official dealings with the Government servant.

NOTE (1) - A casual meal, lift or other social hospitality shall not be deemed to be a gift -

NOTE (2) - A Government servant shall avoid accepting lavish hospitality or frequent hospitality from any individual, industrial or commercial firms, organisations, etc., having official dealings with him.

(2) On occasions such as weddings, anniversaries, funerals or religious functions, when the making of gift is in conformity with the prevailing religious and social practice, a Government servant may accept gifts from his near relatives or from his personal friends having no official dealings with him, but shall make a report to the Government, if the value of such gift exceeds;-

(i) rupees twenty five thousand in the case of a Government servant holding any Group 'A' post;

(ii) rupees fifteen thousand in the case of a Government servant holding any Group 'B' post;

(iii) rupees seven thousand five hundred in the case of a Government servant holding any Group 'C' post; and

(3) In any other case of a Government servant shall not accept any gift without sanction of the Government if the value thereof exceeds.

- (i) rupees one thousand five hundred in the case of a Government servant holding any Group 'A' or Group 'B' post; and
- (ii) rupees five hundred in the case of a Government servant holding any Group 'C' or Group 'D' post.

(4) Notwithstanding anything contained in sub-rules (2), and (3) a Government servant, being a member of the Indian delegation or otherwise, may receive and retain gifts from foreign dignitaries if the market value of gifts received on one occasion does not exceed rupees one thousand. In all other cases, the acceptance and retention of such gifts shall be regulated by the instructions issued by the Government in this regard from time to time.

(5) A Government servant shall not accept any gifts from any foreign firm which is either contracting with the Government of India or is one with which the Government servant had, has or is likely to have official dealings. Acceptance of gifts by a Government servant from any other firm shall be subject to the provisions of sub-rule (3).]

13-A. Dowry

No Government servant shall-

- (i) give or take or abet the giving or taking of dowry; or
- (ii) demand directly or indirectly, from the parent or guardian of a bride or bridegroom, as the case may be, any dowry.

Explanation:- For the purposes of this rule, 'dowry' has the same meaning as in the Dowry Prohibition Act, 1961(28 of 1961).

14. Public demonstrations in honour of Government servants

No Government servant shall, except with the previous sanction of the Government, receive any complimentary or valedictory address or accept any testimonial or attend any meeting or entertainment held in his honour; or in the honour of any other Government servant:

Provided that nothing in this rule shall apply to-

- (i) a farewell entertainment of a substantially private and informal character held in honour of a Government servant or any other Government servant on the occasion of his retirement or transfer or any person who has recently quit the service of any Government; or
- (ii) the acceptance of simple and inexpensive entertainments arranged by public bodies or institutions.

NOTE :- Exercise of pressure or influence of any sort on any Government servant to induce him to subscribe towards any farewell entertainment if it is of a substantially private or informal character and the collection of subscriptions from Class III or Class IV employees

under any circumstances for the entertainment of any Government servant not belonging to Class III or Class IV, is forbidden.

15. Private trade or employment

(1) Subject to the provisions of sub-rule (2), no Government servant shall, except with the previous sanction of the Government-

- (a) engage directly or indirectly in any trade or business, or
 - (b) negotiate for, or undertake, any other employment, or
 - (c) hold an elective office, or canvass for a candidate or candidates for an elective office, in any body, whether incorporated or not, or
 - (d) canvass in support of any business of insurance agency, commission agency, etc., owned or managed by any member of his family, or
 - (e) take part except in the discharge of his official duties, in the registration, promotion or management of any bank or other company registered or required to be registered, under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force, or of any co-operative society for commercial purposes.
- (f) participate in or associate himself in any manner in the making of-
- (i) a sponsored media (radio or television) programme; or
 - (ii) a media programme commissioned by Government media but produced by a private agency; or
 - (iii) a privately produced media programme including video magazine:

Provided that no previous permission shall be necessary in case where the Government servant participates in a programme produced or commissioned by Government media in his official capacity.

(2) A Government servant may, without the previous sanction of the Government,-

- (a) Undertake honorary work of a social or charitable nature, or
- (b) Undertake occasional work of a literary, artistic or scientific character, or
- (c) Participate in sports activities as an amateur, or
- (d) take part in the registration, promotion or management (not involving the holding of an elective office) of a literary, scientific or charitable society or of a club or similar organisation, the aims or objects of which relate to promotion of sports, cultural or recreational activities, registered under the Societies Registration Act, 1860 (21 of 1860), or any other law for the time being in force, or
- (e) take part in the registration, promotion or management (not involving the holding of elective office) of a Co-operative Society substantially for the benefit of Government servants, registered under the Co-operative Societies Act, 1912 (2 of 1912), or any other law for the time being in force:

Provided that: -

- (i) he shall discontinue taking part in such activities, if so directed by the Government; and
- (ii) in a case falling under clause (d) or clause(e) of this sub-rule, his official duties shall not suffer thereby and he shall, within a period of one month of his taking part in such activity, report to the Government giving details of the nature of his participation.

(3) Every Government servant shall report to the Government if any member of his family is engaged in a trade or business or owns or manages an insurance agency or commission agency.

(4) Unless otherwise provided by general or special orders of the Government, no Government servant may accept any fee for any work done by him for any private or public body or any private person without the sanction of the prescribed authority.

EXPLANATION- The term 'fee' used here shall have the meaning assigned to it in Fundamental Rule 9 (6-A).

15 A. Sub-letting and vacation of Government accommodation.

(1) Save as otherwise provided in any other law for the time being in force, no Government servant shall sub-let, lease or otherwise allow occupation by any other person of Government accommodation which has been allotted to him.

(2) A Government servant shall, after the cancellation of his allotment of Government accommodation vacate the same within the time-limit prescribed by the allotting authority.

16. Investment, lending and borrowing

(1) No Government servant shall speculate in any stock, share or other investment:

Provided that nothing in this sub-rule shall apply to occasional investments made through stock brokers or other persons duly authorised and licensed or who have obtained a certificate of registration under the relevant law.

Explanation - Frequent purchase or sale or both, of shares, securities or other investments shall be deemed to be speculation within the meaning of this sub-rule.

(2) (i) No Government servant shall make, or permit any member of his family or any person acting on his behalf to make, any investment which is likely to embarrass or influence him in the discharge of his official duties. For this purpose, any purchase of shares out of the quotas reserved for Directors of Companies or their friends and associates shall be deemed to be an investment which is likely to embarrass the Government servant.

(ii) No Government servant who is involved in the decision making process of fixation of price of an Initial Public Offering or Follow-up Public Offering of shares of a Central Public Sector Enterprise shall apply, either himself or through any member of his family or through any other person acting on his behalf, for allotment of shares in the Initial Public Offerings or Follow-up Public Offerings of such Central Public Sector Enterprise.

(3) If any question arises whether any transaction is of the nature referred to in sub-rule (1) or sub-rule(2), the decision of the Government thereon shall be final.

(4) (i) No Government servant shall, save in the ordinary course of business with a bank or a public limited company, either himself or through any member of his family or any other person acting on his behalf,-

- (a) lend or borrow or deposit money, as a principal or an agent to, or from or with, any person or firm or private limited company within the local limits of his authority or with whom he is likely to have official dealings or otherwise place himself under any pecuniary obligation to such person or firm or private limited company; or
- (b) lend money to any person at interest or in a manner whereby return in money or in kind is charged or paid;

Provided that a Government servant may, give to, or accept from a relative or a personal friend, a purely temporary loan of a small amount free of interest, or operate a credit account with a bonafide tradesman or make an advance of pay to his private employee;

Provided further that nothing in this sub-rule shall apply in respect of any transaction entered into by a Government servant with the previous sanction of the Government.

(ii) When a Government servant is appointed or transferred to a post of such nature as would involve him in the breach of any of the provisions of sub-rule (2) or sub-rule

(4), he shall forthwith report the circumstances to the prescribed authority and shall thereafter act in accordance with such order as may be made by such authority.

17. Insolvency and habitual indebtedness

A Government servant shall so manage his private affairs as to avoid habitual indebtedness or insolvency. A Government servant against whom any legal proceeding is instituted for the recovery of any debt due from him or for adjudging him as an insolvent, shall forthwith report the full facts of the legal proceedings to the Government.

NOTE. - The burden of proving that the insolvency or indebtedness was the result of circumstances which, with the exercise of ordinary diligence, the Government servant

could not have foreseen, or over which he had no control, and had not proceeded from extravagant or dissipated habits, shall be upon the Government servant.

18. Movable, immovable and valuable property

(1) (i) Every Government servant shall on his first appointment to any service or post submit a return of his assets and liabilities, in such form as may be prescribed by the Government, giving the full particulars regarding -

- (a) the immovable property inherited by him, or owned or acquired by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family or in the name of any other person;
- (b) shares, debentures and cash including bank deposits inherited by him or similarly owned, acquired, or held by him;
- (c) other movable property inherited by him or similarly owned, acquired or held by him; and
- (d) debts and other liabilities incurred by him directly or indirectly.

NOTE I.- Sub-rule (1) shall not ordinarily apply to Group 'D' servants but the Government may direct that it shall apply to any such Government servant or class of such Government servants.

NOTE II.- In all returns, the values of items of movable property worth less than Rs.10,000/- may be added and shown as a lump sum. The value of articles of daily use such as clothes, utensils, crockery, books, etc. need not be included in such return.

NOTE III.- Where a Government servant already belonging to a service or holding a post in appointed to any other civil service or post, he shall not be required to submit a fresh return under this clause.

(ii) Every Government servant belonging to any service or holding any post included in Group 'A' and Group 'B' shall submit an annual return in such form as may be prescribed by the Government in this regard giving full particulars regarding the immovable property inherited by him or owned or acquired by him or held by him on lease or mortgage either in his own name or in the name of any member of his family or in the name of any other person.

(2) No Government servant shall, except with the previous knowledge of the prescribed authority, acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise either in his own name or in the name of any member of his family: Provided that the previous sanction of the prescribed authority shall be obtained by the Government servant if any such transaction is with a person having official dealing with him.

(3) Where a Government servant enters into a transaction in respect of movable property either in his own name or in the name of the member of his family, he shall, within one month from the date of such transaction, report the same to the prescribed authority, if the value of such property exceeds two months' basic pay of the Government servant:

Provided that the previous sanction of the prescribed authority shall be obtained by the Government servant if any such transaction is with a person having official dealings with him.

(4) The Government or the prescribed authority may, at any time, by general or special order, require a Government servant to furnish, within a period specified in the order, a full and complete statement of such movable or immovable property held or acquired by him or on his behalf or by any member of his family as may be specified in the order. Such statement shall, if so required by the Government or by the prescribed authority, include the details of the means by which, or the source from which, such property was acquired.

(5) The Government may exempt any category of Government servants belonging to Group 'C' or Group 'D' from any of the provisions of this rule except sub-rule (4). No such exemption shall, however, be made without the concurrence of the Cabinet Secretariat (Department of Personnel).

Explanation I. - For the purposes of this rule -

(1) the expression "movable property" includes-

- (a) jewellery, insurance policies, the annual premia of which exceeds Rs. 'two months' basic pay of the Government servant , shares, securities and debentures;
- (b) all loans, whether secured or not, advanced or taken by the Government servant;
- (c) motor cars, motor cycles, horses or any other means of conveyance; and
- (d) refrigerators, radios radiograms and television sets.

2. "Prescribed authority" means-

- (a) (i) the Government, in the case of a Government servant holding any Group 'A' post, except where any lower authority is specifically specified by the Government for any purpose;
- (ii) Head of Department, in the case of a Government servant holding any Group 'B' post;
- (iii) Head of Office, in the case of a Government servant holding any Group 'C' or Group 'D' post;

(b) In respect of a Government servant on foreign service or on deputation to any other Ministry or any other Government, the parent department on the cadre of which such Government servant is borne or the Ministry to which he is administratively subordinate as member of that cadre.

Explanation II.- For the purpose of this rule '*lease*' means, except where it is obtained from, or granted to, a person having official dealings with the Government servant, a lease of immovable property from year to year or for any term exceeding one year or reserving a yearly rent.

18-A. Restrictions in relation to acquisition and disposal of immovable property outside India and transactions with foreigners, etc.-

Notwithstanding anything contained in sub-rule (2) of Rule 18, no Government servant shall, except with the previous sanction of the prescribed authority, -

- (a) acquire, by purchase, mortgage, lease, gift or otherwise, either in his own name or in the name of any member of his family, any immovable property situated outside India;
- (b) dispose of, by sale, mortgage, gift or otherwise or grant any lease in respect of any immovable property situated outside India which was acquired or is held by him either in his own name or in the name of any member of his family;
- (c) enter into any transaction with any foreigner, foreign Government, foreign organisation or concern,-
 - (i) for the acquisition, by purchase, mortgage, lease, gift or otherwise, either in his own name or in the name of any member of his family, any immovable property;
 - (ii) for the disposal of, by sale, mortgage, gift or otherwise, or the grant of any lease in respect of any immovable property which was acquired or is held by him either in his own name or in the name of any member of his family.

Explanation.- In this rule "prescribed authority" has the same meaning as in Rule 18.

19. Vindication of acts and character of Government servant

(1) No Government servant shall, except with the previous sanction of the Government, have recourse to any Court or to the Press for the vindication of any official act which has been the subject-matter of adverse criticism or an attack of a defamatory character.

Provided that if no such sanction is received by the Government servant within a period of three months from the date of receipt of his request by the Government, he shall be free to assume that the permission as sought for has been granted to him.

(2) Nothing in this rule shall be deemed to prohibit a Government servant from vindicating his private character or any act done by him in his private capacity and where any action for vindicating his private character or any act done by him in private capacity is taken, the Government servant shall submit a report to the prescribed authority regarding such action.

20. Canvassing of non-official or other outside influence

No Government servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government.

21. Restriction regarding marriage-

- (1) No Government servant shall enter into, or contract a marriage with a person having a spouse living; and
- (2) No Government servant, having a spouse living, shall enter into, or contract, a marriage with any person:

Provided that the Central Government may permit a Government servant to enter into, or contract, any such marriage as is referred to in clause (1) or clause(2), if it is satisfied that-

- (a) such marriage is permissible under the personal law applicable to such Government servant and the other party to the marriage; and
 - (b) there are other grounds for so doing.
- (3) A Government servant who has married or marries a person other than of India Nationality shall forthwith intimate the fact to the Government.

22. Consumption of intoxicating drinks and drugs

A Government servant shall -

- (a) strictly abide by any law relating to intoxicating drinks or drugs in force in any area in which he may happen to be for the time being;
- (b) not be under influence of any intoxicating drink or drug during the course of his duty and shall also take due care that the performance of his duties at any time is not affected in any way by the influence of such drink or drug;
- (bb) refrain from consuming any intoxicating drink or drug in a public place;
- (c) not appear in a public place in a state of intoxication;
- (d) not use any intoxicating drink or drug to excess.

Explanation: For the purposes of this rule, 'public place' means any place or premises (including a conveyance) to which the pub

22-A. Prohibition regarding employment of children below 14 years of age.

No Government servant shall employ to work any child below the age of 14 years.

23. Interpretation

If any question arises relating to the interpretation of these rules, it shall be referred to the Government whose decision thereon shall be final.

24. Delegation of Powers

The Government may, by general or special order, direct that any power exercisable by it or any Head of Department under these rules (except the powers under Rule 23 and this rule) shall, subject to such conditions, if any, as may be specified in the order, be exercisable also by such officer or authority as may be specified in the order.

28.4 Govt. of India's decisions under various provisions of Rules

In para 20.3 above, the provisions of the Central Civil Services (Conduct) Rules, 1964 have been given in brief and for full appraisal the Rules itself shall be required to be perused. In addition, the Central Govt. have issued, from time to time, various instructions/directions under these rules, which as it stood on 1-1-1972 onwards, the State Government have issued various instructions or adopted Central Govt.'s instructions as issued from 1-1-1972 onwards under these rules which are applicable in Himachal Pradesh.

28.5 H.P. Govt. decisions under various Rules

Under Rule 3

(1) Negligence of wife and family including old parents by a Govt. servant

Instances have come to notice of the Government where the Govt. servants are not looking after their old parents properly, especially those who are handicapped. After consideration it has not been found proper to make necessary provision to this effect in the C.C.S. (Conduct) Rules, 1964 so as to enable the Govt. to take action against those Govt. servants who do not look after their families including old parents properly.

However, a Govt. servant is expected to maintain a reasonable and decent standard of conduct in his private life and not bring discredit to his service by his misdemeanour. In cases where a Govt. servant is reported to have acted in a manner unbecoming of a Govt. servant, as for instance, neglecting his wife and family including old parents, departmental action can be taken against him on that score without invoking any of the provisions of the Conduct Rules. In this behalf Rule 11 of the C.C.S. (Classification, Control and Appeal) Rules, 1965 may be referred, which specifies the nature of penalties that may for good and sufficient reasons be imposed on a Govt. servant. It has been held that neglecting by a Govt. servant his wife and family including old parents in a manner unbecoming of a Govt. servant may be regarded as good and sufficient reason to justify action being taken against him under this rule.

It should, however, be noted that in such cases the party affected has a legal right to claim maintenance. If any legal proceedings in this behalf are pending in a Court of Law, it would not be correct for Government to take action against the Govt. servant on this accounts such action may be construed by the Court to amount to contempt.

(H.P. Govt. Deptt. of Personnel O.M. No. PER(AP-II)A(3)-10/75-II dated 11-12-85-Annexure 28.12)

(2) Short-comings in discipline amongst employees

It has been brought to the notice of the Govt. that in many offices discriminatory treatment is being meted out with female Class IV employees and they are being exploited which is a most regretful matter. Accordingly all Secretaries to the Govt. are requested to immediately check this tendency and the Govt. expects that all employees should work properly in a team spirit. Prompt action should be taken on any such complaint and information about such matters should also be sent to the Personnel Department.

(H.P. Govt. Personnel Deptt. letter No. PER(AP-II) A(3)-1/80 dated 30-7-1990-Annexure 28.21)

Punctuality in attendance

For observing punctuality in attendance, the State Government have issued some instructions in the past, which are given as under:-

(3) Punctuality in attendance in Directorates, Corporations/Boards

It has come to the notice of the Government that officers and staff of various Directorates of Government and offices of Corporations and Boards located outside that Secretariat do not observe punctuality in attending office. Most of them do not reach office at 10.00 A.M. Recently the Chief Minister made a surprise visit to some offices and found officers and staff coming as late as 11.30 A.M. Government has taken a very serious view of this lapse. The Heads of Departments/Corporations/Boards are requested to ensure punctuality in attendance by making such arrangements as may ensure that Attendance Registers reach them at 10.10 A.M. Suitable action may be taken against the late comers.

Surprise check may also be made once every week which will have a salutary effect. Report about the steps taken in this matter and the results achieved be sent to the Department of Personnel by 15th August, 1981.

It is also brought to the notice of the Heads of Departments etc. that there are instances of officers and staff leaving office on the last working day of the week, i.e. Friday or Saturday, as the case may be, before the offices close at 5.00 P.M. It may, therefore, be ensured by regular checking that no one leaves office on the last working day of the week

before the closing time of the office. For ensuring this, among other steps, it will be necessary to take a round of the office shortly before the closing time on weekends.

(H.P. Govt. Deptt. of Personnel letter No. PER(AP-II)(A)(3)-10/75 dated 1-8-1981-Annexure 28.7)

(4) Punctuality in Attendance-Action against late comers

It has come to the notice of the Government that punctuality in attendance in Government offices is not being observed by all the officers and staff. The result is that a large number of officers and staff come late or remain absent. This aspect of indiscipline has been viewed seriously by the Government.

It has been specifically laid down in para 4.4. of the Office Manual (Second Edition, 1980) that office hours are from 10.00 AM to 5.00 P.M., with half an hour lunch break from 1.30 P.M. to 2.00 P.M. Para 4.5 provides that every official should mark his attendance in the attendance register which should be placed before the Branch Officer at 10:10 A.M. Late comers are required to report to the next officer and give reasons for late attendance. In para 4.6 it has been made clear that grant of leave is not to be presumed but should be applied for and got sanctioned before it is availed of, barring exceptional circumstances. In the A.C.Rs upto Section Officers level, there is a column 'Punctuality and Attendance' for recording specific remark against this column. In respect of officers above the level of Section Officers, this aspect is covered for making entries under the item 'Other observations'.

The existing afore mentioned provisions, if invoked properly, are adequate to enforce punctuality in attendance. To ensure that there is no slackness in this direction, it has already been decided by Government that surprise checks should be conducted. In pursuance of this decision, checks have been/are being conducted by the Administrative Secretaries, Heads of Departments, Heads of Offices and the Administrative Reforms Organisation. As a result of these checks some officers and employees have been found late or absent.

It is the responsibility of the concerned head of office to take action against late comers and absentees after applying his mind judiciously, keeping in view the circumstances in each case. However, it has been considered appropriate to lay certain guidelines. On the first lapse in a month, the late comers should be advised to be punctual, for the subsequent two lapses verbal warning should be administered and thereafter upto the fifth lapse written warning (not to be placed on the personal file) should be issued. Habitual late comers should be dealt with strictly and suitable action should be taken. Apart from action on these lines against the habitual late comers, casual leave should be debited in their accounts according to the scale prescribed in para 4.5 of the Office Manual (Second Edition, 1980), which is as under:

- | | | |
|------|----------------|--------------|
| (i) | Upto 2 hours | 1/3 of a day |
| (ii) | Upto 3 ½ hours | ½ of a day |

There is a tendency on the part of certain officers/officials to remain absent. This malpractice should be curbed and totally eliminated by awarding proper punishment ranging from written warning in the personal file to deducting the pay for the period of absence, depending upon the nature of each case.

(H.P. Govt. Deptt. of Personnel letter No. PER(AP-II) A(5)-16/83 dated 16-5-1983/10-6-1983-Annexure-28.8)

(5) Punctuality in attendance- Need for strict observance of instructions

Instructions for attendance in Departments/offices by officials were issued vide decision No. (4) above and the same were reiterated vide letter No. PER(AR)A(5)16/83 dated 25-4-1985, but it has been observed that inspite of repeated instructions issued by the Personnel (AR) Deptt., there is laxity on the part of various officers/officials in the matter of presence in offices which has adverse effect on office working. It has now been decided that the instructions issued from time to time be adhered to and in this behalf every Secretary should conduct surprise inspection of his Subordinate Offices and Sections and send report to the Personnel Department (AR) so that the Hon'ble Chief Minister could be informed. Accordingly officers are directed that they should comply with the original orders issued by the Department of Personnel otherwise disciplinary action will be taken against the defaulting officers.

(H.P. Govt. Deptt. of Personnel (AR) letter No. PER(AR)A(7)-2/85 dated 7-11-1986-Annexure 28.14)

(5.1) Ensuring presence of government servants especially in offices the field/village government servants posted in the far-flung and backward areas

The Hon'ble High Court of H.P. while deciding RSA No. 32 of 2017 on 18-09-2017 has put forth some suggestions (copy of Para 6 & 7 of the Order ibid annexed for ready reference with **Annexure 28.32**) and directed that a suitable mechanism be developed for monitoring and ensuring the presence of field level government employees especially those posted in the far-flung, rural and backward areas. Accordingly, it has been impressed upon all the Heads of Departments to ensure punctuality and regular attendance of government servants under their control and to develop a mechanism for monitoring and ensuring the presence of field level government employees especially those who are posted in far-flung, rural, backward areas and tribal areas of the State at their place of postings in consideration of the suggestions mentioned above, taking advantage of advancement in field of technology and through online bio-metric system etc. so as to ensure minimum inconvenience and hardship to the people residing there. Any deviation of the above shall

be seriously viewed and render liable for disciplinary action against defaulting officer(s)/official(s).

It is again re-iterated that all the Heads of Departments will ensure punctuality and regular attendance of government servants under their control by developing required mechanism for monitoring and ensuring the presence of field level government employees especially those who are posted in far-flung, rural, backward areas and tribal areas of the State. A copy of guidelines issued in this behalf by your department be also supplied to this department. Any deviation shall be seriously viewed and render liable for disciplinary action against defaulting officer(s)/official(s).

(H.P. Govt., Department of Personnel letters :

- No.Per(AP.B)A(3)-10/75-III dated 12-12-2017 – **Annexure 28.32**
- No.Per(AP.B)A(3)-10/75-III dated 22-01-2018 – **Annexure 28.33**

(5.1.1) Improving the administrative functioning - Ensuring availability of Government employee at their place of posting.

The Government of Himachal Pradesh has taken a policy decision that in order to ensure availability of Government employees at their places of posting to improve the administrative functioning and the fact that they are always accessible to the public to mitigate their grievances, no government servant would be permitted to reside beyond 8 (eight) kilometers from his office. As residing beyond 8 km from his office/posting is clear violation of Rules and is against the present Government resolve to provide the responsive administration. It has also been observed that Officers/Official of Education and other departments like I&PH, RD, H&FW, PWD and other departments who have public dealing should strictly abide by these instructions. More importantly the Doctors of the Medical Staff in the institutions must reside at their place of posting in their earmarked accommodation so that they are available for the people all the time as the ailing patients can come at any odd hour to the medical institutions for assistance. It has been made clear that if any violation is found, the matter would be viewed seriously and erring officer/officials be liable for disciplinary action under the relevant rules. As per teachers/lectures of the Education Department are concerned, it is their moral as well as social responsibility to be present in the school during teaching hours, it is however come to the notice of the government that many of the teachers do not come in time to the schools. As the consequence the syllabus is not covered and ultimately students suffer. It has been decided that the entire teacher should come to the school in time and impart the education to the students in such a manner so that the students are the future citizens of the State. It has also been laid down that if need be, surprise checks be conducted to ascertain whether the Government employees are following the instructions in rightful manner.

(Government of Himachal Pradesh, Department of Personnel letter No. Per(AR)A(6)-5/90-Vol.I dated 05-12-2003 - **Annexure 28.34**)

(5.2) Need to maintain independence and impartiality by Govt. servants in the discharge of their duties

Government of Himachal Pradesh in Department of Personnel circulated Government of India, Ministry of Personnel, PG & Pensions, Department of Personnel & Training, GOI O.M dated 06-10-1993 and 23-04-1955 regarding need to maintain independence and impartiality by Govt. servants in the discharge of their duties for information and strict compliance by all.

(Government of Himachal Pradesh, Department of Personnel letter No. Per(AP.II)A(3)-9/75 dated 10th February, 1994 - **Annexure 28.35**)

(5.3) Submission of representations by Govt. servants

Govt. of H.P., Department of Personnel circulated Government of India, Ministry of Personnel, PG & Pensions, Department of Personnel & Training, GOI O.M dated 19-04-2010 regarding Submission of representations by Govt. servants for information and strict compliance.

(Government of Himachal Pradesh, Department of Personnel O.M No. Per(AP.B(B(17)-1/2005 dated 22-05-2010 - **Annexure 28.36**)

(5.4) Supreme Court Judgement in the case of Vishaka & others Vs State of Rajasthan & Others regarding sexual harassment of working women.

In the case of Vishaka and Ors. Vs. State of Rajasthan and Ors (JT 1997(7) SC384), the Hon'ble Apex Court has laid down guidelines and norms to be observed to prevent sexual harassment of working women, which has been circulated by the Government of India, Ministry of Personnel, PG & Pensions, Department of Personnel & Training vide O.M dated 13-02-1998. In addition, the above said Ministry has also inserted a new rule i.e. 3C – Prohibition of Sexual Harassment of Working Women. The O.M has been circulated by Government of Himachal Pradesh for information and strict compliance.

(Government of Himachal Pradesh Department of Personnel letter No. Per(AP.II) A(3)-10/75-Part dated 04-04-1998 – **Annexure 28.37**)

(5.5) Supreme Court Judgement in the case of Vishaka & others Vs State of Rajasthan & Others regarding sexual harassment of working women.

Department of Personnel adopted the amendment of Rule 3 of CCS (Conduct) Rules, 1964 by insertion of Rule 3(C) and make it applicable to the employees of State Government with effect from 31-08-2002.

(Government of Himachal Pradesh Department of Personnel letter No. Per(AP.II) A(3)-10/75-II - Part dated 31st August, 2002 – **Annexure 28.38**)

(5.6)

- (1) **Alignment of Service Rules with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013.**
- (2) **Steps of conducting inquiry in case of allegation of Sexual Harassment.**

The State Govt. in the Department of Personnel adopted the O.M issued by GOI, Ministry of Personnel, PG and Pensions, Department of Personnel & Training vide O.M's dated 27-11-2014, 16-07-2015, two different Notification dated 19-11-2014 and make it applicable to the employees of State Government with effect from 31-08-2002.

(Government of Himachal Pradesh Department of Personnel letter No. Per(AP.II) A(3)-10/75-Vol-IV dated 18th April, 2016 – **Annexure 28.39**)

(5.7) Steps of conducting inquiry in case of allegation of Sexual Harassment.

GOI, Ministry of Personnel, PG and Pensions, Department of Personnel & Training prepared and circulated a step guide for conduct of inquiry in complaint cases of sexual harassment vide O.M. dated 16.07.2015. In the said guide the definition of 'workplace' is based on section 2(o) of the Sexual Harassment of Women (Prevention, Prohibition and Redressal) Act, 2013 but in para 4 'a dwelling place or a house' was inadvertently omitted. Therefore, in the step guide under the heading 'workplace' the following has been added in para 4 after (iv):

'(v) a dwelling place or a house'

(GOI, Ministry of Personnel, PG and Pensions, Department of Personnel & Training Corrigendum F.No.11013/2/2014-estt.A-III dated 30-07-2015 – **Enclosure 3 to Annexure 28.39**)

(5.8) Misuse of employees for domestic purpose

After coming into the notice that services of Govt. employees including daily wagers are being utilised during office hours for domestic purposes by certain serving officers, the State Government stressed to ensure that the service of Government servants be utilised for the purpose they have been appointed for and the violation will amount to violation of sub rule (iii) of Rule 3 of CCs (Conduct) Rules, 1964. These instructions have been reiterated on 09-1-2007.

(Govt. of H.P. Department of Personnel letters No.Per(AP.B)D(1)-5/.2000-Part dated 20-07-2000 & 09-01-2007 – **Annexure 28. 72 & 28.73**)

Rule 4-A - Encroachment upon Government land

(i) H.P. Government, Department of Personnel vide Notification No. Per(AP.B)B(17)-1/2005 dated 14-09-2005 has further amended CCS (Conduct) Rules, 1964 (in their application to the State of Himachal Pradesh) and after rule 4 of the CCS (Conduct) Rules, 1964, inserted the following new rule 4-A:-

“No Government servant shall encroach upon Government land himself or through/by his family members.”

(H.P. Govt Department of Personnel Notification No. Per(AP.B)B(17)-1/2005 dated 14-09-2005 – **Annexure 28.40**)

(ii) After coming into the notice that certain government servants or members of their family have encroached government land and State Government conveyed that the cases of all such government servants should be dealt with under the Central Civil Service (Conduct) Rules, 1964 by the departments concerned after the Revenue department confirms or informs about such encroachment and strict disciplinary action may be taken against all such Government servants.

(Government of Himachal Pradesh Department of Personnel letter No. Per(AP.II)B(17)-1/76 dated 04-05-1976 – **Annexure 28.41**)

Rules 5 and 7

(6) Strike by employees during elections

On the recommendation of the Chief Electoral Officers Conference, it has been decided by the Government that no Govt. servant shall take part in any kind of strike during the elections. Any violation of these instructions will be seriously viewed and more stringent penalties will be imposed upon any employee or group of employees resorting to strike etc. during the elections.

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

(H.P. Govt. Deptt. of Personnel letter No. PER(AP-II)A(3)-10/75-II dated 30-1-1990 – Annexure 28.20)

Rule 5

(7) Political neutrality of Government servants and position of Government servants in relation to elections.

The Election Commission of India informed all the State Governments vide letter No. 3/4/89 (L.S.II) dated 25-1-1989 that in the Chief Electoral Officers Conference held in August, 1988, it was observed that there are instances when the State Government has not proceeded with the prosecution of delinquent officials with reference to their acts during elections. It was, therefore, suggested that a specific provision may be inserted in the Government Service Conduct Rules to amplify that a Government servant should not act in a manner which may cause doubt on his impartiality, and any partisan behaviour would amount to misconduct.

It was, therefore, decided in the Conference that Service Conduct Rules of different categories of Government employees may be amended by State Government to incorporate the Government of India's decisions No. 13 (political neutrality of Government servants) as given below rule 5 of the Central Civil Services (Conduct) Rules, 1964. An extract of these decisions is given below for reference.

The H.P. Government while circulating this letter of the Election Commission of India to all Secretaries to the Govt., Heads of Deptts. etc. stated that the decisions of the Govt. of India as mentioned above may be brought to the notice of all concerned for strict compliance.

Extract from Central Civil Services (Conduct) Rules, 1964

Govt. of India's decision No. (13) below Rule 5

Political neutrality to Government Servants

Government have reviewed recently the policy in regard to the social, cultural and similar other organisations whose activities may have political aspects. There have been instances when the Government themselves has issued instructions that the activities of certain organisations should be regarded as political in character. While such instructions are in force, a civil servant would be liable to disciplinary action, if he were to associate himself with any organisation mentioned in such instructions. But there are several other organisations in regard to which such instructions have not been issued for purposes of Rule 5 of the C.C.S. (Conduct) Rules, 1964. It is essential that Government servants should not only maintain political neutrality but should also appear to do so and they should not participate in the activities of or associate themselves with, nay organisation in respect of which there is the slightest reason to think that the organisation has a political aspect.

(M.H.A., O.M. No. 6/6/69-Ests. (B) dated the 18th July, 1969)

Govt. of India's decision No. (14) below Rule 5

TAKING PART IN POLITICS AND ELECTIONS

Position of Government servants in relation to elections:-

Extracts are enclosed from the Election Commission's letter No. 62/71, dated the 13th January, 1971 to Chief Secretaries of all States/Union Territories, indicating the principles which should guide the conduct of Government servants in relation to the coming General Elections. These principles should be scrupulously followed by Central Government servants. In this connection attention is also invited to Rules 5 of the C.C.S. (Conduct) Rules, 1964 which inter-alia prohibits Central Government servants from canvassing or otherwise interfering with, or using their influence in connection with, or taking part in, an

election to any legislature or local authority, subject to the exercise of the right of franchise and assisting in the conduct of an election in the due performance of a duty imposed on them by or under any law for the time being in force. Attention is also invited to O.M. No. 6/6/69-Ests. (B) dated the 18th July, 1969, (Decision No. 13) in which the need for maintaining political neutrality by Government servants has been emphasised.

EXTRACT FROM ELECTION COMMISSION'S LETTER NO. 62/71, DATED 13-1-1971 TO CHIEF SECRETARIES OF ALL STATES/UNION TERRITORIES

Subject:- Position of Government servants in relation to elections.

Attention is invited to Section 129 and 134 of the Representation of the People Act, 1951, in connection with the conduct of Government servants during the elections and to recall that the Government of India and the State Governments had prior to the last general election/mid-term election issued instructions regarding the conduct of Government servants in relation to those elections. These instructions stressed that all Government employees should maintain an attitude of strict impartiality.

In fact, they were asked not only to be impartial but it was considered important that they should also appear to be impartial in relation to the elections. In short, they were required to so conduct themselves as to inspire confidence in the public in regard to their impartiality. To do so, they were enjoined to avoid giving room for any suspicion that they were favouring any party or any candidate. The other points stressed in those instructions were that a Government servant should take no part in any election campaign or in canvassing and that he should take scrupulous care not to lend his name, official position or authority to assist one group as against any other.

It was further emphasized that any disregard of instructions would be considered by the Government as a serious act of indiscipline and that in cases of doubt a Government servant should not hesitate to consult his superior officer.

It may be added that the points summarised above are only illustrative and not exhaustive.

The Commission considers it important that the Government servants' attention should be specially drawn to the provision which has been made in the Representation of the People Act, 1951, reading as follows:-

"134-A. Penalty for Government servant for acting as election agent, polling agent or counting agent:- If any person in the service of the Government acts as an election agent or a polling agent of a candidate at an election, he shall be punishable with imprisonment for a term which may extend to three months or with fine, or with both".

[C.S. (Deptt. of Personnel) O.M. No. 25/2/71-Ests. (A), dated the 23rd January, 1971]

[Election Commission of India letter No. 3/4/89 (LS-II) dated 25-1-1989 with enclosures as circulated with H.P. Govt. Deptt. of Personnel letter No. PER(AP-II)A(3)-10/75-II dated 26-4-1989 (Annexue-28.17)]

(7.1) Violation of the provisions of the Central Civil Services (Conduct) Rules, 1964 – participation of Government employees in the elections.

Rule 5 of the CCS (Conduct) Rules, 1964 provides that no Government servant shall be member of, or be otherwise associated with, any political party or any organization which takes part in politics nor shall he take part in, subscribe in aid of, or assist in any other manner, any political movement or activity and that no government servant shall canvass or otherwise interfere with, or use his influence in connection with or take part in an election to any legislature or local authority. It is essential that Government servants should not only maintain political neutrality but should also appear to do so and they should not participate in the activities of political parties. After observing the fact that overall discipline among the employees of Government/Boards /Corporations has deteriorated and that certain members of Associations/Unions have been issuing press statements in favour of a particular Political Party during Municipal Corporation and Assembly elections, the State Government decided that such practice should be stopped forthwith and enquiry should be conducted in these matters and defaulters should be charge- sheeted.

(Government of Himachal Pradesh, Department of Personnel letter No.Per (AP-II)A(3)-10/75-III- Pt dated 12th March, 2003 – **Annexure 28.42**)

(8) Association of Govt. servants with the activities of R.S.S. and Jammata-e-Islami-Hind instructions regarding

The participation of Government servants in the activities of Rashtriya Swayam Sewak Sangh and Jammata-e-Islami-Hind would attract the provisions of Sub-rule (1) of rule 5 of the Central Civil Services (Conduct) Rules, 1964 and any Govt. servant associating with these Organisations is liable to disciplinary action. This being so, the association of Government servants with these Organisations or with their activities need to be viewed seriously and action may be taken against any Government servant who is a member of or is associated with the aforesaid organisations or with their activities.

[H.P. Govt. Personnel Deptt. O.M. No. Per (AP-II) B(19)-3/77 dated 17-5-1994 (Annexure-28.30)]

(8.1) Association of Govt. servants with the activities of R.S.S. and Jammata-e-Islami-Hind instructions regarding.

The State Govt. after come to know that the instruction dated 17-05-1994 are not being adhered to again emphasized for the strict compliance of the above said instructions.

[H.P. Govt. Personnel Deptt. O.M. No. Per (AP-II) B(19)-3/77 dated 8th August, 2005–
Annexure 28.43]

(8.2) Association of Govt. servants with the activities of R.S.S.

The State Government has withdrawn the O.M dated 08-08-2005 with immediate effect on 24-01-2008 and 28-11-2019.

[H.P. Govt. Personnel Deptt. O.M. No. Per (AP-II) B(19)-3/77 dated 24th January, 2008 and 28th November, 2019 – **Annexure 28.44 and Annexure 28.74]**

Rules 6 and 12

(9) Formation of Service Association-Trade Unionism-collection of money from Govt. employees in the name of Association

A notice had been circulated by the General Secretary, Himachal Pradesh Non-Gazetted Service union, Shimla, dated the 15th of July, 1970, stating, “There are reactionary forces whose agents are trying to totally finish the ‘trade unionism’ in Himachal Pradesh for which they are preparing and guiding the employees to form parallel service organisations in the Pradesh.” It was further state in this notice that if any unauthorised person is found collecting money from the employees and enrolling members in the names of the Associations, he would be doing so at his own risk and no Service Organisation, the functioning of which is based on some constitution, will allow any such flirtation in the service of this organisation.

Government have taken a very serious view of this notice. It is felt that the Government servants should be correctly apprised of their rights relating to formation of Associations or Unions. Like any other Citizen, Government servants are also allowed to form Associations, which is guaranteed to them under article 19(1) (c) of the Constitution. Rule 6 of the Central Civil Services (Conduct) Rules, 1964, provides that no Government servant shall join or continue to be a member of an Association, the objects or activities of which are prejudicial to the interest of the sovereignty and integrity of INDIA or PUBLIC ORDER or MORALITY.

The position of the Government servants, who are governed by the Central Civil Services (Conduct) Rules, 1964, with regard to the formation of Associations is on an entirely different footing than that of those who are known as ‘workmen’ and are employed in Trade and Industries. Section 2(G) of the Indian Trade Union Act, 1926, defines ‘workmen’ as follows:-

“ ‘Workmen’ means all persons employed in Trade or Industry, whether or not in the employment of the employer with whom the trade dispute arises. It is the ‘workmen’ alone who are entitled to form Trade Unions, primarily for the purpose of regulating the relations

between the workmen and employers or between workmen and workmen or between employees and employers or for imposing restrictive conditions on the conduct of any trade or business and includes any federation of two or more Trade Unions.”

Reference to ‘trade unionism’ in the notice, circulated by the General Secretary of the Himachal Pradesh Non-Gazetted Services Union, Shimla, apart from being uncalled for, is also against the provisions of the Central Civil Services (Conduct) Rules, 1964.

As stated earlier, Government servants are free to form one or more Associations, as is permitted to them under the Central Civil Services (Conduct) Rules, 1964. No one can prevent them from doing so, so long as their Associations conform to the requirements of the sovereignty and integrity of India or Public Order or Morality.

Rule 12 of the Central Civil Services (Conduct) Rules, 1964, prohibits any government servant, except with the previous sanction of the Government or of the prescribed authority, to ask for to accept contributions in pursuance of any object whatsoever. The Government desires that these facts be brought to the notice of all the officials working in the Departments.

(H.P. Govt. Appointment Department, D.O. letter No. 13-1/67-Apptt-II dated 7-10-1970 from Secretary (CSB) to all Secretaries to the Govt. and Heads of Deptts. etc. –Annexure-28.1)

Rule 8 and 15

(9.1) Observance of provisions of Rule 8 and 15

Some instance came to the notice of the Government where Govt. servants violated the provisions of Rule 8 and Rule 15 of CCS (Conduct) Rules, 1964. The Govt. while quoting/producing the provisions of above said rules and SR-12 emphasized that all officer/officials are required to follow the spirit of the above said rules as guiding instructions and conveyed that any violation of above Rules and SR-12 will invite disciplinary proceedings.

(Government of Himachal Pradesh, Department of Personnel letter No. Per(AP.B)A(3)-5/2012 dated 22nd August, 2012 – **Annexure 28.45**)

Rule 9

(10) Act of criticising Government by the Government servants

The employees of this Government, excepting the officers of the All India Services, are subject to the provisions of the Central Civil Services (Conduct) Rules, 1964, as amended

from time to time. These rules (besides elucidating the manner in which the Government servants are required to act while performing their duties) provide for various types of restrictions on the actions of government servants or the members of their families. Recently, however, it has been noticed by the Government that certain Government servants had resorted to such acts of criticising the Government, which are forbidden under the provisions of the Rules 9 of the Rules referred to above are quite clear which require that no Government servant can make any statement of fact or opinion in any radio broadcast or in any document published in his own name or anonymously, pseudonymously or in the name of any other person or in any communication to the press or in any public utterance, which has the effect of an adverse criticism of any current or recent policy or action of the Government. Violation of the provisions of this and other rules calls for disciplinary action. I am, therefore, to request that the provisions of this and other rules of the Central Civil Services (Conduct) Rules, 1964 may kindly be adhered to and the Government servants may, in their interest, be impressed upon to maintain official decorum and to abide by the provisions of the rules *ibid*.

(H.P. Govt. Appointment Deptt. letter No. 88-45/56-II-Apptt. dated 19th Nov., 1970-Annexure-28.2)

(11) Correspondence not falling within the ambit of duties by the Govt. servants in their own names or names of their family-maintenance of official decorum

All Government employees are expected to observe strictly the provisions of the Central Civil Services (Conduct) Rules, 1964, as amended from time to time. But of late it has been noticed by the Government that a section of the employees, either in their own name or in the name of their families, indulge in such correspondence with the Government, which does not fall within the ambit of their scope of duties which are well defined. In fact, such tendencies, if not curbed in right earnest, lead to indiscipline in the services, which is not at all warranted. Needless to emphasize that Rule 9 of the rules mentioned above, is quite clear which lays down that no Government servant shall in any radio broadcast or in any document published anonymously or in his own name or in the name of any other person or in any communication to the press or in any public utterance, make any statement of fact or opinion which has the effect of an adverse criticism of any current or a recent policy or action of the Central Government or a State Government provided that nothing in this rule shall apply to any statements made or views expressed by a Government servant in his official capacity or in the due performance of the duties assigned to him. In this behalf attention is also invited to this Department's letter No. 88-45/56-II-Apptt., dated the 19th November, 1970.

The provisions of the Central Civil Services (Conduct) Rules, 1964, may kindly be adhered to and the Government servants impressed upon to maintain official decorum, failing which the officer/officials will render themselves liable for disciplinary action. In order to have an effective check, I am further to request that a quarterly return for any

lapse on the part of Government servants, may kindly be sent to Personnel Department, in future, beginning from April, 1971, covering the quarter January-March, 1971.

(H.P. Govt. Personnel Deptt. letter No. 13-1/67-Appt.-III dated 23-3-1971- Annexure-28.3)

(11.1) Violation of the provisions of the Central Civil Services (Conduct) Rules, 1964 by the Government Servants

Rule-9 of the CCS(Conduct) Rules- 1964 provides that no Government servant shall, in any radio broadcast or in any document published in his own name or anonymously, pseudonymously or in the name of any other person or in any communication to the Press or in any public utterance, make any statement of fact or opinion which has effect of adverse criticism of any current or a recent policy or action of the Central Government or State Government. Vide Department of Personnel letters dated 19-11-1970 and 23-03-1971 all were requested to adhere to the provisions of CCS (Conduct) Rules- 1964 and the Government Servants were impressed upon to maintain official decorum. After observing that the provisions of CCS (Conduct) Rules-1964 as well as the instructions of the State Government issued from time to time are not being adhered to, the State Government again emphasized that the Government Officers/officials may restrained from issuing any such statement to the Press or Radio broadcasting any matter which may have adverse criticism of the Government in future. It was made clear that any violation shall be viewed seriously and strict disciplinary action shall also be taken against the defaulting officer/official under CCS(CCA) Rules, 1965.

(H.P. Govt. Personnel Deptt. letter No. Per(AP-II)A(3)-10/75-II dated 11th November, 1997- Annexure-28.46)

(12) Strict observance of punctuality-Lunch hours-Language in speeches-Criticism of Government-indulgence in political speeches.

Instructions have been issued from time to time for ensuring timely attendance of Government servants in offices at exact 10.00 A.M., and observance of lunch time from 1.30 PM to 2.00 PM, yet it has been noticed that neither timely arrival of Government servants in offices nor observance of lunch time is ensured by many Govt. servants. In certain cases it has been noticed that some Government servants hold gate meetings etc. during lunch period and such meetings continue even beyond 2.00 PM. It is, therefore, requested that punctuality in attendance of offices at 10.00 AM and again after lunch break from 2.00 PM may please be ensured and departure, if any, in any circumstance may be seriously dealt with.

It has also been observed that Govt. servants during their gate meetings during lunch hours make speeches in such language which is unbecoming of a Government servant. During such speeches, they besides criticising the Govt. indulge in political speeches. These acts on the part of Government servants are unbecoming and violative of the Conduct Rules. Any Government servant delivering speech in violation of the Conduct Rules needs

to be severely dealt with and a report about the contents of the speech involving criticism of the Government and political angle may be sent to the Personnel Department as also the Home Department on the same day on which any such speech is delivered.

(H.P. Govt. Deptt. of Personnel letter No. PER(AP-II)A (3)10/75 dated 29-9-1989 – Annexure-28.19)

Rule 11

(12.1) Civil Services Rules of States-recommendations made in the first report of the Second Administrative Reforms Commission for amendment of the provisions regarding Communication of Official Information as per the requirements of the Right to Information Act, 2005.

GOI, Ministry of Personnel, PG and Pensions, Department of Personnel & Training vide notification dated 22-10-2005 has substituted the Rule 11 of CCS (Conduct) Rules, 1964 as under, which has been made applicable to the employees of the State Government by Department of Personnel:-

"11. Communication of Official Information.- Every Government servant shall, in performance of his duties in good faith, communicate information to a person in accordance with the Right to Information Act, 2005 (22 of 2005) and the rules made thereunder :

Provided that no Government servant shall, except in accordance with any general or special order of the Government or in performance in good faith of the duties assigned to him, communicate, directly or indirectly, any official document or any part thereof or classified information to any Government servant or any other person to whom he is not authorised to communicate such document or classified information."

(Govt. of H.P. Department of Personnel O.M. No. Per(AP-B)B(17)1/2005 dated 26th July, 2008 – Annexure 28.47)

Rule 12

(13) Collection of subscription for fairs and Festivals by Govt. servants

Inviting attention to Rule 12 of the C.C.S. (Conduct) Rules, 1964, the Govt. decided that no officer or employee will collect subscriptions for any fair or festival, excepting the Red Cross Fairs. For fairs and festivals arranged in connection with the cultural or developmental activities, Committee of local representatives should be constituted which should arrange these fairs or festivals. The Deputy Commissioners or local officers may help the Committee as liaison officers in such fairs or festivals. Under no circumstances they should collect subscriptions or work as cashiers or entrust the work to their

subordinate employees. All officers and employees be informed about these orders and it may be ensured that these are followed.

Note:- Also see decision 14 below for amendments.

(H.P. Govt. Deptt. of Personnel letter No. Per(Ni-II) A(3)-10/75-II dated 18-2-1991-Annexure-28.24)

(14) The Govt. have reconsidered the matter and after through consideration decided to make the following amendments in the orders contained in letter dated 18-2-1991 (decision No. 13 above):-

(a) The fairs/festivals being presently held in the Pradesh for the arrangement of which Government assistance used to be provided, be celebrated as before, but definite committees for these fairs/festivals be constituted as under:-

(i) The Deputy Commissioners will be the Chairmen of the fairs/festivals of District-level or to be held at District Headquarters or for famous fairs of the District and the other members shall be the public representative of the District level or the place where the fairs/festival is to be held and local Sub-Divisional Officer (Civil), Block Development Officer etc. of that place.

(ii) For fairs/festivals other than those of District headquarters and famous Distt. fairs/festivals, the Sub-Divisional Officers (Civil) will be Chairmen and Public Representative and other Officers of that place will be members of the Committee.

The Treasurer for both the Committees should be Govt. employee/officer.

(b) For managing the fairs/festivals, the money in the form of subscriptions should be collected on printed receipts and the receipt should have counterfoils. Complete account of daily receipt and expenditure should be maintained and the amount should be kept in a bank. The Cashier can retain maximum cash of Rs. 500/- (Rs. Five hundred) and amount exceeding this should be in the bank. After the completion of the fair/festival and after making all payments, the entire amount should be kept in the bank.

The payments from the accounts of the bank could be made under the signatures of the Chairman of the Committee and Public representative.

(c) A Sub-committee will be formed for collection of subscriptions in which public representatives, Government of officers/employees will be included. No officer/employee will misuse his office and this subscription should be voluntary by the donor. For this purpose public support should be sought as far as possible.

(d) Complete account of Income and expenditure be maintained and Chairmen of the fairs/festivals will be responsible for the maintenance of accounts. The Committee should

make regulations to regulate the expenditure, which should be approved in a meeting of the Committee.

(e) The audit of the income and expenditure account will be conducted by the Local Audit Department, but the Audit party of the Local Audit Department will discuss the irregularities in detail with the Chairman of the Committee.

These instructions be brought to the notice of all and these be fully complied with.

(H.P. Govt. Deptt. of Personnel letter No. Per(NI-II)A(3)-10/75-II dated 12-3-1991-Annexure 28.25)

(14.1) Observance of Flag Day by the National Foundation for Communal Harmony - Participation of Government Servants - CCS(Conduct)- Rules, 1964

The National Foundation for Communal Harmony has been set up for promoting communal harmony and particularly for the physical and psychological rehabilitation of children rendered orphans and destitute in communal violence. The Foundation has been engaging in efforts to collect contributions and observes every year a 'Fund Raising Week', and 'Flag Day'. Clarifications have been sought whether Central Government Servants could be associated with or involved in the above fund raising efforts of the Foundation. The matter has been examined and keeping in view the objectives of the National Foundation for Communal Harmony, the Government of India have vide O.M dated 02-11-1995 decided to relax the provisions of Rules 12 to allow Central Government servants to participate in the fund raising efforts of the, Foundation on a voluntary basis. The instructions as contained in above said O.M of Govt. of India have been applicable to the employees of the Government of Himachal Pradesh.

(Govt. of H.P. Department of Personnel O.M No. Per(AP-II)A(3)-10/75- loose, dated 11th October, 2001 – **Annexure 28.48**)

Under Rule 13

(15) Acceptance of gifts offered by foreign Governments

Detailed instructions for acceptance of gifts offered by foreign Government have been issued by the Government of India, Ministry of Home Affairs vide letter No. II/21022/10(2)/82-FCRA-I, dated the 6th/9th May, 1983 and Ministry of External Affairs letter No. Q(TK)461/9/83, dated the 9th June, 1983, which were circulated with H.P. Govt. Deptt. of Personnel letter No. PER(AP-II)A(3)10/75-II dated 20-7-1983. These instructions are given in Annexure-28.9

Rule 13 A.

(16) Suspension of Government servants involved in cases of dowry –deaths.

Sub-rule (1) of rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, provides inter-alia that a Government servant may be placed under suspension where a disciplinary proceeding against him is contemplated or is pending or where a case against him in respect of any criminal offence is under investigation, inquiry or trial. Sub-rule (2) of the same rules lays down that a Government servant shall be deemed to have been placed under suspension by an order of the appointing authority with effect from the date of his detention if he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty –eight hours.

As Government take a very serious view of offences against women, Government has reviewed the provisions in the rules in regard to placing a Government servant under suspension if he is accused of involvement in a case of “dowry death” as defined in Section 304-B of the Indian Penal Code. The Section reads as follows:-

“ 304-B (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death.”

Explanation- For the purposes of this sub-section “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961”.

.If a case has been registered by the Police against a Government servant under Section 304-B of the I.P.C., he shall be placed under suspension in the following circumstances by the competent authority by invoking the provisions of sub-rule (1) of Rule 10 of the C.C.S. (CCA) Rules, 1965:

- (i) If the Government servant is arrested in connection with the registration of the police case, he shall be placed under suspension immediately irrespective of the period of his detention.
- (ii) If he is not arrested, he shall be placed under suspension immediately on submission of a police report under sub-section (2) of Section 173 of the Code of Criminal Procedure, 1973 to the Magistrate, if the report prima-facie indicates that the offence has been committed by the Government servant.

(G.O.I. Ministry of Personnel, Public Grievances and Pensions O.M. No. 11012/8/87-Estt (A) dated 22-6-1987, as made applicable in Himachal Pradesh vide Department of Personnel letter No. PER(AP-II) A(3)-1/74-III dated 12-10-1987-Annexure-28.16)

Rule 14

(16.1) CCS (Conduct) Rules, 1964 - acceptance of international awards by Government servants.

The GOI, Ministry of Personnel, PG and Pensions, Department of Personnel & Training has issued decision vide O.M dated 12-02-2008 relating to acceptance of international awards by the Government servants. As per above decision, the following guidelines are to be kept in view while considering the grant of permission:-

- (a) A Government servant should not strive to seek publicity or international recognition for securing such awards since such efforts could affect his functioning.
- (b) Specific prior permission of the Government shall be obtained by the Government servant.
- (c) Grant of permission shall be considered by the Government of India only in the case of proposals for acceptance of awards from foreign governmental organizations, international official bodies and academic institutions including universities.
- (d) The requests made by Government servants for permission for acceptance of awards shall be examined by the administrative Ministry in consultation with the Ministry of External Affairs.
- (e) The existing instructions on deputation / delegation abroad on the need for political clearance/ FCRA clearance and approval of the Minister/Screening Committee may be kept in view while granting permission in the case of international awards.
- (f) Awards having monetary component will be discouraged but awards/testimonials in academic/literary/scientific fields would be liberally permitted
- (g) If the award is accompanied by gifts or presents, the retention of the same by the recipient Government servant shall be governed by the instructions laid down in the then MHA's (OP&AR) O.M. No. 11013/4176-Estt. (A) dated 27.08.1976.

The above decision/O.M has been circulated by the State Government for information and strict compliance.

(Govt. of H.P., Department of Personnel O.M. No. Per(AP-II)A(3)-10/75 dated 9th April, 2008 – Annexure – 28.49)

Under Rule 15 -

(16.2) Contesting in elections to sports bodies etc.

The previous sanction of the Government is required as per Rule 15 (1) of the CCS (Conduct) Rules, 1964 for a Government servant to hold an elective office or canvass for a candidate or candidates for an elective office, in any body whether incorporated or not.

Further, the entire time of the Government servant, particularly a senior officer is need to be available to the Government and no activities unconnected with his official duties is allowed to interfere with the efficient discharge of such duties. To curb the tendency on the part of a Government servant to seek elective office in sports federations/associations at the national/state level has been considered carefully and it has been decided that the following principles should be followed while considering requests from Government servants for seeking election to or holding elective offices in sports federations/associations :-

- (i) No Government servant should be allowed to hold elective office in any sports association/federation for a term of more than 4 years, or for one term whichever is less.
- (ii) While seeking office (for which prior permission of Government should be obtained) or supporting the candidature of any person for election to sports bodies, a Government servant should not indulge in conduct unbecoming of a Government servant.
- (iii) A Government servant must refrain from raising of funds or other collections from official as well as non-official sources for the promotion of sports at any level.
- (iv) Prior clearance from the Government of India must be obtained for any travels abroad in connection with the work or other activities of any sports federation/association. While seeking such clearance, the officer must indicate the source of funding for the foreign trip including travel, hospitality and other expenses and when permitted to go, he must do so by availing of leave due and admissible to him.

(H.P. Govt. Department of Personnel O.M No. Per(AP.B)A(3)-10/75-II dated 15th March, 2017 – Annexure 28.50)

Under Rule 16

(16.3) Amendment to the CCS (Conduct) Rules, 1964 with regard to dealing in the shares of CPSEs

The GOI, Ministry of Personnel, PG and Pensions, Department of Personnel & Training vide O.M. dated 12th March, 2009 amended Rule 16 of CCS (Conduct) Rules, 1964, which has been made applicable to the employees of the State Government with effect from 23-04-2009.

(Govt. of H.P., Department of Personnel O.M No. Per(AP.B)B(17)-1/2005 dated 23rd April, 2009 – Annexure 28.51)

Under Rule 18

(17) Form of return of assets and liabilities to be submitted by Govt. servants and periodicity therefor.

The forms of returns of assets and liabilities to be submitted by the Central Government servants under Rule 18(1) of the Central Civil Services (Conduct) Rules, 1964 and the periodicity therefor have been prescribed by the Govt. of India, vide order No. 25/7/65-Ests (A) dated 6th January, 1973. The order was published as S.O. No. 144 in the Gazette of India Part II Section 3 (ii) dated 20th January, 1973. This order has been adopted by the H.P. Govt. Deptt. Of Personnel vide letter No. 8-11/68-Apptt. (DP) dated 16-8-1973. The order S.O. No. 144 is given below for ready reference:-

“ S.O. 144 In pursuance of sub-rule 1 of Rule 18 of the Central Civil Services (Conduct) Rules, 1964, read with Note 3 thereto, the Central Government hereby-

(a) Prescribes the forms specified in the Schedule to this order, as the forms in which the return referred to in the said rule shall be submitted by-

(i) Every Government servant on his first appointment after the date of issue of this Order to any service or post, and

(ii) Every government servant who is in service on the date of issue of this order.

(b) Directs that:

(i) The first return in respect of Govt. servant on his first appointment to any service or post shall be as on the date of such appointment and shall be submitted within three months from that date and every such return, after the first, shall be submitted as on , and by, the date specified in clause (c) in respect of returns after the first return, provided that if the interval between the date of submission of the first return and the date on which a subsequent return is due is less than six months, the latter return need not be submitted;

(ii) The first return in respect of every Govt. servant who is in service on the date of issue of this order shall be as on the 31st December, 1972, and specifies the 31st day of March, 1973, as the date on or before which such return shall be submitted;

(c) Further directs that every Govt. servant shall submit such returns, after the first, at an interval of five years, on or before the 31st day of March of the year immediately following the year to which the return relates and every such return shall be as on the 31st day of December of the year immediately preceding the said 31st day of March; and

(d) Also directs that every such return shall be handled as secret document and the provisions of rule 11 of the Central Civil Services (Conduct) Rules, 1964, shall as far as may be, apply thereto.”

(G.O.I. Deptt. Of Personnel order No. 25/7/65-Ests(A) dated 6-1-1973 (S.O. 144) as adopted by H.P. Govt. Deptt. Of personnel vide letter No. 8-11/68-Apptt. (DP), dated 16-8-1973)

The Schedule

(Referred to in H.P. Govt.'s decision No. (17) below para 28.5)

[See Rule 18(1)]

RETURN OF ASSETS AND LIABILITIES ON FIRST APPOINTMENT/AS N THE 31ST DECEMBER, 19

1. Name of the Government servant in full (in
block letters)
2. Service to which he belongs
3. Total length of service upto date

 1. in Non-Gazetted rank
 2. in Gazetted rank

4. Present post held and place of posting
5. Total annual income from all sources during
the Calendar year immediately preceding
the 1st day of January, 19

6. Declaration

I hereby declare that the return enclosed namely, Forms I to V, are complete, true and correct as on to the best of my knowledge and belief, in respect of information due to be furnished by me under the provisions of sub-rule (I) of rule 18 of the Central Civil Services (Conduct) Rules, 1964.

Date.....

Signature.....

Note 1. This return shall contain particulars of all assets and liabilities of the Government servant, either in his own name or in the name of any other person of his family.

Note 2. If a Government servant is a member of Hindu Undivided Family with coparcenary right in the properties of the family either as a 'Karta' or as a member, he should indicate in the return in Form No.1 the value of his

share in such property and where it is not possible to indicate the exact value of such share, its approximate value. Suitable explanatory notes may be added, wherever necessary.

SCHEDULE
(Referred to in H.P. Govt.'s decision No. 17 below para 28.5)
FORM NO: I

STATEMENT OF THE IMMOVABLE PROPERTY AS ON 31-12-2015 (i.e. LANDS, HOUSE,
SHOPS, and OTHER BUILDING ETC.)

Sr. No.	Description of property	Precise location name of District Division, Tehsil and Village in which the property is situated and also its distinctive number etc.	Area of land (in case Land and Building)	Extent of interest	If not own name State in whose name held & his/her relationship if any with the Govt. Servant	Date of acquisition	How Acquired (whether by purchase, mortgage, lease, inheritance gift or otherwise) and names with details of person(s) from whom acquired (addressed connection of the Govt. Servant if any, with the person/	Value of property (see Note-2 below)	Particulars of sanctions of prescribed authority, if any	Total annual income from the property

Date :

Signature.....

Note:- (1) For purpose of column 9 of the term (Lease would on a lease of immovable property from year to year or for any term exceeding one year or reserving a yearly rent. Where, however, the lease of immovable property is obtained from a person having official dealings with the Govt. servant, such a lease should be shown in this in respect of the term of the lease whether it is short term or long term and periodically of the payment of the rent.

(2). In Col. No. 10 should be shown –

(a) where the property has been acquired by purchase, mortgage or lease, the price or premium paid for such acquisition

(b) where it has been acquired by lease the total annual rent thereof also; and

(c) where the acquisition is by inheritance, gift or exchange, the approximate value of the property so acquired..

Form No. II

STATEMENT OF LIQUID ASSETS ON FIRST APPOINTMENT/AS ON THE 31ST DECEMBER
19---

1) Cash and Bank Balance exceeding 3 months emoluments.

2). Deposits, loans advances and investments. (Such as shares, securities and debentures etc.

Sr. No.	Description	Name and addresses of company, Bank etc.	Amount	If not in own name and address of persons in whose name held and his/her relationship with the Govt. Servant.	Annual Income derived	Remarks
1.	2.	3.	4.	5.	6.	7.

Date:.....

Signature.....

Note:1. In column 7, particulars regarding sanctions obtained or report made in respect of the various transactions may be given.

Note: 2. The term “emoluments” means the pay and allowances received by the Government servant.

FORM NO-III

**STATEMENT OF MOVABLE PROPERTY ON FIRST APPOINTMENT/AS ON THE 31ST
DECEMBER, 19.....**

Sr. No.	Description of item	Price of value at the time of acquisition and /or the total payment made upto the date of return, as the case may be, in the case of articles purchased on hire a purchase of installment basis.	If not in own name, name and address of the persons in whose name and his/her relationship with Govt. employee.	How acquired with approximate date of acquisition	Remarks
1.	2.	3.	4.	5.	6.

Date:

Signature.....

Note 1 In this Form information may be given regarding items like (a) Jewellery owned by him (total values); (b) silver and other precious metals and stones owned by him not forming part of jewellery (total values); (c) (i) Motor Cars, (ii) Scooters/Motor Cycles; (iii) Refrigerators/Air Conditioners, (vi) Radios/Radiograms/Television sets and any other articles, the value of which individually exceeds Rs. 1000/-; (d) other than articles of daily use such as clothes, utensils, books, crockery, etc.; added together as lumpsum.

Note 2 In column 5, may be indicated whether the property was acquired by purchase, inheritance, gift or other-wise.

Note 3 In column 6, particulars regarding sanction obtained or report made in respect or various transactions may be given.

FORM NO – IV

**STATEMENT OF PROVIDENT FUND AND LIFE INSURANCE POLICY ON FIRST
APPOINTMENT AS ON THE 31ST DECEMBER, 19.....**

S. No.	Insurance Policies				PROVIDENT FUND				
	Policy No. and date of policy	Name of insurance company	Sum Insured/ date of maturity	Amount of Annual premium	Type of Provident funds/G PF/ CPF Account No.	Closing balance as last reported by the Audit/ A.O. alongwith date of such balance.	Contribution made subsequently	Total	Remarks (If there is dispute regarding closing balance the figure according to the Govt. employee should be mentioned in this column.
1.	2.	3.	4.	5.	6.	7.	8.	9.	10

Date:

Signature.....

FORM NO-V

**STATEMENT OF DEBTS AND OTHER LIABILITIES ON FIRST APPOINTMENT/AS ON THE
31ST DECEMBER, 19**

Sr. No.	Amount	Name and address of Creditor	Date of incurring liability	Details of transaction	Remarks
1.	2.	3.	4.	5.	6.

Date:

Signature: _____

Note:-

1. Individual items of loan not exceeding three months emoluments of Rs. 1000/- whichever is less need be included.
2. In column 6, information regarding permission, if any, obtained from or report made to the competent authority may also be given.
3. The term "emoluments" means pay and allowances received by the govt. employee.
4. The statement should also include various loans and advances available to Govt. employees like advances for purchase of conveyance, house building advances etc. (other than advances of pay and travelling allowance) advances from G.P. Fund and loans on Life Insurance policies and fixed deposit.

(18) Category of Govt. servants required to submit Returns, periodicity and scrutiny

Under Rule 18(1) of the Central Civil Service (Conduct) Rules, 1964, read with note 3 thereunder, every Government servant shall on his first appointment to any service or post, and thereafter at such intervals as may be specified by the Govt. submit a return of his assets and liabilities in such form as may be prescribed by the Government giving the full particulars as indicated in the rule. The forms in which the said return should be furnished and its periodicity has been notified as stated in the decision at (17) above.

The return of assets and liabilities in the prescribed forms is required to be submitted by only Class-I, Class-II and Class-III officers excepting those to whom the provisions of sub-rule (1), (2) and (3) of rule 18 of the Central Civil Services (Conduct) Rules, 1964, do not apply by virtue of the second proviso to sub-rule (3) of rule 1. Government Servants in Class-IV services and posts are not required to submit these returns by virtue of Note 1 below rule 18(1).

As regards Govt. servants in Class-III services/posts, the Head of the Department may recommend to Ministry/Department concerned for the exclusion of any specified categories of such employees from the requirement of furnishing the return in pursuance of sub-rule (5) of rule 18, if the nature of the work of such employees justifies the exemption. The Ministry/Department to whom the recommendation is made would take a decision thereon with the concurrence of the Cabinet Secretariat Department of Personnel. In regard to such employees working in Ministry/Department itself, a decision could similarly be taken by it in consultation with the Department of Personnel.

The first return on the prescribed forms will be as on 31st December, 1972, in respect of Govt. servants who are already in service and should be submitted by them by the 31st March 1973, even if they have already submitted the return of immovable property for the year 1972 under the earlier orders. The subsequent returns will be as on 31st December, 1977, 31st December, 1982 and so on and will be submitted by them as on the crucial dates for those who are already in service, subject, however, to the proviso to sub-clause (i) of clause (b) of the order S.O. 144 given in H.P. Govt. decision No. 17 above.

The returns will be submitted by the Govt. servants to the prescribed authority through the Administrative Wing of the Ministry/Department/Office in which the Govt. servant is for the time being serving. On receipt of the return, it would be scrutinized with reference to sanctions, reports, etc. already on record and thereafter forwarded with such remarks as may be necessary in the light of the scrutiny through the Vigilance Officer of the Ministry/Department/Office to the prescribed authority. The prescribed authority on receipt of the return and the remarks thereon will make such further scrutiny and also take such further action as may be necessary and will retain the returns in its custody.

It will be the responsibility of the prescribed authority to ensure that the returns in respect of all the officers are received by the due date and are properly scrutinised and

kept on record. As regards officers on deputation the prescribed authority in the parent Department will be responsible for obtaining, scrutinising and keeping the returns on record.

(G.O.I. Cabinet Sectt. (Department of Personnel) Memo. No. 25/7/65-Ests. (A) dated the 8th January, 1973)

(18.1) Submission of returns of Assets and liabilities under Rule 18 of CCS (Conduct) Rules, 1964

The Government noticed that the Assets and Liabilities Returns of the Govt. servants are not being received at prescribed interval and scrutinized and some Heads of Departments and Deputy Commissioners directly sent the returns of Assets & Liabilities in respect of the officers/officials working under them to the Department of Personnel, whereas as per the instructions, the Administrative Departments and Head of Departments are required to ensure that the returns in question have been obtained and scrutinized by the concerned committees constituted for the purpose by the Govt. from time to time. Rule 19 of CCS(Conduct) Rules, 1964 provide the following authorities competent to retain property returns:-

- (i) The Government in the case of Govt. servant holding any Class-I post except where any lower authority is specifically specified by the Govt. for any purposes;
- (ii) Head of Departments in the case of Govt. servant holding any Class-II post;
- (iii) Head of Office, in the case of a Govt. servant holding any Class-III post.

The Government in continuation of letter dated 15-03-2004 (**Please see Annexure 28.52**) again emphasized that the provisions of Rule 18 & 19 of CCS(Conduct) Rules, 1964 and instructions issued thereunder from time to time may be adhered to strictly.

(H.P. Govt. Department of Personnel letter No. Per(AP.II)B(17)-1/2004 dated 28th December, 2004 – **Annexure 28.53**)

Rule 18 (1) (i) of the Central Civil Services (Conduct) Rules, 1964, read with Note III thereto provide that every Government servant shall on his first appointment to any service or post and thereafter at such intervals as may be specified by the Government, submit a return of his/her assets and liabilities in such form as may be prescribed by the Government giving the full particulars as indicated in that rule. Further clause (ii) of Rule 18 (1) of the CCS (Conduct) Rules, '1964, provides that every Government servant holding a Group 'A' or 'B' post is required to submit an annual return giving full particulars regarding the immovable property inherited by him/her or owned or acquired by him/her or held by him/her on lease or mortgage either in his/her own name or in the name of any member of his/her family or in the name of any other person. The need for obtaining these

returns regularly and making careful scrutiny of the same was reiterated from time to time. The State Govt. noticed that despite repeated instructions issued in this behalf from time to time, the same are not being complied with strictly resulting that the returns in respect of moveable and immovable property, has not yet been filed by all the officers/officials because the authorities concerned are not pressuring the employees under their control to strictly adhere the Government instructions and file the said returns well in time. This disobedience of Government instructions was viewed seriously and it has been decided that henceforth, all the Government officers/officials of all categories to whom the CCS (Conduct) Rules are applicable, are required to file their annual statement of assets and liabilities as on the date of 31st day of December of the preceding year, latest by 31st day of January of the next year. It shall be the responsibility of the Head of the Department to appoint one nodal officer for this purpose in respect of each and every office under his control who shall be entirely responsible for obtaining such statements from all the employees working under his jurisdiction and in case any employee fails to do so or does not cooperate, the nodal officer shall bring this fact into the notice of the HOD without fail for initiating disciplinary action against such employee(s) for disobedience of Government instructions/orders. The Govt. further to provide last opportunity to such officers/officials who has not yet submitted the return of their assets and liabilities and such Government servants must submit the said return latest by 30th August, 2012. It mentioned that in respect of newly recruited incumbents, irrespective of their category/post, it shall be the responsibility of the 'Appointing Authority' concerned to obtain the first return of assets and liabilities as on the date of appointment immediately after the joining of the incumbent. While referring the instructions issued by Department of Personnel letters dated 10-01-2011, 28-2-2011, 3-6-2011, 5-7-2011, 01-12-2011, 5-1-12, 19-1-2012, 6-2-2012 and 22-2-2012 (**Please see Annexures 28.54 to 28.63**), it has been impressed upon to all that the above instructions may be brought to the notice of all the Officers/officials and they are directed to file their annual return of Assets and Liabilities for the year ending on 31st December, invariably before 31st January of the next year. It has further impressed upon them that failure on the part of a Government servant to comply with the aforesaid instructions, can form good and sufficient reason for instituting disciplinary proceedings against them. Strict action will be initiated against such officers/officials, who fail to submit the returns in time or furnish wrong information. Even such defaulter officers/officials will not be considered for further promotion. The performance of the nodal officers in obtaining returns from his subordinate Officers/officials within the stipulated time, shall be recorded by the concerned Head of the Department in the Annual ACRs/APARs of the concerned nodal Officer.

(H.P. Govt. Department of Personnel letter No. Per(AP.B)B(17)-1/2004 dated 4th July, 2012 – **Annexure 28.61**)

(19) Submission of property returns-their Scrutiny and Custody -Clarifications

Various issues in regard to the receipt and maintenance of property returns have from time to time been raised by different departments. The earlier instructions contained in Personnel Department's letter No. 8-11/68-Apptt, dated the 6th April, 1970 provide that the property returns should be kept by the same authority which maintains A.C.Rs. This position is not in conformity with the procedure laid down in this behalf in the Central Civil Services (Conduct) Rules, 1964. Accordingly, the matter has been examined and the various issues raised by the different departments and the decision taken thereon by the Government are summed up as under:-

Point Raised	Government's Decision
1. Authority competent to retain property returns	<p>Prescribed authority as defined in explanation I(2) below rule 18 of the Central Civil Services (Conduct) Rules, 1964, viz:</p> <p>(a) (i) The Government, in the case of Govt. servant holding any Class-I post, except where any lower authority is specifically specified by the Govt. for any purposes;</p> <p>(ii) Head of Department in the case of Govt. servant holding any Class II post;</p> <p>(iii) Head of Office, in the case of a Govt. servant holding any Class III or Class-IV post;</p> <p>(b) In respect of a Govt. servant on foreign service or deputation to any other Govt./Deptt. The parent department on the cadre of which such Govt. servant is borne.</p>
2. Channel for the submission of property return by Govt. servant.	<p>The Govt. servant has to submit his property return through the Administration Wing/Section in which the Govt. servant is for the time being serving.</p>
3. Whether the property returns are required to be	<p>The Administration Wing/Section of the Department/Office concerned to which the property returns are submitted by the Govt. servant shall</p>

scrutinized immediately on receipt. If so, at which level and with reference to what record.

scrutinise the said returns with reference to the sanctions/reports/vigilance cases etc. already on the records and thereafter forward the same to the prescribed authority with such remarks as may be necessary in the light of scrutiny. The prescribed authority on receipt of the returns and the remark thereon will make such further scrutiny and also take such further action as may be necessary. The returns will be finally retained by the prescribed authority.

(H.P. Govt. Deptt. Of Personnel letter No. Per(AP-II)-A(3)9/75, dated 17-4-1976).

(20) Submission of Returns of Assets and Liabilities by certain Class III services

It has been decided by the Government that the returns of Assets and Liabilities should be obtained from Forest Rangers, Deputy Rangers, Excise and Taxation Inspectors, Junior Engineers, Naib Tehsildars, Inspectors of Food and Supplies, Poultry Inspectors, Agriculture Inspectors, Horticulture Inspectors, Inspectors Weights and Measures, Inspectors Cooperatives and other official/officer performing duties of similar nature, if any, under the administrative control of the Departments both in respect of movable and immovable properties on the prescribed proforma latest by the 31st July, 1981.

A certificate to the effect that returns of assets and liabilities in respect of all officials mentioned above under their administrative control have been received was also required to be sent by the 15th August, 1981.

(H.P. Govt. Deptt. Of Personnel letter No. PER(AP-II) A(3)9/75 dated 15-7-1981 – Annexure-28.6)

(20.1) Submission of Returns of Assets and Liabilities under Rule 18 of CCS (Conduct) Rules, 1964.

Rule 18(1)(ii) of CCS (Conduct) Rules, 1964 provides that every Government servant belonging to any service or holding any post included in Group 'A' and Group 'B' shall submit an annual return in such form as may be prescribed by the Government in this regard giving full particulars regarding the immovable property inherited by him or owned or acquired by him or held by him on lease or mortgage either in his own or in the name of any member of his family or in the name of any other person. Rule 18(2) and 18(3) of the rules ibid deal with the acquisition and disposal of immovable and movable property. After consideration the State Government decided that the following categories of Class-III employees will submit the Property Returns annually to their controlling officers:-

1. Patwaris/Kanungos of Revenue Deptt./Consolidation Deptt./Settlement Deptt.
2. Inspectors/Sub Inspectors/Asstt. Sub Inspectors of Police Department.

3. Inspectors of Excise & Taxation Department.
4. Inspectors of Weights & Measures/Food & Supplies Department.
5. Inspectors of Cooperative Department.
6. Mining Inspectors/Extension Officers of Industries Department.
7. Forest Guards/Dy. Rangers of Forest Department.
8. Panchayat Secretaries/Panchayat Inspectors of Panchayati Raj Department.
9. Labour Inspectors/Shop Inspectors of Labour Deptt.
10. Food Inspectors of Health Deptt.
11. Junior Engineers of PWD/IPH/RD Departments and other Departments where the post of JE is in existence.

(H.P. Govt. Department of Personnel letter No. Per(AP.B)B(17)-1/2004 dated 28th February, 2011 – **Annexure 28.62**)

It come to the notice of the State Government that the instructions issued vide letter dated 28-02-2011 (Annexure 28.62) vide which instructions regarding **annual** submission of Returns of Assets and Liabilities by **certain categories** of **Class-III employees** have been issued are not being complied with strictly, viewing the same seriously again emphasized that the said instructions may strictly be adhered to and brought to the notice of all concerned for strict compliance. Any deviation to these instructions will be viewed seriously and stern action may be initiated against defaulting officers/officials.

(H.P. Govt. Department of Personnel letter No. Per(AP-B)B(17)-1/2004 dated 3rd June, 2011 – **Annexure 28.63**)

(21) Constitution of Committees for Scrutiny of statements of assets and liabilities of Govt. servants

The H.P. Govt. has constituted the following Committees for the scrutiny of statements of assets and liabilities of Govt. servants:-

Committee No. I For officers of the rank of Superintending Engineer, Conservators of Forests and above for all Departments

From 29-8-1981 to 18-8-1986

- | | | | |
|----|--|-------|------------------|
| 1. | Chief Secretary | ..... | Chairman |
| 2. | Financial Commissioner-cum-Principal Secretary to Chief Minister | ..... | Member |
| 3. | Secretary concerned of the Department | ..... | Member |
| 4. | Branch Officer of the concerned department... | | Member Secretary |

(H.P. Govt. Deptt. Of Personnel letter No. PER (AP-II) A(3)-9/75 dated 29-8-1981)

From 19-8-1986 onwards

- | | | |
|--|-------|------------------|
| 1. Additional Chief Secretary | ..... | Chairman |
| 2. Principal Secretary to Chief Minister | ..... | Member |
| 3. Secretary concerned of the Department | ..... | Member |
| 4. Branch Officer of the concerned Department... | | Member Secretary |

(H.P. Govt. Department of Personnel Notification No. PER(AP-II)A(3)-9/75 dated 19-8-1986 – Annexure 28.13)

Committee No. II (a) For all Class I and II Officers other than those to be scrutinised by Committee No. I

(i) From 29-8-1981 onwards

- | | | |
|--|-------|------------------|
| 1. Financial Commissioner | ..... | Chairman |
| 2. Secretary concerned of the Department..... | | Member |
| 3. Head of the Department concerned | ..... | Member |
| 4. Branch Officer of the concerned Department... | | Member Secretary |

(H.P. Govt. Deptt. Of Personnel letter No. PER(AP-II)A(3)-9/75 dated 29-8-1981)

(b) For District Revenue Officers and Tehsildars of Revenue Deptt. From 31-5-1982

- | | | |
|--|-------|------------------|
| 1. Financial Commissioner (Revenue) | ..... | Chairman |
| 2. Divisional Commissioner, Kangra | ..... | Member |
| 3. Divisional Commissioner, Shimla | ..... | Member |
| 4. Deputy Secretary/Under Secretary (Revenue). | | Member Secretary |

(H.P. Govt. Deptt. Of Personnel letter No. PER(AP-II)A(3)-9/75 dated 31-5-1982)

The Government allotted various Departments between the Financial Commissioners for the purpose of scrutiny of statements of Assets and Liabilities of officers mentioned against Committee No. II from time to time as under:-

(i) From 20-4-1982 to 24-8-1987

Financial Commissioner (Development)

- | | |
|----------------------|------------------------|
| 1. Agriculture | 10. Cooperation |
| 2. Horticulture | 11. Public Relations |
| 3. Animal Husbandary | 12. Tribal Development |

- | | |
|----------------------|---|
| 4. Forests | 13. Welfare and Prison |
| 5. R.I.D. | 14. Health |
| 6. Panchayati Raj | 15. Home |
| 7. Fisheries | 16. G.A.D. |
| 8. Soil conservation | 17. S.A.D |
| 9. Food and Supplies | 18.H.P. Institute of Public Administration. |

Financial Commissioner (Revenue)

- | | |
|------------------------------|------------------------------------|
| 1. Revenue | 10. Education |
| 2. Relief and Rehabilitation | 11. Language and Culture |
| 3. Tourism | 12. Labour Employment and Training |
| 4. Excise and Taxation | 13. Printing and Stationery |
| 5. Election | 14. Transport |
| 6. Finance | 15. P.W.D. |
| 7. Planning | 16. Law |
| 8. Economics and Statistics | 17. Vigilance |
| 9. Industries | 18. Enforcement |

(H.P. Govt. Deptt. Of Personnel letter No. Per(AP-II) A(3)-9/75 dated 20-4-1982)

(ii) From 25-8-1987 to 8-10-1990

Financial Commissioner (Revenue)

- | | |
|-----------------------------------|------------------------------|
| 1. Revenue | 2. Relief and Rehabilitation |
| 3. Election | 4. Food and Supplies |
| 5. Home (including Vigilance) | 6. Excise and Taxation |
| 7. Personnel (including Training) | 8. M.P.P. and Power |

Financial Commissioner (Development)

- | | |
|----------------------|----------------------|
| 1. Rural Development | 2. Panchayat |
| 3. Fisheries | 4. Agriculture |
| 5. Horticulture | 6. Animal Husbandary |
| 7. Transport | |

Financial Commissioner (Education)

- | | |
|---------------------------|------------------------|
| 1. Education | 2. Technical Education |
| 3. Science and Technology | 4. Forests |
| 5. Welfare | 6. Industries |

Financial Commissioner (Finance)

- | | |
|--|-----------------------------------|
| 1. Finance | 2. Planning |
| 3. Economics and Statistics | 4. Public Relations |
| 5. P.W.D. and I.P.H. Town and Country Planning | 6. Labour Employment and Training |
| 7. Language Art and Culture | 8. Youth Services |

Financial Commissioner (C.M.)

- | | |
|-----------------------|----------------------------|
| 1. Tribal Development | 2. Tourism and Hospitality |
| 3. Cooperation | 4. Law |
| 5. Health | 6. G.A.D. |
| 7. Ayurveda | 8. L.S.G. |

(H.P. Govt. Deptt. Of Personnel Notification No. PER(AP-II) A(3)-9/75 dated 25-8-1987-Annexure 28.15)

**(iii) From 9-10-1990 onwards
Financial Commissioner (Revenue)**

- | | |
|-----------------------------------|------------------------------|
| 1. Revenue | 2. Relief and Rehabilitation |
| 3. Election | 4. Food and Supplies |
| 5. Home (including Vigilance) | 6. Excise and Taxation |
| 7. Personnel (including Training) | 8. M.P.P. and Power |

Financial Commissioner (Development)

- | | |
|----------------------|----------------------|
| 1. Rural Development | 2. Panchayat |
| 3. Fisheries | 4. Agriculture |
| 5. Horticulture | 6. Animal Husbandary |
| 7. Transport | |

Financial Commissioner (Appeals)

- | | |
|---------------------------|------------------------|
| 1. Education | 2. Technical Education |
| 3. Science and Technology | 4. Forest |
| 5. Welfare | 6. Industries |

Financial Commissioner (Home)

- | | |
|------------|-------------|
| 1. Finance | 2. Planning |
|------------|-------------|

- | | |
|--|-----------------------------------|
| 3. Economics and Statistics | 4. Public Relations |
| 5. P.W.D.(Including I.P.H. & Town and Country Planning | 6. Labour Employment and Training |
| 7. Language Art and Culture | 8. Youth Services |

Financial Commissioner (Tribal Development)

- | | |
|-----------------------|----------------------------|
| 1. Tribal Development | 2. Tourism and Hospitality |
| 3. Cooperation | 4. Law |
| 5. Health | 6. G.A.D. |
| 7. Ayurveda | 8. L.S.G. |

(H.P. Govt. Department of Personnel Notification No. PER(AP-II) A(3)-9/75 dated 9-10-1990 – Annexure – 28.22)

Committee No. III For Class III Govt. servants viz. Forest Rangers, Excise and Taxation Inspectors, Junior Engineers, Naib Tehsildars, Inspectors of Police, Sub-Inspectors/Asstt. Sub-Inspectors of Police, Inspectors Food and Supplies, Poultry Inspectors, Agriculture Inspectors, Horticulture Inspectors, Inspectors Weights and Measures, Inspectors Cooperatives and other officials performing duties of similar nature.

- | | |
|--|-----------------------|
| 1. Special Secretary (Vigilance) |Chairman |
| 2. Head of Department concerned
Or his nomine in case the Head
of Deptt. Happens to be senior
to special Secretary (Vig.) |Member |
| 3. Director of Vigilance | Member |
| 4. Officer-incharge of the
Establishment of the concerned
Deptt. |Member Secretary |

(As amended vide Deptt. Of Personnel letter No. PER(AP-II)A(3)-9/75 dated 16-8-82).

The above committees will meet fortnightly, monthly and quarterly and submit report/findings to the competent authorities for further necessary action, if any.

(22) Purchase of land by non-agriculturist Officers and permission thereto under section 118 of the H.P. Tenancy and Land Reforms Act, 1972.

It has come to the notice of the Government that Govt. Officers posted at different places are freely purchasing land in the areas of their official jurisdiction. For field officers the purchase of land in areas of their jurisdiction does not seem to be proper, as such an action on the part of the field officers leads to an impression of misuse of their official position. It has therefore, been decided by the Government that no Govt. servant should purchase land in the area of his official jurisdiction in future.

These instructions may kindly be brought to the notice of all officers for strict compliance.

(H.P. Govt. Deptt. Of Personnel letter No. PER(AP-II)A(3)-9/73-Pt. Dated 29-7-1989-Annexure-28.18)

(23) Modification of decision No. 22 above

The question of ban on purchase of land by the Government Officers/officials within their jurisdiction as imposed vide decision No. (22) above was under consideration of the Government for some time past. After thorough consideration and in partial modification of the decision No. (22) above, the Government have now decided that, excepting the employees shown in the appendix, if any Govt. Officer/employee wants to purchase land within his jurisdiction, then he will have to obtain prior approval of the competent authority before purchasing the land. For this purpose:-

- (a) The competent authority shall be one step higher than the competent authority prescribed in the Conduct Rules. For example, if under the Conduct Rules the competent authority of an employee is Head of Office, then for this purpose, the competent authority shall be the Head of the Department and if under the Conduct Rules the competent authority is the Head of the Department then for this purpose Government will be the competent authority;
- (b) The competent authorities so determined shall get the market price of the land proposed to be purchased assessed through the Deputy Commissioner concerned, before according permission for the purchase of the land; and
- (c) If the proposal is to purchase the land at a price lower than the price assessed under clause (b) above, then for this purpose the competent authorities will not accord permission for the purchase of the land.

The ban imposed on the purchase of land vide decision No. (22) above will remain in force in respect of the officers/officials mentioned in the enclosed appendix. These orders will come into force with immediate effect.

(H.P. Govt. Deptt. Of Personnel letter No. PER(AP-II)A(3)-9/73 dated 3-6-1992 – Annexure – 28.28)

Appendix to H.P. Govt. Decision No. 23 below para 28.5

Details of those officers who cannot purchase land within their jurisdiction

1. Divisional Commissioner within the jurisdiction of his Division
2. Deputy Commissioner
3. Additional Deputy Commissioner
4. Additional District Magistrate
5. Sub-Divisional Officer (Civil)
6. Tehsildar
7. Naib Tehsildar
8. Patwari and above all officials of the Revenue Deptt. Within their respective jurisdictions.
9. Superintendent of Police (posted in the District) and Deputy Inspector General (within his range)
10. Deputy Superintendent of Police (posted in the District/sub-Division), Incharge police Station/District Inspector.
11. Additional or Assistant Superintendent Police (posted in District/Sub-Division).
12. Divisional Forest Officer (D.F.O.) posted in Territorial Division
13. Officials holding posts of Patwari and above in Revenue Department who are working in Consolidation and Settlement Organisations-within their respective jurisdictions.
- 14.

Officers of Municipal Committee

1. Commissioner
2. Asstt. Commissioner
3. Executive Engineer (XEN)
4. Asstt. Engineer
5. Secretary
6. Executive Officer.

(23.1) Purchase of land by Government servants- permission under Conduct Rules – Revision of Annexure to instructions 03-06-1992.

The instructions contained letter dated 29-7-1989 and subsequent modified dated 3-6-1992 lays down that if a government servant, except those indicated in the 'Annexure' to the instructions dated 3-6-1992 intends to purchase land in his name or in the name of any of his family members within the jurisdiction of his posting can do so only with the prior permission of the competent authority as required under the Conduct Rules. As regards the officers/officials indicated in the Annexure to the aforesaid instructions, none can purchase land in his name or in the name of any of his family members within the jurisdiction of his posting. After observing that the aforesaid instructions are not being strictly adhered to by

the government servants, the State Government reiterated the aforesaid instructions and to include more categories of officers/officials in the Annexure and make it clear that no officer/official shown in the revised Annexure to these instructions shall purchase land/building/immovable property within the jurisdiction of his posting in his own name or in the name of any of his family members. Any officer/official found violating these instructions shall be strictly dealt with under the All India Services (Conduct) Rules, 1968 and Central Civil Services (Conduct) Rules, 1964 as the case may be.

(H.P. Govt. Deptt. of Personnel letter No. Per(AP-II)A(3)-9/73 dated 12-1-96 – **Annexure 28.64**)

It had interalia been stated in the instructions dated 12-01-1996 that no officer/official shown in the revised annexure to these instructions shall purchase land/building/immovable property within the jurisdiction of his posting in his own name or in the name of any of his family members. It was further clarified that any officer/official found violating these instructions shall be strictly dealt with under the All India Services (Conduct) Rules, 1968 and CCS (Conduct) Rule, 1964, as the case may be. But it has been observed that the deals for the purchase of land are being finalised by some officers while in position notwithstanding these instructions but the purchase documents are registered after their posting out of these stations. In order to curb this tendency on the part of the officers/officials who have been barred from purchasing land/building/immovable property in their own name or in the name of their family members, the Government decided that the officers/officials who are transferred out will not allowed to purchase land/building/immovable property within their jurisdiction or the purchase deed will not be allowed to be registered in his name or in the name of his family within the period of two years from the date of relinquishing the charge of his post. Violation of these instructions would attract punitive provisions of the relevant Conduct Rules governing the Officers of the State Services/All India Services.

(H.P. Govt. Deptt. of Personnel letter No. Per(AP-B)A(3)-9/73 dated 16-08-1997 - **Annexure 28.65**)

23.1.2 Purchase of land by Government servants-permission under Conduct Rules.

Vide letters/instructions dated 12-1-1996 and 16-08-1997 certain officers/officials have been barred from purchasing land/building/immovable property within the jurisdiction of his/her posting in their own name or in the name of their family members indicated in the Annexure to the instruction dated 12-1-1996. After due consideration, the Government decided to include 'Assistant Commissioner to Divisional Commissioner' and also Assistant Commissioner to Deputy Commissioner' in above Annexure as follows modifying the Annexure to the above extent:

"22. Assistant Commissioner to Divisional Commissioner

23. Assistant Commissioner to Deputy Commissioner."

(H.P. Govt. Deptt. of Personnel letter No. Per(AP-B)A(3)-9/73 dated 26-09-2012 - **Annexure 28.66**)

23.1.3 Purchase of land by Government servants-permission under Conduct Rules.

While inviting attention to letters dated 12-01-1996, 16-08-1997 and 26-09-2012 and conveying that certain officers/officials indicated in the Annexure to the instructions dated 12-01-1996 have been barred from purchasing land/building/immovable property within the jurisdiction of his/her posting in their own name or in the name of their family members, The Government after due consideration, decided that with the prior permission of the Government, in the respective Administrative Department, the officers/officials shown in the revised Annexure annexed to the instructions dated 12-01-1996 could be allowed to purchase land within the jurisdiction of their posting in their own name or in the name of any of their family members. Permission before the transaction would be mandatory.

(H.P. Govt. Deptt. of Personnel letter No. Per(AP-B)A(3)-9/73 dated 15th February, 2016 - **Annexure 28.67**)

Under Rule 20

(24) Political or outside influence in respect of service matters

Attention is drawn to rule 20 of the Central Civil Services (Conduct) Rules which read as follows:-

"No Government servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to service under the Government."

On the basis of this provision clear and elaborate instructions have been issued from time to time impressing upon Government servants not to resort to any political or outside influence in respect of matter pertaining to service under the Government. The last such instructions were issued vide Personnel letter number PER(AP-II)A(3)-10/75 dated 29th July, 1980. However, it has been observed that despite the issue of these instructions, some of the employees still continue to resort to political and outside influence regarding their posting, transfers and service matters. This is clear violation of Rule 20 of the Central Civil Services (Conduct) Rules, quoted above. The Government have, therefore, decided that disciplinary action be initiated against those employees who resort to Any Political or Outside Influence for Transfers, Postings and other service matters. All employees be

warned not to resort to any political or outside influence for transfers etc. and in case any employee violates the aforesaid rule, disciplinary action should be initiated against him. (H.P. Govt. Deptt. Of Personnel letter No. PER (AP-II) A(3)-10/75, dated 18-9-1980-Annexure-28.5)

(24.1) Canvassing of non-official or other outside influence by Government services.

Rule 20 of the CCS (Conduct) Rules, 1964 provides that no Government servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his/her service under the Government. The Government of India has, from time to time, emphasized that Government servants should not approach Members of Parliament or State Legislatures or other political/outside authorities to sponsor their cases in respect of service matters. After coming into the notice that certain Government servants are bringing to bear outside influence indirectly to further their service interests, GOI, Ministry of Personnel, PG and Pensions, Department of Personnel & Training vide its OM dated 06-10-1997 by enclosing copy of O.M. dated 12-01-1995 clarified that bringing of indirect influence by Government servant would also attract the provisions of rule 20 of the CCS (Conduct) Rules, 1964 and have requested to bring the existing instructions/rules to the notice of all concerned under their control and to take effective action against the Government servants who bring or attempt to bring outside influence to further their service interests, as prescribed in their OM dated 12.01.1995. The State Government circulated the copy of Government of India Ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training) O.M. No. 11013/11/97-Estt.(A) dated 6-11-1997 alongwith a copy of O.M. No. 11013/12/94 Estt. (A) dated 12-01-1995 on the above subject with the request to bring these instructions to the notice of all concerned for information and strict compliance.

(H.P. Govt. Department of Personnel letter No. Per(AP.II)A(3)-10/75-II-Part dated 29th January, 1998 – **Annexure 28.68**)

(25) Political influence to bear in service matters-such as transfer, promotions and disciplinary cases.

Instances have come to the notice of the Government where officers have brought political influence to bear in service matters such as transfers, promotions and disciplinary cases. Attention is invited to Rule 20 of the Central Civil Service (Conduct Rules) which reads as follows:-

“No Government servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to service under the Government.”

2. In future, violation of this provision will invite disciplinary proceedings. Where political pressure is brought to bear in any matter, it will be presumed that the officer on whose behalf such pressure is brought, is aware of the matter and is responsible for it.

(D.O. letter No. Per(AP-II)A(3)-10/75-II, dated 27.3.1984 from Chief Secretary to Heads of Departments etc. –Annexure- 28.10)

(26) Political pressure regarding transfers

It has been noticed by the Govt. that whenever employees are transferred from one place to the other on administrative grounds, they instead of joining at their place of posting exert political pressure for cancellation of their transfers, which is in violation of Rule 20 of the Central Civil Services (Conduct) Rules, 1964.

All Secretaries to the Government and Heads of Departments are requested to bring to the notice of all officers and employees under them that disciplinary proceeding under the C.C.S. (C.C.A.) Rules, 1965 will be initiated against the officer/employee who is found guilty of exerting political or any other pressure in this behalf.

(H.P. Govt. Deptt. Of Personnel letter No. Per(Ni-II)B(7)-1/92 dated 7-1-1993-Annexure 28.29)

(27) Procedure for dealing with communications of public representatives/ outside authorities relating to service interests of serving or retired Govt. servants

Rule 20 of the CCS (CONDUCT) Rules, 1964 provides that no Government servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his/her interests in respect of matters pertaining to his/her service under the Government. The Government has, from time to time, emphasised that Government servants should not approach Members of Parliament or State Legislatures or other political/outside authorities to sponsor their cases in respect of service matters. As per the existing instructions of the Govt. of India vide O.M. No. 11013/7/85/Estt. (A) dated 22-5-85, the following action should be taken against Government servants approaching Members of Parliament or State Legislatures for sponsoring individual cases.

- (i) A Government employee violating the aforesaid provisions of the Conduct Rules for the first time should be advised by the appropriate disciplinary authority, to desist from approaching Members of Parliament/Members of State Legislature to further his/her interest in respect of matters pertaining to his/her service conditions. A copy of this advice need not, however, be placed in the CR dossier of the employee concerned.
- (ii) If a Government employee is found guilty of violating the aforesaid provisions of the Conduct Rules a second time despite the issue of advice on the earlier occasion, a written warning should be issued to him/her by the appropriate

disciplinary authority and a copy thereof should be placed in his/her CR dossier.

- (iii) If a Government employee is found guilty of violating the aforesaid provisions of the Conduct Rules, despite the issue of warning to him/her, disciplinary action should be initiated against him/her by the appropriate disciplinary authority under the provision of CCS (CCA) Rules, 1965.

In spite of these instructions, cases of individual Government servants continue to be sponsored by Public Representatives/Outside Authorities. After careful consideration it has been decided that the following procedure may be adopted for dealing with communications from public representatives/outside authorities relating to the service matters of Government employees:

- (a) Communications received from public representatives regarding problems of group/categories of Government functionaries must be entertained and dealt with on a time-bound basis. In all such cases, after due examination, appropriate replies would continue to be issued at the level of the Minister concerned.
- (b) All communications from public representatives relating to the grievances of the retired personnel should receive the same consideration and be dealt with in the same way as outlined in (a) above.
- (c) In cases in which a public representative sponsors the cause of an individual Government servant (e.g. recruitment, appointment, promotion, posting to particular station, appointment to a specific position, complaint against supersession, expunction of adverse remarks, allotment of Government accommodation, etc.) a formal reply should continue to be sent from the Minister acknowledging the receipt of the communication stating that the contents of the letter have been noted and where necessary, suggesting that the person whose case has been recommended, may be advised to represent his case through proper official channels. All such communications addressed to the Minister shall be replied to at his/her level. In all such cases the formal reply given by the Minister shall be deemed to dispose off the communication unless there are further directions from the Minister in the matter.

(Govt. of India Ministry of Personnel, P.G. and Pensions, Deptt. Of Personnel and Training O.M. No. 11013/12/94-Estt. (A) dated 12-1-1995 as adopted and circulated with H.P. Govt. Deptt. Of Personnel O.M. No. Per(AP-II)A(3)-10/75 dated 27-3-1995-Annexure-28.31)

Rule 22

(28) Behaviour of Government servants in Public.

It has been desired by the Government that the Senior Officers should set an example about their behaviour in public and any unbecoming act of the Government servants, like

being drunk in public places etc, should be viewed seriously and strict action taken in such cases. It has also been desired that senior officers should not accept the hospitality of junior officers.

(H.P. Govt. Department of Personnel letter No. PER(AP-II) A(3)-10/75, dated 25-6-1976- Annexure 28.4)

(29) Need for strict observance of the provisions relating to consumption of intoxicating drinks and drugs

Rule 22 of the C.C.S. (Conduct) Rules, 1964 provides that every Government servant shall:-

- (a) strictly abide by any law relating to intoxicating drink or drugs in force in any area in which he may happen to be for the time being;
- (b) not be under influence of any intoxicating drink or drug during the course of his duty and shall also take due care that the performance of his duties at any time is not affected in any way by the influence of such drink or drug.
- (c) refrain from consuming any intoxicating drink or drug in a public place.
- (d) not appear in a public place in a State of intoxication.
- (e) not use any intoxicating drink or drug to excess.

Instructions have also been issued in the past emphasising the need for strict observance of the above provisions of the Conduct Rules vide Personnel Department's letter No. PER(AP-II)A(3)-10/75 dated 12-8-1977 and O.M. No. Karmik (Ni-II)-A(3)-10/75 dated 4.7.1979. However, Government's attention has been drawn recently to a few instances of violation of the above instructions. It is, therefore, once again reiterated that-

- (i) every Government servant should scrupulously adhere to the provisions of the Conduct Rules relating to the consumption of intoxicating drinks or drugs;
- (ii) the disciplinary authorities should keep a strict watch on the conduct of Government servants in regard to matters covered by the aforesaid provisions of the conduct Rules; and
- (iii) the disciplinary authorities should take very serious view of any violation of rule 22 of the CCS (Conduct) Rules, 1964 and should not hesitate to impose the severest punishment on such Government servants who are proved guilty of violating the said Rules.

(H.P. Govt. Department of Personnel O.M. No. Per(AP-II)A(3)-10/75-II, dated the 30th May, 1984-Annexure 28.11)

Under Rule 22-A

(28.1) Amendment to Conduct Rule to prohibit employment of children below 14 years as domestic servants.

Government of India, Ministry of Personnel, PG & Pensions, Department of Personnel & Training vide Notification No. 11013/5/97-Estt. (A) dated 14-10-1999 in the Central

Civil Services (Conduct) Rules, 1964, after rule 22 inserted new rule 22-A i.e. Prohibition regarding employment of children below 14 years of age. No Government servant shall employ to work any child below the age of 14 years. The State Government forwarded a copy of above notification of Govt. of India to all in H.P for information and strict compliance.

(H.P. Govt. Department of Personnel letter No. Per(AP-II)A(3)-10/75-Pt. dated 30-12-1999 – **Annexure 28.69**)

In continuation of letter dated 30-12-1999 it has been requested that provision made in Rule-22-A of CCS (Conduct) Rules-1964 regarding prohibition of employment of Children below 14 years as domestic servants may be carried out in letter and spirit and compliance to this effect be sent to the competent authority.

(H.P. Govt. Department of Personnel letter No. Per(AP-II)A(3)-10/75-Pt. dated 14-09-2000 – **Annexure 28.70**)

Under Rule 3 and 22

(30) Instructions prohibiting smoking and use of other intoxicants in public places

Complaints are sometimes received by the Government that Government servants or other persons take drinks in rest houses or circuit houses of Govt. or semi-Government undertakings. Such news are also published in the News Papers. Image of the administration is tarnished from such complaints and news published in News Papers and officers and officials are un-necessarily criticised. Discipline is also affected by this. Use of alcohol is dangerous for health, besides drinking in public places is unbecoming and it becomes a source of criticism of the Government servants, which is not in the interest of any person. Keeping all this in view the Public Works Department had imposed restriction on use of alcohol in rest houses and circuit houses, but these instructions are being ignored. When any orders are issued by Govt. it is expected of concerned officer and officials that they definitely abide by those instructions. Through these instructions all are again informed that alcohol (wine etc.) will under no circumstance be used in rest houses, whether of the Public Works Deptt. or other Department or any Corporation/Board. Notice Board about restriction on use of alcohol be fixed in rest houses immediately. Compliance of these orders be made by the Incharge of Rest Houses/Circuit Houses. If any complaint about the violation of these orders in future is received by the Government then disciplinary action will be taken against any official who uses alcohol in violation of these instructions.

It has also been noticed by the Govt. that sometimes the teachers have been smoking in educational institutions. Sometimes complaints of use of alcohol are also received. All

this besides being dangerous for health causes adverse effect on students and also pollutes the environment. The educational institutions are called temples of learning and it is the duty of teachers and others to maintain these neat and pious. Accordingly the Govt. have decided that nobody will smoke or drink in educational institutions at any time and these instructions be strictly adhered to. It will be the responsibility of the officer incharge of educational institutions that they do not allow any person to smoke in their institutions and necessary action may be taken against those who violate these instructions.

Likewise, people are seen smoking in the hospitals or their surroundings, which causes adverse effect on the health of patients and is also dangerous for the health of others. Accordingly it has also been decided that nobody will smoke in the hospitals. The officers incharge of hospitals will have to ensure that no official or any other person violates these orders.

It has also been noticed by the Govt. that sometimes the passengers, drivers and conductors smoke while travelling in buses which not only causes inconvenience to the non-smoker passengers, but Himachal Pradesh being a hilly State the passengers also sometimes vomit because of smoking. Despite raising of objection, some passengers continue smoking which causes inconvenience to the non-smokers. Accordingly the Govt. has decided that no passenger will smoke in any bus. The driver and conductor should ensure compliance of these orders.

In short, strict ban be imposed on smoking and drinking (of alcohol) in all Govt. offices, rest houses, public vehicles and meetings. The flying squads of the departments should check those violating these orders. Strict action be taken against a Government officer/official found drunk and walking in a public place or misbehaving even after office hours. Suitable action be taken against an officer who adopts soft attitude or does not take necessary action against his subordinate.

(H.P. Govt. General Administration Deptt. Letter No. GAD-6(F)9-1/90 dated 1-12-1990 – Annexure-28.23)

(31) Govt. of India's instruction regarding Prohibition of tobacco smoking in Public Places.

(i) The Central Government have been viewing with concern the increasing scientific evidence of non-smoking public being exposed to serious health hazards due to exposure to passive smoking in the proximity of tobacco smokers. There has been a widespread public demand that measures be taken to protect this majority of non-smoking public from the polluted impact of tobacco smoking by a small minority. Further, there is a need to save smokers from their own excesses.

In order to protect the non-smoking public from the hazards of passive smoking at least in Public Places where large number of people are expected to be present for prolonged period, it has been decided to prohibit tobacco smoking to start with, in a few selected places, namely hospitals; dispensaries and other health care establishments, educational institutions, conference rooms; domestic, air flights, air conditioned chair cars and air conditioned sleepers coaches in trains, suburban trains and air conditioned buses.

The ban, referred to above will come into effect after 30 days from the issue of this Office Memorandum and will be strictly enforced.

Ministries and Departments may issue appropriate instructions to the various authorities under their control to ensure implementation of these orders. The authorities concerned should take steps to clearly identify the non-smoking areas/buildings. No ashtrays should be placed in non-smoking areas and all cigarette shops removed from the compound of buildings in which smoking is prohibited.

(Govt. of India Cabinet Secretariat letter No. 27/1/3/90 dated 7-5-1990 circulated with H.P. Govt., General Administration letter No. GAD-6(F)9-1/90 dated 10-12-91-Annexure-28.26)

(ii) Often it has been noticed that people smoke in different public places, which not only affects their health but also adversely affect the health of non-smokers due to smoke. The Govt. have already issued instructions on 1-12-1990 (decision No. 28 above) that smoking will be prohibited in all Govt. offices, rest houses, public vehicles, hospitals and banks. In this behalf recently the Central Minister for Environment and Forest has written a letter No. 1(1)/90-PL dated 6-11-1991 to the Chief Minister, H.P. intimating that Central Govt. have issued instructions prohibiting smoking in all public places. This D.O. letter alongwith the Govt. of India, Cabinet Secretariat O.M. No. 27/1/3/90(8) dated 7-5-1990 was circulated for strict compliance alongwith compliance of the State Govt.'s earlier orders vide H.P. Govt. Deptt. Of Science Technology and Environment Deptt. Letter No. MTB(Parya)F(11)8/91 dated 10-12-1991 (Annexure-28.27).

(32) Utilization of services of regular /daily wage/ contractual/part-time official by deputing in the houses of officer /officials to do work.

Hon'ble High Court of Himachal Pradesh vide order dated 30-06-2014 passed in CWP No. 4504/2014 directed the Chief Secretary to the Government of Himachal Pradesh to issue necessary directions within 48 hours to ensure that no official regular or daily wage or part time is directed to work in the houses of revenue officers/officials throughout the State of Himachal Pradesh. It was also directed to issue similar directions qua all the departments in the State of Himachal Pradesh. In case any official/workman is engaged even after the orders passed by this Court, disciplinary proceeding be initiated against the

defaulting officer/official. He shall also be liable to be punished under the contempt jurisdiction of this Court. It is made clear that no displeasure in any manner shall be shown towards the persons, who were earlier deputed in the houses of the officers/officials to do the work. In view of the above orders, the Revenue and all other Departments have been requested to issue necessary orders to all their attached/subordinate offices to ensure that the above quoted orders of the Hon'ble High Court are obeyed / implemented in letter and spirit.

(H.P. Govt., Department of Personnel letter No. Per(AP.II)A(3)10/73-loose dated 3rd July, 2014- **Annexure 28.71**)

Annexures to Chapter 28

Central Civil Services (Conduct) Rules and instructions thereunder

Annexure No.	Details	Page No.
28.1	H.P. Govt. Appointment Department D.O. letter No. 13-1/67-Applt-II dated 7-10-1970 from Secretary (CSB) to all Secretaries, Heads of Deptt. Etc.	187
28.2	H.P. Govt. Appointment Deptt. Letter No. 88-45/56-II-Applt dated 19-11-1970	188
28.3	H.P. Govt. Deptt. Of Personnel letter No. 13-1/67-Applt. III dated 23-3-1971	189
28.4	H.P. Govt. Deptt. Of Personnel letter No. PER(AP-II)A(3)-10/75 dated 25-6-1976.	189
28.5	H.P. Govt. Deptt. Of Personnel letter No. PER(AP-II)A(3)-10/75 dated 18-9-1980.	190
28.6	H.P. Govt. Deptt. Of Personnel letter No. PER (AP-II)A(3)-9/75 dated 15-7-1981.	191
28.7	H.P. Govt. Deptt. Of Personnel letter No. PER(AP-II)A(3)-10/75 dated 1-8-1981.	191
28.8	H.P. Govt. Deptt. Of Personnel letter No. PER(AR)A(5)-16/83 dated 16.5.83/10.6.83	192
28.9	H.P. Govt. Deptt. Of Personnel letter No. Per(AP-II)A(3)10/75-II dated 20-7-1983.	193
28.10	H.P. Govt. Deptt. Of Personnel D.O. letter No. PER(AP-II)A(3)10/75-II dated 27-3-84.	196
28.11	H.P. Govt. Deptt. Of Personnel O.M. No. Per(AP-II)A(3)-10/75-II dated 30-5-1984.	197
28.12	H.P. Govt. Deptt. Of Personnel O.M. No. PER(AP-II)A(3)-10/75-II dated 11-12-1985.	198
28.13	H.P. Govt. Deptt. Of Personnel Notification No. PER(AP-II)A(3)-9/75 dated 19.8.1986.	199
28.14	H.P. Govt. Deptt. Of Personnel(AR) letter No. PER(AR)A(7)-2/85 dated 7.11.1986.	199
28.15	H.P. Govt. Deptt. Of Personnel Notification No. PER(AP-II)A(3)-9/75 dated 25.8.1987.	200
28.16	H.P. Govt. Deptt. Of Personnel letter No. PER(AP-II)A(3)-1/74-III dated 12-10-1987 with Govt. of India, Ministry of Personnel, P.G. and Pensions letter No. 11012/8/87-Estt. (A) dated 22-6-1987.	201
28.17	H.P. Govt. Deptt. Of Personnel letter No. PER(AP-II)A(3)-10/75 dated 26-4-1989 with Election Commission of India letter No. 3/4/89 (CS.II) dated 25-1-1989 and other enclosure.	202
28.18	H.P. Govt. Deptt. of Personnel letter No. PER(AP-II)A(3)-9/73-Pt. dated 29-7-89.	205

28.19	H.P. Govt. Deptt. Of Personnel letter No. PER(AP-II)A(3)-10/75 dated 29-9-1989.	206
28.20	H.P. Govt. Deptt. Of Personnel letter No. PER(AP-II)A(3)-10/75-II dated 30-1-1990.	207
28.21	H.P. Govt. Deptt. Of Personnel letter No. PER(AP-II)A(3)-1/80 dated 30-7-1990.	207
28.22	H.P. Govt. Deptt. Of Personnel Notification No. PER(AP-II)A(3)-9/75 dated 9-10-1990.	207
28.23	H.P. Govt. Gen. Admn. Deptt. Letter No. GAD-6(F)9-1/90 dated 1-12-1990.	208
28.24	H.P. Govt. Deptt. Of Personnel letter No. Per(Ni-II)A(3)-10/75 dated 18-2-1991.	210
28.25	H.P. Govt. Deptt. Of Personnel letter No. Per(Ni-II)A(3)-10/75-II dated 12-3-1991.	210
28.26	H.P. Govt. General Admn. Deptt. Letter No. GAD-6(F)9-1/90 dated 10-12-1991 with G.O.I. Cabinet Secretariat letter No. 27/1/3/90 dated 7-5-1990.	212
28.27	H.P. Govt. Deptt. Of Science Technology and Environment letter No. MTP (Parya)F(11)8/91 dated 10-12-1991.	213
28.28	H.P. Govt. Deptt. Of Personnel letter No. PER(AP-II)A(3)-9/73 dated 3-6-92.	215
28.29	H.P. Govt. Deptt. Of Personnel letter No. PER(Ni-II)B(7)-1/92 dated 7-1-1993.	216
28.30	H.P. Govt., Deptt. Of Personnel O.M. No. Per(AP-II)B(19)-3/77 dated 17-5-1994.	216
28.31	H.P. Govt., Deptt. Of Personnel O.M. No. Per(AP-II)A(3)-10/75 dated 27-3-1995 with G.O.I., Ministry of Personnel, P.G. and Pensions, Deptt. Of Personnel and Training O.M. No. 11013/12/94-Estt.(A) dated 12-1-1995.	217
28.32	H.P. Govt. Deptt. Of Personnel Notification No. Per(AP-B)A(3)-10/75-III dated 12 th December, 2017	219
28.33	H.P. Govt. Deptt. Of Personnel letter No.Per(AP.B)A(3)-10/75-III dated 22-01-2018	220
28.34	H.P. Govt. Deptt. Of Personnel letter No.Per (AR)A(6)-5/90-Vol.i dated 05-12-2003	221
28.35	H.P. Govt. Deptt. of Personnel Notification No.PerA(3)-9/75 dated 10-02-1994	222
28.36	H.P. Govt. Deptt. of Personnel O.M No. Per(AP.B)B(17)-1/2005 dated 22-05-2010	224
28.37	H.P. Govt. Deptt. of Personnel letter No. Per(AP.II)A(3)-10/75 dated 04-04-1998	225
28.38	H.P. Govt. Deptt. of Personnel O.M No. Per (AP.II)A(3)-10/75-II dated 31-08-2002	230
28.39	H.P. Govt. Deptt. of Personnel O.M No. Per (AP.II)A(3)-10/75-Vol.IV dated 18-04-2016	231
28.40	H.P. Govt. Department of Personnel Notification No. Per(AP.B)B(17)-1/2005 dated 14-09-2005	244

28.41	H.P. Govt. Department of Personnel letter No. Per (AP.II)B(17)-1/76 dated 04-05-1976	245
28.42	H.P. Govt. Department of Personnel letter No. Per(AP.II)A(3)-10/75-III Pt dated 12-03-2003	245
28.43	H.P. Govt. Department of Personnel O.M No. Per(AP.II)B(19)-3/77 dated 08-08-2005	246
28.44	H.P. Govt. Department of Personnel O.M No. Per(AP.II)B(19)-3/77 dated 24-01-2008	246
28.45	H.P. Govt. Department of Personnel letter No. Per (AP.B)A(3)-5/2012 dated 22-08-2012	247
28.46	H.P Govt. Department of Personnel letter No. Per(AP.II)A(3)-10/75-II dated 11-11-1997	248
28.47	H.P. Govt. Department of Personnel letter No. Per(AP.B)B(17)-1/2005 dated 26-07-2008	249
28.48	H.P. Department of Personnel O.M No. Per(AP.II)A(3)-10/75-loose dated 11-10-2001	250
28.49	H.P. Department of Personnel O.M No. Per(AP.II)A(3)-10/75 dated 09-04-2008	251
28.50	H.P. Department of Personnel O.M No. Per(AP.II)A(3)-10/75-II dated 15-03-2017	253
28.51	H.P. Department of Personnel O.M No. Per(AP.B)B(17)-1/2005 dated 23-04-2009	254
28.52	H.P. Govt. Department of Personnel letter No. Per(AP.B)B(17)-1/2004 dated 15-03-2004	255
28.53	H.P. Govt. Department of Personnel letter No. Per(AP.B)B(17)-1/2004 dated 28-12-2004	256
28.54	H.P. Govt. Department of Personnel letter No. Per(AP.B)B(17)-1/2004 dated 10-01-2011	257
28.55	H.P. Govt. Department of Personnel letter No. Per(AP.B)B(17)-1/2004 dated 05-07-2011	258
28.56	H.P. Govt. Department of Personnel letter No. Per(AP.B)B(17)-1/2004 dated 01-12-2011	258
28.57	H.P. Govt. Department of Personnel letter No. Per(AP.B)B(17)-1/2004 dated 05-01-2012	259
28.58	H.P. Govt. Department of Personnel letter No. Per(AP.B)B(17)-1/2004 dated 19-01-2012	260
28.59	H.P. Govt. Department of Personnel letter No. Per(AP.B)B(17)-1/2004 dated 06-02-2012	260
28.60	H.P. Govt. Department of Personnel letter No. Per(AP.B)B(17)-1/2004 dated 22-02-2012	261
28.61	H.P. Govt. Department of Personnel letter No. Per(AP.B)B(17)-1/2004 dated 04-07-2012	261
28.62	H.P. Govt. Department of Personnel letter No. Per(AP.B)B(17)-1/2004 dated 28-02-2011	263
28.63	H.P. Govt. Department of Personnel letter No. Per(AP.B)B(17)-1/2004 dated 03-06-2011	264

28.64	H.P. Govt. Department of Personnel letter No. Per(AP.II)A(3)-9/73 dated 12-01-1996	264
28.65	H.P. Govt. Department of Personnel letter No. Per(AP.II)A(3)-9/73 dated 16-08-1997	266
28.66	H.P. Govt. Department of Personnel letter No. Per(AP.II)A(3)-9/73 dated 26-09-2012	267
28.67	H.P. Govt. Department of Personnel letter No. Per(AP.II)A(3)-9/73 dated 15-02-2016	268
28.68	H.P. Govt. Department of Personnel letter No. Per(AP.II)A(3)-10/75-II-Part dated 29-01-1998	268
28.69	H.P. Govt. Department of Personnel letter No. Per(AP.II)A(3)-10/75-Pt dated 30-12-1999	271
28.70	H.P. Govt. Department of Personnel letter No. Per(AP.II)A(3)-10/75-Pt dated 14-09-2000	271
28.71	H.P. Govt. Department of Personnel letter No. Per(AP.II)A(3)-10/73-loose dated 03-07-2014	272
28.72	H.P. Govt. Department of Personnel letter No. Per(AP.II)D91)5/2000-Pt. dated 20-07-2000	272
28.73	H.P. Govt. Department of Personnel letter No. Per(AP.II)D91)5/2000-Pt. dated 09-01-2007	273
28.74	H.P. Govt. Department of Personnel O.M No. Per(AP.II)B(19)-3/77 dated 28-11-2019	273

Annexure 28.1

Copy of D.O. letter No. 13-1/67-Apptt-II dated 7-10-1970 from Secretary (CSB) to all Secretaries, Heads of Departments.

.....

(Referred to in H.P. Govt.'s decision No. 9 below para 28.5)

.....

A notice has been circulated by the General Secretary Himachal Pradesh Non-Gazetted Services Union, Shimla, dated the 15th of July, 1970, stating, "There are reactionary forces whose agents are trying to totally finish the 'trade unionism' in Himachal Pradesh for which they are preparing and guiding the employees to form parallel service organisations in the Pradesh". It was further stated in this notice that if any unauthorised person is found collecting money from the employees and enrolling members in the names of the Association, the functioning of which is based on some constitution, will allow any such flirtation in the service of this organisation.

2. Government have taken a very serious view of this notice. It is felt that the Government-servants should be correctly apprised of their rights relating to formation of Associations or Unions. Like any other Citizen, Government servants are also allowed to form Associations, which is guaranteed to them under article 19(1) (c) of the Constitution. Rule 6 of the Central Civil Services (Conduct) Rules, 1964, provides that-no government servant shall join or continue to be a member of an Association, the objects or activities of which are prejudicial to the interest of the sovereignty and integrity of INDIA or PUBLIC ORDER OR MORALITY.

- (31) The position of the Government servants, who are governed by the Civil Services (Conduct) Rules, 1964, with regard to the formation of Associations is on an entirely different footing than that of those who are known as 'workmen' and are employed in Trade and Industries. Section 2(G) of the Indian Trade Unions Act, 1926, defines 'workmen' as follows:-

'Workmen' means all persons employed in Trade or Industry, whether or not in the employment of the employer with whom the trade dispute arises. It is the 'workmen; alone who are entitled to form Trade Unions, primarily for the purpose of regulating the relations between the workmen and employers or between workmen and workmen or between employers and employers or for imposing restrictive conditions on the conduct of any trade or business and includes any federation of two or more Trade Unions.

- (32) Reference to 'trade unionism' in the notice, circulated by the General Secretary of the Himachal Pradesh Non-Gazetted Services Union, Shimla, apart from being uncalled for, is also against the provisions of the Central Civil Services (Conduct) Rules, 1964.

- (33) As stated earlier, Government servants are free to form one or more Associations, as is permitted to them under the Central Civil Services (Conduct) Rules, 1964. No one can prevent them from doing so so long as their Associations conform to the requirements of the sovereignty and integrity of India or Public Order or Morality.
- (34) Rule 12 of the Central Civil Services (Conduct) Rules, 1964, prohibits any Government servant, except with the previous sanction of the Government or of the prescribed authority, to ask for or to accept contributions in pursuance of any object whatsoever. The Government desires that these facts be brought to the notice of all the officials working in your Department.

.....

Annexure 28.2

Copy of H.P. Govt. Appointment Deptt. Letter No. 88-45/56-II-Apptt dated 19-11-1970 addressed to all Secretaries, Heads of Departments etc.

.....

(Referred to in H.P. Govt. decision No. 10 below para 28.5)

.....

Subject:- Observance of the provisions of the Central Civil Services (Conduct) Rules, 1964 by the Government servants.

.....

As you very well know, the employees of this Government, excepting of course the officers of the All India Services, are subject to the provisions of the Central Civil Services (Conduct) Rules, 1964, as amended from time to time. These rules (besides elucidating the manner in which the Government servants are required to act while performing their duties) provide for various types of restrictions on the actions of Government servants or the members of their families. Recently, however, it has been noticed by the Government that certain Government servants had resorted to such acts of criticising the Government, which are forbidden under the provisions of the Rules mentioned above. In this connection, the provisions of Rules 9 of the Rules referred to above are quite clear and which require that no Government servant can make any statement of fact or opinion in any radio broadcast or in any document published in his own name or in anonymously, pseudonymously or in the name of any other person or in any communication to the press or in any public utterance, which has the effect of an adverse criticism of any current or recent policy or action of the Government. Violation of the provisions of this and other rules calls for disciplinary action. I am, therefore, to request that the provisions of this and other rules of the Central Civil Services (Conduct) Rules, 1964 may kindly be adhered to and the Government servants may, in their interest, be impressed upon to maintain official decorum and to abide by the provisions of the rules *ibid*.

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Copy of H.P. Govt. Personnel Deptt. Letter No. 13-1/67-Apptt. III dated 23-3-1971 addressed to all Secretaries, Heads of Departments.

.....
(Referred to in H.P. Govt.'s decision No. 11 below para 28.5)

Subject:- Violation of the provisions of the Central Civil Services (conduct) Rules, 1964, by the Government Servants- Instructions regarding.

I am directed to say that Government employees are expected to observe strictly the provisions of the Central Civil Services (Conduct) Rules, 1964, as amended from time to time. But, of late it has been noticed by the Government that a section of the employees, either in their own name or in the name of their families, indulge in such correspondence with the Government, which does not fall within the ambit of their scope of duties which are well defined. In fact, such tendencies, if not curbed in right earnest, lead to indiscipline in the services, which is not at all warranted. Needless to emphasize that Rule 6 of the rules mentioned above, is quite clear which lays down that no Government servant shall in any radio broadcast or in any documents published anonymously or in his own name or in the name of any other person or in any communication to the press or in any public utterance, make any statement of fact or opinion which has the effect of an adverse criticism of any current or a recent policy or action of the Central Government or a State Government; provided that nothing in this rule shall apply to any statements made or views expressed by a Government Servant in his official capacity or in the due performance of the duties assigned to him. In this behalf attention is also invited to this Department's letter No. 88-45/56-II-Apptt., dated the 19th November, 1970.

2. I am, therefore, to request that the provisions of the Central Civil Services (Conduct) Rules, 1964, may kindly be adhered to and the Government servants impressed upon to maintain official decorum, failing which the officer/officials will render themselves liable for disciplinary action. In order to have an effective check, I am further to request that a quarterly return for any lapse on the part of the Government servants, may kindly be furnished to this Department, in future, beginning from April, 1971, covering the quarter January-March, 1971.

(35) Please acknowledge receipt.

.....

Copy of H.P. Govt. Deptt. Of Personnel letter No. PER(AP-II)A(3)-10/75 dated 25-6-1976 addressed to all Secretaries, Heads of Departments etc.

.....
(Referred to in H.P. Govt.'s decision No. 28 below para 28.5)

.....

Subject: Behaviour of Government servants in Public – Instructions therefor.

.....

I am directed to state that it has been desired by the Government that the Senior Officers should set an example about their behaviour in public, and any unbecoming act of the Government servants, like being drunk in public places etc., should be viewed seriously and strict action taken in such cases. It has also been desired that senior officers should not accept hospitality of junior officers.

2. In view of the above, I am to request that above decisions of the Government may kindly be noted and necessary instructions may also kindly be noted and necessary instructions may also kindly be issued to all concerned in this behalf.

.....

Annexure 28.5

Copy of H.P. Govt. Deptt. of Personnel letter No. PER(AP-II)A(3)10/75, dated the 18th September, 1980 addressed to all Administrative Secretaries to the Government of Himachal Pradesh.

.....

(Referred to in H.P. Govt's decision No. 24 below para 28.5)

.....

Subject:- Central Civil Services (Conduct) Rules, 1964-violation thereof.

.....

I have been directed to draw your attention to rule 20 of the Central Civil Services (Conduct) Rules which reads as follows:-

“ No Government servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to service under the government.”

On the basis of this provision clear and elaborate instructions have been issued from time to time impressing upon Government servants not to resort to any political or outside influence in respect of matters pertaining to service under the Government. The last such instructions were issued vide this Department letter of even number dated 29th July, 1980 (copy enclosed for ready reference)*. However, it has been observed that despite the issue of these instructions, some of the employees still continue to resort to political and outside influence regarding their postings, transfers and service matters. This is a clear violation of rule 20 of the Central Civil Services (Conduct) Rules quoted above. The Government have, therefore, decided that disciplinary action be initiated against those employees who resort to any political or outside influence for transfers, postings and other service matters. I am, therefore, to request you to warn all employees serving under you not to resort to any political or outside influence for transfers etc. and in case any employees violates the aforesaid rule, disciplinary action should be initiated against him.

* (Not added)

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Copy of H.P. Govt. Department of Personnel letter No: Per(AP-II)A(3)9/75 dated 15-7-1981, addressed to all Secretaries to the Govt. of Himachal Pradesh, Heads of Departments etc.

.....
(Referred to in H.P. Govt.'s decision No. 20 below para 28.5)

.....

Subject:- Submission of returns of Assets and Liabilities under rule 18(4) of the CCS (Conduct) Rules, 1964.

I am directed to refer to Rule 18 (4) of the CCS(Conduct) Rules, 1964 and the instructions reproduced thereunder, on the subject mentioned above and to say that it has been decided by the Govt. that the above return should be obtained from Forest Rangers, Deputy Rangers, Excise and Taxation Inspectors, Junior Engineers, Naib Tehsildars, Inspectors of Food and Supplies, Poultry Inspectors, Agriculture Inspectors. Horticulture Inspectors, Inspector Weights and Measures, Inspectors Cooperatives etc., and other official/officer performing duties of similar nature, if any, under the administrative control of the Departments both in respect of movable and immovable properties on the prescribed proforma latest, by the 31st July, 1981.

2. I am also to request you kindly to furnish a certificate to the effect by the 15th August, 1981 that returns of assets of liabilities in respect of all the officials mentioned above under your administrative control have been received by you.

3. This may kindly be given your personal attention.

.....

Annexure 28.7

Copy of H.P. Govt. Department of Personnel letter No. PER(AP-II)A(3)-10/75 dated 1-8-1981 addressed to all Secretaries, Heads of Departments etc.

.....
(Referred to in H.P. Govt.'s decision No. 3 of below para 28.5)

.....

Subject:- Punctuality in attendance.

.....

I am directed to state that it has come to the notice of the Government that officers and staff of various Directorates of Government and offices of Corporations and Boards located outside the Secretariat do not observe punctuality in attending office. Most of them do not reach officer at 10.00 A.M. Recently the Chief Minister made a surprise visit to some offices and found officers and staff coming as late as 11.30 A.M. Government has taken a very serious view of this lapse. I am, therefore, directed to request you to ensure punctuality in attendance in your offices by making such arrangements as may ensure that

Attendance Registers reach you at 10:10 AM. Suitable action may be taken against the late comers.

2. You are also requested to make surprise check once every week which will have a salutary effect.

3. I would like to have report by the 15th of August, 1981, of the steps taken by you in this matter and the results achieved.

4. I have been directed further to bring to your notice that there are instances of officers and staff leaving office on the last working day of the week, i.e. Friday or Saturday, as the case may be, before the offices close at 5:00 P.M. It may, therefore, be ensured by regular checking that no one leaves offices on the last working day of the week before the closing of the office. For ensuring this, among other steps, it will be necessary for you to take a round of the office shortly before the closing time on weekends.

5. Please ensure compliance of these instructions, the receipt of which may be acknowledged.

.....

Annexure 28.8

Copy of H.P. Govt. Deptt. of Personnel letter No. PER(AR)-A(5)-16/83 dated 10-6-1983 addressed to all Secretaries, Heads of Departments etc.

.....

(Referred to in H.P. Govt's decision No. 4 below para 28.5)

.....

Subject:- Punctuality in attendance.

I am directed to say that it has come to the notice of the Government that punctuality in attendance in Government Offices is not being observed by all the officers and staff. The result is that a large number of officers and staff come late or remain absent. This aspect of indiscipline has been viewed seriously by the Government.

2. It has been specifically laid down in para 4.4 of the Office Manual that office hours are from 10:00 A.M to 5:00 P.M., with half an hour lunch break from 1:30 P.M. to 2:00 P.M. Para 4.5 provides that every official should mark his attendance in the attendance Register which should be placed before the Branch Officer at 10:10 A.M. Late comers are required to report to the next officer and give reasons for late attendance. In para 4.6 it has been made clear that grant of leave is not to be presumed but should be applied for and got sanctioned before it is availed of, barring exceptional circumstances. In the A.C.Rs upto Section Officer level, there is a column 'Punctuality and Attendance' for recording specific remark against this column. In respect of officers above the level of Section Officers, this aspect is covered for making entries under the item 'Other observations'.

3. The existing afore mentioned provisions, if invoked properly, are adequate to enforce punctuality in attendance. To ensure that there is no slackness in this direction, it has already been decided by Government that surprise checks should be conducted. In

pursuance of this decision, checks have been/are being conduct by the Administrative Secretaries, Heads of Departments, Heads of Offices and the Administrative Reforms Organisation. As a result of these checks some officers and employees have been found late or absent.

4. It is the responsibility of the concerned head of office to take action against later comers and absentees after applying his mind judiciously, keeping in view the circumstances in each case. However, it has been considered appropriate to lay certain guidelines. On the first lapse in a month, the late comers should be advised to be punctual, for the subsequent two lapses verbal warning should be administered and there after upto the fifth lapse written warning (not to be placed on the personal file) should be issued. Habitual late comers should be dealt with strictly and suitable action should be taken. Apart from action on these lines against the habitual late comers, casual leave should be debited in their accounts according to the scale prescribed in pare 4.5 of the Office Manual, which is as under:-

- (i) Upto 2 hours 1/3 of a day,
- (ii) Upto 3 ½ hours 1/2 of a day.

5. There is a tendency on the part of certain officers/officials to remain absent. This malpractice should be curbed and totally eliminated by awarding proper punishment ranging from written warning in the personal file to deducting the pay for the period of absence, depending upon the nature of each case.

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Annexure 28.9

Copy of H.P. Govt. Department of Personnel letter No. Per (AP-II)A(3)10/75-II dated 20-7-1983 addressed to all Secretaries, Heads of Departments etc.

.....

(Referred to in H.P. Govt.'s decision No. 15 below para 28.5)

.....

Subject:- Acceptance of gifts offered by foreign Governments.

I am directed to forward herewith a copy of each of Government of India, Ministry of Home Affairs letter No. II/21022/10(2)/82-FCRA-I, dated the 6th /9th May, 1983 and Ministry of External Affairs letter No. Q (TK) 461/9/93, dated the 9th June, 1983 for information and guidance.

.....

Enclosure to Annexure 28.9

Copy of letter No. II/21022/10 (2)/82-FCRA-I, dt. 6th/9th May, 1983 from Govt. of India, Min. Of Home Affairs, addressed to all Ministries/Departments of the Govt. of India, and Chief Secretaries to all States.

.....

Subject:- Foreign Contribution (Regulation) Act, 1976-definition of the term 'Delegation'.

Certain Ministries/Departments, State Governments etc. are experiencing difficulties in deciding cases of gifts/presentations received by Government servants, who happen to be members of Indian delegation, from certain foreign dignitaries/foreign source. The matter has been considered and it has been decided that 'Indian Delegation' for the purpose of the Foreign Contribution (Acceptance or Retention of Gifts or Presentations) Regulations, 1978 may generally be deemed to be one sponsored by a Ministry/Department of the Central/State Government or any of its subordinate agencies and may consist of a single person or a group of persons nominated to:-

- i) perform a specific duty in a foreign country; or
 - ii) represent the country on behalf of the Govt. or represent a Govt. Corporation in a conference, seminar, symposium or in an international congress/workshop organised in or outside the Indian territory; or
 - iii) participation in a festival, funeral, function etc., in a foreign country or behalf of the Govt; or
 - iv) receive-accompany foreign dignitaries/delegations in or outside India.
2. The above is not intended as an exhaustive definition but is only in the nature of clarification for the guidance of Government functionaries and administrative Ministries. In case of doubt, the matter may be referred to this Ministry for advice.
3. The Ministry of Finance etc., are requested to bring it to the notice of all attached and subordinate offices etc. for information and guidance.
4. This issue in supersession of this Ministry's circular of even number dated 19th February, 1983.

.....

Enclosure to Annexure 28.9

Copy of Office Memo. No. Q (TK) 461/9/83, dated 9th June, 1983 from Govt. of India, Ministry of External Affairs, New Delhi, addressed to all Ministries/Depts. Of Govt. of India and All Chief Secys. To all States ect.

.....

Subject:- Acceptance of gifts offered by foreign Governments.

It has been brought to the notice of this Ministry that certain foreign government organisations have made presentation of cash or gold to visiting teams/delegations from India. Members of a delegation may accept token gifts in kind, souvenirs or presents not having high monetary value, if offered by the host government, as declining these is likely to cause embarrassment or misunderstanding. However, gifts of cash or gold articles of high monetary value, when offered, should be politely declined.

2. Attention is drawn, in this connection, to the provisions of the Foreign Contribution (Acceptance or Retention of Gifts or Presentations) Regulations, 1978, circulated by the Ministry of Home Affairs, Govt. of India, which require that all such Gifts and presents

received by any person as a member of any Indian delegation are required to be promptly reported and dealt with in accordance with instructions on the subject. A copy of the Regulations is attached for convenience of reference.

3. This may please be brought to the notice of all concerned.

.....

Ministry of Home Affairs

THE FOREIGN CONTRIBUTION (ACCEPTANCE OR RETENTION OF GIFTS OR PRESENTATIONS) REGULATIONS, 1978 AMENDED UPTO 5-11-81.

.....

In pursuance of clause (d) of Section 8 of the Foreign Contribution (Regulation) Act, 1976 (49 of 1976), the Central Government hereby makes the following regulations with regard to the acceptance or retention of foreign contribution by way of gift or presentation made to any person specified in section 4 as a member of any Indian delegation, namely:-

1. Short title and commencement:- (a) These regulations may be called the Foreign Contribution (Acceptance or Retention of Gifts or Presentations) Regulations, 1978.
2. They shall come into force on the date of their publication in the official gazette.
2. Definitions:- In these regulations, unless the context otherwise requires:-
 - (a) Act means the Foreign Contribution (Regulation) Act 1976 (49 of 1976);
 - (b) Words and expressions used in these regulations and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.
3. Regulation of acceptance or retention of foreign contribution by way of gift or presentation, (1) Any person specified in section 4 of the Act who is a member of any Indian delegation may accept any foreign contribution by way of a gift or presentation made to him as a member of such delegation (hereinafter referred to as such person) subject to the provisions of this regulation.

Where such person receives any foreign contribution by way of gift or presentation, he shall, within thirty days of the receipt thereof intimate to the Secretary to the Govt. of India in the Ministry of Home Affairs, Ministry of External Affairs and the Ministry or the Department of the Government of India sponsoring the delegation of which he is a member, in writing:-

- (a) the fact of his having received such gift or presentation;
- (b) the foreign source from which it is received;
- (c) its approximate market value in the country of origin;
- (d) the place in which, and the date on which, it is received, and

(e) such other details relating thereto as he may, in the circumstances, consider appropriate,

Provided that in a case where such person received such gift or presentation while he is visiting any foreign country or territory outside India, such intimation may be made by him within thirty days from the date of his return to India.

- (1) Every gift or presentation received by such persons from any foreign source shall be deposited by him with the Secretary to the Govt. of India in the Ministry or the Department which had sponsored the delegation of which he was the member, within thirty days from the date of intimation by him of such receipt under sub-regulation (2).
- (2) The Secretary to the Govt. of India, referred to in sub-regulation (3), shall forward every such gift or presentation deposited with him to the Toshakhana in the Ministry of External Affairs for assessment of its market value in the country or origin.
- (3) Such assessment shall be made within thirty days from the date of receipt of the gift or presentation in the Toshakhana, in accordance with the rules applicable, for the time being in force, to the valuation of articles in the Toshakhana, and such person shall be intimated in writing of such assessment forthwith.
- (4) The assessment so made under sub-regulation (5) shall be final and shall not be called in question by such person.
- (5) Every such gift or presentation, the market value in the country of origin of which, as assessed under sub-regulation (5), does not exceed three thousand rupees, shall be returned to such person for retention by him:
Provided that where more than one such gift or presentation is received by such person while he is in one delegation, such person be entitled to retain only one such gift or presentation.
- (6) Every such gift or presentation, the market value in the country of origin of which, as assessed under sub-regulation (5), exceeds three thousand rupees shall be retained in the Toshakhana:
Provided such person shall have the option, that exercised by him within thirty days from the date of receipt by him of the intimation under sub-regulation (5), to purchase such gift or presentation on payment of the difference between the market value in the country of origin of such gift or presentation, as assessed under sub-regulation (5) and three thousand rupees:
Provided further that the option once exercised under this sub-regulation shall be final.

(No. II/121022/5/6/77-FCRA.I)

.....

Annexure 28.10

Copy of D.O. letter No. Per (AP-II)A(3)10/75-II dated 27-3-1984 from the Chief Secretary addressed to all Heads of Departments, all HAS/HPPS Officers. Etc.

.....

(Referred to in H.P. Govt.'s decision No. 25 below para 28.5)

.....

Instances have come to the notice of the Government where officers have brought political influence to bear in service matters such as transfers, promotions and disciplinary cases. Your attention is invited to Rules 20 of the Central Civil Service (Conduct) Rules which reads as follows:-

“No Government servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to service under the government.”

2. In future, violation of this provision will invite disciplinary proceedings. Where political pressure is brought to bear in any matter, it will be presumed that the officer on whose behalf such pressure is brought, is aware of the matter and is responsible for it.

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Annexure 28.11

Copy of H.P. Govt. Deptt. of Personnel letter No. Per. (AP-II)A(3)-10/75-II dated 30-5-1984 addressed to all Secretaries and Heads of Departments etc.

.....

(Referred to in H.P. Govt's decision No. 29 below para 28.5)

.....

Subject:- Need for strict observance of the provisions relating to consumption of intoxicating drinks and drugs as contained in the Conduct Rules.

.....

As the Administrative Secretaries/Heads of Departments are aware, rule 22 of the C.C.S. (Conduct) Rule, 1964 provide that every Government servant shall:-

- (a) strictly abide by any law relating to intoxicating drinks and drugs in force in any area in which he may happen to be for the time being;
- (b) not be under influence of any intoxicating drink or drug during the course of his duty and shall also take due care that the performance of his duties at any time is not affected in by way by the influence of such drink or drug
- (c) refrain from consuming any intoxicating drink or drug in a public place;
- (d) not appear in a public place in a state of intoxication.
- (e) not use any intoxicating drink or drug to excess.

Instructions have also been issued in the past emphasising the need for strict observance of the above provisions of the Conduct Rules vide this Department's letter No. Per(AP-II)A(3)-10/75 dated 12-8-1977 and O.M. No: Karmik (Ni-II) A(3)-10/75 (in Hindi) dated 4-7-1979. However Government's attention has been drawn recently to a few instances of violation of the above instructions, it is, therefore, once again reiterated that-

- (i) every Government servant should scrupulously adhere to the provisions of the Conduct Rules relating to the consumption of intoxicating drinks or drugs;

- (ii) the disciplinary authorities should keep a strict watch on the conduct of Government servants in regard to matters covered by the aforesaid provisions of the Conduct Rules; and
- (iii) the disciplinary authorities should take very serious view of any violation of rule 22 of the CCS (Conduct) Rules, 1964 and should not hesitate to impose the servant punishment on such Government servants who are proved guilty of violating the said Rules.

2. These instructions may be brought to the notice of all Government servants and disciplinary authorities in all the Departments.

.....

Annexure 28.12

Copy of H.P. Govt. Department of Personnel O.M. No: PER(AP-II)A(3)-10/75-II dated 11-12-1985 addressed to All Secretaries, Heads of Departments and D.Cs.

.....

(Referred to in H.P. Govt's decision No 1 below para 28.5)

.....

Subject:- Conduct of a Government servant in relation to the proper maintenance of his family.

The undersigned is directed to say that instances have come to the notice of the Government where the Government servants are not looking after their old parents properly, especially those who are handicapped. It has been examined that it would not be proper to make necessary provision to this effect in the Central Civil Services (Conduct) Rules, 1964, as applied on the State Services, to enable the Government to take action against those Government servants who do not look after their families including old parents properly.

2. However, a Government servant is expected to maintain a reasonable and decent standard of conduct in his private life and not bring discredit to his service by his misdemeanour. In cases where a Government servant is reported to have acted in a manner unbecoming of Government servant, as for instances, by neglecting of his wife and family including old parents, departmental action can be taken against him on that score without invoking any of the provisions of the Conduct Rules. In this connection, a reference is invited to Rule 11 of the CCS (CCA) Rules, 1965, which specifies the nature of penalties that may for good and sufficient reasons be imposed on a Government servant. It has been held that neglecting by a Govt. servant of his wife and family including old parents in a manner unbecoming of a Government servant may be regarded as good and sufficient reason to justify action being taken against him under this rule.

3. It should, however, be noted that in such cases the party affected has a legal right to claim maintenance. If any legal proceedings in this behalf should be pending in a court of law, it would not be correct for government to take action against the Govt. servant on this ground, as such action may be construed by the court to amount to contempt.

.....

H.P. Govt. Deptt. of Personnel Notification No. PER(AP-II)A(3)-9/75 dated 19-8-1986.

.....
(Referred to in H.P. Govt.'s decision No. 21 below pare 28.5)

.....
In continuation of this Department Notification of even number dated the 29th August, 1981, the Governor, Himachal Pradesh, is please to constitute the Committee No. 1 to scrutinise the statements of assets and liabilities of senior Class I officers, as under:-

Committee No. 1: for officers of the rank of Superintending Engineers, Conservators of Forests and above for all Departments.

- | | |
|---|------------------|
| 1. Additional Chief Secretary | Chairman |
| 2. Principal Secretary to C.M. | Member |
| 3. Secretary concerned of the Department | Member |
| 4. Branch Officer of the Concerned Department | Member Secretary |

.....

अनुबन्ध 28.14

हि0 प्र0 सरकार कार्मिक विभाग के पत्र सं पी.ई.आर. (ए.आर.),(5)-7/85 दिनांक 7-11-1986 जो सभी सचिवों, विभागाध्यक्षों, उपायुक्तों आदि को सम्बोधित है की प्रतिलिपि।

(पैरा 28.5 के नीचे हि. प्र. सरकार के निर्णय (5) में उल्लेखित)

विषय:- कार्यालय उपस्थिति हेतू निष्ठता।

मुझे यह कहने का निदेश हुआ है कि प्रदेश के विभिन्न विभागों/कार्यालयों में कर्मचारियों की उपस्थिति को समय निष्ठित करने के लिये वर्ष 1983 में इस कार्यालय के पत्र संख्या पी.ई.आर. (ए.आर.)(ए)(5)-16/83, दिनांक 10-6-83 द्वारा निदेश जारी किये गये थे। उनकी एक प्रति तत्काल उल्लेखार्थ संलग्न की जा रही है। यही नहीं, अपितु वर्ष 1985 में भी जब सरकार ने यह अनुभव किया कि उपरोक्त वर्णित अनुदेशों का अनुसरण करने में विभागों में फिर से शिथिलता बढ़ती जा रही है, तो इन अनुदेशों का पूर्णतया: पालन करने के लिये इस विभाग द्वारा 25-4-1985 को पुनः निदेश जारी किये गए।

जैसा कि समस्त अधिकारियों एवम् कर्मचारियों को विदित है कि कार्यालय पुस्तिका के पैरा 14.4 पर निहित प्रावधान के अनुसार कार्यालय का कार्यकाल सुबह 10.00 बजे से सांय 5.00 बजे तक होता है। जिसमें दोपहर 1.00 बज कर 30 मिनट से 2.00 बजे तक भोजन काल होता है। उपरोक्त पुस्तिका के पैरा 4.5 पर यह स्पष्ट रूप से उल्लेखित है कि समस्त कर्मचारियों को उपस्थिति पुस्तिका में उपस्थिति अंकित करनी होती है तथा उस पुस्तिका को प्रातः 10 बज कर 10 मिनट पर सम्बन्धित कार्यालय अधिकारी के समक्ष रखना अनिवार्य है।

परन्तु अब यह देखने में आया है प्रशासनिक सुधार विभाग द्वारा बार बार अनुदेश जारी करने के उपरान्त भी अधिकांश अधिकारी/कर्मचारी कार्यालय में उपस्थिति के बारे में ढील बरत रहे हैं जिसका सरकारी कार्य में प्रतिकूल प्रभाव पड़ रहा है। इस प्रकार की अनुशासनहीनता की कार्यवाही को सरकार कदापि सहन नहीं करेगी।

अब यह निर्णय लिया गया है कि उपरोक्त विषय में समय समय पर जारी किये गये अनुदेशों का पालन हो तथा इस सन्दर्भ में प्रत्येक सचिव अपने अधीनस्थ कार्यालयों तथा अनुभागों का समय समय पर आकस्मिक निरीक्षण करें और रिपोर्ट इस विभाग को भिजवायें ताकि माननीय मुख्य मन्त्री को सूचित किया जा सके।

अतः अधिकारियों को निदेश दिये जाते हैं कि इस विभाग द्वारा जारी किए गए मूल अनुदेशों का पूर्णतया पालन करें अन्यथा दोषी अधिकारियों के विरुद्ध नियमों के अर्न्तगत अनुशासनात्मक कार्यवाही अमल में लायी जाएगी।

Annexure 28.15

Copy of H.P. Govt. Notification No. PER(AP-II)A(3)-9/75 dated the 25th August, 1987.

.....
(Referred to in H.P. Govt.'s decision No. 21 below para 28.5)

.....

In supersession of this Department Notification of even number dated the 20th April, 1982, the Governor, Himachal Pradesh, is please to allot various Departments amongst the Financial Commissioners for the purpose of scrutiny of the statements of Assets and Liabilities of the officers mentioned against Committee No. II, as under:-

Financial Commissioner (Revenue)

.....

- | | |
|-----------------------------------|----------------------|
| 1. Revenue | 2. Relief & Reh. |
| 3. Election | 4. Food & Supply |
| 5. Home (including Vig.) | 6. Excise & Taxation |
| 7. Personnel (including Training) | 8. MPP & Power |

Financial Commissioner (Development)

- | | |
|----------------------|----------------------|
| 1. Rural Development | 2. Panchayat |
| 3. Fishries | 4. Agriculture |
| 5. Horticulture | 6. Animal Husbandary |
| 7. Transport | |

Financial Commissioner (Education)

- | | |
|--------------|--------------------|
| 1. Education | 2. Tech. Education |
|--------------|--------------------|

- | | |
|-------------------------|----------------|
| 3. Science & Technology | 4. Forests |
| 5. Welfare | 6. Industries. |

Financial Commissioner (Finance)

.....

- | | |
|---|----------------------|
| 1. Finance | 2. Planning |
| 3. Economics & Statistics | 4. Public Relations |
| 5. P.W.D. & I.P.H., Town & Country Planning | 6. Lab., Emp. & Ptg. |
| 7. Language, Art & Culture | 8. Youth Services |

Financial Commissioner (C.M.)

.....

- | | |
|----------------|--------------------------|
| 1. Tribal Dev. | 2. Tourism & Hospitality |
| 3. Cooperation | 4. Law |
| 5. Health | 6. GAD |
| 7. Ayurveda | 8. L.S.G. |

.....

Annexure 28.16

Copy of H.P. Govt. Deptt. Of Personnel letter No. PER(AP-II)A(3)-1/74-III dated 12-10-1987 addressed to all Secretaries, Heads of Departments etc.

.....

(Referred to in H.P. Govt's decision No. 16 below para 28.5)

.....

Subject:- Suspension of Government servants involved in cases of dowry deaths.

I am directed to forward herewith a copy of Govt. of India, Ministry of Personnel, Public Grievances and Pensions, O.M. No: 11012/8/87-Estt. (A) dated the 22nd June, 1987 and to say that the instructions contained therein shall also be applicable to the State Govt. employees.

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Enclosure to Annexure 28.16

Copy of letter No. 11012/8/87-Estt (A) dated 22-6-87 received from Director (E) Govt. of India, Ministry of Personnel, Public Grievances and Pensions (Deptt. Of Personnel and Training), New Delhi.

.....

Subject:- CCS (CCA) Rules-Suspension of Government servants involved in cases of dowry deaths.

The undersigned is directed to say that sub-rule (1) of rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, provides inter alia that a Government servant may be placed under suspension where a disciplinary proceeding against him is contemplated or is pending or where a case against him in respect of any criminal offence is under investigation, inquiry or trial. Sub-rule (2) of the same rule lays down that a Government servant shall be deemed to have been placed under suspension by an order of the appointing authority w.e.f. the date of his detention if he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours.

2. As Government takes a very serious views of offences against women, Government has reviewed the provisions on the rules in regard to placing a Government servants under suspension if he is accused of involvement in a case of "dowry death" as defined in Section 304-B of the Indian Penal Code. The Section reads follows:-

"304 B(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

Explanation- For the purposes of this sub-section "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961".

3. If a case has been registered by the Police against a Government servant under Section 304-B of the I.P.C., he shall be placed under suspension in the following circumstances by the competent authority by invoking the provisions of sub rule (1) of Rule 10 of the C.C.S. (CCA) Rules, 1965.

(i) If the Government Servant is arrested in connection with the registration of the police case, he shall be placed under suspension immediately irrespective of the period of his detention.

(ii) If he is not arrested, he shall be placed under suspension immediately on submission of a police report under Sub-section (2) of Section 173 of the Code of Criminal Procedure, 1973 to the Magistrate, if the report prima-facie indicates that the offence has been committed by the Government servant.

Ministry of Agriculture etc. are requested to bring the above instructions to the notice of all administrative authorities under their control.

.....

Annexure 28.17

Copy of H.P. Govt. Deptt. of Personnel letter No. PER(AP-II) A(3)-19/75-II dated 26-4-1989 addressed to all Secretaries to the Govt. of H.P. with a copy to all Heads of Departments etc.

.....

(Referred to in H.P. Govt.'s decision No. 7 below para 28.5)

.....

Subject:- Amendment to the Government Servants' Conduct Rules-Regarding.

I am directed to send herewith a copy of letter No. 3/4/89 (LS.II) dated the 25th January, 1989 alongwith its enclosures from the Election Commission of India, for information and necessary action. The decisions of the Govt. of India mentioned in the aforesaid communication may kindly be brought to the notice of all concerned for strict compliance.

.....

Enclosure to Annexure 28.17

Copy of Election Commission of India letter No: 3/4/89 (LS-II) dated 25th January, 1989 addressed to all Chief Secretaries of all States and Union Territories.

.....

(Referred to in H.P. Govt.'s decision No. 7 below para 28.5)

.....

Subject: Amendments to the Government Servants' Conduct Rules-Regarding.

I am directed to send herewith a copy of letter No. 3/4/89 (LS.II) dated the 25th January, 1989 alongwith its enclosures from the Election Commission of India, for information and necessary action. The decisions of the Govt. of India mentioned in the aforesaid communications may kindly be brought to the notice of all concerned for strict compliance.

.....

Enclosure to Annexure 28.17

Copy of Election Commission of India letter No:-3/4/89 (LS-II) dated 25th January, 1989 addressed to all Chief Secretaries of all States and Union Territories.

Subject: Amendments to the Government Servants' Conduct Rules- Regarding.

I am directed to state that in the Chief Electoral Officer Conference held in August, 1988 it was observed that there are instances when the State Government has not proceeded with the prosecution of delinquent officials with reference to their acts during elections. It was, therefore, suggested that a specific provision may be inserted in the Government Service Conduct Rules to amplify that a Government servant should not act in a manner which may cause doubt on his impartiality and any partisan behaviour would amount to a misconduct.

It was, therefore, decided in the Conference that Service Conduct Rules of different categories of Government employees may be amended to incorporate the Government of India's decisions No. 13 (political neutrality of Government Servants) and 14 (position of Government servants in relation to elections) given below rule 5 of the Central Civil Service (Conduct) Rules, 1964. An extract of these decisions is enclosed for ready reference.

I am therefore to request that Government Service Conduct Rules of your State/Union Territory may be amended on the aforesaid lined.

Extracts from Central Civil Services (Conduct) Rules, 1964

(13) Political neutrality to Government Servants:-

Government have reviewed recently the policy in regard to the social, cultural and similar other organisations whose activities may have political aspects. There have been instances when the Government themselves had issued instructions that the activities of certain organisations should be regarded as political in character. While such instructions are in force, as civil servant would be liable to disciplinary action, if he were to associate himself with any organisation mentioned in such instructions. But there are several other organisations in regard to which such instructions have not been issued for purposes of Rule 5 of the C.C.S. (Conduct) Rules, 1964. It is essential that Government servants should not only maintain political neutrality but should also appear to do so and they should not participate in the activities of or associate themselves with, any organisation in respect of which there is the slightest reason to think that the organisation has political aspect.

(M.H.A. O.M. No. 6/6/69-Ests. (B), dated the 18th July, 1969)

RULE 5 TAKING PART IN POLITICS AND ELECTIONS

(14) Position of Government servants in relation to elections:-

Extracts are enclosed from the Election Commission's letter No. 62/71, dated the 13th January, 1971 to Chief Secretaries of all States/Union Territories, indicating the principles which should guide the conduct of Government Servants in relation to the coming General Elections. These principles should be scrupulously followed by the Central Government Servants. In this connection attention is also invited to Rule 5 of the C.C.S. (Conduct) Rules, 1964 which inter alia prohibits Central Government Servants from canvassing or otherwise interfering with, or using their influence in connection with, or taking part in, an election to any legislature or local authority, subject to the exercise of the right of franchise and assisting in the conduct of an election in the due performance of duty imposed on them by or under any law for the time being in force. Attention is also invited to O.M. No: 6/6/69-Ests. (B) dated the 18th July, 1969, (Decision No.13) in which the need for maintaining political neutrality by Government servants has been emphasised.

EXTRACT FROM ELECTION COMMISSION'S LETTER NO. 62/71, DATED 13-1-1971 TO CHIEF SECRETARIES OF ALL STATES/UNION TERRITORIES.

Subject:- Position of Government servants in relation to elections.

Attention is invited to Section 129 and 134 of the Representation of the People Act, 1951, in connection with the conduct of Government servants during the elections and to recall that the Government of India and the State Governments had prior to the last general election/mid-term election issued instructions regarding the conduct of Government servants in relation to those elections. These instructions stressed that all Government employees should maintain an attitude of strict impartiality.

In fact, they were asked not to be impartial but it was considered important that they should also appear to be impartial in relation to the elections. In short, they were required to conduct themselves so as to inspire confidence in the public in regard to their impartiality. To do so, they were enjoined to avoid giving room for any suspicion that they were favouring any party or any candidate. The other points stressed in these instructions were that a Government servant should take no part in any election campaign or in canvassing and that he should take scrupulous care not to lend his name, official position or authority to assist one group as against any other.

It was further emphasized that any disregard of instructions would be considered by the Government as a serious act of indiscipline and that in cases of doubt a Government servant should not hesitate to consult his superior officer.

It may be added that the points summarised above are only illustrative and not exhaustive.

The Commission considers it important that the Government servant's attention should be specially drawn to the provision which has been made in the Representation of the People Act, 1951, reading as follows:

“13-A. Penalty for Government servant for acting as election agent, polling agent or counting agent:-If any person in the service of the Government acts as an election agent or a polling agent of a candidate at an election, he shall be punishable with imprisonment for a term which may extend to three months or with fine, or with both”.

[C.S. (Dept. of Personnel) O.M. No: 25/2/71-Ests. (A), dated the 23rd January, 1971]

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Annexure 28.18

Copy of H.P. Govt. Department of Personnel letter No. PER (AP-II)A(3)-9/73-Pt. dated 29-7-1989 addressed to all Secretaries and Heads of Departments etc.

.....

(Referred to in H.P. Govt.'s decision No. 22 below para 28.5)

.....

Subject:- Purchase of land by non-agriculturist Officers and permission thereto under Section -118 of the H.P. Tenancy and Land Reforms Act, 1972.

.....

I am directed to say that it has come to the notice of the Government that Govt. Officers posted at different places are freely purchasing land in the areas of their official jurisdiction. For field officers the purchase of land in areas of their jurisdiction does not seem to be proper, as such an action on the part to the field officers leads to an impression of misuse of their official position. It has therefore, been decided by the Government that no Govt. servant should purchase land in the area of his official jurisdiction in future.

2. The above instructions may kindly be brought to the notice of all officers for strict compliance.

.....

Annexure 28.19

Copy of H.P. Govt. Deptt. Of Personnel letter No. PER(AP-II)A(3)10/75 dated 29-9-1989 addressed to all Secretaries, Heads of Departments. Etc.

(Referred to in H.P. Govt.'s decision No 12 below para 28.5)

.....

Subject:- Punctuality in attendance and strict observance of lunch time.

I am directed to say that instructions have been issued from time to time for ensuring timely attendance of Government servants in offices at exact 10:00 AM, and observance of lunch time from 1:30 PM to 2:00 PM, yet it has been noticed that neither timely arrival of Government servants in offices nor observance of lunch time is ensured by many Govt. servants hold gate meeting etc during lunch period and such meetings continue even beyond 2:00 PM. I am, therefore, to request that punctuality in attendance of offices at 10:00 AM and again after the lunch break from 2:00 PM may please be ensured and departure, if any, in any circumstance may be seriously dealt with.

2. It has also been observed that Govt. servants during their gate meetings during lunch hours make speeches in such language which is unbecoming of a Government servant. During such speeches, they besides criticising the Govt. indulge in political speeches. These acts on the part of Government servants are unbecoming and violative of the Conduct Rules. Any Government servant delivering speech in violation of the Conduct Rules needs to be severely dealt with and a report about the contents of the speech involving criticism of the Government and political communication may be sent to this Department as also the Home Department on the same day on which any such speech is delivered.

3. The above instructions may kindly be strictly followed and brought to the notice of all concerned.

Kindly acknowledge receipt.

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Copy of H.P. Govt. Deptt. Of Personnel letter No. PER(AP-II)A(3)-10/75-II dated 30-1-1990 addressed to all Secretaries/Heads of Departments etc.

.....
(Referred to in H.P. Govt.'s decision No. 6 below para 28.5)

Subject:- Conduct of Government Servants during General/Assembly Election.

In continuation of this Department letter of even number dated the 26th April, 1989, on the above subject I have to say that on recommendation of the Chief Electoral Officers Conference, it has been decided by the Government that no Govt. servant shall take part in any kind of strike during the elections. Any violation of these instructions will be seriously viewed and more stringent penalties will be imposed upon any employee or group of employees resorting to strike etc. during the elections.

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

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vucU/k 28-21

हि० प्र० सरकार कार्मिक विभाग के पत्र सं. पर (ए.पी.-११)ए (३)-१/८० दिनांक ३०-७-१९९० जो सभी सचिवों, विभागाध्यक्षों आदि को सम्बोधित है की प्रति।

(पैरा 28.5 के नीचे हि० प्र० सरकार के निर्णय (2) में उल्लेखित)

विशय: सरकारी कार्यालयों में अनुशासन में आई कमी के बारे में।

उपर्युक्त विषय पर मुझे यह कहने का निदेश हुआ है कि सरकार के ध्यान में यह बात लाई गई है कि कई सरकारी कार्यालयों में चतुर्थ श्रेणी की महिला कर्मचारियों से पक्षपात पूर्ण रवैया अपनाया जा रहा है जो अत्यंत खेदजनक बात है। अतः आप से अनुरोध है इस प्रकार की प्रवृत्ति को तुरन्त रोका जावे तथा सरकार सभी कर्मचारियों से अपेक्षा करती है कि वे सामान्य भाव से सुचारु रूप से कार्य करें।

ऐसी किसी भी शिकायत पर तुरन्त कार्यवाही करें तथा ऐसे मामलों की जानकारी इस विभाग को भी भेजी जावे।

H.P. Govt. Deptt. of Personnel Notification No: PER(AP-II) A(3)-9/75 dated the 9-10-1990.

.....
(Referred to in H.P. Govt.'s decision No. 21 below para 28.5)

.....

In supersession of this Department Notification of even number dated the 25th August, 1987, the Governor, Himachal Pradesh, is pleased to allot various Departments amongst the Financial Commissioners for the purpose of scrutiny of the statements of Assets and Liabilities of the officers mentioned against Committee No. II, (for Class I & II officers other than officers of the rank of SE and Conservator of Forests and above for all departments), as under:-

Financial Commissioner (Revenue)

1. Revenue	2. Relief & Reh.
3. Election	4. Food & Supply
5. Home (including Vig.)	6. Excise & Taxation
7. Personnel (including Training)	8. MPP & Power
Financial Commissioner (Development)	
1. Rural Development	2. Panchayat
3. Fishries	4. Agriculture
5. Horticulture	6. Animal Husbandary
7. Transport	
Financial Commissioner (Appeal)	
1. Education	2. Tech. Education
3. Science & Technology	4. Forests
5. Welfare	6. Industries.
Financial Commissioner (Home)	
1. Finance	2. Planning
3. Economics & Statistics	4. Public Relations
5. P.W.D. & I.P.H., Town & Country Planning	6. Lab., Emp. & Ptg.
7. Language, Art & Culture	8. Youth Services
Financial Commissioner (Tribal Dev.)	
1. Tribal Dev.	2. Tourism & Hospitality
3. Cooperation	4. Law
5. Health	6. GAD
7. Ayurveda	8. L.S.G.

अनुबन्ध 28.23

हि० प्र० सरकार, सामान्य प्रशासन विभाग के पत्र सं. जी.ए.डी. 6(एफ)9-1/90 दिनांक 1-12-1990 जो सभी सचिवों, विभागाध्यक्षों, जिलाधीशों आदि को सम्बोधित है की प्रतिलिपि।

(पैरा 20.5 के नीचे हि. प्र. सरकार के निर्णय सं. 30 में उल्लेखित)

विषय:- सार्वजनिक स्थानों में धूम्रपान तथा नशीले पदार्थों का प्रयोग न करने हेतु अनुदेश।

सरकार को कभी कभी शिकायतें मिलती हैं कि सरकारी तथा अर्ध सरकारी उपक्रमों के विश्राम गृहों और परिधि गृहों में सरकारी कर्मचारी या आम लोग मदिरा पान करते हैं। समाचार पत्रों में भी इस प्रकार के समाचार प्रकाशित होते हैं। इस प्रकार की शिकायतों एवं समाचार पत्रों में प्रकाशित समाचारों से प्रशासन की छवि धूमिल होती है और अनावश्यक रूप से अधिकारियों तथा कर्मचारियों की आलोचना होती है। इस से अनुशासन में भी फर्क पड़ता है। जहां मदिरा पान स्वास्थ्य के लिये हानिकारक है, वहां सार्वजनिक स्थानों में मदिरा-पान करना अशोभनीय है तथा सरकारी कर्मचारी के लिये आलोचना का कारण भी बनता है जो किसी के हित में नहीं है। इन सब बातों को ध्यान में रखते हुये लोक निर्माण विभाग में विश्राम गृहों एवं परिधि गृहों में मदिरा पान की पाबंदी लगाई थी परंतु इन अनुदेशों की अनदेखी होती देखी गई है। जब सरकार द्वारा कोई आदेश जारी किये जाते हैं तो सम्बन्धित अधिकारी एवं कर्मचारी से अपेक्षा की जाती है, कि वे उन अनुदेशों का पालन अवश्य करें। इन अनुदेशों द्वारा पुनः सभी को सूचित किया जाता है कि सरकारी विश्राम गृहों में चाहे वह लोक निर्माण विभाग के हों या किसी अन्य विभाग के अथवा किसी निगम/बोर्ड के हों, किसी भी सरकारी कर्मचारी अथवा अन्य व्यक्ति द्वारा मदिरा पान किसी भी अवस्था में नहीं किया जायेगा। मदिरा पान पर पाबंदी के बारे में प्रत्येक विश्राम गृह में बोर्ड भी तुरंत लगाया जाये। इन अनुदेशों का पालन विश्राम गृहों/परिधि गृहों के प्रभारी अधिकारियों द्वारा किया जाये। यदि भविष्य में इन अनुदेशों के उल्लंघन बारे सरकार के पास शिकायत आती है तो सम्बन्धित अधिकारी के विरुद्ध अनुशासनात्मक कार्यवाही की जायेगी। जो कर्मचारी इन अनुदेशों की अवहेलना कर मदिरापान करेंगे तो उनके विरुद्ध भी अनुशासनात्मक कार्यवाही अमल में लाई जायेगी।

मुझे यह भी कहने का निदेश हुआ है कि सरकार के ध्यान में यह बात भी आई है कि शिक्षा संस्थानों में कभी-कभी अध्यापकों को धूम्रपान करते हुये देखा गया है कभी कभी मदिरापान की शिकायतें भी आती हैं। यह सब जहां स्वास्थ्य के लिये हानिकारक है वहां विद्यार्थियों पर कुप्रभाव भी डालता है तथा वातावरण को भी दूषित करता है। शिक्षा संस्थान शिक्षा मन्दिर कहलाते हैं और इनकी स्वच्छता एवं पवित्रता को बनाये रखना शिक्षकों एवं दूसरों का कर्तव्य है। अतः सरकार ने यह निर्णय लिया है कि शिक्षा संस्थानों में किसी भी व्यक्ति द्वारा किसी भी समय धूम्रपान या मदिरापान नहीं किया जायेगा और इन आदेशों का कड़ाई से पालन किया जाये। शिक्षा संस्थानों के प्रभारी अधिकारियों की जिम्मेवारी होगी कि वे अपने संस्थानों में किसी भी व्यक्ति को धूम्रपान न करने दें और इन आदेशों का उल्लंघन करने वाले के विरुद्ध आवश्यक कार्यवाही करें।

इसी तरह चिकित्सालयों में या उनके प्रांगण में भी लोगों को धूम्रपान करते देखा जाता है जो कि रोगियों के स्वास्थ्य पर विपरीत प्रभाव डालता है एवं अन्य लोगों के स्वास्थ्य के लिए भी हानिकारक है। अतः यह भी निर्णय लिया गया है कि चिकित्सालयों को यह सुनिश्चित करना होगा कि किसी भी कर्मचारी अथवा व्यक्ति द्वारा इन आदेशों का उल्लंघन न हो।

सरकार के ध्यान में यह बात भी आई है कि बसों में यात्रा कर रहे यात्री, चालक तथा परिचालक भी कभी धूम्रपान करते हैं जिससे न केवल धूम्रपान न करने वाले यात्रियों को असुविधा होती है परन्तु हिमाचल प्रदेश एक पहाड़ी क्षेत्र होने के नाते धूम्रपान के कारण कई बार यात्रियों को उल्टियां भी आती हैं। यात्रियों द्वारा आपत्ति उठाने पर भी कुछ यात्री धूम्रपान करते रहते हैं जिससे धूम्रपान न करने वालों को असुविधा

होती है। अतः सरकार ने यह भी निर्णय लिया है कि किसी भी बस में किसी भी व्यक्ति द्वारा धूम्रपान नहीं किया जायेगा और चालक व परिचालक सुनिश्चित करें कि इन आदेशों का कड़ाई से पालन हो।

संक्षेप में सरकार के सभी कार्यालयों, विश्राम गृहों, सार्वजनिक वाहनों व बैठकों में धूम्रपान व मदिरा पान पर कठोर रोक लगाई जाये। मदिरा पान को कड़ाई से रोका जाये। विभागों के उडन दस्ते छापे मार कर इन आदेशों का उल्लंघन करने वालों को पकड़े। सरकारी अधिकारी या कर्मचारी यदि मदिरा पान कर के कार्यालय समय के बाद भी कहीं सार्वजनिक स्थानों पर घूमता है या अभद्र व्यवहार करता है तो उसके विरुद्ध भी कठोर कार्यवाही की जाये।

इस सम्बन्ध में यदि कोई अधिकारी अपने अधीनस्थ कर्मचारियों के प्रति नरम रवैया अपनाता है या उचित कार्यवाही नहीं करता है उसके विरुद्ध भी उपयुक्त कार्यवाई की जाये।

सरकार के इन अनुदेशों की सूचना आपको इस आशा से की जा रही है कि आप इनका कड़ाई से पालन सुनिश्चित करवायें।

अनुबन्ध 28.24

हि0 प्र0 सरकार कार्मिक विभाग के पत्र सं0 पर (नि-।।)ए (3)-10/75-।। दिनांक 18-2-1991 जो सभी सचिवों, विभागाध्यक्षों, जिलाधीशों आदि को सम्बोधित है की प्रतिलिपि।

(पैरा 28.5 के नीचे हि0 प्र0 सरकार के निर्णय (13) में उल्लेखित)

विशय: मेलों अथवा उत्सवों पर चन्दा इकट्ठा करने पर रोक।

मुझे आपका ध्यान केन्द्रीय सिविल सेवायें(आचरण) नियमावली 1964 के नियम 12 की ओर आकर्षित करते हुए यह कहने का निदेश हुआ है कि सरकार ने यह निर्णय लिया है कि कोई भी अधिकारी या कर्मचारी किसी मेले अथवा उत्सव के लिये चन्दा इकट्ठा नहीं करेगा (रैड क्रस मेलों को छोड़ कर)। सांस्कृतिक अथवा विकास संबंधी गतिविधियों के सिलसिले में जो मेले अथवा उत्सव आयोजित किये जाते हैं उनके लिये स्थानीय प्रतिनिधियों की समिति ही बननी चाहिये जो ऐसे मेलों अथवा उत्सवों का आयोजन करे। उप-आयुक्त अथवा सीनीय अधिकारी केवल एक सम्पर्क अधिकारी के रूप में ऐसे मेलों अथवा उत्सवों का आयोजन करे। उप-आयुक्त अथवा स्थानीय अधिकारी केवल एक सम्पर्क अधिकारी के रूप में ऐसे मेलों अथवा उत्सवों में समिति की सहायता करें। वे किसी भी दशा में चन्दा इकट्ठा करने अथवा खजांची आदि का कार्य नहीं करें न ही अपने अधीन कर्मचारियों को सौंपे। इन आदेशों बारे सभी अधिकारियों तथा कर्मचारियों को सूचित कर दिया जाये और यह सुनिश्चित कर दिया जाये कि इनका पालन हो।

अनुबन्ध 28.25

हि0 प्र0 सरकार कार्मिक विभाग के पत्र सं पर (नि-।।)ए(3)-10/75-।। दिनांक 12-3-91 जो सभी सचिवों, विभागाध्यक्षों आदि को सम्बोधित है की प्रतिलिपि।

(पैरा 28.5 के नीचे हि0 प्र0 सरकार के निर्णय सं0 14 में उल्लेखित)

विषय: मेलों अथवा उत्सवों पर चन्दा इकट्ठा करने पर रोक।

उपरोक्त विषय पर इस विभाग के सम संख्यक पत्र दिनांक 18-2-91 के संदर्भ में मुझे यह कहने का निदेश हुआ है कि सरकार ने उक्त मामले का पुनर्निरीक्षण किया तथा पूर्ण विचार करने के उपरान्त दिनांक 18-2-91 के आदेशों में निम्नलिखित संशोधन करने का निर्णय लिया गया:-

(क) प्रदेश में जो मेले/उत्सव अभी तक मनाए जाते हैं और जिनके आयोजन में सरकारी सहयोग होता रहा है वह पहले की भांति मनाए जाते रहें, परन्तु इनके लिये निश्चित समितियां बनाई जाएं, जिन का चयन इस प्रकार हो:

(i) जिला स्तर या जिला मुख्यालय पर होने वाले मेले/उत्सव, एवं जिला के प्रसिद्ध मेले की समिति के अध्यक्ष जिलाधीश होंगे एवं अन्य सदस्य जिला स्तर के या जहां मेला/उत्सव होना है वहां के जनता के प्रतिनिधि तथा वहां के ही स्थानीय उप मण्डल अधिकारी (नागरिक), विकास खण्ड अधिकारी इत्यादि अधिकारी होंगे, तथा

(ii) जिला मुख्यालय एवं जिला के प्रसिद्ध मेले/उत्सव के अतिरिक्त अन्य मेले/उत्सव के लिए समिति के अध्यक्ष उप मण्डल अधिकारी (नागरिक) होंगे तथा वहां के जनता के प्रतिनिधि एवं अन्य अधिकारी सदस्य होंगे।

कोषाध्यक्ष दोनों समितियों के लिए सरकारी कर्मचारी/अधिकारी होना चाहिए।

(ख) मेले/उत्सव के प्रबन्ध के लिए धन राशि चन्दे के रूप में छपी हुई रसीदों द्वारा इकट्ठी की जाए और रसीदों का अधपन्ना (काउंटर फाइल) होना चाहिए। दैनिक आय और व्यय का पूरा हिसाब रखा जाना चाहिए तथा धन राशि बैंक में होनी चाहिए। कोषाध्यक्ष के पास अधिक से अधिक पांच सौ रुपये कैश रह सकेगा और इस से अधिक राशि बैंक में होनी चाहिए। मेले/उत्सव की समाप्ति पर और सब भुगतान करने के बाद सारी धन राशि बैंक में होनी चाहिए। बैंक के हिसाब से समिति के अध्यक्ष एवं जनता के प्रतिनिधि के हस्ताक्षरों से चैकों द्वारा अदायगी हो सकेगी।

(ग) चन्दे की उगराही के लिए एक उप समिति बनाई जाएगी, जिसमें जनता के प्रतिनिधि/सरकारी अधिकारी/कर्मचारी भी सम्मिलित होंगे। कोई अधिकारी/कर्मचारी अपने पद का दुष्प्रयोग नहीं करेगा और यह उगराही दोनों द्वारा एच्छिक होनी चाहिए। यथा सम्भव इस कार्य के लिये जनता का सहयोग प्राप्त किया जाए।

(घ) आय/व्यय का पूरा हिसाब रखा जाए और मेले/उत्सव के प्रधान हिसाब किताब रखने के उतरदायी होंगे। खर्चे को नियमित (रैगुलेट) करने के लिए समिति कार्य पद्धति बनाएं जिसे समिति की बैठक में पारित किया जाए।

(ङ) आय एवं व्यय के हिसाब का परीक्षण स्थानीय आडिट विभाग द्वारा किया जाएगा और अनियमितताओं, यदि कोई हो, तो सरकार के ध्यान में लाया जायेगा, परन्तु अनियमितता की विस्तृत चर्चा पहले समिति के अध्यक्ष से एल0ए0डी0 की आडिट पार्टी को करनी होगी।

इन अनुदेशों को सब के ध्यान में लाया जाए तथा इनका पूर्ण रूपेण पालन किया जाए।

हि0प्र0 सरकारी, सामान्य प्रशासन विभाग के पत्र सं जी0ए0डी0-6(एफ)9-1/90 दिनांक 10-12-1991 जो सभी सचिवों, विभागाध्यक्षों, अध्यक्ष/प्रबन्ध निदेशकों बोर्ड एवं निगम आदि को सम्बोधित है की प्रतिलिपि।

(पैरा 28.5 के नीचे हि0 प्र0 सरकार के निर्णय सं 30 (i) में उल्लेखित)

विशय: सार्वजनिक स्थानों में धूम्रपान तथा अन्य नशीले पदार्थों का प्रयोग न करने हेतु आदेश।

मुझे उपरोक्त विषय पर इस विभाग के पत्र संख्या दिनांक 1-12-1990 के संदर्भ में भारत सरकार द्वारा जारी किये गये कार्यालय ज्ञापन सं0 27/1/3/90 दिनांक 7-5-1990 की एक प्रतिलिपि आगामी कार्यवाही हेतु भेजने का निदेश हुआ है। उक्त पत्र में वर्णित निर्देशों का अनुपालन सख्ती से किया जाये तथा इसकी कार्यान्वयन रिपोर्ट इस विभाग को भी भेजने की कृपा करें।

Enclosure to Annexure 28.26

Copy of letter No. 27/1/3/90 dated 7th May, 1990 from Government of India CABINET SECRETARIAT addressed to all Ministeries/Departments of Government of India/Secretaries to the Govt. of India and to the Chief Minister Himachal Pradesh.

.....

Subject: Prohibition of tobacco smoking in Public Places.

The Central Government have been viewing with concern the increasing scientific evidence of non-smoking public being exposed to serious health hazards due to exposure to passive smoking in the proximity of tobacco smokers. There has been a wide spread public demand that measures be taken to protect this majority of non-smoking public from the polluting impact of tobacco smoking by a small minority. Further, there is a need to save smokers from their own excesses.

2. In order to protect the non smoking public from the hazards of passive smoking at least in Public Places where large number of people are expected to be present for prolonged periods, it has been decided to prohibit tobacco smoking to start with, in a few selected places, namely hospitals; dispensaries and other health care establishments educational institutions, conference rooms, domestic airflight, air-conditioned chair cars and air- conditioned sleeper coaches in trains, suburban trains and air-conditioned buses.

3. The ban, referred to above, will come into effect after 30 days from the issue of this Office Memorandum and will be strictly enforced.

4. Ministries and Departments may issue appropriate instructions to the various authorities under their control to ensure implementation of these orders. The authorities concerned should take steps to clearly indentify the non-smoking areas/buildings. No

ashtrays should be placed in non-smoking areas and all cigarette shops removed from the compound of buildings in which smoking is prohibited.

5. Copies of the orders issued may be endorsed to Cabinet Secretariat.

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अनुबन्ध 28.27

हि० प्र० सरकार, विज्ञान प्रौ. एवं पर्यावरण विभाग के पत्र सं० एम०टी०पी०(प्रया)एफ(11)8/91 दिनांक 10-12-1991 जो सभी सचिवों, विभागाध्यक्षों आदि को सम्बोधित है की प्रतिलिपि।

(पैरा 28.5 के नीचे हि०प्र० सरकार के निर्णय सं० 31(पप) में उल्लेखित)

विषय: सार्वजनिक स्थानों में धूम्रपान तथा अन्य नशीले पदार्थों का प्रयोग न करने हेतु अनुदेश।

प्रायः यह देखा गया है कि विभिन्न सार्वजनिक स्थानों पर लोग धूम्रपान करते हैं जिससे न केवल उनका स्वास्थ्य पर दुष्प्रभाव पड़ता है अपितु इसके धुएं के कारण धूम्रपान न करने वाले लोगों के स्वास्थ्य पर विपरीत प्रभाव पड़ता है। इस बारे में आयुक्त एवं सचिव (सामान्य प्रशासन विभाग) ने अपने पत्र दिनांक 1-12-1990 द्वारा पहले ही यह अनुदेश जारी कर रखे हैं कि सरकार के सभी कार्यालय, विश्राम गृह, सार्वजनिक वाहनों, चिकित्सालय व बैंको में धूम्रपान निषेध होगा। इस बारे में अभी हाल ही में केन्द्रीय वन एवं पर्यावरण मन्त्री ने माननीय मुख्य मन्त्री को पत्र लिखा है जिसमें सभी सार्वजनिक स्थानों पर धूम्रपान को बन्द करने के लिये कहा है, जिसकी प्रतिलिपि इस पत्र के साथ संलग्न है।

अतः आप सभी से अनुरोध करता हूं कि माननीय वन एवं पर्यावरण मन्त्री, भारत सरकार के उपरोक्त पत्र एवं आयुक्त एवं सचिव, (सामान्य प्रशासन) द्वारा जारी किए गए पिछले आदेशों का कड़ाई से पालन सुनिश्चित करवाएं।

कृपया पावती भेजें।

Enclosure to Annexure 28.27

Copy of D.O. letter No. 1(1)/90-PL dated 6-11-1991 from the Central Minister of Environment and Forests, addressed to Chief Minister of H.P.

.....

The Central Government have been viewing with concern the increasing scientific evidence of non-smoking public being exposed to serious health hazards due to exposure to passive smoking in the proximity of tobacco smokers. There has been widespread public demand that measures be taken to protect the majority of non-smoking public from the polluting impact of tobacco smoking by a small minority which also poses an all round health problems.

In order to protect the non-smoking public from the hazards of passive smoking, at least in public places where large number of people are expected to be present for prolonged periods, the Central Government have issued orders (copy enclosed) prohibiting tobacco smoking, in a few selected places, namely, hospitals, dispensaries and other health care establishments, educational institutions, conference rooms, domestic air flights, air-conditioned chair cars and air-conditioned sleeper coaches in trains, suburban trains and air-conditioned buses.

I shall be grateful if you could take urgent steps to implement this measure. It is suggested that appropriate notice be exhibited and no ashtrays be placed in non-smoking areas and all cigarette shops removed from the compound of buildings if the building as a whole is declared a non-smoking area.

A copy of the guidelines issued by the Government in this regard is enclosed.

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Enclosure to Annexure 28.27

Copy of Govt. of India O.M. No: 27/1/390-(8) dated the 7th May, 1990 addressed to all Ministries/Departments.

.....

Subject: Prohibition of tobacco smoking in Public Places.

The Central Government have been viewing with concern the increasing scientific evidence of non-smoking public being exposed to serious health hazards due to exposure to passive smoking in the proximity of tobacco smokers. There has been a wide spread public demand that measures be taken to protect this majority of non-smoking public from the polluting impact of tobacco smoking by a small minority. Further, there is a need to save smokers from their own excesses.

2. In order to protect the non smoking public from the hazards of passive smoking at least in Public Places where large number of people are expected to be present for prolonged periods, it has been decided to prohibit tobacco smoking to start with, in a few selected places, namely hospitals; dispensaries and other health care establishments, educational institutions, conference rooms, domestic air flight, air-conditioned chair cars and air- conditioned sleeper coaches in trains, suburban trains and air-conditioned buses.

3. The ban, referred to above, will come into effect after 30 days from the issue of this Office Memorandum and will be strictly enforced.

4. Ministries and Departments may issue appropriate instructions to the various authorities under their control to ensure implementation of these orders. The authorities concerned should take steps to clearly identify the non-smoking areas/buildings. No ashtrays should be placed in non-smoking areas and all cigarette shops removed from the compound of buildings in which smoking is prohibited.

6. Copies of the orders issued may be endorsed to Cabinet Secretariat.

Guidelines for ban on smoking

- (1) In every room of the office or institution a Board having the following works may be displayed in Hindi & English.

-NO SMOKING-

- (2) Similar boards should be displayed on the wall outside every room of the institution or office, if there is ample vacant space available for example: Corridor, Outpatient Department, Meeting Hall etc., such boards in Hindi and English as above should be displayed at a distance of every 3 metres.
- (3) At every entrance of the building, the following words should be displayed prominently in Hindi/Regional Language and English and Suitable visuals:-
"Smoking strictly prohibited inside this building and Compound".
- (4) A similar board should also be displayed at the entrance of the compound of the building.
- (5) All these boards should be of a permanent nature i.e. wooden, tin or plastic material. If some period is likely to be taken for preparation of the permanent boards, temporarily paper or card boards should be displayed.
- (6) The boards on the wall should be at a minimum height of 1.5 meter.
- (7) All ash-trays should be removed from the rooms and other places of the office/institution.
- (8) All cigarette shops in the building or in the compound of the building, should be moved outside the compound of the building.

अनुबन्ध 28.28

हि0प्र0 सरकार, कार्मिक विभाग के पत्र सं0 पर(ए पी-।।)ए(3)-9/73 दिनांक 3-6-1992 जो सभी सचिवों, विभागाध्यक्षों, मण्डलायुक्तों, उपायुक्तों आदि को सम्बोधित है की प्रतिलिपि।

(पैरा 28.5 के नीचे हि0प्र0 सरकार के निर्णय सं0 23 में उल्लेखित)

विशय: सरकारी कर्मचारी द्वारा भूमि क्रय करने बारे – आचरण नियमों के अन्तर्गत स्वीकृति प्रदान करना।

उपरोक्त विषय पर इस विभाग के सम संख्यक पत्र दिनांक 29-7-89 का प्रसंग जारी रखते हुये यह कहने का निदेश हुआ है कि सरकारी अधिकारियों/कर्मचारियों द्वारा अपने कार्यक्षेत्र में भूमि क्रय करने पर लगाये गये प्रतिबन्ध का मामला कुछ समय से सरकार के विचाराधीन था। पूर्ण विचार उपरान्त उपरोक्त आदेशों का आंशिक संशोधन करते हुये सरकार ने अब निर्णय लिया है कि परिशिष्ट में दर्शित अधिकारियों

को छोड़ कर यदि कोई सरकारी अधिकारी/कर्मचारी अपने कार्यक्षेत्र में भूमि क्रय करना चाहता हो तो उसे भूमि क्रय करने से पहले सक्षम अधिकारी की पूर्व स्वीकृति प्राप्त करनी होगी; इस उद्देश्य के लिये:-

- (क) सक्षम अधिकारी आचरण नियमों में प्रावधित सक्षम अधिकारी से एक स्तर ऊपर का अधिकारी होगा। उदाहरणार्थ यदि आचरण नियमों में किसी कर्मचारी का सक्षम अधिकारी कार्यालय अध्यक्ष है तो इस उद्देश्य हेतु सक्षम अधिकारी विभागाध्यक्ष होगा तथा यदि आचरण नियमों में सक्षम अधिकारी विभागाध्यक्ष है इस उद्देश्य हेतु सक्षम अधिकारी सरकार होगी।
- (ख) निर्धारित सक्षम अधिकारी भूमि क्रय की स्वीकृति देने से पहले सम्बन्धित जिलाधीश के माध्यम से क्रय की जाने वाली भूमि का मार्किट मूल्य निश्चित करायेंगे।
- (ग) यदि उपरोक्त मद्द (ख) अनुसार निश्चित मूल्य से कम मूल्य पर भूमि क्रय करने का प्रस्ताव हो तो इस उद्देश्य हेतु सक्षम अधिकारी भूमि क्रय करने की स्वीकृति नहीं देंगे।

2. परिशिष्ट में दर्शित अधिकारियों/कर्मचारियों पर 29-7-89 के पत्र द्वारा भूमि पर लागू प्रतिबन्ध जारी रहेगा।

3. यह आदेश तुरंत लागू होंगे तथा इन्हें सभी सम्बन्धित के ध्यान में लाने की कृपा करें।

(नोट परिशिष्ट के लिये पैरा 28.5 के नीचे हि0 प्र0 सरकार का निर्णय संख्या 23 देखें)

vupll/k 28-29

हि0 प्र0 सरकार कार्मिक विभाग के पत्र संख्या: पर (नि-।।)बी(7)-1/92 दिनांक 7-1-1993 जो सभी सचिवों, विभागाध्यक्षों, सार्वजनिक उपक्रमों आदि के अध्यक्षों/प्रबन्ध निदेशकों आदि को सम्बोधित है की प्रतिलिपि।

(पैरा 28.5 के नीचे हि0 प्र0 सरकार के निर्णय सं0 26 में उल्लेखित)

विषय: स्थानांतरण बारे सामान्य अनुदेश।

उपरोक्त विषय पर मुझे यह कहने का निदेश हुआ है कि सरकार के ध्याय में आया है कि कर्मचारियों के प्रशासनिक कारणों से जब एक सीन से दूसरे स्थान पर स्थानांतरण किया जाता है तो वह अपने स्थान पर कार्यभार सम्भालने के बजाये प्रशासन पर स्थानान्तरण रूकवाने हेतु राजनैतिक दबाव डलवाते हैं जोकि सी0सी0एस0 (कन्डक्ट) रूलज, 1964 के नियम-20 की अवमानना है।

अतः आपसे अनुरोध है कि आप अपने अधीन सभी कर्मचारी/अधिकारी के नोटिस में यह बात लायें कि जो कर्मचारी/अधिकारी इस सम्बन्ध में किसी राजनैतिक अथवा कोई अन्य प्रभाव डालने में दोषी पाया गया तो उसके विरुद्ध सी0सी0एस0 (सी0सी0ए0) नियम, 1965 के अन्तर्गत अनुशासनिक कार्यवाही अमल में लाई जाएगी।

Annexure 28.30

Copy of H.P. Govt. Personnel Deptt. O.M. No: Per(AP-II)B(19)-3/77 dated 17-5-1994 addressed to all Secretaries, Heads of Departments etc.

(Referred to in H.P. Govt.'s decision No. 8 below para 28.5)

Subject: Association of Government servants with the activities of R.S.S. and Jammata-e-Islami-Hind- Instructions regarding.

The undersigned is directed to say that the participation of Government servants in the activities of Rashtriya Swayam Sewak Sangh and the Jammata-e-Islami-Hind would attract the provisions of sub-rule (1) of rule 5 of the Central Civil Services (Conduct) Rules, 1964 and any Government servant associating with these Organisations is liable to disciplinary action. This being so, the association of govt. servants with these Organisations or with their activities need to be viewed seriously and action may be taken against any Government servant who is a member of or is associated with the aforesaid organisations or with their activities.

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

Annexure 28.31

Copy of H.P. Govt. Deptt. Of Personnel O.M. No: Per (AP-II)A(3)-10/75 dated 27-3-1995 addressed to all Secretaries to the Govt., Heads of Deptts., Deputy Commissioners, Public Sector Undertakings, Autonomous Bodies etc.

(Referred to in H.P. Govt.'s instruction No. 31(i) below para 28.5)

.....

Subject: Procedure for dealing with the Government servants attempting to further their service interest through non-governmental influence instructions with reference to rule 20 of the CCS (CONDUCT) Rules, 1964-regarding.

The undersigned is directed to forward herewith a copy of Office Memorandum No. 11013/12/94-Estt (A) dated 12-1-1995 of Government of India, Ministry of Personnel, P.G. and Pensions, Department of Personnel and Training, New Delhi and to say that the Governor, Himachal Pradesh is pleased to order that the instructions contained therein shall also be applicable to officers/officials of the Government of Himachal Pradesh.

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Enclosure to Annexure 28.31

Copy of Office Memorandum No 11013/12/94-Estt. A dated 12-1-1995 received from Ministry of Personnel, P.G. & Pensions, Department of Personnel and Training, New Delhi.

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Subject: Procedure for dealing with the Government servants attempting to further their service interests through non-governmental influence instructions with reference to rule 20 of the CCS (CONDUCT) Rules, 1964-regarding.

Rule 20 of the CCS (CONDUCT) Rules, 1964 provides that no Government servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his/her interest in respect of matters pertaining to his/her service under the Government. The Government of India has, from time to time, emphasised that Government servants should not approach Members of Parliament or State Legislatures or other political/outside authorities to sponsor their cases in respect of service matters. As per the existing 218 counselor, vide O.M. No: 11013/7/85/Estt. (A) dated 22-5-85, the following action should be taken against Government servants approaching Members of Parliament of State legislatures for sponsoring individual cases.

- (i) A Government employee violating the aforesaid provisions of the conduct Rules for the first time should be advised by the appropriate disciplinary authority, to desist from approaching Members of Parliament/Members of State Legislature to further his/her interest in respect of matters pertaining to his/her service conditions. A copy of this advice need not, however, be placed in the CR dossier of the employee concerned.
- (ii) If a Government employee is found guilty of violating the aforesaid provisions of the Conduct Rules a second time despite the issue of advice on the earlier occasion, a written warning should be issued to him/her by the appropriate disciplinary authority and a copy thereof should be placed in his/her CR dossier.
- (iii) If a Government employee is found guilty of violating the aforesaid provisions of the Conduct Rules, despite the issue of warning to him/her, disciplinary action should be initiated against him/her by the appropriate disciplinary authority under the provisions of CCS (CCA) Rules, 1965.

2. In spite of these instructions, cases of individual Government servants continue to be sponsored by public representatives/outside authorities. After careful consideration of all aspects of the matter it has been decided that the following procedure may be adopted for dealing with communications from public representatives/outside authorities relating to the service matters of Government employee:

- (a) Communications received from public representatives regarding problems of group/categories of Government functionaries must be entertained and dealt with on a time-bound basis. In all such cases, after due examination, appropriate replies would continue to be issued at the level of the Minister concerned.
- (b) All communications from public representatives relating to the grievances of the retired personnel should receive the same consideration and be dealt with in the same way as outlined in (a) above.
- (c) In cases in which a public representative sponsors the cause of an individual Government servant (e.g. recruitment, appointment, promotion, posting to particular station, appointment to a specific position, complaint against supersession, expunction of adverse remarks, allotment of Government accommodation etc.) a formal reply should continue to be sent from the Minister acknowledging the receipt of the communication stating that the contents of the letter have been noted and where necessary, suggesting that the person whose case has been recommended, may be advised to represent his case through proper official channels. All such communications addressed to the Minister shall be

replied to at, his/her level. In all such cases the formal reply given by the Minister shall be deemed to dispose off the communication unless there are further directions from the Minister in the Matter.

3. All Ministers/Departments/Offices etc. are requested to bring the above instructions to the notice of all concerned under their control and take action against the Government servants who violate the provisions of the Conduct Rules as prescribed in para 1.

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Annexure 28.32

Copy of H.P. Govt. Deptt. Of Personnel Notification No. Per(AP-B)A(3)-10/75-III dated 12th December, 2017 addressed to all Secretaries to the Govt., Heads of Deptts., Divisional Commissioners and Deputy Commissioners, in H.P.

(Referred to in Para 28.5 (5.1) Under Rule 3)

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Subject: Ensuring presence of government servants especially in offices the field/village government servants posted in the far-flung and backward areas.

I am directed to invite your attention to the subject cited above and to say that the Hon'ble High Court of H.P. while deciding RSA No. 32 of 2017 on 18-09-2017 has put forth some suggestions (copy of Para 6 & 7 of the order ibid annexed for ready reference at Annexure "A") and directed that a suitable mechanism be developed for monitoring and ensuring the presence of field level government employees especially those posted in the far-flung, rural and backward areas.

2. Accordingly, it is impressed upon all the Heads of Departments to ensure punctuality and regular attendance of government servants under their control and to develop a mechanism for monitoring and ensuring the presence of field level government employees especially those who are posted in far-flung, rural, backward areas and tribal areas of the State at their place of postings in consideration of the suggestions mentioned above, taking advantage of advancement in field of technology and through online bio-metric system etc. so as to ensure minimum inconvenience and hardship to the people residing there. Any deviation of the above shall be seriously viewed and render liable for disciplinary action against defaulting officer(s)/official(s). Please acknowledge the receipt.

.....

Enclosure to Annexure 28.32

Para 6: Some of the suggestions put forth, are as under:

1. Information regarding field movement of Secretaries, Takniki Sahayak and Gram Rojgar Sewak should be placed by the respective official on the Notice Board at a conspicuous place in the Gram Panchayat Ghar.

2. Tentative tour programme of Panchayat Secretary, Gram Rojgar Sewak and Takniki Sahayak should be submitted to the BDO and same should be placed at the notice board of respective Panchayat Ghar.
3. Tour diary and attendance statement of Panchayat Secretary, Takniki Sahayak and Gram Rojgar Sewak duly attested by Pradhan should be submitted to the BDO office.
4. Telephone number of Secretary, Pradhan, BDO, Panchayat Inspector, Social Education and Block Planning Officer (SEBPO), Ladies Social Education Organiser and Jes should be painted on wall at conspicuous place in the Gram Panchayat Ghar.
5. The Officer/Officials should be readily available on the Telephone/Mobile Numbers.
6. Wall writing of BPL families, beneficiaries of Awas Yojna, Development Works (head wise) must be strictly ensured in every Panchayat Ghar to ensure transparency in the working of Gram Panchayats.
7. Strengthening of Social Audit mechanism must be ensured.
8. Since this Court is oblivious to the fact that the Secretary, Takniki Sahayak etc. have not only one Panchayat to look after and, therefore, it may not be physically for them to attend every Panchayat on each working day and therefore, the respondents could well consider fixing one date in one Panchayat where these officials should be present.

Para 7. In addition to the aforesaid suggestions, the respondents could also take advantage of the advancement in the field of technology, more particularly, in the field of communication and come up with the mobile App. For making attendance by emulating the same on the lines of the State of Telangana. In addition thereto, the respondents could very well mull a proposal for connecting not only the offices of the Panchayats, but also other Government Offices through online bio-metric system, the records whereof can be maintained at the Tehsil or District level, as according to the Director, about 98 % of the Panchayats already stand connected through the Internet. That apart, the respondents could also consider having android based attendance map and still further consider having a website like that of the Central Government i.e. www.attendance.gov.in wherein the details of registered employees and those present in the offices in daily basis is depicted.

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Annexure 28.33

Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP.B)A(3)-10/75-III dated 22nd January, 2018 addressed to all Administrative Secretaries to the Government of Himachal Pradesh, all Divisional Commissioners, HODs, Deputy Commissioners, in H.P.

(Referred to in Para 28.5 (5.1) Under Rule 3)

Subject: Ensuring presence of government servants especially in offices the field/village government servants posted in the far-flung and backward areas.

I am directed to invite your attention to this Department letter of even number dated 12-12-2017, whereby instructions were issued to ensure punctuality

and regular attendance of Govt. servants under your Department and to develop a mechanism for monitoring and ensure the presence of field level government employees especially those who are posted in far-flung, rural, backward areas and tribal areas of the State. These instructions have been issued in compliance to Hon'ble High Court orders and are to be implemented in letter and spirit.

2. It is again re-iterated that all the Heads of Departments will ensure punctuality and regular attendance of government servants under their control by developing required mechanism for monitoring and ensuring the presence of field level government employees especially those who are posted in far-flung, rural, backward areas and tribal areas of the State. A copy of guidelines issued in this behalf by your department be also supplied to this department. Any deviation shall be seriously viewed and render liable for disciplinary action against defaulting officer(s)/official(s). Please acknowledge the receipt.

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Annexure 28.34

Copy of Department of Personnel letter No. Per(AR)A(6)-5/90-Vol.I dated 05-12-2003 addressed to all Administrative Secretaries (by name) to the Government of Himachal Pradesh.

{Referred to in Para 28.5 under 3 (5.1.1)}

Subject: Improving the administrative functioning – Ensuring availability of Government employee at their place of posting.

The Government of Himachal Pradesh has taken a The Government of Himachal Pradesh has taken a policy decision that in order to ensure availability of Government employees at their places of posting to improve the administrative functioning and the fact that they are always accessible to the public to mitigate their grievances, no government servant would be permitted to reside beyond 8 (eight) kilometers from his office. As residing beyond 8 km from his office/posting is clear violation of Rules and is against the present Government resolve to provide the responsive administration.

It is further observed that officers / official of Education and other departments like I&PH, RD, H&FW, PWD and other departments who have public dealing should strictly abide by, these instructions. More importantly the Doctors of the Medical Staff in the institutions must reside at their place of posting in their earmarked accommodation so that they are available for the people all the time as the ailing patients can come at any odd hour to the medical institutions for assistance. If there is any violation in this regard, the matter would be viewed seriously and erring officer/ officials be liable for disciplinary action under the relevant rules.

As per teachers/lectures of the Education Department are concerned it is their moral as well as social responsibility to be present in the school during teaching hours, it is

however come to the notice of the government that many of the teachers do not come in time to the schools. As the consequence the syllabus is not covered and ultimately students suffer. It is, therefore been decide that the entire teacher should come to the school in time and imparts the education to the students in such a manner so that the students are the future citizens of the State.

The officers/officials of the other departments in which public dealing is involved and particularly teachers of the Education should attend to the complaint of the public well in time so that they don't given any scope of complaint against them. The Lecturer/teacher should ensure that they must come to the school and should remain in their respective institutions till the teaching hour is over to ensure that the syllabus is covered in time.

All the administrative Secretaries concerned are requested to bring the above instructions to the notice of the Head of Department and must ensure that these instructions are implemented in letter and spirit. If need be they may conduct surprise checks also to ascertain whether the Government employees are following the instructions in rightful manner.

Kindly acknowledge receipt.

Annexure 28.35

Copy of H.P. Govt. Deptt. Of Personnel Notification No. Per(AP-II)A(3)-9/75 dated 10-02-1994 addressed to all Secretaries to the Govt., Heads of Deptts., Divisional Commissioners and Deputy Commissioners, in H.P.

{Referred to in para 28.5 Under Rule 3 (5.2)}

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Subject : Need to maintain independence and impartiality by Govt. servants in the discharge of their duties.

I am directed to send herewith a copy of GOI, Ministry of Personnel, PG & Pensions, Department of Personnel & Training O.M No. 11013/10/93-Estt.(A), dated 6th October, 1993 alongwith a copy of O.M No. 41/2/55-II(Estt.) (A), dated 23-4-55 as referred to therein regarding need to maintain independence and impartiality by Govt. servants in the discharge of their duties. You are requested to bring the instructions in the notice of all concerned for their information and strict compliance.

Enclosure 1 to Annexure 28.35

(Copy of Government of India, Ministry of Personnel, PG & Pensions, Department of Personnel & Training O.M No. 11013/10/93-Estt.(A), dated 6th October, 1993)

Subject : Need to maintain independence and impartiality by Govt. servants in the discharge of their duties.

The undersigned is directed to say that in the Ministry of Home Affairs O.M. No. 41/2/55(II)-Estt.(A) dated 23rd April, 1955) instructions were issued emphasizing the need for Government servants, especially those holding positions of trust and responsibility, remaining not only honest and impartial in the discharge of their duties but also having the reputation of being so. Despite these instructions, it is not uncommon that complaints of favouritism or ill will shown by officers in supervisory positions towards their subordinates or other members of public are received every now and then.

2. While reiterating the instruction issued in the Ministry of Home Affairs OM referred to above, it is again stressed that a Government servant must be impartial and must not show undue favour or ill will in his official dealings. If a Government servant is found to misuse his official position or to abet and connive at improper and illegal acts, he would render himself liable for disciplinary action for violation of Rule 3 of the CCS(Conduct) Rules, 1964.

3. Ministry of Finance etc. are requested to bring the contents of this Office Memorandum to the notice of all Government servants serving under their control and ensure that the Conduct Rules are strictly followed by all concerned.

4. Hindi version will follow.

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Enclosure 2 to Annexure 28.35

(Copy of Government of India, Ministry of Home Affairs 41/2/55-II(Estt.) (A), dated 23-4-55)

Subject:- Integrity of Government servants holding responsible posts- Independence and impartiality in the discharge of their duties.

Both the All India Services (Conduct) Rules, 1954 and the Central Civil Services (Conduct) Rules 1955, lay down interalia that Government servants should at all times maintain absolute integrity and devotion to duty. It is, in fact, axiomatic that Government servants, especially those holding positions of trust and responsibility, should not only be honest and impartial in the discharge of their official duties but also have the reputation of being so. The Planning Commission has also referred to this matter in Chapter VI of the First Five Year Plan. They have observed that in their social relations and dealings, those holding responsible posts should ensure that there is no ground or occasion to suggest that some individuals have greater access or influence with them than others. Government have no doubt that their officers fully appreciate the need for maintaining a high standard of integrity and impartiality and ensuring as far as it lies in their power that their behavior gives no room for any possible suggestion to the contrary. It is, however, requested that these observations should be specifically brought to the notice of all concerned and steps

should also be taken to include them in the teaching given at training institutions under the Ministry of Finance etc.

Annexure 28.36

Copy of H.P. Govt. Deptt. Of Personnel O.M No. Per(AP-B)B(17)-1/2005 dated 22-05-2010 to all Secretaries to the Govt., Heads of Deptts., Divisional Commissioners and Deputy Commissioners, in H.P.

{Referred to in para 28.5 Under Rule 3 (5.3)}

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Subject: Central Civil Services (Conduct) Rules, 1964 – submission of representations by Government servants – instructions regarding.

The undersigned is directed to enclose a copy of Government of India, Ministry of Personnel, PG & Pensions, Department of Personnel & Training Office Memorandum No. 11013/4/2010-Estt(A), dated 19-04-2010, on the subject cited above, for information and strict compliance.

Enclosure to Annexure 28.36

Subject: Central Civil Services (Conduct) Rules, 1964 – Submission of representations by Government servants – instructions regarding.

The undersigned is directed to refer to this Department's O.M. No. 11013/7/99-Estt. (A) dated 01.11.1999 on the abovementioned subject which indicates that the categories of representations from Government servants on service matters have been broadly identified as follows:-

- (i) Representations/complaints regarding non-payment of salary/allowances or other issues.
- (ii) Representations on other service matters.
- (iii) Representations against the orders of the immediate official superior authority; and
- (iv) Appeals and petitions under statutory rules and orders (such as Central Civil Services (Classification, Control and Appeal) Rules, 1965 and the petition instructions.

(Apart from the above, sometimes, Government servants also submit advance copy of their representations to the authorities higher than the appropriate/Competent Authority.)

2. Necessary guidelines to deal with such representations are contained in the aforesaid O.M. which are to be followed by the administrative authorities. However, it is observed

that some officials resort to the practice of sending repeated representations on the same issue which involves repeated examination of the same issue and bogs down the official machinery to the detriment of consideration of more important and time-bound issues. The matter has been considered by this Department. It needs to be emphasized that Government servants should desist from making frequent and numerous representations on the same issue. The second representation on the same issue will be examined only if it contains any fresh points regarding new developments or facts having a bearing on the issue. It has been decided that when representations have already been considered and replied, further representations exceeding two on the same issue will henceforth be ignored. A Government servant may make a representation to an authority higher than the lowest competent authority only when he is able to establish that all the points or submissions made therein have not been fully and properly considered by his immediate official superior, or the Head of Office concerned or such other authority at the lowest level competent to deal with the matter. Government servants should desist from prematurely addressing the higher authorities.

3. All the Ministries Departments are requested to bring the above guidelines for the notice of all concerned for information and compliance.

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Annexure 28.37

Copy of H.P. Government Department of Personnel letter No. Per(AP-II)A(3)-10/75 dated 04-04-1998 addressed to all the Administrative Secretaries, Divisional Commissioners, Heads of Departments and Deputy Commissioners, in H.P.

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Subject: Supreme Court Judgement in the case of Vishaka & Others Vs. State of Rajasthan & others regarding sexual harassment of working women.

Jai Hind.

I am directed to send herewith copies of Govt. of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training) Notification & O.M. No. 11013/10/97-Estt. (A) dated 13-2-1998 regarding sexual harassment of working women. You are requested to bring these instructions to the notice of all concerned under your control for their information and strict compliance.

Please acknowledge receipt.

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Enclosure 1 to Annexure 28.37

Copy of Notification No. 11013/10/97-Estt. (A) dated 13-2-1998 from Joint Secretary to the Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training) with a copy endorsed to all Ministries and others.

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G.S.R..... In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Conduct) Rules, 1964, namely:-

1. (1) These rules may be called the Central Civil Services (Conduct) Amendment Rules, 1998.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Central Civil Services (Conduct) Rules, 1964, after rule 3B, the following rule shall be inserted, namely:-

“3C – Prohibition of sexual harassment of working women

(1) No Government servant shall indulge in any act of sexual harassment of any woman at her work place.

(2) Every Government servant who is incharge of a work place shall take appropriate steps to prevent sexual harassment to any woman at such work place.

Explanation- For the purpose of this rule, “sexual, harassment” includes such unwelcome sexually determined behaviour, whether directly or otherwise, as—

(a) physical contact and advances;

(b) demand or request for sexual favours;

(c) sexually coloured remarks;

(d) showing any pornography; or

(e) any other unwelcome physical, verbal or non-verbal conduct of a sexual nature”.

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Enclosure 2 to Annexure 28.37

Copy of Office Memorandum No. 11013/10/97-Estt. (A) dated 13-2-1998 from Joint Secretary, Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training) addressed to all Ministries with a copy endorsed to others.

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Subject: CCS (Conduct) Rules, 1964 – Supreme Court Judgment in the case of Vishaka Vs. State of Rajasthan regarding sexual harassment of working women.

The undersigned is directed to say that in the case of Vishaka and Ors Vs. State of Rajasthan and Ors. (JT 1997 (7) SC 384), the Hon’ble Supreme Court has laid down guidelines and norms to be observed to prevent sexual harassment of working women.

2. It has been laid down in the judgment above-mentioned that it is the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedure for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required. For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or implication) as:-

- a) physical conduct and advances;
- b) a demand or request for sexual favours;
- c) sexually coloured remarks;
- d) showing pornography;
- e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

3. Attention in this connection is invited to Rule 3 (1) (iii) of the CCS (Conduct) Rules, 1964, which provides that every Government servant shall at all times do nothing which is unbecoming of a Government servant. Any act of sexual harassment of women employees is definitely unbecoming of a Government servant and amounts to a misconduct. Appropriate disciplinary action should be initiated in such cases against the delinquent Government servant in accordance with the rules.

4. Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the concerned authorities shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

5. In particular, it should be ensured that victims, or witnesses are not victimized or discriminated against while dealing with complaints or sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

6. Complaint Mechanism:- Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in every organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints. Wherever such machineries for redressal of grievance already exist, they may be made more effective and in particular women officers should preferably handle such complaints.

7. Awareness :- Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (copy enclosed) in a suitable manner.

8. A specific provision is, however, being made in the CCS (Conduct) Rules, 1964, prohibiting sexual harassment of women Government servants, in compliance of the judgment of the Hon'ble Supreme Court.

9. The Ministries/Departments are requested to bring these instructions to the notice of all concerned for strict compliance.

10. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these instructions issue after consultation with the Comptroller and Auditor General of India.

Hindi version will follow.

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GUIDELINES AND NORMS LAID DOWN BY THE HON'BLE SUPREME COURT IN VISHAKA & ORS.V. STATE OF RAJASTHAN & ORS. (JT 1997 (7) SC 384)

HAVING REGARD to the definition of 'human rights' in Section 2 (d) of the Protection of Human Rights Act, 1993, TAKING NOTE of the fact that the present civil and penal laws in India do not adequately provide for specific protection of women from sexual harassment in work places and that enactment of such legislation will take considerable time, It is necessary and expedient for employers in work: places as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women.

1. Duty of the Employer or other responsible persons in work: places and other institutions:

It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.

2. Definition:

For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

- a) physical contact and advances;
- b) a demand or request for sexual favours;
- c) sexually coloured remarks;
- d) showing pornography;
- e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Where any of these acts is committed in circumstances where-under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or Voluntary, whether in Government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse

consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

3. Preventive Steps:

All employers or persons in charge of work place whether in public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality to this obligation they should take the following steps:-

(a) Express prohibition of sexual harassment as defined above at the work place should be notified, published and circulated in appropriate ways.

(b) The Rules/Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.

(c) As regards private employers steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.

(d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

(9) Criminal Proceedings:

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action- in accordance with law by making a complaint with the appropriate authority.

In particular, it should ensure that victims or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

(10) Disciplinary Action:

Where such conduct amount to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

(11) Complaint Mechanism:

Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

(12) Complaints Committee:

The complaint mechanism referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counselor or other support service, including the maintenance of confidentiality.

The Complaints Committee should be headed by a woman and not less than half of its member should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the Government department concerned of the complaints and action taken by them.

The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government department.

(13) Workers' Initiative:

Employees should be allowed to raise issues of sexual harassment at workers' meeting and in other appropriate forum and it should be affirmatively discussed in Employer – Employee Meetings.

(14) Awareness:

Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.

(15) Third Party Harassment:

Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

(16) The Central/State Governments are requested to consider adopting suitable measures including legislation to ensure that the guidelines laid down by this order are also observed by the employers in Private Sector.

12. These guidelines will not prejudice any rights available under the Protection of Human Rights Act, 1993.

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Annexure 28.38

Copy of H.P. Government Department of Personnel O.M. No. Per(AP-II)A(3)-10/75-II dated 31-08-2002 to all the Administrative Secretaries, Heads of Departments and Deputy Commissioners, Registrar, H.P. High Court, Secretary Vidhan Sabha etc. , in H.P.

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{Referred to in para 28.5 under Rule 3 (5.5)}

Subject: CCS (Conduct) Rules, 1964 – Supreme Court Judgement in the case of Vishaka Vs. State of Rajasthan regarding sexual harassment of working women.

The Governor, Himachal Pradesh, is pleased to approve the adoption of the amendment of Rule 3 of CCS (Conduct) Rules, 1964 by insertion of Rule 3(C) there to as contained in Notification No. 11013/10/97-Estt (A), dated the 13th February, 1998 from the Joint Secretary to the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, New Delhi (copy enclosed please see Enclosure 1 to Annexure 28.36) and to make the same applicable to the employees of State Government with immediate effect.

2. The Governor, Himachal Pradesh is further pleased to circulate a copy of Office Memorandum No. 11013/10/97-Estt(A), dated the 13th February, 1998 (Please see Enclosure 2 to Annexure 28.36) from the Joint Secretary to the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, New Delhi containing guidelines and norms to be observed to prevent sexual harassment of working women laid down by the Supreme Court in the case of Vishaka and Ors Vs State of Rajasthan and Ors, for strict compliance.

3. As per these guidelines/norms an appropriate complaint mechanism is required to be created in every organisation for redressal of the complaint made by the victim. In this context it has been decided that the Nodal Officers will be appointed in all Government departments and semi Government Organisation, of a very senior level preferably a lady officer who should be made responsible for dealing with any complaints/incidents of sexual harassment of women at work places. These Nodal Officers will deal with such complaints oral or writing within a time limit of one week.

3. These instructions may kindly be brought to the notice of all concerned for strict compliance.

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Annexure 28.39

Copy of Government of Himachal Pradesh Department of Personnel O.M. No. Per(AP.II)A(3)-10/75 Vol-IV dated 18-04-2016 to all Administrative Secretaries, HoD's, Divisional. Commissioners, DC's etc. in H.P.

{Referred to in Para 25.5 under Rule 3 (5.6)}

Subject: (1) Alignment of Service Rules with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013.
(2) Steps of conducting inquiry in case of allegation of Sexual Harassment.

The Governor, Himachal Pradesh is pleased to approve the adoption of O.M. No. 11013/2/2014 Estt (A.III), dated 27th November, 2014, O.M. No. 11013/2/2014 Estt (A.III), dated 16th July 2015, F. No. 11013/2/2014 Estt (A.III), dated 30th July, 2015, Notification No. 11013/2/2014 Estt (A.III) (G.S.R. 823 Govt. of India), dated 19th November, 2014 and Notification No. 11013/2/2014 Estt (A.III) (G.S.R. 822Govt. of India), dated 19th November, 2014, from GOI, Ministry of Personnel, PG and Pensions,

Department of Personnel & Training , New Delhi (copy enclosed) and to make applicable to the employees of the State Government with immediate effect.

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

Enclosure 1 to Annexure 28.39

Copy of Government of India Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) O.M No. 11013/2/2014 Estt (A.III) dated 27th November 2014

Subject: Alignment of Service Rules with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013.

The undersigned is directed to say that the 'Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013' {SHWW (PPR) Act } has been promulgated on 22nd April 2013. Further to the Act, the 'Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 were notified on 9.12.2013. The Act and the Rules framed thereunder provide a redressal mechanism for handling cases of sexual harassment at workplace. The Act and Rules are available at the website of the Ministry of Women and Child Development (wcd.nic.in) under Legislation/Acts.

2. The CCS (Conduct) Rules, 1964 and CCS (CCA) Rules, 1965 have been amended vide Notifications of even number published as G.S.R. 823 Govt. of India and G.S.R. 822 Govt. of India in the Gazette of India—Extraordinary dated 19-11-2014. These are available on this Department's website www.persmin.gov.in

3. So far as Central Government employees are concerned, provisions already exist in the CCS (Conduct) Rules 1964 defining sexual harassment. Further, the proviso to Rule 14(2) of the CCS (CCA) Rules 1965 provides that the complaints committee established in each Ministry or Department or office enquiring into such complaints shall be deemed to be the inquiring authority appointed by the disciplinary authority and the committee shall hold the inquiry so far as practicable in accordance with the procedure laid down in those rules. Similar provisions exist in the relevant service rules of the Central Government servants not, governed by CCS (Conduct) Rules / CCS (CCA) Rules.

4. Sexual harassment as defined in rule 3-C of CCS (Conduct) Rules, 1964 has been amended vide Notification of even number dated 19-11-2014 (copy enclosed).

The amended rule is as follows:

"Rule 3C – Prohibition of sexual harassment of working women

(1) No Government servant shall indulge in any act of sexual harassment of any woman at any work place.

(2) Every Government servant who is incharge of a work place shall take appropriate steps to prevent sexual harassment to any woman at such work place.

Explanation- 1 For the purpose of this rule,

(a) “sexual harassment” includes any one or more of the following acts or behaviour, (whether directly or by implication), namely:—

- (i) physical contact and advances; or
- (ii) demand or request for sexual favours; or
- (iii) sexually coloured remarks; or
- (iv) showing any pornography; or
- (v) any other unwelcome physical, verbal, non-verbal conduct of a sexual nature.

(b) The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment : -

- (i) implied or explicit promise of preferential treatment in employment; or
- (ii) implied or explicit threat of detrimental treatment in employment ; or
- (iii) implied or explicit threat about her present or future employment status; or
- (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- (v) humiliating treatment likely to affect her health or safety.

(c) “workplace” includes, -

- (i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the Central Government; (No. 11013/2/2014 Estt (A.III) Dated the 27th November 2014)
- (ii) hospitals or nursing homes;
- (iii) any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto;
- (iv) any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey;
- (v) a dwelling place or a house.”

5. All Ministries/Departments are advised that the following procedure may be adopted while dealing with complaints of sexual harassment:-

- (i) Sexual harassment will include any one or more of the Acts or behaviour defined in Rule 3-C of the CCS (Conduct) Rules 1964 read with Sec 3(2) of SHWW (PPR) Act.
- (ii) The Committee constituted in each Ministry/ Department/ office under the CCS (Conduct) Rules, 1964 shall inquire into complaints of sexual harassment in accordance with the provisions of Section 4 of the SHWW (PPR) Act.

- (iii) The Committee will as far as practicable follow the procedures prescribed in CCS (CCA) Rules 1965 for conduct of the inquiry.
- (iv) If any complaint is received directly by the committee, the same shall be referred to the appropriate disciplinary authority and the Committee shall inquire into the complaint on the complaint being referred to it by the disciplinary authority.
6. In addition, the Committee will have the powers to recommend to the employer:-
- to transfer the aggrieved woman or the charged officer to any other workplace; or
 - to grant leave to the aggrieved woman up to a period of three months. (The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled to.)
 - to grant such other relief to the aggrieved woman as may be prescribed; or d) to deduct from the salary or wages of the charged officer such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs. Any amount outstanding at the time of cessation of the services of the charged officer due to retirement, death or otherwise may be recovered from the terminal benefits payable to the officer or his heirs. Such compensation will not amount to penalty under Rule 11 of CCS (CCA) Rules in terms of the Explanation (ix) to Rule 11 inserted vide Notification of even Number dated 19-11-2014.
7. It may also be noted that the Committee may recommend action to be taken against the person who has made a complaint, if the Committee arrives at the conclusion that the allegation is malicious or the aggrieved woman or the person making the complaint has made the complaint knowing it to be false or has produced any forged or misleading document. The Committee may also recommend action against any witness if it comes to the conclusion that such witness has given false evidence or produced any forged or misleading document.
8. Attention is also invited to the following provisions of SHVV1N (PPR) Act:
- Sec 16 & 17: Prohibition of publication or making known contents of complaint , inquiry proceedings and recommendations of the Committee.
 - Sec 19 : Duties of employer. This may be read with provisions of Rule 3(C) (2) of CCS (Conduct) Rules.
 - Sec 21, 22 of SHWW(PPR) Act and Rule 14 of the SHWW (PPR) Rules Annual Reports
- (17) All the Ministries/Departments are requested to bring the contents of this OM to the notice of all officers and staff working under them. The Ministries/ Departments are also requested to advise the PSEs /Autonomous Bodies under their administrative control to align their service rules with the SHWW (PPR) Act/ Rules.

Enclosure 2 to Annexure 28.39

Copy of GOI, Ministry of Personnel, PG and Pensions, Department of Personnel & Training
Notification No.11013/2/2014-Estt. (A) dated 19th November, 2014

G.S.R.822 Govt. of India.— In exercise of the powers conferred by the proviso to article 309 and clause (5) of Article 148 of the Constitution and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Classification, Control and Appeal) Rules, 1965, namely:-

1. (1) These rules may be called the Central Civil Services (Classification, Control and Appeal) Third Amendment Rules, 2014.
- (2) They shall come into force on the day of their publication in the Official Gazette.
2. In the Central Civil Services (Classification, Control and Appeal) Rules, 1965, in rule 11, in the Explanation, after item (viii), the following item shall be inserted namely:-
“(ix) any compensation awarded on the recommendation of the Complaints Committee referred to in the proviso to sub-rule (2) of rule 14 and established in the Department of the Government of India for inquiring into any complaint of sexual harassment within the meaning of rule 3 C of the Central Civil Services (Conduct) Rules, 1964,”.

Enclosure 3 to Annexure 28.39

Copy of GOI, Ministry of Personnel, PG and Pensions, Department of Personnel & Training Notification No.11013/2/2014-Estt. (A) dated 19th November, 2014

G.S.R.823 Govt. of India.— In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and after consultation with the Comptroller and Auditor General of India in relation: to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Conduct) Rules, 1964, namely:-

1. (1) These rules may be called the Central Civil Services (Conduct) Second Amendment Rules, 2014.
- (2) They shall come into force on the day of their publication in the Official Gazette.
2. . In the Central Civil Services (Conduct), Rules, 1964, for rule 3C, the following rule shall be ‘substituted, namely :-

‘3C. Prohibition of sexual harassment of working Women, -

- (1) No Government servant shall indulge in any act of sexual . harassment of any woman at any work place.
- (2) Every Government servant who is incharge of a work place shall take appropriate steps to prevent sexual harassment to any woman at the work place.

Explanation. – (I) For the purpose of this rule, -

- (a) “sexual harassment” includes any one or more of the following acts or behaviour (whether directly or by implication) namely : -
 - i. physical contact and advances; or

- ii. a demand or request for sexual favours; or
 - iii. making sexually coloured remarks; or
 - iv. showing pornography; or .
 - v. any other unwelcome physical, verbal, non-verbal conduct of a sexual nature.
- (b) the following circumstances, among other circumstances, if it occurs or ,is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment :-
- (i) implied or explicit promise of preferential treatment in employment; or
 - (ii) implied or explicit threat of detrimental treatment in employment; or
 - (iii) implied or explicit threat about her present or future employment status; or
 - (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
 - (v) humiliating treatment likely to affect her health or safety.
- (c) "workplace" includes,-
- i. any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the Central Government;
 - ii. hospitals or nursing homes;
 - iii. any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto;
 - iv. any place visited by the employee arising out of or during the bourse of employment including transportation provided by the employer for undertaking such journey;
 - v. a dwelling place or a house.'.

Enclosure 4 to Annexure 28.39

Copy of GOI, Ministry of Personnel, PG and Pensions, Department of Personnel & Training Notification No.11013/2/2014-Estt. (A-III) dated July 16th, 2015.

Subject: Steps for conducting inquiry in case of allegation of Sexual Harassment

Undersigned is directed to say that during the meeting of the Chairpersons of Complaints Committees with Secretary (Personnel) on the 16th April, 2015 it was suggested that the Department of Personnel and Training may prepare a step guide for conduct of inquiry in complaint cases of sexual harassment. Rule 14(2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 lays down that the Complaints Committee established in each Ministry or Department for inquiring into complaints of sexual harassment shall hold such inquiry as far as practicable in accordance with the procedure laid down in these Rules.

2. The annexed guide on “Steps for Conduct of Inquiry in complaints of Sexual Harassment” (Please see is intended to give the procedure as prescribed in the rules/instructions. This is, however, not intended as a substitute for reference to the Rules and instructions. Members of the Complaints Committees and others who are required to deal with such inquiries should acquaint themselves with Central Civil Services (Classification, Control and Appeal) Rules, 1965, and instructions issued thereunder.

No. 11013/2/2014-Estt.(A-III) dated 16.07.2015

Steps for Conduct of Inquiry in Complaints of Sexual Harassment

Complaints Committees

1. Complaints Committees have been set up in all Ministries/Department and organisations under them in pursuance to the judgement of the Hon’ble Supreme Court in the Vishakha case. As per Section 4(1) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013(“the Act”), the Internal Complaints Committee (referred to as “Complaints Committee” hereafter) is to be set up at every workplace. As per Section 4(2), this will be headed by a woman and at least half of its members should be women. In case a woman officer of sufficiently senior level is not available in a particular office, an officer from another office may be so appointed. To prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committees should involve a third party, either an NGO or some other body which is familiar with the issue of sexual harassment.

What is Sexual Harassment?

2. “sexual harassment” includes any one or more of the following acts or behaviour, (whether directly or by implication), namely:—

- (i) physical contact and advances; or
- (ii) demand or request for sexual favours; or
- (iii) sexually coloured remarks; or
- (iv) showing any pornography; or
- (v) any other unwelcome physical, verbal, non-verbal conduct of a sexual nature.

3. The following circumstances, among other circumstances, in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment: -

- (i) implied or explicit promise of preferential treatment in employment; or
- (ii) implied or explicit threat of detrimental treatment in employment ; or
- (iii) implied or explicit threat about her present or future employment status; or
- (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- (v) humiliating treatment likely to affect her health or safety.

Workplace defined:

4. As per Section 2(o) of the Act, the following places are included within the ambit of the expression “workplace”:

- (i) any department, organisation, undertaking, establishment, enterprise, institution, office, etc. –established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the Central Government;
- (ii) hospitals or nursing homes;
- (iii) any sports institute, stadium, etc., used for training, sports or other activities relating thereto;
- (iv) any place visited by the employee arising out of or during the course of employment –including transportation provided by the employer for undertaking such journey;

Initial relief

5. The Committee will also have the powers to recommend:-

- (a) to transfer the aggrieved woman or the charged officer to any other workplace; or
- (b) to grant leave to the aggrieved woman up to a period of three months. (The leave will not be deducted from her leave account.)

Complaints Committee to be Inquiring Authority

6. As per Proviso to Rule 14(2) of CCS (CCA) Rules, 1965, in case of complaints of sexual harassment, the Complaints Committee set up in each Ministry or Department etc. for inquiring into such complaints shall be deemed to be the Inquiring Authority appointed by the Disciplinary Authority for the purpose of these rules. Complaints Committee, unless a separate procedure has been prescribed, shall hold the inquiry as far as practicable in accordance with the procedure laid down in the Rule 14.

Need for investigation

7. The Complaints Committees may act on complaints of sexual harassment when they receive them directly or through administrative authorities etc, or when they take cognizance of the same suo-moto. As per Section 9(1) of the Act, the aggrieved woman or complainant is required to make a complaint within three months of the incident and in case there has been a series of incidents, three months of the last incident. The Complaints Committee may however extend the time limit for reasons to be recorded in writing, if it is satisfied that the circumstances were such which prevented the complainant from filing a complaint within the stipulated period.

8. As mentioned above, the complaints of sexual harassment are required to be handled by Complaints Committee. On receipt of a complaint, facts of the allegation are required to be verified. This is called preliminary enquiry/fact finding enquiry or investigation. The Complaints Committee conducts the investigation. They may then try to ascertain the truth of the allegations by collecting the documentary evidence as well as recording statements of any possible witnesses including the complainant. If it becomes necessary to issue a

Charge Sheet, disciplinary authority relies on the investigation for drafting the imputations, as well as for evidence by which the charges are to be proved. Therefore this is a very important part of the investigation.

Dual Role

9. In the light of the Proviso to the Rule 14 (2) mentioned above, the Complaints Committee would normally be involved at two stages. The first stage is investigation already discussed in the preceding para. The second stage is when they act as Inquiring Authority. It is necessary that the two roles are clearly understood and the inquiry is conducted as far as practicable as per Rule 14 of CCS (CCA) Rules, 1965. Failure to observe the procedure may result in the inquiry getting vitiated.

10. As the Complaints Committees also act as Inquiring Authority in terms of Rule 14(2) mentioned above, care has to be taken that at the investigation stage that impartiality is maintained. Any failure on this account may invite allegations of bias when conducting the inquiry and may result in the inquiry getting vitiated. As per the instructions, when allegations of bias are received against an Inquiring Authority, such Inquiring Authority is required to stay the inquiry till the Disciplinary Authority takes a decision on the allegations of bias. Further, if allegations of bias are established against one member of the Committee on this basis, that Committee may not be allowed to conduct the inquiry.

11. In view of the above, the Complaints Committee when investigating the allegations should make recommendations on whether there is a prima facie substance in the allegations which calls for conducting a formal inquiry. They should avoid making any judgmental recommendations or expressing views which may be construed to have prejudiced their views while conducting such inquiry.

Decision to issue Charge sheet, and conducting Inquiry

12. On receipt of the Investigation Report, the Disciplinary Authority should examine the report with a view to see as to whether a formal Charge Sheet needs to be issued to the Charged Officer. As per Rule 14(3), Charge Sheet is to be drawn by or on behalf of the Disciplinary Authority. In case the Disciplinary Authority decides on that course, the Charged Officer should be given an opportunity of replying to the Charge sheet. As per Rule 14(5), a decision on conducting the inquiry has to be taken after consideration of the reply of the charged officer.

13. If the Charged Officer admits the charges clearly and unconditionally, there will be no need for a formal inquiry against him and further action may be taken as per Rule 15 of the CCS (CCA) Rules.

The Inquiry-stages

14. In case the Charged Officer denies the charges and his reply is not convincing, the Charge sheet along with his reply may be sent to the Complaints Committee for formal inquiry, and documents mentioned in Rule 14 (6) will be forwarded to the Complaints Committee. As per Section 11(3) of the Act, for the purpose of making an inquiry, the

Complaints Committee shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents; and
- (c) any other matter which may be prescribed.

The Section 11(4) of the Act requires that the inquiry shall be completed within a period of ninety days.

15. The Disciplinary Authority shall also in terms of Rule 14(5) (c) appoint a Government servant as a Presenting Officer to present evidence on behalf of prosecution before the Complaints Committee/ Inquiring Authority. The listed documents are to be sent to the Presenting Officer. The Complaints Committee would, thereafter, summon the Presenting Officer and the Charged Officer. As a first step, the charged officer would be formally asked as to whether he admits the charges. As mentioned above, in case of any clear and unconditional admission of any Article of Charge, no inquiry would be held in respect of that Article and the admission of the Charged Officer would be taken on record. The inquiry would be held, thereafter, in respect of those charges which have not been admitted by the Charged Officer. The Charged Officer is also entitled to engage a Defence Assistant. The provisions relating to Defence Assistant are given in Rule 14(8).

16. The Inquiring Authority is, thereafter, required to ask the Presenting Officer to have the prosecution documents, listed in the Charge Sheet inspected by the Charged Officer. Copies of such documents, if not only given to the Charged Officer, would be handed over to him. The Charged Officer would, therefore, be required to submit a list of documents and witnesses which he wants to produce in support of his defense. The Inquiring Authority would consider allowing such documents or witnesses on the basis of their relevance. Normally, any document or witness which reasonably appears to be relevant and helpful in defense may be allowed. Once the documents have been allowed, the Inquiring Authority would send a requisition for these documents to the custodian of such documents.

17. When the regular hearing commences, the Inquiring Authority would ask the Presenting Officer to produce the documentary evidence. Such documents as are disputed by the Charged Officer have to be proved by the witnesses before they are taken on record. The undisputed documents would be taken on record and marked as exhibits.

Examination of Witnesses

18. Summons would, thereafter, be sent to the witnesses listed in the Charge sheet. The Presenting Officer may choose to produce them in any order he finds appropriate. These witnesses would be examined in the inquiry in the following manner. The examination in

chief would be done by the Presenting Officer where the Presenting Officer may ask questions of the witness to ascertain the facts. The witness would, thereafter, be cross-examined by the Defense. After the cross-examination, the Presenting Officer would be given an opportunity to re-examine the witness. In the examination in chief, leading questions are not allowed. These are however allowed in the cross examination.

19. The procedure of Inquiry requires opportunity to the Charged Officer to cross-examine all the witnesses that appear on behalf of the Prosecution. Failure to do so may be construed as a denial of reasonable opportunity to the charged officer, resulting in vitiating of the Inquiry. If the complainant appears as a witness, she would also be examined and cross-examined. The Inquiry Officer may however disallow any questions which are offensive, indecent or annoying to the witnesses, including the complainant.

20. If Inquiring Authority wishes to ascertain some facts for clarity, he may pose questions to the witnesses. This should however, be done in such a manner as to not show any bias for or against the Charged Officer. This has to be done in the presence of the Presenting Officer and the Charged Officer/Defence Assistant. No inquiry should be conducted behind the back of the charged officer. The witnesses will be examined one by one, and the other witness who are either yet to be examined, or have been examined are not allowed to be present during the examination of a witness.

Daily Order Sheet

21. The Inquiring Authority would also maintain a document called Daily Order Sheet in which all the main events of the inquiry and including requests/representations by the Charged Officer or the Presenting Officer, and decisions thereon would be recorded. For example (i) if the Charged Officer refuses to cross-examine the witnesses, this should be recorded in the Daily Order Sheet (ii) the Daily Order Sheet should record that the Charged Officer had been advised that he has the right to engage a Defense Assistant (iii) it should also be clearly mentioned that the Charged Officer was also informed as to who are eligible to assist him as Defense Assistant. (iv) the Daily Order Sheet should also record in case request of the Charged Officer for engaging a particular person as Defense Assistant is disallowed in the light of the existing instructions. Daily Order Sheet should be signed by the Inquiring Authority, Presenting Officer and the Charged Officer/Defence Assistant.

Defence Evidence

22. After the prosecution evidence is over, the Charged Officer is required to submit his statement of defense. In this statement, the Charged Officer is required to briefly indicate his line of defense. After this, the Defense evidence will be taken. The evidence will be produced in the same order as the prosecution evidence. First, the documents allowed by the Inquiring Authority would be taken on record and then the witnesses called and their examination, cross examination and re-examination done. The only difference here would

be that the Examination in Chief would be done by defense while the cross-examination would be done by the prosecution. The defense would then have the opportunity of re-examining the witness.

General Examination of the Charged Officer

23. After the Defense evidence is over, the Inquiring Authority shall ask Charged Officer as to whether he wishes to appear as his own witness. In case he does so, he will be examined like any other defense witness. In case however, he declines to do so, the Inquiring Authority is required to generally question him. At this stage due care is required to be exercised that as per Rule 14(18) the purpose of this stage is to apprise Charged Officer of the circumstances which appear to be against him. This is to enable the Charged Officer to explain them to the Inquiring Authority. Presenting Officer and the Defence Assistant do not take any part in the General Examination. Charged Officer may not be compelled to answer questions during examination by the Inquiring Authority.

Brief

24. After this, the Presenting Officer would be asked to submit his brief. A copy of this brief would be given to the Charged Officer. Both the Presenting Officer and the Charged Officer may be allowed reasonable time for submission of their brief

25.

The Inquiring Authority then writes the Inquiry Report in which the evidence in support of the charges and against them will be examined. The Report should be a speaking one clearly bringing out as to the evidence on the basis of which any particular conclusion has been reached. Based on this analysis. The Inquiring Authority will give its findings on the Articles as proved or not proved. In case any Article of charge is proved only partially, then the Inquiring Authority should record the extent to which that Article has been proved.

Powers of the Committee to make recommendations

26. Normally, the Inquiry Officer is not allowed to make any recommendations in his report. Here the function of the Complaints Committee acting as the Inquiring Authority differs. The Complaints Committee may however, make recommendations including what has been mentioned in para 2 above:

- (c) to grant such other relief to the aggrieved woman as may be prescribed; or
- (d) to deduct from the salary or wages of the charged officer such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs.
- Any amount outstanding at the time of cessation of the services of the charged officer due to retirement, death or otherwise may be recovered from the terminal benefits payable to the officer or his heirs.

- Such compensation will not amount to penalty under Rule 11 of CCS (CCA) Rules in terms of the Explanation (ix) to Rule 11 inserted vide Notification of even Number dated 19-11-2014.
- Committee may recommend action to be taken against complainant, if the allegation is malicious, or the complainant knows it to be false, or has produced any forged or misleading document.
- The Committee may also recommend action against any witness if such witness has given false evidence or produced any forged or misleading document.

27. The Complaints Committee should also remember that as per the Section 16 of the Act, notwithstanding the RTI Act, 2005, information as regards identity and addresses of the aggrieved woman, respondent and witnesses, Inquiry proceedings, Recommendations of the Committee, shall not be published or communicated or made known to public, press or media in any manner. Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses.

28. With the above stage, the inquiry would be formally over. The Inquiring Authority should prepare separate folders containing the documents mentioned in Rule 14(23(ii)).

Suspension

29. A Government servant may also be placed under suspension before or after issue of a Charge Sheet where his continuance in office will prejudice the investigation, for example if there is an apprehension that he may tamper with witnesses or documents. Suspension may also be resorted to where continuance of the Government servant in office will be against wider public interest such as there is a public scandal and it is necessary to place the Government servant under suspension to demonstrate the policy of the Government to deal strictly with officers involved in such scandals. It may be desirable to resort to suspension in case of misdemeanor involving acts of moral turpitude.

Special provisions to deal with threats or intimidation

30. Disciplinary Authority may also dispense with inquiry under Rule 19 (ii), and action may be taken without the inquiry when the Disciplinary Authority concludes that it is not reasonably practicable to hold such an inquiry. The circumstances leading to such a conclusion may exist either before the inquiry is commenced or may develop in the course of the inquiry. Such situation would be deemed to have arisen:

- (i) where the Government servant, through or together with his associates terrorizes, threatens or intimidates witnesses who are likely to give evidence against him with fear of reprisal in order to prevent them from doing so; or

(ii) where the Government servant himself or with or through others threatens, intimidates and terrorizes the Disciplinary Authority, Members of the Committee, the Presenting Officer or members of their family.

Disciplinary Authority is not expected to dispense with the inquiry lightly, arbitrarily or with ulterior motive or merely because the case against the Government servant is weak.

Enclosure 5 to Annexure 28.39

Copy of GOI, Ministry of Personnel, PG and Pensions, Department of Personnel & Training
Corrigendum F. No.11013/2/2014-Estt.A-III dated July 30th, 2015.

Subject: Steps for conducting inquiry in case of allegation of Sexual Harassment

The undersigned is directed to say that a step guide for conduct of inquiry in complaint cases of sexual harassment was prepared by this Department and the same was circulated vide O.M. of even no. dated 16.07.2015.

2. In the step guide the definition of 'workplace' is based on section 2(o) of the Sexual Harassment of Women (Prevention, Prohibition and Redressal) Act, 2013. However, in para 4 'a dwelling place or a house' was inadvertently omitted. Therefore, in the step guide under the heading 'workplace' the following may be added in para 4 after (iv):

'(v) a dwelling place or a house'

Annexure 28.40

Copy of H.P. Govt. Deptt. Of Personnel Notification No. Per(AP-B)B(17)-1/2005 dated 14-9-2005 addressed to all Secretaries to the Govt., Heads of Deptts., Divisional Commissioners and Deputy Commissioners, in H.P.

(Referred to in Para 28.5 under Rule 4-A (i))

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In exercise of the powers conferred by proviso to Article 309 of the Constitution of India, the Governor, Himachal Pradesh is please to make the following rules further to amend the Central Civil Services (Conduct) Rules, 1964 in their application to the State of Himachal Pradesh, namely:-

- | | | | |
|------------------------------|----|-----|--|
| Short title and Commencement | 1. | (1) | These rules may be called the Central Civil Services (Conduct) (in their application to the State of Himachal Pradesh)(Amendment) Rules, 2005. |
| Insertion of Rule 4-A | 2. | (2) | These rules shall come into force from the date of publication in the Rajpatra, Himachal Pradesh.
After rule 4 of the Central Civil Services (Conduct) Rules, 1964 the following new rule 4-A, shall be |

inserted, namely:-

“4-A. No Government servant shall encroach upon Government land himself or through/by his family members.”

Annexure 28.41

Copy of Department of Personnel letter No. Per(AP-II)-B(17)-1/76 dated 04-05-1976 addressed to all Administrative Secretaries, all Head of the Departments and all the Deputy Commissioners in H.P. and endorsed to the Secretary (Revenue) to the Govt. of H.P.

(Referred to in Para 28.5 under Rule 4-A (ii))

Subject: Encroachment of Government land by a Govt. servant- imposition of penalty.

I am directed to say that it has come to the notice of the government that certain government servants or members of their family have encroached government land.

In this connection attention is invited to rule 3(iii) of the Central Civil Services (Conduct) Rules, 1964 which provides that ‘every government servant shall at all times do nothing which is unbecoming of a government servant’. Encroachment on government land by a government servant (himself or through/by his family members) is quite unbecoming of a government servant and amounts to breach of the conduct rules. I am, therefore, directed to say that the cases of all such government servants should be dealt with under the Central Civil Service (Conduct) Rules, 1964 by the departments concerned after the Revenue department confirms or informs about such encroachment. Strict disciplinary action may be taken against all such Government servants.

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Annexure 28.42

Copy of H.P. Government Department of Personnel letter No. Per(AP-II)A(3)-10/75-III. Pt dated 12th March, 2003 addressed to all the Administrative Secretaries, Heads of Departments and Deputy Commissioners, in H.P.

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{Referred to in Para 28.5 under Rule 5 (7.1)}

Subject: Violation of the provisions of the Central Civil Services (Conduct) Rules, 1964 – participation of Government employees in the elections.

I am directed to invite your attention to Rule 5 of the CCS (Conduct) Rules, 1964 which interalia provides that no Government servant shall be member of , or be otherwise

associated with, any political party or any organization which takes part in politics nor shall he take part in, subscribe in aid of, or assist in any other manner, any political movement or activity and that no government servant shall canvass or otherwise interfere with, or use his influence in connection with or take part in an election to any legislature or local authority.

2. In other words, it is essential that Government servants should not only maintain political neutrality but should also appear to do so and they should not participate in the activities of political parties.

3. It has been observed that overall discipline among the employees of Government/Boards/Corporations has deteriorated and that certain members of Associations/Unions have been issuing press statements in favour of a particular Political Party during Municipal Corporation and recent Assembly elections. The matter has been viewed seriously by the Government and it has been decided that such practice should be stopped forthwith and enquiry should be conducted in these matters and defaulters should be charge- sheeted.

4. It is, therefore, requested that necessary action in this regard may kindly be taken at the earliest and action taken/being taken be intimated to this department within two weeks.

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Annexure 28.43

Copy of H.P. Government Department of Personnel O.M No. Per(AP-II)B(19)-3/77 dated 08-08-2005 to all the Administrative Secretaries, Heads of Departments, Deputy Commissioners in H.P. & Section Officers/PS in H.P. Secretariat.

{Referred to in Para 28.5 under Rule 5 decision No. 8.2}

Subject: Association of Government servants with the activities of R.S.S. and Jammata-e-Islami-Hind- Instructions regarding.

The undersigned is directed to refer to this Department O.M of even number dated 17-05-1994 (copy enclosed for ready reference - Please see Annexure 28.30) on the subject above and to say that it has come to the notice of the Government that these instructions are not being adhered to strictly. Therefore, it is once again emphasized that strict compliance of the above instructions may be ensured.

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Annexure 28.44

Copy of H.P. Government Department of Personnel O.M No. Per(AP-II)B(19)-3/77 dated 24-01-2008 to all the Administrative Secretaries, Heads of Departments, Deputy Commissioners in H.P. & Section Officers/PS in H.P. Secretariat.

{Referred to in Para 28.5 under Rule 5 decision No. 8.3}

Subject: Association of Government servants with the activities of R.S.S.

The undersigned is directed to refer to Office memorandum No. Per(AP.II)B(19)-3/77 dated 8th August, 2005 vide which the attention to Department O.M of even number dated 17-5-1994 were drawn. The Government has decided to withdraw this memorandum with immediate effect.

Annexure 28.45

Copy of H.P. Government Department of Personnel letter No. Per(AP-B)A(3)-5/2012 dated 22nd August, 2012 addressed to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners and Secretaries/MD's of Boards/Corporations, in H.P.

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(Referred to in Para 28.5 under rule 8 & 15 decision No. 9.1)

Subject: Regarding observance of provisions of Rule 8 and 15 of CCS (Conduct) Rules, 1964.

I am directed to invite a reference to the subject mentioned above and to say that instance have come to the notice of the Government where Govt. Servants have violated the provisions of Rule 8 and Rule 15 of CCS (Conduct) Rules, 1964 which provide as under:-

Rule 8:-

- (1) No Government servant shall, except with the previous sanction of the Government, own wholly or in part, or conduct or participate in the editing or management of, any newspaper or other periodical publication or electronic media.
- (2) Nothing in sub-rule (1) shall apply in case a Government servant in the bonafide discharge of his official duties publishes a book or participates in a public media.
- (3) A Government servant publishing a book or participating in a public media shall at all times make it clear that the view expressed by him are his own and not that of Government.

relevant portion of Rule 15:-

- (1) Subject to the provisions of sub-rule (2), no Government servant shall, except with the previous sanction of the Government-
 - (a) engage directly or indirectly in any trade or business; or
 - (b) negotiate for, or undertake, any other employment, or
 - (f) participate in or associate himself in any manner in the making of-
 - (i) a sponsored media (radio or television) programme; or
 - (ii) a media programme commissioned by Government media but produced by a private agency; or
 - (vi) privately produced media programme including video magazine;

Provided that no previous permission shall be necessary in case where the Government servant participates in a programme produced or commissioned by Government media in his official capacity.

- (2) A Government servant may, without the previous sanction of the Government-
- v) undertake occasional work of a literary, artistic or scientific character.
- Provided that-
- (i) He shall discontinue part in such activities, if so directed by the Government.
 - vi) Unless otherwise provided by general or special orders of the Government, no Government servant may accept any fee for any work done by him for any private or public body or any private person without the sanction of the prescribed authority.

Explanation – The term ‘fee’ used here shall have the meaning assigned to it in Fundamental Rule 9 (6-A).

In case as per the provisions of SR-12 the total amount of any fee exceeds the prescribed limit in any financial year, one third of the same may be deposited in the State Govt. Treasury by the officer/official concerned.

It is, therefore, emphasized that, all officers/official are required to follow the spirit of the above provisions as guiding instructions, any violation of above Rules of CCS (Conduct) Rules, 1964 and SR-12 will invite disciplinary proceedings.

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

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Annexure 28.46

Copy of H.P. Government Department of Personnel letter No. Per(AP-II)A(3)-10/75-II dated 11th November, 1997 addressed to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

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(Referred to in Para 28.5 under Rule 9 decision No. 11.1)

Subject: Violation of the provisions of the Central Civil Services (Conduct) Rules, 1964 by the Government Servants- Instructions regarding.

Jai Hind.

I am directed to invite your attention to Rule-9 of the CCS(Conduct) Rules- 1964 which, interalia, says that no Government servant shall, in any radio broadcast or in any document published in his own name or anonymously, pseudonymously or in the name of any other person or in any communication to the Press or in any public utterance, make any statement of fact or opinion which has effect of adverse criticism of any current or a recent policy or action of the Central Government or State Government.

Vide this Department letters No. 88-45/56-II-Apptt dated 19-11-1970 and No. 13-1/67-Apptt. III dated 23-03-1971 (Please see Annexure 28.2 and 28.3)) all the Administrative Secretaries, Heads of Departments were requested that the provisions of CCS (Conduct) Rules- 1964 may kindly be adhered to and the Government Servants working under their control may be impressed upon to maintain official decorum, failing which the officers/officials will render themselves liable for disciplinary action. It was further requested that a quarterly return for any lapse on the part of the Government servants be furnished to this Department.

It has been noticed that the provisions of CCS (Conduct) Rules-1964 as well as the instructions of the State Government issued from time to time are not being adhered to. Neither the quarterly returns are being sent to the Government nor any check has been exercised upon the Government Officers/ Officials to restrict them from issuing statements to the Press. This practice of the Government Officers/officials going to the Press frequently at times puts the government in a very embarrassing position.

It is, therefore, once again emphasized that the Government Officers/officials may be restrained from issuing any such statement to the Press or Radio broadcasting any matter which may have adverse criticism of the Government in future. Any violation of these instructions shall be viewed seriously and strict disciplinary action shall be taken against the defaulting officer/official under CCS(CCA) rules – 1965.

These instructions may kindly be brought to notice of all concerned and quarterly return may also be furnished to this Department in future, beginning from 1st February, 1998.

Kindly acknowledge receipt.

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Annexure 28.47

Copy of Himachal Pradesh Government Department of Personnel O.M. No. Per(AP-B)B(17)1/2005 dated 26th July, 2008 to all the Administrative Secretaries, Divisional Commissioners, Heads of Departments, Deputy Commissioners, Secretary, H.P. Vidhan Sabha and Chairmen/MD's etc. of Boards/Corporations/Autonomous Bodies etc, in H.P.

(Referred to Para 28.5 under Rule 11)

Subject: Civil Services Rules of States-recommendations made in the first report of the Second Administrative Reforms Commission for amendment of the provisions regarding Communication of Official Information as per the requirements of the Right to Information Act, 2005.

The undersigned is directed to enclose a copy of Notification number 11013/7/2005-Estt. (A), dated 22nd/24th October, 2005 from the Director, GOI, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, New Delhi regarding amendment to Rule 11 of CCS (Conduct) Rules, 1964 and to say that the same will also be applicable to the employees of the State Government.

2. This amendment may kindly be brought to the notice of all concerned for their information and strict compliance.

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Enclosure to Annexure 28.47

Copy of Government of India, Ministry of Personnel, Public Grievances and Pensions, New Delhi Notification number 11013/7/2005-Estt. (A), dated 22nd October, 2005.

G.S.RIn exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Conduct) Rules, 1964, namely:-

(1) These rules may be called the Central Civil Services (Conduct) Amendment Rules, 2005.
(2) They shall come into force on 'the date of their publication in the Official Gazette.

2. In the Central Civil Services (Conduct) Rules, 1964, for rule 11, the following rule shall be substituted, namely:-

"11. Communication of Official Information.- Every Government servant shall, in performance of his duties in good faith, communicate information to a person in accordance with the Right to Information Act, 2005 (22 of 2005) and the rules made thereunder :

Provided that no Government servant shall, except in accordance with any general or special order of the Government or in performance in good faith of the duties assigned to him, communicate, directly or indirectly, any official document or any part thereof or classified information to any Government servant or any other person to whom he is not authorised to communicate such document or classified information."

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Annexure 28.48

Copy of H.P. Government Department of Personnel O.M. No. Per(AP-II)A(3)-10/75- loose, dated 11th October, 2001 forwarded to Heads of Departments, Deputy Commissioners, Registrar, H.P. High Court, Registrar, HPAT, Secretary, Vidhan Sabha and Chairman/MD's of Boards/Corporation/Autonomous Bodies etc., in H.P.

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{Referred to in Para 28.5 under Rule 12 (14.1)}

Subject: Observance of flag Day by the National Foundation for Communal Harmony Participation of Government Servants- CCS (Conduct) Rules, 1964.

The undersigned is directed to send herewith a copy of Government of India, Ministry of Personnel, Public Grievances & Pension (Department of Personnel & Training) O.M. No. 11013/9/95-Estt(A) dated 2-11-1995 and to say that the Governor, Himachal Pradesh is pleased to order that the instructions contained therein shall also be applicable to the employees of the Government of Himachal Pradesh with immediate effect.

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

Please acknowledge the receipt of this letter.

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Enclosure to Annexure 28.48

Copy of office Memorandum No. 11013/9/95-Estt.(A) Dated 2-11-1995 from the Deputy Secretary, Government of India, Ministry of Personnel, Public Grievances & Pension (Department of Personnel & Training) New Delhi addressed to all Ministries and Departments of Government of India etc.

Subject: Observance of Flag Day by the National Foundation for Communal Harmony – Participation of Government Servants – CCS(Conduct)- Rules, 1964

Under Rule 12 of the Central Civil Services (Conduct) Rules, 1964, no Government servant shall, except with the previous sanction of the Government or of the prescribed authority, ask for or accept contributions to, or otherwise associate himself with the raising of any funds or other collections in cash or in kind in pursuance of any object whatsoever.

The National Foundation for Communal Harmony has been set up for promoting communal harmony and particularly for the physical and psychological rehabilitation of children rendered orphans and destitute in communal violence. The Foundation has been engaging in efforts to collect contributions and observes every year a 'Fund Raising Week', and 'Flag Day'. Clarifications have been sought whether Central Government Servants could be associated with or involved in the above fund raising efforts of the Foundation.

The matter has been examined and keeping in view the objectives of the National Foundation for Communal Harmony, the Government of India have decided to relax the provisions of Rules 12 to allow Central Government servants to participate in the fund raising efforts of the, Foundation on a voluntary basis.

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Annexure 28.49

Copy of H.P. Government Department of Personnel O.M. No. Per(AP-II)A(3)-10/75 dated 9th April, 2008 to All Administrative Secretaries, Heads of Departments, Deputy Commissioners, Divisional Commissioner and Chairman/MD's of Boards/Corporation/Universities etc., in H.P.

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(Referred to in Para 28.5 under Rule 14)

Subject: Central Civil Services (Conduct) Rules, 1964 – regarding acceptance of international awards by Government employees.

I am directed to enclose a copy of Government of India, Ministry of Personnel, PG and Pensions O.M. No. 11013/02/2008-Estt.(A), dated 12-02-2008, on the subject cited above, for information and strict compliance.

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Enclosure to Annexure 28.49

Copy of office Memorandum No. 11013/2/2008-Estt.(A) Dated 12-02-2008 from the Deputy Secretary, Government of India, Ministry of Personnel, Public Grievances & Pension (Department of Personnel & Training) New Delhi addressed to Chief Secretaries of all State Government etc.

Subject: CCS (Conduct) Rules, 1964 - acceptance of international awards by Government servants.

The undersigned is directed to refer to the provisions of rule 14 of the CCS (Conduct) Rules, 1964 and the instructions issued thereunder vide DOPTs Office Memoranda Nos. 1101312199-Estt. (A) dated 24.02.1999 and 17.02.2000 on acceptance of awards by Government servants and to say that it has been decided that wherever the proposals relate to acceptance of international awards by the Government servants the following guidelines shall also be kept in view while considering the grant of permission :-

- (a) A Government servant should not strive to seek publicity or international recognition for securing such awards since such efforts could affect his functioning.
- (b) Specific prior permission of the Government shall be obtained by the Government servant.
- (c) Grant of permission shall be considered by the Government of India only in the case of proposals for acceptance of awards from foreign governmental organizations, international official bodies and academic institutions including universities.
- (d) The requests made by Government servants for permission for acceptance of awards shall be examined by the administrative Ministry in consultation with the Ministry of External Affairs.
- (e) The existing instructions on deputation / delegation abroad on the need for political clearance/ FCRA clearance and approval of the Minister/Screening Committee may be kept in view while granting permission in the case of international awards.
- (f) Awards having monetary component will be discouraged but awards/testimonials in academic/literary/scientific fields would be liberally permitted
- (g) If the award is accompanied by gifts or presents, the retention of the same by the recipient Government servant shall be governed by the instructions laid down in the then MHA's (OP&AR) O.M. No. 11013/4176-Estt. (A) dated 27.08.1976.

2. All the Ministries/Departments are requested to bring the above guidelines for the notice of all concerned for information and compliance.

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Annexure 28.50

Copy of Himachal Pradesh Govt Department of Personnel O.M No. Per(AP.B)A(3)-10/75-II dated 15-03-2017 to all Administrative Secretaries, HoD's, Divisional Commissioners, DC's, Chairman, MD's, Secretaries Registrar of Boards/Corporation etc. and the Secretary HPVS.

(Referred to in Para 28.5 under Rule 15 decision No.16.2)

Subject : Contesting in elections to sports bodies etc.

The undersigned is directed to send herewith a copy of Government of India, Ministry of Personnel, PG and Pensions, Department of Personnel and Training, New Delhi O.M. No.11013 /9/93-Estt.(A), dated 22-04-1994, which shall also be applicable to the State Government employees. These instructions may be brought to the notice of all concerned for strict compliance. Any deviation of the above shall be seriously viewed and render liable for disciplinary action.

Enclosure to Annexure 28.50

(Copy of O.M No. 11013/9/93-Estt.(A) dated 22-04-1994 Govt. of India, DoPT)

Subject: Contesting in elections to sports bodies etc.

As the Ministries/Departments are aware, previous sanction of the Government is required as per Rule 15 (1) of the CCS (Conduct) Rules, 1964 for a Government servant to hold an elective office or canvass for a candidate or candidates for an elective office, in any body whether incorporated or not. Under Rule 12 of the CCS (Conduct) Rules, previous sanction of the Government or of the prescribed authority is also necessary for a Government servant associating himself with raising of any funds or other collections in pursuance of any object whatsoever. It hardly needs to be emphasized that the entire time of the Government servant, particularly a senior officer, should be available to the Government and no activities unconnected with his official duties should be allowed to interfere with the efficient discharge of such duties. The need for curbing the tendency on the part of a Government servant to seek elective office in sports federations/associations at the national/state level has been considered carefully and it has been decided that the following principles should be followed while considering requests from Government servants for seeking election to or holding elective offices in sports federations/associations :-

- (i) No Government servant should be allowed to hold elective office in any sports association/federation for a term of more than 4 years, or for one term whichever is less.
- (ii) While seeking office (for which prior permission of Government should be obtained) or supporting the candidature of any person for election to sports bodies, a Government servant should not indulge in conduct unbecoming of a Government servant.
- (iii) A Government servant must refrain from raising of funds or other collections from official as well as non-official sources for the promotion of sports at any level.
- (iv) Prior clearance from the Government of India must be obtained for any travels abroad in connection with the work or other activities of any sports federation/association. While seeking such clearance, the officer must indicate the source of funding for the foreign trip including travel, hospitality and other expenses and when permitted to go, he must do so by availing of leave due and admissible to him.

Annexure 28.51

Copy of Himachal Pradesh Government Department of Personnel O.M. No. Per(AP-B)B(17)1/2005 dated 23rd April, 2009 to all the Administrative Secretaries, Divisional Commissioners, Heads of Departments, Deputy Commissioners, Secretary, H.P. Vidhan Sabha and Chairmen/MD's/Secretaries/Registrars of Boards/Corporations/Autonomous Bodies etc, in H.P.

(Referred to under rule 16)

Subject: Amendment to the CCS (Conduct) Rules, 1964 with regard to dealing in the shares of CPSEs.

The undersigned is directed to enclose a copy of O.M. No. 11013/12/2008-Estt.(A), dated 12th March, 2009 from the Deputy Secretary to the Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, New Delhi, alongwith a copy of Notification dated 27-01-2009 and to say that the amendment to Rule 16 of CCS (Conduct) Rules, 1964, as contained therein will also be applicable to the employees of the State Government with immediate effect.

2. This amendment may kindly be brought to the notice of all concerned for their information and strict compliance.

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Enclosure to Annexure 28.51

Copy of Government of India, Ministry of Personnel, Public Grievances and Pensions, New Delhi O.M. No. 11013/12/2008-Estt. (A), dated 12th March, 2009 addressed to all Ministries/Departments of Govt. of India and endorsed to the CAG of India, Lok Sabha

Sectt./Rajya Sabha Sectt./Ministry of Parliamentary Affairs, UPSC, President's Secretariat/ Vice President's Secretariat/Prime Minister's Office, Election Commission of India, Central Vigilance Commission, Staff Selection Commission, CBI, Chief Secretaries of all State Governments/Union Territory Administrations etc.

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Subject: Amendment to the CCS (Conduct) Rules, 1964 with regard to dealing in the shares of CPSEs.

The undersigned is directed to say that the provisions of rule 16 of the CCS(Conduct) Rules, 1964, have been amended and supplemented vide Notification dated 27-01-2009 published as G.S.R. 8, in part II, Section 3, Sub-section (i) of the Gazette of India dated 31-01-2009 (copy enclosed) the following clause:-

"(2) (ii) No Government servant who is involved in the decision making process of fixation of price of an Initial Public Offering or Follow-up Public Offering of shares of a Central Public Sector Enterprise shall apply, either himself or through any member of his family or through any other person acting on his behalf, for allotment of shares in the Initial Public Offerings or Follow-up Public Offerings of such Central Public Sector Enterprise".

2. All Ministries/Departments are requested to bring the contents of the aforesaid provisions of the CCS(Conduct) Rules, 1964 to the notice of all concerned for information and compliance.

Annexure 28.52

Copy of H.P. Govt. Department of Personnel letter No. Per(AP-B)B(17)-1/2004 dated 15th March, 2004 addressed to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

.....

(Referred to in Para 18.1 under rule 18)

Subject: Submission of Returns of Assets and Liabilities under Rule 18 of CCS (Conduct) Rules, 1964.

In continuation of this Department letter No. 8-11/68-Apptt. (DP) dated 16th August, 1973 and No. Per(AP-II)A(3)-9/75 dated 27th September, 1975 on the subject cited above, I am directed to say that Rule 18(1)(i) of CCS(Conduct) Rules, 1964 provides that every Government servant shall on his first appointment to any service or post submit a return of his assets and liabilities in such form as prescribed by the Government giving full particulars of the immovable and movable property. The Para (c) of GOI's letter No. 25/7/65-Ests(A) dated 19-2-1973 as circulated there under further envisages that every Govt. servant shall submit such returns, after the first, at an interval of five years, on or

before the 31st day of March of the year immediately following the year to which the return relates and every such return shall be as on the 31st day of December of the year immediately preceding the said 31st day of March. For the purpose of scrutiny of the statements of Assets and Liabilities of the Government servant concerned Committee have already been constituted by the Govt. from time to time. Oflate, it has come to the notice of the Government that the above returns of the Government servants are not being received at prescribed interval and scrutinized. It is once again emphasized that the provisions of Rule 18 of CCS (Conduct) Rules, 1964 and the instructions issued thereunder from time to time may be adhered to strictly.

I am also to request you to ensure that returns, in question in respect of all the officers/officials under your administrative control has been obtained and scrutinized.

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Annexure 28.53

Copy of H.P. Govt. Department of Personnel letter No. Per(Ap.B)B(17)-1/2004 dated 28th December, 2004 addressed to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

.....

(Referred to in Para 18.1 under rule 18)

Subject: Submission of Returns of Assets and Liabilities under Rule 18 of CCS (Conduct) Rules, 1964.

In continuation of this Department letter of even number dated 15-03-2004 (copy enclosed) on the subject cited above, I am directed to say that it has come to the notice of the Government that the Assets and Liabilities Returns of the Govt. servants are not being received at prescribed interval and scrutinized.

It has also come to the notice that some Heads of Departments and Deputy Commissioners have directly sent the returns of Assets & Liabilities in respect of the officers/officials working under them to the Department of Personnel, whereas as per the instructions, the Administrative Departments and Head of Departments are required to ensure that the returns in question have been obtained and scrutinized by the concerned committees constituted for the purpose by the Govt. from time to time.

Rule 19 of CCS(Conduct) Rules, 1964 provide the following authorities competent to retain property returns:-

- (iv) The Government in the case of Govt. servant holding any Class-I post except where any lower authority is specifically specified by the Govt. for any purposes;
- (v) Head of Departments in the case of Govt. servant holding any Class-II post;
- (vi) Head of Office, in the case of a Govt. servant holding any Class-III post.

It is, therefore, again emphasized that the provisions of Rule 18 & 19 of CCS(Conduct) Rules, 1964 and instructions issued thereunder from time to time may be adhered to strictly.

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Annexure 28.54

Copy of H.P. Govt. Department of Personnel letter No. Per(AP-B)B(17)-1/2004 dated 10th January, 2011 addressed to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

.....

(Referred to in Para 18.1 under rule 18)

Subject: Submission of Returns of Assets and Liabilities under Rule 18 of CCS (Conduct) Rules, 1964.

I am directed to say that according to the provision as contained in Rule 18(1) (i) of CCS (Conduct) Rules, 1964 every Government servant shall on his first appointment to any service or post submit a Property Return in the prescribed form giving full particulars of the immovable and movable property owned by him/spouse. Rule 18(1)(ii) of the rules ibid provides that every Government servant belonging to any service or holding any post included in Group 'A' and Group 'B' shall submit an annual return in such form as may be prescribed by the Government in this regard giving full particulars regarding the immovable property inherited by him or owned or acquired by him or held by him on lease or mortgage either in his own or in the name of any member of his family or in the name of any other person. Rule 18(2) and 18(3) of these rules deal with the acquisition and disposal of immovable and movable property.

Instances have come to notice that despite clear provisions in the Conduct Rules and repeated instructions issued in this behalf, the provisions of above mentioned Rules are being not adhered to and the Annual Property Returns are not being obtained from the Government servants concerned. It is the responsibility of the concerned controlling/appointing authority to ensure that the Rules are adhered to. All the Administrative Secretaries and Heads of Departments are, therefore, requested to ensure the compliance of these provisions of the Conduct Rules.

This may be treated as 'Urgent' and any lapse in this regard will be viewed seriously.

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Annexure 28.55

Copy of H.P. Govt. Department of Personnel letter No. Per(AP-B)B(17)-1/2004 dated 5th July, 2011 addressed to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

.....
(Referred to in Para 18.1 under rule 18)

Subject: Regarding uploading of all Annual Property Returns filed by the Government Officials on the website of the departments.

I am directed to say that Rule 18(1)(ii) of CCS (Conduct) Rules, 1964 provides that every Government servant belonging to any service or holding any post included in Group 'A' and Group 'B' shall submit an Annual Property Return in such form as may be prescribed by the Government in this regard giving full particulars regarding the immovable property inherited by him or owned or acquired by him or held by him on lease or mortgage either his own or in the name of any member of his family or in the name of any other person. In addition to above your attention is invited to this Department letter of even No. dated 28-02-2011 which envisages filing of Annual Property Returns by certain categories of Class-III employees of different departments.

Now, in the review meeting of Vigilance Department held on 16.5.2011, it has been decided that in order to bring greater transparency in the Government, all **Annual Property Returns** filed by the Government officials may be uploaded on the website of the departments.

It is, therefore, requested that all Annual Property Returns filed by the Government officials may be uploaded on the website of the departments and these instructions may strictly be adhered to and brought to the notice of all concerned for strict compliance. Any deviation to these instructions will be viewed seriously and stern action may be initiated against defaulting officers/officials.

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Annexure 28.56

Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP-B)B(17)-1/2004 dated 01-12-2011 addressed to all Administrative Secretaries to the Govt., Heads of Deptts., Divisional Commissioners and all the Deputy Commissioners, in H.P.

{Referred to under 18 (18.1)}

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Subject: Submission of Returns of Assets and Liabilities under Rule 18 of CCS (Conduct) Rules, 1964.

I am directed to refer to the letters of even number dated 10th January, 2011, 28th February, 2011 and 3rd June, 2011 on the above cited subject. In this regard, the following instructions had been issued:

1. As per the provisions of the Rule 18(I)(ii) of the CCS (Conduct) Rules, 1964, a Government servant shall on his first appointment to any service or post submit a property return in the prescribed form giving full particulars of the immovable and movable property owned by him/spouse. The return so obtained shall be pasted in the service book of the employee itself. A mention to this effect be included in the appointment letter itself to ensure that the information is obtained in time.
2. Further as per the provisions of the Rule 18 (I) (ii) of the Rules *ibid*, every Government servant belonging to any service or holding any post included in Group 'A' and Group 'B' shall submit an annual return in such form as may be prescribed by the Government in this regard giving full particulars regarding the immovable property inherited by him or owned or acquired by him or held by him on lease or mortgage either in his own or in the name of any member of his family or in the name of any other person.
3. It had further been directed that all Annual Property Returns filed by the Government officials may be uploaded on the website of the departments.

However, it has been observed that the above directions are not being complied with in letter and spirit. It is, therefore, requested that the above provisions may once again be brought to the notice of the all concerned. Henceforth, VCC's shall not be issued in favour of the defaulters. Further, any Government servant found to be violating the above provisions shall not be considered for promotions.

Annexure 28.57

Copy of H.P. Govt. Department of Personnel letter No. Per(AP-B)B(17)-1/2004 dated 5th January, 2012 addressed to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

.....

(Referred to in Para 18 under rule 18)

Subject: Submission of Returns of Assets and Liabilities under Rule 18 of CCS (Conduct) Rules, 1964.

I am directed to invite your attention to this Department letter of even number dated 28-02-2011 and 3-06-2011 vide which instructions regarding annual submission of Returns of Assets and Liabilities by the Group 'A' & Group 'B' employees and certain categories of Class-III employees have been issued and reiterated. It has come to the notice of the Government that the instructions contained therein are not being complied with strictly, which has been viewed seriously by the Government.

It is, therefore, once again emphasized that it will be the responsibility of the concerned controlling/appointing authority to ensure that these instructions are adhered to in letter and spirit and Property Returns so obtained are scrutinized in right perspective and uploaded on departmental websites. The concerned controlling/appointing authority must ensure that these instructions are complied with strictly in a time bound manner.

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Annexure 28.58

Copy of H.P. Govt. Department of Personnel letter No. Per(AP-B)B(17)-1/2004 dated 19th January, 2012 addressed to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

.....

(Referred to in Para 18.1 under rule 18)

Subject: Submission of Returns of Assets and Liabilities under Rule 18 of CCS (Conduct) Rules, 1964.

I am directed to invite your attention to this Department letter of even number dated 5th January, 2012 on the subject cited above and to say that it has come to the notice of the Government that the instructions contained therein are not being complied with strictly, which has been viewed seriously by the Government. Now it has been decided that the concerned controlling/appointing authority must ensure that immovable property returns are filed by the concerned employees before 31st January, 2012.

It is, therefore, once again emphasized that these instructions are adhered to in letter and spirit. Any deviation to these instructions will be viewed seriously and action as per instructions contained in letter of even number dated 1-12-2011 will be initiated against defaulting officers/officials.

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Annexure 28.59

Copy of H.P. Govt. Department of Personnel letter No. Per(AP-B)B(17)-1/2004 dated 6th February, 2012 addressed to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

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(Referred to in Para 18.1. under rule 18)

Subject: Regarding uploading of all Annual Property Returns filed by Government Officials on the website of the departments.

I am directed to invite your attention to this Department letter of even number dated 5-07-2011, 17-10-2011, 22-11-2011 and 1-12-2011 vide which instructions regarding uploading of Property Returns on Departmental Websites have been issued. It has come to the notice of the Government the instructions contained therein are not being complied with strictly and the Departments have uploaded the Property Returns on departmental websites, which has been viewed seriously by the Government.

It is, therefore, once again emphasized that it will be the responsibility of the concerned Secretary/Head of Department to ensure that the instructions are adhered to in letter and spirit and Property Returns may be obtained from all concerned officers/officials and uploaded on Departmental Websites before 25-02-2012, under intimation to this Department.

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Annexure 28.60

Copy of H.P. Govt. Department of Personnel letter No. Per(AP-B)B(17)-1/2004 dated 22nd February, 2012 addressed to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

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(Referred to in Para 18.1 under rule 18)

Subject: Submission of Returns of Assets and Liabilities under Rule 18 of CCS (Conduct) Rules, 1964.

I am directed to invite your attention to this Department letter of even number dated 19th January, 2012 and 6th February, 2012 vide which instructions were issued that immovable property returns are to be filed by the concerned employees before 31st January, 2012 and uploaded on departmental websites. But, it has been observed that very few departments are paying heed to above instructions.

Therefore, it is, once again emphasized that the concerned controlling/appointing authority must ensure that these instructions are complied with strictly in a time bound manner and Returns of Assets and Liabilities must be obtained and uploaded as early as possible without further loss of time. Any deviation to these instructions will be viewed seriously and action as per instructions contained in the letter of even number dated 1-12-2011 will be initiated against defaulting officers/officials.

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Annexure 28.61

Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP-B)B(17)-1/2004 dated 4th July, 2012 addressed to all Administrative Secretaries to the Govt., Heads of Deptts., Divisional Commissioners and Deputy Commissioners, in H.P.

{Referred to under rule 18 (18.1)}

Subject: Submission of Returns of Assets and Liabilities under Rule 18 of CCS (Conduct) Rules, 1964.

I am directed to invite your attention to this Department's letters of even number dated 10-01-2011, 28-2-2011, 3-6-2011, 5-7-2011, 22-11-11, 1-12-2011, 5-1-12, 19-1-2012, 6-2-2012 and 22-2-2012 on the subject cited above and to say that Under Rule 18 (1) (i) of the Central Civil Services (Conduct) Rules, 1964, read with Note III thereto provide that every Government servant shall on his first appointment to any service or post and thereafter at such intervals as may be specified by the Government, submit a

return of his/her assets and liabilities in such form as may be prescribed by the Government giving the full particulars as indicated in that rule.

2. Further clause (ii) of Rule 18 (1) of the CCS (Conduct) Rules, '1964, provides that every Government servant holding a Group 'A' or 'B' post is required to submit an annual return giving full particulars regarding the immovable property inherited by him/her or owned or acquired by him/her or held by him/her on lease or mortgage either in his/her own name or in the name of any member of his/her family or in the name of any other person. The need for obtaining these returns regularly and making careful scrutiny of the same was reiterated from time to time.

3. It has, however, been noticed that despite repeated instructions issued in this behalf from time to time, the same are not being complied with strictly resulting that the returns in respect of moveable and immovable property, has not yet been filed by all the officers/officials. This is because the authorities concerned are not pressuring the employees under their control to strictly adhere the Government instructions and file the said returns well in time.

4. The disobedience of Government instructions in this matter has been viewed seriously and it has been decided that henceforth, all the Government officers/officials of all categories to whom the CCS (Conduct) Rules are applicable, are required to file their annual statement of assets and liabilities as on the date of 31st day of December of the preceding year, latest by 31st day of January of the next year.

5. It shall be the responsibility of the Head of the Department to appoint one nodal officer for this purpose in respect of each and every office under his control who shall be entirely responsible for obtaining such statements from all the employees working under his jurisdiction and in case any employee fails to do so or does not cooperate, the nodal officer shall bring this fact into the notice of the HOD without fail for initiating disciplinary action against such employee(s) for disobedience of Government instructions/orders.

6. It has further been decided to provide last opportunity to such officers/officials who has not yet submitted the return of their assets and liabilities and such Government servants must submit the said return latest by 30th August, 2012.

7. In respect of newly recruited incumbents, irrespective of their category/post, it shall be the responsibility of the "Appointing Authority" concerned to obtain the first return of assets and liabilities as on the date of appointment immediately after the joining of the incumbent.

8. The above instructions may be brought to the notice of all the Officers/officials and they are directed to file their annual return of Assets and Liabilities for the year ending on 31st December, invariably before 31st January of the next year. It may be impressed upon them that failure on the part of a Government servant to comply with the aforesaid instructions, can form good and sufficient reason for instituting disciplinary proceedings against them. Strict action will be initiated against such officers/officials, who fail to submit the returns in time or furnish wrong information. Even such defaulter officers/officials will not be considered for further promotion. The performance of the nodal officers in obtaining returns from his subordinate Officers/Officials within the stipulated time, shall be recorded by the concerned Head of the Department in the Annual ACRs/APARs of the concerned nodal Officer.

9. These instructions may be widely circulated and brought to the notice of all of the employees for strict compliance.

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Annexure 28.62

Copy of H.P. Govt. Department of Personnel letter No. Per(AP-B)B(17)-1/2004 dated 28th February, 2011 addressed to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

.....

(Referred to in Para 20.1 under rule 18)

Subject: Submission of Returns of Assets and Liabilities under Rule 18 of CCS (Conduct) Rules, 1964.

I am directed to say that Rule 18(1)(ii) of CCS (Conduct) Rules, 1964 provides that every Government servant belonging to any service or holding any post included in Group 'A' and Group 'B' shall submit an annual return in such form as may be prescribed by the Government in this regard giving full particulars regarding the immovable property inherited by him or owned or acquired by him or held by him on lease or mortgage either in his own or in the name of any member of his family or in the name of any other person. Rule 18(2) and 18(3) of the rules ibid deal with the acquisition and disposal of immovable and movable property.

The matter has been considered by the Government and it has been decided that the following categories of Class-III employees will submit the Property Returns annually to their controlling officers:-

12. Patwaris/Kanungos of Revenue Deptt./Consolidation Deptt./Settlement Deptt.
13. Inspectors/Sub Inspectors/Asstt. Sub Inspectors of Police Department.
14. Inspectors of Excise & Taxation Department.
15. Inspectors of Weights & Measures/Food & Supplies Department.
16. Inspectors of Cooperative Department.
17. Mining Inspectors/Extension Officers of Industries Department.
18. Forest Guards/Dy. Rangers of Forest Department.
19. Panchayat Secretaries/Panchayat Inspectors of Panchayati Raj Department.
20. Labour Inspectors/Shop Inspectors of Labour Deptt.
21. Food Inspectors of Health Deptt.
22. Junior Engineers of PWD/IPH/RD Departments and other Departments where the post of JE is in existence.

It will be the responsibility of the concerned Controlling/Appointing Authority to ensure that these instructions are adhered to in letter and spirit and Property Returns so obtained are scrutinized in right perspective.

This decision may please be brought to the notice of all concerned for strict compliance and receipt of this communication may also be acknowledged.

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Annexure 28.63

Copy of H.P. Govt. Department of Personnel letter No. Per(AP-B)B(17)-1/2004 dated 3rd June, 2011 addressed to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

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(Referred to in Para 20.1 under rule 18)

Subject: Submission of Returns of Assets and Liabilities under Rule 18 of CCS (Conduct) Rules, 1964.

I am directed to invite your attention to this Department letter of even number dated 28-02-2011 (copy enclosed) vide which instructions regarding **annual** submission of Returns of Assets and Liabilities by **certain categories** of **Class-III employees** have been issued. It has come to the notice of the Government that the instructions contained therein are not being complied with strictly, which has been viewed seriously.

It is, therefore, again emphasized that these instructions may strictly be adhered to and brought to the notice of all concerned for strict compliance. Any deviation to these instructions will be viewed seriously and stern action may be initiated against defaulting officers/officials.

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Annexure 28.64

Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP-II)A(3)-9/73 dated 12-1-96 addressed to all Secretaries to the Govt., Heads of Deptts., Divisional Commissioners and Deputy Commissioners, in H.P.

{Referred to under rule 18 (28.1)}

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Subject: Purchase of land by Government servants- permission under Conduct Rules.

I am directed to refer to the instructions contained in this Department letter of even number dated 29-7-1989 and subsequent modified instructions issued vide this department letter of even number dated 3-6-1992 on the subject noted above, wherein it has been laid down that if a government servant, except those indicated in the 'Annexure' to the instructions dated 3-6-1992 intends to purchase land in his name or in the name of any of his family members within the jurisdiction of his posting can do so only with the prior permission of the competent authority as required under the Conduct Rules. As regards the officers/officials indicated in the Annexure to the aforesaid instructions, none

can purchase land in his name or in the name of any of his family members within the jurisdiction of his posting.

It has been observed that the aforesaid instructions are not being strictly adhered to by the government servants. It has, therefore, been decided by the Government to reiterate the aforesaid instructions and to include more categories of officers/officials in the Annexure and make it clear that no officer/official shown in the revised Annexure to these instructions shall purchase land/building/immovable property within the jurisdiction of his posting in his own name or in the name of any of his family members. Any officer/official found violating these instructions shall be strictly dealt with under the All India Services (Conduct) Rules, 1968 and Central Civil Services (Conduct) Rules, 1964 as the case may be.

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

Kindly acknowledge the receipt.

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Enclosure to Annexure 28.64

The list of those officers/officials who can not purchase land in the jurisdiction of their posting:

1. Divisional Commissioners within their respective jurisdiction.
2. Deputy Commissioners.
3. Additional Deputy Commissioners.
4. Additional District Magistrates.
5. Sub-Divisional Officer (Civil).
6. Tehsildar.
7. Naib Tehsildar.
8. All the Revenue officials of the rank of Patwari and above in their respective jurisdiction.
9. Supdt. Of Police (Posted in District) and Deputy Inspector General of Police (posted in range).
10. Dy. Supdt. of Police (posted in District/Sub-Divisions)/Station House Officers/District Inspectors.
11. Additional Supdt. of Police (posted in District/Sub-Divisions).
12. Conservator of Forests/Divisional Forests Officers/Forests Rangers/Dy. Forests Rangers (posted in Territorial Divisions).
13. All Revenue officials of the rank of Patwari and above in Consolidation Deptt. and Settlement Organisation in their respective Jurisdiction.
14. Supdt. Engineers/Executive Engineers/Assistant Engineers/Junior Engineers of Public Works Deptt./ Irrigation & Public Health Departments (posted in field).
15. District Horticulture Officers/Agriculture Development Officers/Village Extension Officers/Deputy Directors/Subject Matter Specialists of Horticulture and Agriculture Departments (posted in field).

16. Assistant Excise & Taxation Commissioners/Excise & Taxation Officers/ Assistant Excise & Taxation Officers/Inspectors of Excise & Taxation Department (posted in field).
17. District Food & Supplies Controllers/Asstt. Controller Weights and measures/ District Inspectors/ Inspectors Weights & Measures of Food & Supplies Department (posted in field).
18. General Managers/Managers/Mining Officers/Industrial Production Officers/ Extension Officers of industry Department (posted in field).
19. Block Development Officers/Social Education & Block Planning Officers/Junior Engineers/Panchayat Inspectors of Rural Development and Panchayati Raj Departments. (posted in field).
20. Distt. Labour Officers/Labour Inspector /Shop Inspectors of Labour Department (posted in filed).
21. Food Inspectors of Health Department (posted in field).

Officers posted in Municipal Committee:-

1. Commissioner.
2. Assistant Commissioners.
3. Executive Engineer.
4. Assistant Engineer.
5. Secretary.
6. Executive Officer.
7. Junior Engineers.

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Annexure 28.65

Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP-B)A(3)-9/73 dated 16-08-1997 addressed to all Administrative Secretaries to the Govt., Heads of Depts., Divisional Commissioners/Deputy Commissioners , in H.P.

{Referred to under rule 18 (28.1)}

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Subject: Purchase of land by Government servants-permission under Conduct Rules.

Jai Hind.

I am directed to invite your attention to this department letter of even number dated 12-01-1996 on the above cited subject and to say that it had interalia been stated that no officer/official shown in the revised annexure to these instructions shall purchase land/building/immovable property within the jurisdiction of his posting in his own name or in the name of any of his family members. It was further clarified that any officer/official found violating these instructions shall be strictly dealt with under the All India Services

(Conduct) Rules, 1968 and CCS (Conduct) Rule, 1964, as the case may be. But it has been observed that the deals for the purchase of land are being finalised by some officers while in position notwithstanding these instructions but the purchase documents are registered after their posting out of these stations.

In order to curb this tendency on the part of the officers/officials who have been barred from purchasing land/building/immovable property in their own name or in the name of their family members, it has been decided that the officers/officials who are transferred out will not allowed to purchase land/building/immovable property within their jurisdiction or the purchase deed will not be allowed to be registered in his name or in the name of his family within the period of two years from the date of relinquishing the charge of his post. Violation of these instructions would attract punitive provisions of the relevant Conduct Rules governing the Officers if the State Services/All India Services.

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

Kindly acknowledge the receipt.

Annexure 28.66

Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP-B)A(3)-9/73 dated 26th September, 2012 addressed to all Administrative Secretaries to the Govt., Heads of Depts., Divisional Commissioners/Deputy Commissioners , in H.P.

{Referred to under rule 18 (28.1)}

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Subject: Purchase of land by Government servants-permission under Conduct Rules.

I am directed to invite your attention to this Department letters of even number dated 12-1-1996 and 16-08-1997 on the subject noted above and to say that certain officers/officials have been barred from purchasing land/building/immovable property within the jurisdiction of his/her posting in their own name or in the name of their family members indicated in the Annexure to the instruction dated 12-1-1996.

After due consideration, it has, now, been decided to include 'Assistant Commissioner to Divisional Commissioner' and also Assistant Commissioner to Deputy Commissioner' in above Annexure as follows:

"22. Assistant Commissioner to Divisional Commissioner

23. Assistant Commissioner to Deputy Commissioner."

The above annexure may be considered to be modified to the above extent. These instructions may please be brought to the notice of all concerned for strict compliance.

Annexure 28.67

Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP-B)A(3)-9/73 dated 15th February, 2016 addressed to all Administrative Secretaries to the Govt., Heads of Depts., Divisional Commissioners/Deputy Commissioners , in H.P.

{Referred to under rule 18 (28.1)}

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Subject: Purchase of land by Government servants-permission under Conduct Rules.

I am directed to invite your attention to this Department of letters of even number dated 12-01-1996, 16-08-1997 and 26-09-2012 on the subject noted above and to say that certain officers/officials indicated in the Annexure to the instructions dated 12-01-1996 have been barred from purchasing land/building/immovable property within the jurisdiction of his/her posting in their own name or in the name of their family members.

After due consideration, it has now been decided that with the prior permission of the Government, in the respective Administrative Department, the officers/officials shown in the revised Annexure annexed to the instructions dated 12-01-1996 could be allowed to purchase land within the jurisdiction of their posting in their own name or in the name of any of their family members. Permission before the transaction would be mandatory.

The above revised instructions may please be brought to the notice of all concerned for strict compliance.

.....

Annexure 28.68

Copy of H.P. Govt. Department of Personnel letter No. Per(AP-II)A(3)-10/75-II-Part dated 29-1-1998 addressed to all Secretaries, Heads of Departments.

.....

{Referred to in under Rule 20 (24.1)}

Subject: Canvassing of non-official or other outside influence by Government services.

I am directed to send herewith a copy of Government of India Ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training) O.M. No. 11013/11/97-Estt.(A) dated 6-11-1997 alongwith a copy of O.M. No. 11013/12/94 Estt. (A) dated 12-01-1995 as referred to therein regarding canvassing of non-official or other outside influence by Government servants. You are requested to bring these instructions to the notice of all concerned under your control for their information and strict compliance.

Please acknowledge receipt.

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Copy of Govt. of India, Ministry of Personnel, Public Grievances and Pensions, (Department of Personnel & Training) O.M. No. 11013/11/97-Estt.-(A) dated 6-11-1997.

Subject: Canvassing of non-official or other outside influence by Government servants.

As the Ministries/Departments are aware, bringing or attempting to bring any political or other outside influence by a Government servant to bear upon any superior authority to further his interest in respect of service matters pertaining to his service under the Government is prohibited under the provisions of the Conduct Rules. Detailed procedure for dealing with the Government servants attempting to further their service interests through non-Governmental influence has been prescribed in this Department's OM No. 11013/12/94-Estt.(A) dated 12.01.1995.

2. In spite of these instructions, it has come to the notice of this Department that certain Government servants are bringing to bear outside influence indirectly to further their service interests. It is clarified that bringing of indirect influence by Government servant would also attract the provisions of rule 20 of the CCS (Conduct) Rules, 1964.

3. All Ministries/Departments/Offices etc. are requested to bring the existing instructions/rules to the notice of all concerned under their control and to take effective action against the Government servants who bring or attempt to bring outside influence to further their service interests, as prescribed in the OM dated 12.01.1995.

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Copy of Govt. of India, Ministry of Personnel, Public Grievances and Pensions, (Department of Personnel & Training) O.M. No. 11013/11/97-Estt.-(A) dated 12-01-1993.

Subject: Procedure for dealing with the Government servants attempting to further their service interests through non-Governmental influence-instructions with reference to rule 20 of the CCS (Conduct) Rules, 1964-regarding.

Rule 20 of the CCS (Conduct) Rules, 1964 provides that no Government servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his/her service under the Government. The Government of India has, from time to time, emphasized that Government servants should not approach Members of Parliament or State Legislatures or other political/outside authorities to sponsor their cases in respect of service matters. As per the existing instructions, vide OM No. 11013/7/85-Estt. (A), dated 22.05.1985, the following action should be taken against Government servants approaching Members of Parliament or State Legislatures for sponsoring individual cases:

- (i) A Government employee violating the aforesaid provisions of the Conduct Rules for the first time should be advised by the appropriate disciplinary authority, to desist from approaching Members of Parliament /Members of State Legislature to

further his/her interest in respect of matters pertaining to his/her service conditions. A copy of this advice need not, however, be placed in the CR dossier of the employee concerned.

- (ii) If a Government employee is found guilty of violating the aforesaid provisions of the Conduct Rules a second time despite the issue of advice on the earlier occasion, a written warning should be issued to him/her by the appropriate disciplinary authority and a copy thereof should be placed in his/her CR dossier.
- (iii) If a Government employee is found guilty of violating the aforesaid provisions of the Conduct Rules, despite the issue of warning to him/her, disciplinary action should be initiated against him/her by the appropriate disciplinary authority under the provision of CCS (CCA) Rules, 1965.

2. In spite of these instructions, cases of individual Government servants continue to be sponsored by Public Representatives/Outside Authorities. After careful consideration of all aspects of the matter it has been decided that the following procedure may be adopted for dealing with communications from Public Representatives/Outside Authorities relating to the service matters of Government employees:

- (a) Communications received from public representatives regarding problems of groups/categories of Government functionaries must be entertained and dealt with on a time-bound basis. In all such cases, after due examination, appropriate replies would continue to be issued at the level of the Minister concerned.
- (b) All communications from public representatives relating to the grievances of the retired personnel should receive the same consideration and be dealt with in the same way as outlined in (a) above.
- (c) In cases in which a public representative sponsors the cause of an individual Government servant (e.g. recruitment, appointment, promotion, posting to particular station, appointment to a specific position, complaints against supersession, expunction of adverse remarks, allotment of Government accommodation, etc.) a formal reply should continue to be sent from the Minister acknowledging the receipt of the communication stating that the contents of the letter have been noted and where necessary, suggesting that the person whose case has been recommended, may be advised to represent his case through proper official channels. All such communications addressed to the Minister shall be replied to at, his/her level. In all such cases the formal reply given by the Minister shall be deemed to dispose off the communication unless there are further directions from the Minister in the matter.

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Annexure 28.69

Copy of H.P. Govt. Department of Personnel letter No. Per(AP-II)A(3)-10/75-Pt. dated 30-12-1999 addressed to all Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners.

.....

{Referred to under rule 22-A (28.1)}

Subject: Amendment to Conduct Rule to prohibit employment of children below 14 years as domestic servants.

Jai Hind.

I am directed to enclose a copy of Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel Training) Notification No. 11013/5/97-Estt. (A) dated 14-10-1999 regarding prohibition of employment of children below 14 years as domestic servants. You are requested to bring these instructions to the notice of all concerned under your control for their information and strict compliance.

Please acknowledge receipt.

.....

Enclosure to Annexure 28.69

Copy of Notification No. 11013/5/97-Estt.(A) dated 14-10-1999 from Director, Government of India, ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training) addressed to the Manager, Govt. of India Press, Mayapuri. New Delhi and copy endorsed to all Ministries/Departments of the Government of India and others.

.....

G.S.R..... In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Conduct) Rules 1964, namely:-

1. (1) These rules may be called the Central Civil Services (Conduct) Amendment Rules, 1999.
(2) They shall come into force on the dated of their publication in the official Gazette.
2. In the Central Civil Services (Conduct) Rules, 1964, after rule 22 the following rule shall be inserted, namely:-

“ 22-A Prohibition regarding employment of children below 14 years of age.

No Government servant shall employ to work any child below the age of 14 years.

.....

Annexure 28.70

Copy of H.P. Govt. Department of Personnel letter No. Per(AP-II)A(3)-10/75-Pt. dated 14-09-2000 addressed to all Administrative Secretaries, Heads of Departments and Deputy Commissioners.

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{Referred to under Rule 22-A (28,1)}

Subject: Amendment to Conduct Rule to prohibit employment of Children below 14 years as domestic servants.

Jai Hind.

In continuation of this Department letter of even number dated 30-12-1999, on the above cited subject, I am directed to say that provision made in Rule-22-A of CCS (Conduct) Rules-1964 regarding prohibition of employment of Children below 14 years as domestic servants may be carried out in letter and spirit and compliance to this effect be sent to the competent authority.

Please acknowledge the receipt.

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Annexure 28.71

Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP.II)A(3)10/73-loose dated 3rd July, 2014 addressed to all Administrative Secretaries to the Govt., Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

{Referred to in Point No.(32)under rule 3 and 22}

.....

Subject: Utilization of services of regular /daily wage/ contractual/part-time official by deputing in the houses of officer /officials to do work.

I am directed to draw your attention to Hon'ble High Court of HP's Order dated 30-06-2014 in CWP No. 4504/2014, which is as under :-

"3. The Chief Secretary to the Government of Himachal Pradesh is directed to issue necessary directions within 48 hours to ensure that no official regular or daily wage or part time is directed to work in the houses of revenue officers/officials throughout the State of Himachal Pradesh. He is also directed to issue similar directions qua all the departments in the State of Himachal Pradesh. In case any official/workman is engaged even after the orders passed by this Court, disciplinary proceeding be initiated against the defaulting officer/official. He shall also be liable to be punished under the contempt jurisdiction of this Court. It is made clear that no displeasure in any manner shall be shown towards the persons, who were earlier deputed in the houses of the officers/officials to do the work."

2. In view of the above, the Revenue and all other Departments are requested to issue necessary orders to all their attached/subordinate offices to ensure that the above quoted orders of the Hon'ble High Court are obeyed / implemented in letter and spirit.

.....

Annexure 28.72

Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP.B)D(1)-5/2000-Part dated 20-07-2000 addressed to all Administrative Secretaries to the Govt., Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

{Referred to in under rule 3 (5.8)}

.....

Subject: Misuse of employees for domestic purposes – Instructions thereof.

I am directed to refer to the subject cited above and to say that it has come to the notice of the Government that services of Government employees, including daily wagers, are being utilised during office hours for domestic purposes by certain serving officers as well as Retired Officers of the various Government Departments. Services of the Government employees should be utilized for the purposes they have been appointed and violation of this will amount to violation of sub rule (iii) of Rule 3 of CCS (Conduct) Rules, 1964. Hence all the Controlling Officers of such employees should ensure that the services of Government servants are utilised for the purpose they are appointed for.

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

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Annexure 28.73

Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP.B)D(1)-5/2000-Part dated 09-01-2007 addressed to all Administrative Secretaries to the Govt., Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

{Referred to in under rule 3 (5.8)}

.....

Subject: Misuse of employees for domestic purposes – Instructions thereof.

I am directed to refer to this Department letter of even number, dated 20-07-2000 (Annexure 28.72) on the subject cited above and to say that it has come to the notice of the Government that the instructions contained therein are not being complied with strictly, for which Govt. has taken a serious view. It is, therefore, again emphasized that the Govt. instructions in this behalf may strictly be adhered to and brought to the notice of all concerned for strict compliance.

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Annexure 28.74

Copy of H.P. Government Department of Personnel O.M. No. Per(AP-II)-B(19)-3/77 dated 28th November, 2019 to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioners and Chairmen/MD's/ Secretary/Commissioner of Boards/Corporations /Body Corporate/ Council/Cooperative Banks/ MC's/ Municipal Committees, in H.P.

(Referred to in Para 28.5 under rule 5 decision No. 8.2)

.....

Subject: Association of Government servants with the activities of Rashtriya Swayan Sewak Sangh and the Jamat-e-Islami-Hind-instructions regarding.

The undersigned is directed to say that participation of Government servants in the activities of Rashtriya Swayan Sewak Sangh and the Jamat-e-Islami-Hind was banned vide this Department's instructions issued vide OM of even number dated the 17th May, 1994 which were also re-iterated vide OM of even number dated 8th August, 2005. Thereafter, the aforesaid instructions were withdrawn vide this Department's OM of even number dated the 24th January, 2008. Some ambiguities have come to notice of the Government regarding operation of these instructions. Therefore, in order to remove difficulties, it is clarified that instructions issued vide OM No. Per(AP-II)-B(19)-3/77, dated the 17th May, 1994, re-iterated vide OM dated 8th August, 2005 shall be deemed to have been withdrawn w.e.f. 24th January, 2008.

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**CENTRAL CIVIL SERVICES (CONDUCT) RULES, 1964
AMENDMENTS (By Govt. of India) AND THEIR RESPECTIVE RULES**

S.No	Amendment	Rules
1.	S.O. No. 4177 dated 12 th December, 1964 (Principal Rules)	1 to 25
2.	Notification No. 25/46/64-Ests(A) dated 22 nd June, 1965	16, 18
3.	Notification No. 25/3/66-Ests (A) dated 3 rd March, 1966	11
4.	Notification No. 25/10/67-Ests(A) dated 23 rd November, 1967	8
5.	S.O. No. 3424 dated 28 th September, 1968	21
6.	S.O. No. 951 dated 15 th March, 1969	25
7.	S.O. No. 1511 dated 24 th April, 1969	25
8.	S.O. 482 dated 14 th February, 1970	22
9.	S.O. 1207, dated 4 th April, 1970	16
10.	S.O. 2683, dated 15 th August, 1970	7
11.	S.O. 3129, dated 26 th September, 1970	18
12.	S.O. 3943, dated 19 th November, 1970	21
13.	S.O. 3643, dated the 4 th November, 1972	22
14.	S.O. 83, dated the 13 th January, 1973	18, 18-A
15.	S.O. 2099, dated 4 th August, 1973	15, 18

16.	S.O. 846, dated the 28th February, 1976	4, 13, 13-A
17.	S.O. 2563, dated the 17th July, 1976	4
18.	S.O. 2691, dated the 24th July, 1976	18
19.	S.O. 3385, dated the 25 th September, 1976	21-A
20.	S.O. 4663, dated the 11th December, 1976	18
21.	S.O. 2859, dated the 17th September, 1977	21-A(deleted)
22.	S.O. 2859, dated the 30th September, 1978	15
23.	S.O. 3, dated the 6th January, 1979	3
24.	S.O. 1270, dated the 10th May, 1980	15
25.	S.O. 4812, dated the 19th October, 1985	13
26	S.O. 935, dated the 8th March, 1986	3
27.	S.O. 1124, dated the 22nd March, 1986	18
28	S.O. 3159, dated the 20th September, 1986	18
29.	S.O. 3280, dated the 27th September, 1986	15
30.	S.O. 1965, dated the 8th August, 1987	18
31	S.O. 1454, dated the 14th May, 1988	18
32	S.O. 2582, dated the 6th October, 1990	13
33.	S.O. 3132, dated the 26th December, 1992	18
34	GSR 355, dated the 29th July, 1995	3-A, 3-B, 8, 9, 19
35	GSR 367, dated the 31st August, 1996	13, 15, 15-A, 16, 18
36	GSR 49, dated the 7th March, 1998	3-C
37	GSR 342, dated the 23rd October, 1999	22-A
38	GSR 458, dated the 27th December, 2003	13, 18
39	GSR 376, dated the 22nd October, 2005	11
40	GSR 8, dated the 31st January, 2009	16
41	GSR 370(E), dated the 9th May, 2011	18
42	GSR 149(E), dated the 4th March, 2014	13
43	GSR 823(E), dated the 19th November, 2014	3-C
44	GSR 845 (E), dated the 27 th November, 2014	3
45	GSR 531 (E), dated the 29 th July, 2019	13(3) (i) (ii)
		13 (4)

CHAPTER 29

CENTRAL CIVIL SERVICES (CLASSIFICATION CONTROL AND APPEAL) RULES, 1965 AND STATE GOVT.'s ORDERS THEREUNDER.

29.1 Applicability of the Rules.

As stated in Chapter 1, the Central Civil Services (Classification Control and Appeal) Rules, 1965 have been made applicable in Himachal Pradesh as the State Rules with effect from 1-1-1972, with changed definitions/terms as indicated in para 1.2 of the said Chapter. The subsequent amendments to these Rules, as made by the Central Government do not ipso-facto apply in Himachal Pradesh unless specifically adopted by the State Government.

Note:

1. On the subject i.e. Review of suspension, the Department of Personnel (AP.II) vide letter No. Per(AP.II)A(3)-1/79 dated 30th June, 2014 addressed to Ld Addl. Advocate General, HP, in reply to letter No. 15402 dated 16-05-2014, has conveyed that the Government of Himachal Pradesh, Finance (Regulation) Department vide Notification No. 2-4/71-Fin (Reg)-II dated 30th March, 1974 has ordered that CCS (CCA) Rules, 1965 alongwith other CCS Rules, which were in force in HP, will deemed to be State Rule in respect of the matters covered by them. The amendment carried out by the Govt. of India in the CSS (CCA) Rules, 1965 are ipso-facto applicable and in case(s) where the amendment carried out has not to be made applicable, the specific orders are passed/issued by the State Government. Every disciplinary authority has to follow the procedure/ provisions as depicted in the CSS (CCA) Rules, 1965 in toto.
2. It has also been conveyed to the AR (PIL Writ), Hon'ble Supreme Court of India vide letter dated 20-12-2012 that the amendments made in the CCS (CCA) Rules, 1965 carried out by Govt. of India are ipso facto applicable to the employees of the State Govt. of H.P.
3. Vide notification dated 09-10-2020 (Annexure 1.10), it has been ordered that henceforth subsequent amendment(s) made in the CCS (CCA) Rules, 1965, by Govt. of India shall be applicable to State Services only when adopted and circulated by the State Government.

29.2 Provisions of the CCS (Classification Control and Appeal) Rules, 1965.

The provisions of the CCS (classification Control and Appeal) Rules, 1965 are as under:-

(1) Rule 1.

It provides for title and commencement of Rules. The Rules were notified vide Govt. of India, Ministry of Home Affairs Notification No. F.7/2/63-Ests(A) dated 20-11-1965 and came into force from 1st December, 1965.

(2) Rule 2.

It contains definitions of various terms, words used in the Rules and in particular of "Appointing Authority", "Disciplinary Authority", "Head of Department", "Head of office" etc.

(3) Rule 3.

It contains provisions as to the services/Govt. servants whom these rules apply and do not apply. Whereas these rules apply to all Govt. servants in H.P., the same do not apply to:-

(a) Members of the All India Services;

(b) Any person in casual employment;

(c) Any person subject to discharge from service on less than one month's notice;

(d) Any person for which special provision is made in respect of matters covered by these rules, by or under any law for the time being in force or by or under an agreement e.g. Police etc.

The work charged personnel of CPWD are excluded from the operation of these Rules vide Govt. of India, Ministry of Home Affairs Notification No. 7/5/1959-Ests (A) dated 25-5-1959.

(4) Rules 4, 5, 6 and 7.

Rules 4 and 5 provide that the services under the Union (H.P. in our case) shall be classified into four Groups. Rule 6 classifies the posts other than those ordinarily held by persons to whom these rules do not apply into four Groups. Rule 7 specifies that post not included in any of the Central Civil Services shall be deemed to be included in General Central Service.

(5) Rules 8 and 9-Appointing Authority.

Rule 8 provides that all appointments to Central Civil Services (H.P. Services in our case) Class I shall be made by the President (Governor in H.P.). Proviso under this Rules provides that the President (Governor in H.P.) may by general or special order and subject to such conditions as he may specify in each order, delegate to any other authority the power to make such appointments.

Rule 9 provides that appointments to Class II, Class III and IV services/posts shall be made by the authorities specified in the schedule to the Rules. In H.P. however, separate delegation has been made (please see para 29.4 read with Appendix 29.I and 29.II of this Chapter).

(6) Rule 10 Suspension.

Rule 10 contains detailed provisions as to the authorities empowered to suspend a Govt. servant, circumstances under which suspension can be made/ordered, when a Govt. servant is deemed to have been placed under suspension or order of suspension deemed to have continued. This Rules also makes provision for modification or revocation of the suspension order. This Rule should be thoroughly studied while dealing with suspension cases.

(7) Rule 11-Penalties.

Rule 11 provides details of major and minor penalties that can be imposed on a Government servant and also details of matters which do not amount to penalties within the meaning of this rule.

For facility of reference, Rule 11 is given as under:-

“11 Penalties

The following penalties may, for good and sufficient reasons and as hereinafter provided , be imposed on a Government servant namely-

Minor penalties:

- (i) Censure;
- (ii) Withholding of his promotion;
- (iii) Recovery from his pay of the whole or part of any pecuniary loss caused by him to the Government by negligence or breach of orders;
- (iv) Withholding of increments of pay;

Major Penalties:

- (v) Reduction to a lower stage in the time-scale of pay for a specified period, with further directions as to whether or not the Government servant will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay;

- (vi) Reduction to lower time-scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the Government servant to the time-scale of pay, grade, post or service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post or service from which the Government servant was reduced and his seniority and pay on such restoration to that grade, post or service;
- (vii) Compulsory retirement;
- (viii) Removal from service which shall not be a disqualification for future employment under the Government.
- (ix) Dismissal from service which shall ordinarily be a disqualification for further employment under the Government.

EXPLANATION- The following shall not amount to a penalty within the meaning of this rule, namely:-

- (i) withholding of increment of a Government servant for his failure to pass any departmental examination in accordance with the rules or orders governing the Service to which he belongs or post which he holds or the terms of his appointment;
- (ii) stoppage of a Government servant at the efficiency bar in the time-scale of pay on the ground of his unfitness to cross the bar;
- (iii) non-promotion of a Government servant, whether in a substantive or officiating capacity, after consideration of his case, to a service, grade or post for promotion to which he is eligible;
- (iv) reversion of a Government servant officiating in a higher Service, grade or post to a lower service, grade or post, on the ground that he is considered to be unsuitable for such higher service, grade or post or on any administrative ground unconnected with his conduct;
- (v) reversion of a Government servant, appointed on probation to any other service, grade or post, to his permanent service, grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the rules and orders governing such probation;
- (vi) replacement of the service of a Government servant, whose services had been borrowed from a State Government or any authority under the control of a State Government, at the disposal of the State Government or the authority from which the services of such Government servant had been borrowed.

(vii) Compulsory retirement of a Government servant in accordance with the provisions relating to his superannuation or retirement;

(viii) Termination of the services-

(a) of a government servant appointed on probation, during or at the end of the period of his probation, in accordance with the terms of his appointment or the rules and orders governing such probation,

or

(b) of a temporary Government servant in accordance with the provisions of sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965,

or

(c) of a Government servant, employed under an agreement, in accordance with the terms of such agreement.

(8) Rule 12-Disciplinary Authorities.

Rule 12 prescribes the disciplinary authorities. Sub-rule (1) provides that the President (Governor H.P. for H.P. Services) may impose any of the penalties specified in Rules 11 on any Govt. servant. Sub-Rule (2) provides that, subject to the provisions of sub-rule (4) any of the penalties specified in Rule 11 may be imposed on a Government servant by the appointing authority or the authority specified in the schedule or by any authority empowered in this behalf by general or special order of the President (Governor in the case of H.P.). Sub-Rule (4) is important as it provides that no penalty specified in clauses (v) to (ix) of Rule 11 shall be imposed by any authority subordinate to the appointing authority. Further where a Govt. servant substantively appointed to a post is temporarily appointed to any other service or post, the authority competent to impose any of the penalties specified in clauses (v) to (ix) of Rule 11 shall not impose any such penalty unless it has consulted such authority, not being an authority subordinate to it, as would have been competent to impose any of the said penalties had he not been appointed to such service or post.

Explanation 2 below Rule 12 provides that where a Govt. servant holding a post is promoted on probation or temporarily to the post of the next higher class, he shall be deemed for the purposes of this rule to belong to the service or holding a post of such higher class.

The State Government have prescribed the disciplinary authorities under this Rule as per para 29.4 read with Appendix 29.I and II.

(9) Rule 13-Authority to institute proceedings.

Rule 13 (1) provides that the President (Governor H.P.) or any other authority empowered by him by general or special order may institute disciplinary proceedings

against any Government servant or direct a disciplinary authority to institute disciplinary proceedings against any Government servant on whom that disciplinary authority is competent to impose any penalty. Further, a disciplinary authority competent to impose any of the penalties specified in clauses (i) to (iv) of Rule 11 may institute disciplinary proceedings against any Govt. servant for the imposition of any of the penalties specified in clauses (v) to (ix) of Rule 11, notwithstanding that such authority is not competent to impose any of the latter penalties.

(10) Rule 14-Procedure for imposing major penalties.

Rule 14 prescribes in detail the procedure for imposing major penalties as specified in clauses (v) to (ix) of Rule 11. This rule describes in full details the procedure required to be followed by the disciplinary authority right from the first stage of preparing detailed and complete articles of charge, delivering the articles of charge, appointment of inquiry officer, appointment of presenting officer, appointment of an officer by the concerned Govt. servant to assist him, detailed procedure for inquiry and submission of inquiry report.

The procedure prescribed in this Rule must be followed by the disciplinary authority, delinquent Govt. servant and the inquiry officer at every stage. It may be remembered that once a Govt. servant is served with articles of charge under Rule 14 holding of an inquiry is an inevitable procedure required to be followed, unless the charges are dropped at the stage of initial written statement of defence by observing proper procedure. However, the inquiry has to be held if any of the penalties is to be imposed including imposition of a minor penalty. It may be kept in view that non-compliance of the proper procedure may have adverse effect in appeal or in a court.

(11) Rule 15-Action on inquiry report.

Rule 15 prescribes the action to be taken on inquiry report. The disciplinary authority after thorough application of mind has either to accept the report and proceed accordingly or can, for reasons to be recorded in writing remit the case to the inquiring authority for further inquiry and report. The disciplinary authority, if it disagrees with the findings of the inquiry authority, shall record its reasons for such disagreement and record its own findings on such charge if the evidence on record is sufficient for the purpose. This rule also provides how finally penalty including a minor penalty can be imposed. The provisions of the H.P. Public Service Commission (Exemption from consultation) Regulations, 1974 are to be kept in view for deciding whether H.P. Public Service Commission is required to be consulted before imposing any penalty on a Govt. servant.

(12) Rule 16-Procedure for imposing minor penalties.

This rule prescribes the procedure for imposing minor penalties. It is to be kept in view that under sub-rule (1-A) or Rule 16 an inquiry shall be held in the manner as prescribed in sub-rules (3) to (23) of Rule 14 in all cases where (a) withholding of increments is likely to affect adversely the amount of pension payable to the Govt. servant

or (b) increments of pay are to be withheld for a period exceeding three years or (c) increments of pay are to be withheld with cumulative effect for any period. This inquiry is to be held before making any order imposing on the Govt. servant any of these penalties.

(13) Rule 17-communication of orders.

This rule provides that orders made by the disciplinary authority shall be communicated to the Government servant who shall also be supplied with a copy of the report of inquiry, if any, held by the disciplinary authority and a copy of its findings on each article of charge, or where the disciplinary authority is not the inquiry authority, a copy of the report of the inquiring authority and a statement of its findings together with brief reasons for disagreement, if any, with the findings of the inquiring authority. A copy of the advice of the Public Service Commission, if any, and where the disciplinary authority has not accepted the advice of the Commission, a brief statement of the reasons for such non-acceptance are also to be communicated to the Govt. servant.

(14) Rule 18-Common proceedings.

This rule provides that where two or more Govt. servants are concerned in any case, the President (Governor for Himachal Pradesh Govt. servants) or any other authority competent to impose the penalty of dismissal from service on all such Government servants may make an order directing that disciplinary action against all of them may be taken in a common proceeding.

If the authorities competent to impose the penalty of dismissal on such Government servants are different, an order for taking disciplinary action in a common proceeding is to be made by the highest of such authorities with the consent of the others.

Further, subject to the provisions of sub-rule 4 of Rule 12, any such order shall specify:-

- (i) The authority which may function as the disciplinary authority in common proceeding;
- (ii) The penalties specified in Rule 11 which such disciplinary authority shall be competent to impose; and
- (iii) Whether the procedure laid down in Rule 14 and 15 or Rule 16 shall be followed in the proceeding.

The orders under this Rule have to be made very carefully keeping in view the provisions of the Rule.

(15) Rule 19-special procedure in certain cases.

This rule provides that notwithstanding anything contained in Rules 14 to 18, the disciplinary authority may consider the circumstances of the case and make such orders as it deems fit in cases:-

- (i) where any penalty is imposed on a Government servant on the grounds of conduct which has led to his conviction on a criminal charge; or
- (ii) where the disciplinary authority is satisfied for reasons to be recorded in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these rules; or
- (iii) where the President (Governor in HP) is satisfied that in the interest of security of the State, it is not expedient to hold any inquiry in the manner provided in these rule. However, the Commission shall be consulted, where such consultation is necessary, before orders are made in any case under this rule.

(16) Rules 20 and 21- Provisions regarding officers lent to State Government etc. or borrowed from State Governments.

These rules describe the procedure to be followed in the case of a Government servant, whose service has been lent to another Department/Government or an authority subordinate to it for placing him under suspension and conducting disciplinary proceedings against him. The borrowing authority can place such a Govt. servant under suspension and commence disciplinary proceedings, but the lending authority is to be informed of the circumstances leading to suspension and commencement of disciplinary proceedings. The borrowing authority can finally, after consultation with the lending authority imposes penalties specified in clauses (i) to (iv) of Rule 11, but in the event of difference of opinion, the borrowing authority shall place the services of the concerned Govt. servant at the disposal of the lending authority. In cases where the borrowing authority is of the opinion that any of the penalties specified in clauses (v) to (ix) of Rule 11 is to be imposed, it shall replace the services of the concerned Govt. servant at the disposal of the lending authority and transmit to it the proceedings of the inquiry who shall pass such orders thereon as it may deem necessary on the record of inquiry or may hold such further inquiry as it may deem necessary. In all cases the provisions of sub rules (3) and (4) of Rule 15 shall have to be complied with.

Similar procedure is to be followed in the case of a Govt. servant whose services have been borrowed from other State Govt. etc.

(17) Rule 22-23, 25, 26-28- Appeals.

These Rules prescribe the procedure for submission of appeals by the Government servants against the orders of the disciplinary authority, form and contents of appeals,

limitation, consideration of appeal and implementation of orders in appeal, which should be kept in view while considering appeals.

(18) Rule 24- Appellate authority.

Rule 24 describes the appellate authorities whom appeals may be preferred against orders of the disciplinary authorities. The appellate authorities are such as specified in the schedule to the Rules or as specified by general or special orders of the President (Governor in HP). Appeal against an order in common proceeding held under Rule 18 lies to the authority to which the authority which functioned as disciplinary authority is immediate subordinate.

The HP. Govt. has issued specific orders prescribing the appellate authorities as per details given in para 29.4 read with Appendix 29.I and 29.II.

(19) Rules 29, 29-A-Revision and Review.

These rules contain precise provisions for revision and review of the orders passed in a disciplinary case. Cases in which revision/review lies, the procedure has been discussed in these rules in detail.

(20) Rule 30-Service of orders, notices etc.

Rule 30 provides that every order, notice and other process made or issued under these rules shall be served on the Government servant concerned or communicated to him by registered post.

(21) Rules 31 to 35.

These rules contain provisions for power to relax time-limit/condone delay, supply of copy of Commission's advice, transitory provisions, repeal and savings and removal of doubts.

29.3 The Rules and the Govt of India's instructions/orders thereunder as on 1.1.1972 and thereafter.

In para 21.3 above, the provisions of the Central Civil Services (Classification Control and Appeal) Rules, 1965 have been stated in brief for information of users only to indicate as to which provision is available in which rule. While dealing with disciplinary cases the staff and disciplinary authorities as also the appellate authorities and authorities competent to take decisions in Revision/Review must go through the rule in detail.

The Govt. of India's instructions/orders issued under various rules upto 1-1-1972 are applicable in Himachal Pradesh. The instructions/orders issued after 1-1-1972 by the

Government of India are not applicable unless the same are adopted by the Himachal Pradesh Government.

29.4 The Appointing, Disciplinary and Appellate authorities as declared by the HP. Govt.

As stated in para 29.1 above, the Central Civil Services Rules are deemed to have been in force in Himachal Pradesh in respect of various specified matters. At the same time, the employees were given the option for being governed by the Punjab Civil Service Rules or the Central Civil Service Rules. Accordingly the appointing, disciplinary and appellate authorities in respect of the services and posts in Class-I, Class-II, Class-III and Class-IV, have been specified under each set of rules separately through various notifications as under:-

- (1) Notification No. 88-45/56-DP (Apptt.) (1), dated 18th May, 1974, specifies appointing, disciplinary and appellate authorities in respect of officers/officials governed by Central Rules.
- (2) Notification No. 88-45/56-DP (Apptt.) (2), dated 18th May, 1974, specifies appointing, disciplinary and appellate authorities in respect of officers/officials governed by the Punjab Rules.
- (3) Notification No. 88-45/56-DP (Apptt-II) (1), dated 20th Sept., 1975, substitutes provisions of Item No. 6 of the Schedule annexed to notification at 1 above.
- (4) Notification No. 88-45-DP (Apptt.-II) (2) dated the 20th September, 1975, substitutes provisions of item No. 6 of the Schedule annexed to notification at 2 above.
- (5) Notification No. Per(AP-II)-A(3)-1/74 (1), dated 15.12.1978 modifies authorities in the notification at No. 1 and 3 above in respect of Assistant Engineers and Junior Engineers of PWD working in RID department.
- (6) Notification No. Per (AP-II)-A(3)-1/74 (2), dated 15.12.1978 modifies authorities in the notification at No. 2 and 4 above in respect of Assistant Engineers and Junior Engineers of PWD working in RID department.
- (7) Notification No. Karmik (Ni-II) A(3)1/74 dated 20.9.1979 supersedes Notification at Sr. Nos. 2 and 4 above.
- (8) Notification No. Karmik (Ni-II)A(3)-1/74 Vol. II (1) dated 6.6.80, modifies the authorities in Notification No. 1 and 5 in respect of the Assistant Engineers, Sub-Divisional Officers, JEs, Circle Draftsmen, Assistant Draftsmen and Tracers of P.W.D. working in Rural Development Department.

- (9) Notification No. Karmik (Ni-II)A(3)-1/74 Vol. II (2) dated 6.6.80, modifies Notification at Sr. Nos. 6 and 7 above in respect of Sub-Divisional Officers (PR), Assistant Engineers, Assistant Draftsmen. Divisional Draftsmen, Junior Engineers and Tracers of PWD working in Rural Development Department.
- (10) Notification No. Per(AP-II) A(3)-10/75, dated 3rd July, 1981, partially modifies the Notification at Sr. No. 1 to specify authorities in respect of services and posts in Class-II i.e. Manager House Hold and Private Secretary in respect of the Governor's Secretariat.
- (11) Notification No. Per(AP-II)A(3)-10/75 dated 28-10-1986 substitutes the words "class II i.e. Manager House Hold and Private Secretary in Notification at S.No. 10 by the words "Class I and Class II posts i.e. Comptroller House Hold and Private Secretary."
- (12) Notification No. Per (AP-II)A(3)-10/75 dated 28-2-1990 substitutes the words "Class I and Class II posts i.e. Comptroller House Hold and Private Secretary in Notification at 11 by the words " Class I and II posts i.e. Comptroller House Hold, Special Assistant and Private Secretary."
- (13) Notification No. Per (AP-II)A(3)-10/75 dated 07-06-2004 (Annexure 29.13) substitutes the entire of Notification Nos. 10, 11 and 12 by fresh entries so as to specify authorities in respect of "Class I i.e. Under Secretary, Senior Private Secretary, Private Secretary, Section Officer, Comptroller House Hold".
- (14) With regard to the Class-III & IV staff of the Departments of Rural Development and Panchayati Raj working in the field offices, the State Government by modifying the order contained in Department of Personnel's Notification dated 20-09-1975 devised the appellate authorities in regard to the penalties in exercise of the powers conferred by sub-rule(2) of Rule 9, Sub-rule (2) of Rule 12 and sub-Rule (1) of Rule 24 of the Central Civil Services (Classifications, Control and Appeal) rules, 1965.

(H.P. Govt., Department of Personnel Notification No. Per(AP-B)A(3)1/96 dated 7-12-1996
-Annexure 29.14)

- (15) In exercise of the powers conferred by sub-rule(2) Rule 9, sub-rule(2) of Rule (12) and sub-rule(1) of Rule 24 of the Central Civil Services (Classification, Control and Appeal) Rule-1965 in respect of services and post of Tehsildar, The Commissioner (Revenue) has been devised as the disciplinary authorities/competent authority to impose minor penalties with reference to item No. (i) to (IV) of Rule-11 of CCS (CC&A) Rules, 1965 by modifying the

orders contained in Notification dated 18-05-1974 to this extent. The Commissioner (Revenue) Himachal Pradesh has also been empowered to place the Tehsildars under suspension in cases which are of serious nature or where a disciplinary proceedings against them are contemplated in the public interest under Rule 10(1) of CCS(CC&A) Rules 1965.

(H.P. Govt., Department of Personnel Notification No. Per(AP-II)A(3)-1/76 dated 29-11-2000 –**Annexure 29.15**)

Copies of the original Notifications dated 18-5-74 specifying Appointing, Disciplinary and Appellate Authorities under the Central Rules as also the Punjab Rules as amended to date are at Appendix 29.I and 29.II respectively.

29.5 H.P. Govt's decisions/ orders.

The State Govt. have issued certain orders under the provisions of some of the Rules of the Central Civil Services (CCA) Rules, 1965 after 1-1-1972, which are given below:-

Under Rule 10.

(1) Delay in the settlement of disciplinary cases of suspended employees-Prescription of a time-schedule.

It has been observed that in disciplinary cases, action is immediately taken to place Government servants under suspension but the suspended employees continue to remain in such a state for very long time. Instances have come to notice where suspended employees have not even been served with the charge sheet after the expiry of one year of the initial suspension. Disciplinary cases are being delayed at every stage with the result that it takes years to decide the cases of suspended employees. Quite often, the Heads of Departments and other officers, who are aware of the circumstances which led to immediate suspension, moved on the other posts and places and the evidence against the suspended employees is lost sight of with the passage of time. In many cases, delay is attributable to the departmental heads. The amount of suspension allowance has to be increased after the expiry of twelve (now 3) months, under proviso to F.R. 53(1) (ii) (a), and the delay in progressing the case caused avoidable financial burden on the State exchequer.

Prolonged suspension of a Government servant naturally warrants alternative arrangements to cope with the existing quantum of work, because the suspended employee is not allowed to perform any duty although the Government is liable to pay to him the suspension and other allowances. Constant idleness of officials also leads to demoralisation of Government personnel. It has, thus, been decided that a time schedule be prescribed for processing the cases of suspended employees.

All cases against Government servants placed under suspension should be finally decided with a maximum period of one year from the date on which the Government servant is placed under suspension, or is deemed to have been placed under suspension. Exception to this maximum period could be only in such cases where the employee is involved in a case pending in a Court of Law provided the said case has been the reason for his suspension.

Accordingly the charge-sheet must be served on the Government servant within 15 days from the date of suspension or the deemed date of suspension. Issues relating to the inspection of documents, papers and the requests of Government servants pertaining to such matters should be disposed of within one month of the date of suspension. Similarly, the question of appointing an inquiry officer or otherwise should be decided upon within two months of the date of suspension. The inquiry officer should submit his report, after completing all formalities, within a maximum period of three months of the date of his appointment as an enquiry officer.

After the receipt of the inquiry report, the disciplinary authority should take a final decision, after completing all necessary procedural requirements and communicate his decision to the Government servant not later than the expiry of one year from the date of suspension.

All disciplinary authorities have been directed to observe strictly the above orders of Government in the matter of disposal of cases against Government servants placed under suspension. Disciplinary authorities shall be personally responsible for the adherence of the above time schedule for the disposal of such cases and any breach of these orders will be viewed with concern. If, however, there are certain exceptional circumstances whereby this time schedule cannot be strictly adhered to, a report on the circumstances should be sent to the concerned Head of Department and to the Govt. where the Head of Department is not the disciplinary authority.

These orders will take effect immediately but will not have retrospective effect in the cases of employees already placed under suspension.

(H.P. Govt. Deptt. of Personnel letter No. 3-2/68-DP (Appptt.) dated 28-8-1971-Annexure 29.1 and H.P. Govt. Department of Personnel letter No. PER (AP-II)A(3)-1/73 dated 2-7-1977-Annexure 29.3)

(1.1) The time limits for the disposal of disciplinary cases have been prescribed in Rules 14 & 15 of CCS (CCA) Rules, 1965 and GOI's decisions thereunder. The State Government while inviting the attention of all Departments to rules ibid has requested to adhere to the time limits as prescribed in the rules/instructions and cut down abnormal delay in finalizing the disciplinary cases and also to ensure that cases are referred to the H.P. Public Service Commission & Vigilance Department, wherever necessary, with complete records within a reasonable time, to avoid harassment to the concerned officers/officials.

(H.P. Govt., Department of Personnel letter No. Per(AP-II)A(3)-1/79-Pt dated 18-07-2001 –Annexure 29.16)

(1.2) The State Government observed that a large number of cases of suspended employees remain pending for disposal in various Govt. Departments, which causes loss to the Government as well as to the employees concerned as it deprives the Government of the services of such employees and causes financial loss to the Govt. apart from the humiliation and harassment to the suspended employees. In order to assess whether continued suspension is essential or needs to be revoked, the State Government has emphasized that the cases of suspension be reviewed from time to time and also asked that the Inquiry Officers may also be directed to finalize the departmental inquiries expeditiously, not later than six months failing which an adverse refection may be made in their ACRs. The State Govt. again emphasized that the cases of officers/officials under suspensions may be reviewed quarterly so that no official remain suspended unnecessarily.

(H.P. Govt. Department of Personnel letter No. Per(AP-II)A(3)-1/79-Pt. dated 25-02-2005 –Annexure 29.17)

(2) Disciplinary cases involving suspension to be decided within six months- submission of progress reports.

Though the instructions in letter dated 28.8.1971 (H.P. Govt. decision No. (1) above) were reiterated vide letter dated 2.7.1977 (Annexure 29.3) and also in Deptt. of Personnel letter No. Per (AP-II)A(3)-1/73 dated 25th July, 1977 and 10th May, 78, yet, it came to the notice of the Govt. that a considerable number of disciplinary cases against Govt. officers/officials were lying pending for years together with the Departments. The Government took a serious view in the matter and **decided that disciplinary cases of Govt. officers/officials should be decided finally within a period of six months from the date officers/officials are placed under suspension.** It was also decided that all Departments would render a quarterly progress report of the cases pending with them to the Department of Personnel on the proforma given below, by the 10th of the ensuring month of each quarter.

Proforma

Name of officer/official	Designation	Date of suspension	Details of the disciplinary case	Present position of the case	Detailed reasons for suspension continuing beyond six months
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(H.P. Govt. Deptt. of Personnel letter No. PER(AP-II)A(3)-1/73 dated 23-11-1982-Annexure-29.9).

(see also H.P. Govt. Department of Personnel letter No. PER(AP-II)A(3)-1/74-III dated 6-6-1985-Annexure 29.10).

(3) Review Committees to consider suspension cases

It has come to the notice of the Government that a large number of officers/officials still continue to be under suspension for quite a long period, though instructions were earlier issued to finalise such disciplinary cases of suspended employees within a maximum period of six months. Continued suspension of a government servant for a long period is not a desirable state of affairs as it deprives the Govt. of the services of such persons and causes financial loss to the Government apart from humiliation and harassment to the suspended employee. Accordingly it is desirable that the cases of suspension should be reviewed from time to time in order to assess whether continued suspension is essential or need be revoked. In this context it has also been decided that while reviewing the cases of suspended Government servants it should be considered whether the presence of the Government servant on the same post/station from which he was suspended is detrimental to the collection of evidence or whether he is likely to tamper with the evidence and if so, the question of his posting on another post/station where he may not at all be in a position to tamper with or destroy collection of evidence may also be considered while reviewing the suspension cases.

Accordingly, it has been decided by the Government that cases of Government servants under suspension for more than six months should be reviewed quarterly by a review committee, the constitution of which shall be as under:-

Cases of All India/State Service Officers.

- | | | |
|----|---|----------|
| 1. | Chief Secretary/Additional Chief Secretary | Chairman |
| 2. | F.C. to be nominated by CS/ACS | Member |
| 3. | F.C./Secretary (Per.) in case of IAS & HAS Secy. (Home) for IPS & HPPS...
Secy. (Forests) for IFS and HPFS | Member |

Cases of other Class I and II officers.

- | | | |
|----|--|----------|
| 1. | Senior most Financial Commissioner
(other than the one whose Departmental cases are to be considered) | Chairman |
| 2. | Secretary/Special Secretary of the Department concerned | Member |
| 3. | Heads of the Department | Member |

Cases of Class III and IV

- | | | |
|----|--|----------|
| 1. | Secretary of the Department concerned | Chairman |
| 2. | Heads of Department | Member |
| 3. | Addl. /Joint/Dy./Under Secretary of the concerned Department | Member |

(H.P. Govt. Department of Personnel PER(AP-II) A(3)-1/74-III dated 30-3-1993-Annexure 29.11)

Under Rule 11

(3.1) Imposition of penalty of reduction to a lower time scale of pay, grade, post or service.

The Clause (vi) under rule 11 of the Central Civil Services (Classification, Control and Appeal), Rules, 1965 provides for the imposition on a Government servant of a penalty of reduction to lower time scale of pay, grade, post or Service which shall ordinarily be a bar to the promotion of the Government servant to the time-scale of pay, grade, post or service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post or service from which the Government servant was reduced, and his seniority and pay on such restoration to that grade, post or service. The minor penalties and major penalties in rule 11 of the CCS (CCA) Rules, 1965 have been graded in order of the severity to be awarded to a charged Government servant in proportion to the gravity of misconduct/negligence which has given rise to the charge-sheet. While the major penalties of compulsory retirement, removal from service and dismissal from service have been included as clauses (vii), (viii) and (ix) of the said rule 11, the penalty reduction to a lower time scale of pay, grade, post or Service has been incorporated therein as clause (vi). This clause also provides that while imposing this penalty, the Disciplinary Authority or the Appellate/Revision Authority is also required to indicate in the penalty order whether or not the individual charged Government servant would be eligible for restoration to the grade/post or Service from which he was reduced and his seniority and pay on such restoration and the conditions for such restoration. It will, therefore, be seen that the penalty has been provided to be awarded to an individual who may not be sent out of Government service (through dismissal/removal etc.) but who needs to be given a very severe penalty in view of the gravity of his misconduct. The Government of India, MHA O.M. dated 10.10.1962 and 07.02.1964 stipulate that an order of imposing the penalty of reduction to a lower service, grade or post or to a lower time-scale should invariably specify the period of reduction unless the clear intention is that the

reduction should be permanent or for an indefinite period. The instructions also indicate the manner in which the order should be framed when the reduction is for specified period of indefinite period. In case the intention of the Competent Authority is to award the penalty of reduction on permanent basis, the same may be specifically stated in the order so that the intention is conveyed to the Government servant in unambiguous terms and he is afforded full opportunity for submission of his appeal as provided in the rules. The State Government circulated the GOI, DoPT, O.M. dated 14th May, 2007 vide which above said instruction issued for information and strict compliance.

(H.P. Govt. Department of Personnel letter No. Per(AP-II)A(3)-1/79-III dated 16-06-2007 -Annexure 29.18)

(3.2) Promotion to a higher grade or post – clarification regarding effect of warnings etc. on promotion.

The Government of India, DoPT while referring its O.M. dated 16th February, 1979 and pointing out the doubts raised about the actual effect of informal administrative actions as warning letter of caution and reprimand on the promotion of a Govt. servant has clarified that the effect of warning etc. as under:-

- (i) There is no objection to the continuance of the practice of issuing oral or written warnings. However, where a copy of the warning is also kept on the Confidential Report dossier, it will be taken to constitute an adverse entry and the officer so warned will have the right to represent against the same in accordance with the existing instructions relating to communication of adverse remarks and consideration of representations against them.
- (ii) Warnings, letters of caution, reprimands or advisories administered to Government servants do not amount to a penalty and, therefore, will not constitute a bar for consideration of such Government servants for promotion.
- (iii) Where a departmental proceeding has been instituted, and it is considered that a Government servant deserves to be penalized for the offence/misconduct, one of the prescribed penalties may only be awarded and no warning recordable or otherwise, should be issued to the Government servant.
- (iv) The term 'empanelment' occurring in para 1 of DOPT's O.M. No. 11012/11/2007-Estt.(A) dated 14.12.2007 relating to guidelines on grant of vigilance clearance does not cover cases of promotion. Cases of promotion of Government servants during the pendency of disciplinary proceedings would be regulated by DOPT's O.M. No. 22011/4/91-Estt. (A) dated 14.09.1992, O.M. No. 22012/1/99-Estt. (D) dated 25.10.2004 and after imposition of any of the prescribed penalties as per O.M. No. 22034/5/2004- Estt. (D) dated 15.12.2004.

The State Government has circulated the above clarification for information and strict compliance.

(H.P. Govt. Department of Personnel letter Personnel O.M. No. Per(AP-II)A(3)-1/79-III dated 24th July, 2008 –**Annexure 29.19**)

(3.3) Amendment of rule 11 of the CCS (CCA) Rules, 1965.

The clause (vi) of rule 11 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 governing reduction to lower time scale of pay, grade, post or service was substituted vide Notification No. G.S.R. 55(E) dated 02-02-2010 (published in the Gazette of India Extraordinary. O.M. No. 11012/2/2005-Estt. (A), dated 8th April, 2010) by GOI, DoPT and vide O.M. dated 8-04-2010 brought it to the notice of all concerned. The said clause of the rules ibid read as follows:-

"(vi) reduction to lower time-scale of pay, grade, post or Service for a period to be specified in the order of penalty, which shall be a bar to the promotion of the Government servant during such specified period to the time scale of pay, grade, post or service from which he was reduced, with direction as to whether or not, on promotion on the expiry of the said specified period –

- (a) the period of reduction to time-scale of pay, grade, post or service shall operate to postpone future increments of his pay, and if so, to what extent: and
- (b) the Government servant shall regain his original seniority in the higher time scale of pay , grade, post or service;"

The State Government circulated the above O.M. stating therein that the same will be applicable to the employees of the State Government.

(H.P. Govt. Department of Personnel letter Personnel O.M. No. Per(AP-II)A(3)-1/79-III dated 24th July, 2008 –**Annexure 29.20**)

(3.4) Under rule 11 & rule 14(2)

(1) Alignment of Service Rules with the Sexual Harassment of women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

(2) Steps of conducting inquiry in case of allegation of Sexual Harassment.

GOI, DoPT vide its OM dated 16-07-2015 has issued guide on “Steps for conduct of inquiry in complaints of Sexual Harassment” and made it clear that the same is not intended to give the procedure as prescribed in the rules/instructions. This is however, not intended as a substitute for reference to the Rules and instructions. Members of the Complaints Committees and others who are required to deal with such inquiries should

acquaint themselves with Central Civil Services (Classification, Control and Appeal) Rules, 1965 and instructions issued thereunder.

{H.P. Govt. Department of Personnel letter No. Per(AP-II)-A(3)10/75-Vol-IV dated 18-04-2016 –**Annexure 29.21** (Please see Annexure 28.39) }

(3.5) Requirement and steps for conducting inquiry in case of allegations of sexual harassment.

A guide “Steps for conduct of inquiry in complaints of Sexual Harassment” prescribed by GOI has been circulated with OM dated 18-04-2016 (Annexure 28.39 of chapter 28 of this HB) but some departments sought clarification as to what procedure is to be followed while conducting inquiry in cases pertaining to allegations of sexual harassment. The State Government reiterated the salient features etc for ready reference:

- (i) The internal Complaints Committee set up in each organization under the provisions of the Section 4(1) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 has a dual role. In the first stage, upon receipt of a complaint, it can conduct a preliminary enquiry/fact finding enquiry or investigation to verify the facts by collecting the documentary evidence as well as recording statements of any possible witness including the complainant. Under Section 11 (4) of the Act, the enquiry shall be conducted within ninety days.
- (ii) If it is felt necessary to issue a charge-sheet, then disciplinary authority, under Rule 14 (3), relies upon the investigation/ preliminary/ fact finding enquiry for drafting the imputations as well as for evidence by which the charges are proposed to be sustained.
- (iii) The Charged Officer should be given an opportunity of replying to the charge-sheet. As per the Rule 14 (5), the disciplinary authority after considering the reply of the Charged Officer takes a decision whether a formal enquiry is to be conducted.
- (iv) The Complaints Committee shall be deemed to the Inquiring Authority and enquiry into the charges framed shall be held, as far as practicable as per the Rule 14 of the CCS (CCA) Rules, 1965.
- (v) When allegations of bias are received against an Inquiring Authority, the enquiry/investigation shall be stayed till the disciplinary authority takes a decision on the allegations of bias.
- (vi) Under Rule 14(5) (c), a Presenting Officer is appointed, the examination, cross-examination and re-examination of prosecution/defence witnesses is done. Under Rule 14(18), General Examination of the Charged Officer is conducted and he is required to submit his written brief. The Complaints Committee is empowered to make its recommendations on specific points.

The attention towards rule 14(1) of CCS(CCA) Rules, 1965 was invited which specifically stipulates that no order of imposition of any of the penalties specified in clauses (v) to (ix) of Rule 11 shall be made unless an inquiry is held in the manner provided in Rule-14 and Rule-15 otherwise the entire process would be vitiated, might entail unnecessary litigation and may not be legally tenable.

(H.P. Govt. Department of Personnel letter No. Per(AP-II)-A(3)-10/75-IV-Pt dated 26-06-2019 –Annexure 29.22)

Under Rule 14

(4) Engagement of Legal Practitioner by Govt. servant to present his case

Sub-rule 8 of rule 14 of the Central Civil Services (Classification Control and Appeal) Rules, 1965 provides as under:-

“The Government servant may take the assistance of any other Government servant to present the case on his behalf but may not engage a legal practitioner for the purpose unless the Presenting Officer appointed by the disciplinary authority is a legal Practitioner, or, the disciplinary authority, having regard to the circumstances of the case, so permits”.

It will be observed that the aforesaid sub-rule provides that a Government servant may, as matter of right, engage a Legal Practitioner to present the case on his behalf before the Inquiring Authority, in case the Presenting Officer appointed by the disciplinary authority, is a Legal Practitioner. But, where the Presenting Officer is not a Legal Practitioner, he may seek the permission of the disciplinary authority to engage a Legal Practitioner and the disciplinary authority may accord such permission after taking into consideration the circumstances of the case.

When the department is represented before the Inquiring Authority by the Public Prosecutor or Assistant Public Prosecutor, the charged Government servant should have the right to engage a Legal Practitioner for his defence and if such a right is not afforded to him, it would lead to the denial of reasonable opportunity within the meaning of Article 311(2) of the Constitution of India. Therefore in all cases of departmental inquiries where the disciplinary authority has appointed a Public Prosecutor or Assistant Public Prosecutor as Presenting Officer to present the case on its behalf, the charged Government servant will have the right to engage a Legal Practitioner to present the case on his behalf and for doing so, he would not be required to obtain the permission from the disciplinary authority.

In cases where the disciplinary authority appoints the Presenting Officer, who is not a Legal Practitioner, the charged Government servant will have to seek permission of the disciplinary authority for engaging a Legal Practitioner. The disciplinary authority in such cases will have to use its discretion in authority in such cases will have to use its discretion in granting such permission after taking into consideration the circumstances of the cases

such as complexity of facts, volume of evidence, educational attainments and experiences of the charged Government servant, which may show that without the legal assistance, the charged Government servant will not be able to adequately cross-examine the witness or to establish his innocence as in such circumstances, denial of legal assistance may be equivalent to denial of 'reasonable opportunity' within the meaning of Article 311 (2) of the Constitution.

The aforesaid guidelines will also be applicable in relation to sub-rule 9 of rule 8 of the All India Services (Discipline and Appeal) Rules, 1969.

(H.P. Govt. Deptt. of Personnel (Vigilance) letter No. 2-87/75-Vig. Dated 7-2-1978-Annexure -29.4).

(5) Permission to allow a Government servant to assist the delinquent Govt. servant.

Under Rule 14(8) of the Central Civil Services (CCA) Rules, 1965, the delinquent Government servant can take assistance of any Government servant to present his case. Under para 24.2 of Chapter 9 of the Vigilance Manual, the Govt. servant has to obtain permission of his controlling authority to remain absent from the office to assist the delinquent official.

A case has been brought to the notice of the Government in which a Government servant dealt with a disciplinary case at departmental level and subsequently the disciplinary authority permitted the same official to assist the delinquent Govt. servant during the inquiry. After considering this matter, the government have decided that such a Government servant, who has dealt with the case at departmental level or assisted the disciplinary authority in the scrutiny of the case should not be allowed to assist the delinquent Government servant.

(H.P. Govt. Deptt. of Personnel letter No. PER(AP-II)A(3)-1/74 dated 3-1-1979- Annexure-29.5).

(5.1) Prevention of sexual harassment of women at work place amendment in the CCS(CCA) Rules, 1965.

The State Government adopted and made applicable to the employees of the State Government the amendment of sub-rule(2) of Rule 14 of CCS(CCA) Rules, 1965 by insertion of a proviso thereto made by GOI, DoPT vide Notification dated 1st July, 2004, which read as follows:-

2. In the Central Civil Services (Classification, Control and Appeal) Rules, 1965, in rule 14, in sub-rule(2), before the Explanation, the following proviso shall be inserted, namely:

“Provided that where there is a complaint of sexual harassment within the meaning of rule 3 C of the Central Civil Services (Conduct) Rules, 1964, the Complaints Committee established in each Ministry or Department or Office for inquiring into such complaints, shall be deemed to be the inquiring authority appointed by the disciplinary authority for the purpose of these rules and the Complaints Committee shall hold, if separate procedure has not been prescribed for the Complaints Committee for holding the inquiry into the complaints of sexual harassment, the inquiry as far as practicable in accordance with the procedure laid down in these rules.”

(H.P. Govt. Department of Personnel letter No. Per(AP-II)A(3)-10/75-IV dated 28-01-2005 –Annexure 29.23)

Under Rule 15.

(6) Supply of copy of the inquiry report to the Government servant.

It has been brought to the notice of the Government by the Himachal Pradesh Public Service Commission that as per Government of India’s instructions contained in para (7) below Rule -15 of the CCS (CCA) Rules, 1965 (Swamy’s Compilation of CCS (CCA) Rules –as contained in Government of India’s letter No. 5-26/88-Vig.-III dated 18-8-1988) in all disciplinary cases where an inquiry has been held in accordance with the provisions of Rule-14 of the CCS (CCA) Rules, the disciplinary authority, if it is different from the inquiry authority, shall before making a final order in the case, forward a copy of the inquiry report to the Government servant concerned. But in large number of disciplinary cases referred to the Public Service Commission by the various Departments for advice, the above requirement is not fulfilled by the departments and the Himachal Pradesh Public Service Commission has to make back references in such cases which results in delay in the finalization of the disciplinary cases. It may please be ensured that these instructions of the Government are complied with in letter and spirit.

(H.P. Govt. Deptt. of Personnel letter No. PER(AP-II)A(3)-1/79 dated 29-9-1993-Annexure – 29.12).

(6.1) Communicating tentative reasons for disagreement under rule 15(2) of the CCS(CCA) Rules, 1965.

Rule 15(2) of the Central Civil Services (Classification, Control and & Appeal) Rules, 1965 lays down that the Disciplinary Authority shall forward or cause to be forwarded a copy of the report of the inquiry, if any, held by Disciplinary Authority or where the Disciplinary Authority is not the Inquiring Authority, a copy of the report of the Inquiring Authority together with its own tentative reasons for disagreement, if any, with the findings of Inquiry Authority on any article of charge to the Government Servant who shall be required to submit, if he so desires, his written representation or submission to the Disciplinary Authority within fifteen days, irrespective of whether the report is favourable

or not, to the Government Servant. The GOI, DoPT reiterated the necessity of following the aforesaid rule in letter and spirit and issued Office Memorandum dated 12th November, 2010, which has been circulated by the State Government for information and strict compliance.

(H.P. Govt. Department of Personnel letter No. Per(AP-II)A(3)-1/79-III dated 29-12-2010 –Annexure 29.24)

Under Rule 19

(7) Satisfaction of the Governor under clause (c) of the proviso to Article 311 (2) of the Constitution or sub-rule (iii) of Rules 19 of the CCS (CCA) Rules, 1965- In the interest of security of the State not expedient to hold inquiry.

The Supreme Court in its Judgment delivered on 21-1-1971 in the case of Sardari Lal vs. Union of India and others (Civil Appeal No. 576 of 1969 A.I.R. 1971-S.C. 1547) (Copy attached to Annexure 29.2) have decided that the function in clause (c) of the proviso to Article 311 (2) cannot be delegated by the President (Governor in the case of a State) to anyone else in the case of a Civil Servant. In other words, he has to be satisfied personally that in the interest of the security of the State, it is not expedient to hold the inquiry prescribed by clause (2).

The Government of India have examined the procedure to be adopted where it is proposed to invoke the proviso (c) to compulsorily retire a Central Government servant without holding an inquiry in the light of the judgment referred to in the preceding paragraph, and it has been decided that orders of the President, should be obtained in such cases. This may be done by preparing a self-contained note on the subject and by submitting it to the President through the Minister-in-charge. The self-contained note should be such as to enable the President to satisfy himself that in the interest of the security of the State it is not expedient to hold an inquiry as contemplated by the said clause. Where necessary the relevant documents and papers may also be sent to the President alongwith the self-contained note as Annexures to enable him to take a decision in the matter. This procedure is also to be adopted mutatis mutandis where provisions of sub-rule (iii) of rule 19 of the C.C.S. (C.C.A.) Rules, 1965 are proposed to be invoked by the disciplinary authority on the ground that the President is satisfied that in the interest of the security of the State it is not expedient to hold an enquiry in the manner provided in these rules.

The Government of India suggested that the State Governments may consider adoption of similar procedure in regard to cases of State Government servants where it is proposed to take recourse to proviso (c) to Article 311 (2) of the Constitution and /or the corresponding provisions in the State disciplinary rules. The State Govt. circulated the instructions of Govt. of India for information and guidance of all concerned.

(Govt. of India Cabinet Secretariat – Deptt. of Personnel letter No. 6/1(S)/71-Ests (B) dated 21-6-1976 circulated with H.P. Govt. Deptt. of Personnel letter No. 3-2/68-Appnt., dated 29-10-1991-Annexure-29.2)

(8) Proviso (b) to Article 311 (2) of the Constitution of India and Rule 19 of the CCS (CCA) Rules, 1965-Satisfaction of the Appointing Authority about reasonably not practicable to hold an inquiry.

Proviso under Article 311(2) of the Constitution of India, provides that no person who is a member of Civil Service of a State or holds a civil post under the Union or the State shall be dismissed or removed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him. It has further been laid down that the clause ibid will not apply in cases where an authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reasons to be recorded by that authority in writing, it is not reasonably practicable to give that person an opportunity of showing cause. The corresponding provision of Article 311(2) and sub-clause (b) there-of exists under rules 14 and 19 of the CCS (CCA) Rules 1965 respectively. The proviso under rule 19(ii) of the Central Civil Services (Classification Control and Appeal) Rules, 1965 lays down that where disciplinary authority is satisfied for reasons to be recorded in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these rules, the disciplinary authority has the right to impose any of the penalties without conducting an inquiry, but for that purpose reasons have to be recorded in writing that it is not possible to conduct an inquiry.

In this behalf it may be pointed out that the satisfaction under proviso (b) to Article 311(2) read with rule 19(ii) of the Central Civil Services Classification Control and Appeal Rules, 1965 has to be of the disciplinary authority who has the powers to dismiss, remove or reduce in rank the Government servant. As a check against the arbitrary use of this exception the said authority must record the reasons in writing. Each case has to be considered by the appointing authority or the authority competent to remove or dismiss an employee on merits and on the basis of the material before him while resorting to proviso (b) of Article 311(2). The departure from the normal procedure can be made in cases where, the Government servant concerned has absconded or where for other reasons, it is impracticable to communicate with him. However, this procedure may be adopted in exceptional cases and in consultation with Law Department.

[(H.P. Govt. Dept. of Personnel letter No. Per (AP-II)A(3)1/74 (Part) dated 6-10-1980 (Annexure-29.8)]

Under rule 32

(8.1) Central Civil Services (Classification, Control and Appeal) Rules, 1965 -Advice of the Union Public Service Commission (UPSC) to be communicated to the delinquent Government servant along with the final order of penalty.

The nature of consultation with and the manner of communication of the advice of the UPSC (Himachal Pradesh Public Service Commission in respect of Himachal Pradesh) to the delinquent Government servant have been subject matter of litigation in various courts and the question are raised from time to time whether consultation with the UPSC (Himachal Pradesh Public Service Commission in respect of H.P.) under Article 320 of the Constitution of India is mandatory and binding on the appropriate authority, and whether a copy of the UPSSC's (HP PSC in respect of H.P.) should be furnished to the charged officer before the order imposing a penalty is issued. The Hon'ble Supreme Court in Civil Appeal No. 2067 of 2007 (Union of India and Another Vs. T.V. Patel) on 19-04-2007 has held as follows:

“In view of the law settled by the Constitution Bench of this Court in the case of Srivastava (supra) we hold that the provisions of Article 320(3)(c) of the Constitution of India are not mandatory and they do not confer any rights on the public servant so that the absence of consultation or any irregularity in consultation process or furnishing a copy of the advice tendered by the UPSC, if any, does not afford the delinquent government servant a cause of action in a court of law.”

In view of the judgment dated 19-04-2007 of the Hon'ble Supreme Court it is clear that the Disciplinary Authority is not required to furnish a copy of the advice tendered by the Union Public Service Commission to the Charged Officer before the final order of penalty is passed.

The GOI, DoPT vide its OM dated 7-01-2008 has issued instructions to comply with the existing provisions of CCS(CCA) Rules, 1965 for adopting a uniform stand and also make serious efforts to dispose of the litigation cases filed in this regard on the basis of law laid down by the Hon'ble Supreme Court in the Judgements referred to in the above said O.M. The State Government circulated a copy of GOI, DoPT O.M. dated 7-01-2001 for information and strict compliance.

(H.P. Govt. Department of Personnel letter No. Per(AP-II)A(3)-1/79-III dated 04-02-2008 -Annexure 29.25)

(9) Miscellaneous matters

(a) Initiation of disciplinary proceedings against a retired Govt. servant.

According to the provisions of Rule 9(2) (b) of the Central Civil Services (Pension) Rules, 1972, if departmental proceedings have not been instituted against a Govt. servant during his service period, then the same can subsequently be instituted only with the

sanction of the Governor and that too cannot be in respect of an event which took place more than four years before such institution. Certain cases have come to the notice of the Government in which the Department continued inquiring whether disciplinary proceedings should be started or not and in the mean-time period of four years from the date of retirement of the Government servant passed away.

In fact, the Departments should not delay so much in taking a final decision in such matters. If any case comes to the notice of the Department at the time of retirement or immediately after the retirement of the Government servant, then the Department should accord high priority to that matter and it should be kept in view that delay should not occur in that matter at any level. In any case if there is the need to start disciplinary proceedings, then the same should be started within the aforesaid period after following proper procedure. It should be remembered that in such cases financial loss can be caused to the Government because of slight delay which can, otherwise, be recouped by starting disciplinary proceeding.

These instructions should be strictly implemented and should be brought to the notice of all concerned.

(H.P. Govt. Deptt. of Personnel letter No. Ka (Ni-II) (Ka)1/74-Vol. II, dated 11-1-1980-Annexure-29.6)

(b) Disposal of Complaints against Government servants.

It has come to the notice of the Government that complaints about misconduct of Government, particularly relating to corrupt practices, harassment of people, particularly to one group of people for the detriment of other weaker groups like Harijans are not being looked into in a proper manner by the officers receiving such complaints. In most cases it has been found that the complaints are sent down to lower officials for necessary action or disposal and ultimately these are sent for comments to the officials complained against. This leads to a situation where the truth does not come out and the official not only tries to cover his lapses while giving his comments but also tries to be revengeful against the complainant who suffers twice in this manner.

All Secretaries/Heads of Departments shall personally ensure that all complaints are dealt with properly and they may evolve their own method of ensuring proper action on these complaints, keeping in view the following principles:-

1) All complaints should be entered in a register by the officer to whom these are addressed. Every complaints should be monitored properly and should not be struck off the register till the officer is satisfied about its proper disposal;

2) Before asking for the comments of the official complained against, an officer of an appropriate level, which they may determine for their Department/Office should call the complainant and examine argument and evidence which he can give in support of his complaint to arrive at a tentative conclusion about the truth or otherwise of the complaint;

3) If the officer is satisfied prima-facie about the fact that there is some substance in the complaint as a result of the aforesaid enquiry from the complainant, he should convey the allegations contained in the complaint to the officer complained against for comments without disclosing the name of the complainant if it is found necessary to get the comments of the officer complained against. In many cases, however, where complaints are from one individual of a specific act of misconduct by the officer complained against, the question of obtaining comments of the officer complained against should not arise and an officer of the higher rank should hold a proper enquiry himself and call for the explanation of the defaulting officer/official and take action for the final disposal of the complaint at his own level.

4) In cases in which after dealing with the complaint in the manner stated above the inquiring officer comes to the conclusion that the allegations stand proved he should send his findings and recommendations to the authority competent to take disciplinary action against the delinquent officer/official with intimation to the officer to whom the complaint was sent originally. In cases where the allegations in the complaint are not proved the inquiring officer should send his findings only to the officer to whom the complaint was sent originally.

5) The authority competent to take disciplinary action should on receipt of the recommendations of the Inquiring Officer, initiate proceedings as prescribed in the Rules under intimation to the officer to whom the complaint was originally addressed.

Strict compliance of these instructions may be ensured.

(H.P. Govt. Deptt. of Personnel letter No. PER(AP-II)A(3)-1/80 Dated 4-6-1980-Annexure-29.7)

(c) Simultaneous action of prosecution in a court and initiation of departmental proceedings

Some communications were received in DoPT seeking clarification as to whether departmental action can also be taken, where the same matter has been taken up in a court of competent jurisdiction for prosecution of the Government servant concerned. DoPT while citing important judgements of Hon'ble Supreme Court clarified that stay of disciplinary proceedings is not a must in every case, where there is a criminal trial on the very same charges and the concerned authority may decide on proceeding with the

departmental proceedings after taking into consideration the fact and circumstances of each case. The State Government has circulated the guidelines for information and strict compliance. It came to the notice of the Government that the instructions circulated are not being complied and taken serious view again emphasized that these instructions may be adhered to in letter and spirit. Strict compliance of these instructions may please be ensured. Any lapse in this regard will be viewed seriously and stern action may be initiated against defaulting officers/officials.

H.P. Govt. Department of Personnel letters No.

1. Per(AP-II)A(3)-1/79-III dated 31-08- 2007 –**Annexure 29.26**
2. Per(AP-II)A(3)-1/79-III dated 18-05-2009 –**Annexure 29.27**
3. Per(AP-II)A(3)-1/79-III dated 23-03- 2011 –**Annexure 29.28**

(d) Securing jobs on false/fake certificates – dismissal/removal thereof.

The instructions dated 15-05-2007 lays down that a Government servant, who was not qualified or eligible in terms of the recruitment, rules etc., for initial recruitment in service or had furnished false information or produced a false certificate in order to secure appointment, he should not be retained in service. If, he is probationer or a temporary Government servant, he should be discharged or his services should be terminated. If he has become a permanent Government servant, an inquiry as prescribed in Rule 14 of CCS (CCA) Rules, 1965 may be held and if the charges are proved, the Government servant should be removed or dismissed from service. In no circumstances should any penalty be imposed. After observing that disciplinary proceedings in the cases involving appointments on the basis of false/fake caste certificates taking long time and the persons secured appointment/employments are enjoying the benefits of Government service. The State Government issued instruction to the effect that disciplinary enquiries involving the matter of securing jobs on the basis of false/fake certificates should be completed in a time bound manner and unscrupulous persons who have got appointment on the basis of the fake/false caste certificates should not be retained in service and should be dismissed/removed thenceforth.

(H.P. Govt. Department of Personnel letter No: PER(AP)-C-F(10)-4/2010 dated 23-10-2013 –**Annexure 29.34**)

29.6 Departmental enquiries by Commissioner, Departmental Enquiries / Director, Departmental Enquiries

(i) Initiation of departmental enquiries to be conducted by the CDE/DDE, H.P. – instructions thereof.

The State Government in Vigilance Department after observing that Administrative Departments, HoD's, HoPSU's are sending enquiries direct to the Commissioner, Departmental Enquiries and Director, Departmental Enquiries, H.P. without complying with the provisions of H.P. Vigilance Manual decided that the following guidelines be borne in mind while sending the enquiries against the delinquent officers/officials:-

1. Where the Govt. department or any Public Sector Undertaking or Corporate body comes to this conclusion that an enquiry is to be initiated against the delinquent and if they intend to get the enquiry conducted through C.D.E. or D.D.E. they are advised to follow to the provisions of Para 22.4 Chapter IX of the H.P. Vigilance Manual which provides as under:-
“Disciplinary enquiries against gazetted/non-gazetted officers/officials without any vigilance angle should normally be entrusted to departmental officers for oral enquiries.”
However, in cases where the disciplinary authority feels that the issues are complicated or have peculiar features involving vigilance angle the disciplinary authority may approach the Vigilance Department setting out the facts in detail and request for the nomination of the C.D.E. or D.D.E. as inquiry officer or as the case may be.
2. Where the Vigilance Department upon such request of the concerned disciplinary authority approves the holding of departmental enquiry from C.D.E. or D.D.E., in that event the question of payment of fees or remuneration to the C.D.E. or D.D.E. or its staff does not arise in view of the provisions of Chapter-1, para 9 of the H.P. Vigilance Manual. This being so because the Public Sector Undertakings or Corporate Bodies are Government organisations and are wholly owned by the State Government.

(H.P. Govt. Department of Home (Vigilance) letter Per(Vig.)F-3(HPMC)181/94 dated 6-12-1995 –Annexure 29.29)

(ii) Appointment of Inquiry Officers in Departmental Enquiries- thereof.

As per provision/instructions contained in the H.P. Vigilance Manual, vigilance cases against gazetted officers are inquired into by the Commissioner Departmental Enquiries and those against non-gazetted officials by the Director Departmental Enquiries and in all other cases the Disciplinary Authority himself holds the inquiry or appoints Inquiry Officers to conduct the inquiry. To expedite finalisation of Departmental enquiries in all the departments in a time bound manner, the State Government has decided that enquiries in all fresh disciplinary proceedings to be initiated by the Disciplinary Authorities in all the Departments of Himachal Pradesh Government shall be entrusted to the Commissioner Departmental Enquiries/Director Departmental Enquiries, Himachal Pradesh. Further, to

devise an inbuilt system for timely and expeditious finalisation of Departmental Enquiries, the following procedures laid down by the Government: -

1. All fresh inquiries in disciplinary proceedings to be initiated against Gazetted Officers (Class-I & Class- II) will be entrusted to the Commissioner, Departmental Enquiries and those against the Non-Gazetted Officers/officials will be entrusted to the Director, Departmental Enquiries. For the present, enquiries in respect of officers/officials borne on District Cadre will continue to be conducted by the Departmental Enquiry Officers.
2. The Disciplinary Authority will prepare the chargesheet, get it served on the delinquent, obtain reply on the chargesheet from the delinquent, process the reply and send the case alongwith relevant documents to the Commissioner, Departmental Enquiries (CDE)/Director, Departmental Enquiries (DDE). The entire process should be completed within a maximum period of one & half months.
3. Disciplinary Authority shall remain primarily responsible for bringing all the disciplinary cases to their logical conclusion as per relevant rules through periodical monitoring and review of proceedings going on with Commissioner, Departmental Enquiries/Director Departmental Enquiries.
4. Disciplinary Authority shall get the charge-sheet served on the delinquent immediately after a decision is taken to initiate disciplinary proceedings.
5. On receipt of orders appointing them as Inquiring Authority, the CDE/DDE will immediately proceed with the enquiry and will ensure completion thereof within a period of 6 months. In case the time schedule of six months is, in any case, not adhered to, the CDE/DDE will have to assign reasons for delay.
6. There shall be a Nodal Officer in each department for coordination and follow-up with the Commissioner, Departmental Enquiries and Director, Departmental Enquiries.
7. Presenting Officer shall be from the department who is well versed with the factual position. He shall be a Gazetted Officer for presenting the case before the Commissioner, Departmental Inquiries.
8. It will be the responsibility of the Disciplinary Authority concerned to supply unlisted record, on the request of the CDE/DDE during the course of inquiry, within a period of 15 days. In case where the delinquent evades inquiry on medical grounds, it will be the responsibility of the Disciplinary Authority to get the delinquent medically examined from the duly constituted Medical board within a maximum period of one month. The Disciplinary Authority at the Government level as also at the Department level will be responsible to cooperate with the CDE/DDE and to assist them in the expeditious finalisation of inquiries.
9. The CDE/DDE will submit their reports in all such Departmental proceedings directly to the Disciplinary Authority both at the Government/Department level.

(H.P. Govt. Department of Personnel letter No. Per(AP-II)A(3)-1/79 dated 22-10-1997 – Annexure 29.30)

(iii) Instructions not applicable to Boards/Corporations.

The State Government has clarified that the instructions vide letter dated 22-10-1997 are not applicable in the case of the employees of the Boards/Corporations.

(H.P. Govt. Department of Personnel letter No. Per(AP-II)A(3)-1/79-Pt. dated 20-11-1997 –**Annexure 29.31**)

(iv) After coming into notice that many major departments are not entrusting the departmental enquiries to Commissioner, Departmental Enquiries/Director, Departmental Enquiries, the State Government by taking a serious view again emphasised that to expedite finalisation of departmental enquiries in all the departments in a time bound manner etc., enquiries in all fresh disciplinary proceedings to be initiated by the Disciplinary Authorities in all the Departments of Himachal Pradesh Government shall be entrusted to the Commissioner Departmental Enquiries/Director Departmental Enquiries, Himachal Pradesh as the case may be.

(H.P. Govt. Department of Personnel letter No: Per(AP-II)A(3)-1/79 dated 01-07-1999 – **Annexure 29.32**)

(v) Modification of decision dated 22-10-1997.

Vide letter dated 22-10-1997 (Annexure 29.30) all the departmental enquiries were entrusted to the CDE and DDE due to large number of pendency in different departments. After review the Government noticed that the number of cases with CDE and DDE are not sufficient to justify the posting of two officer, therefore, decided that all Departmental enquiries which do not involve any vigilance angle shall be conducted by the Departmental officers and the cases involving vigilance angle shall be sent to the CDE in respect of both Gazetted and non-gazetted officials.

(H.P. Govt. Department of Personnel letter No: Per(AP-II)A(3)-1/79 dated 20-11-1999 – **Annexure 29.33**)

Appendices and Annexures to Chapter 29

Central Civil Services (Classification Control and Appeal) Rules, 1965 and State Govt.'s orders thereunder

Appendices		Pages
29.I	Appointing, Disciplinary and Appellate Authorities under the Central Civil Services (CCA) Rules, 1965.	310
29.II	Appointing, Disciplinary and Appellate Authorities under the Punjab Civil Services (Punishment and Appeal) Rules, 1970.	313

Annexures

Himachal Pradesh Government, Department of Personnel instructions

Annexures No		Page No
29.1	Letter No. 3-2/68-DP (Apptt) dated 28-8-1971	316
29.2	Government of India, Cabinet Secretariat, Deptt. of Personnel letter No. 6/1(s)/71-Ests (B) dated 21-6-1971 as circulated with H.P. Govt. Deptt. of Personnel letter No. 3-2/68-Apptt. Dated 29-10-1971	317
29.3	Letter No. PER(AP-II)A(3)-1/73 dated 2-7-1977	324
29.4	Letter No. 2-87/75-Vig. Dated 7-2-1978	324
29.5	Letter No. PER (AP-II)A(3)-1/74 dated 3-1-1979	326
29.6	Letter No. Ka(Ni-II)A(Ka)-1/74-Vol. II dated 11-1-1980	327
29.7	Letter No. PER(AP-II)A(3)-1/80, dated 4-6-1980	327
29.8	Letter No. Per(AP-II)A(3)-1/74-(Part) dated 6-10-1980	329
29.9	Letter No. PER(AP-II)A(3)-1/73 dated 23-1-1982	330
29.10	Letter No. PER(AP-II)A(3)-1/74-III dated 6-6-1985	331
29.11	Letter No. PER(AP-II)A(3)-1/74-III dated 30-3-1993	332
29.12	Letter No. PER(AP-II)A(3)-1/79 dated 29-9-1993	333
29.13	Notification No. Per(AP.II)A(3)-10/75 dated 07-06-2004	334
29.14	Notification No. Per(AP.B)A(3)-1/96 dated 07-12-1996	335
29.15	Letter No. Per(AP.II)A(3)-1/76 dated 29-11-2000	336
29.16	Letter No. Per(AP.II)A(3)-1/79-Pt. dated 18-07-2001	336
29.17	Letter No. Per(AP.II)A(3)-1/79-Pt. dated 25-02-2005	337

29.18	Letter No. Per(AP.II)A(3)-1/79-III dated 16-06-2007	338
29.19	Letter No. Per(AP.II)A(3)-1/79-III dated 24-07-2008	339
29.20	Letter No. Per(AP.II)A(3)-1/79-III dated 11-05-2010	341
29.21	Letter No. Per(AP.II)A(3)-1/79-III dated 18-04-2016	342
29.22	Letter No. Per(AP.II)A(3)-10/75-Vol-IV dated 26-06-2019	342
29.23	Letter No. Per(AP.II)A(3)-10/75-IV dated 28-01-2005	344
29.24	Letter No. Per(AP.II)A(3)-1/79-III dated 29-12-2010	345
29.25	Letter No. Per(AP.II)A(3)-1/79-III dated 04-02-2008	346
29.26	Letter No. Per(AP.II)A(3)-1/79-III dated 31-08-2007	348
29.27	Letter No. Per(AP.II)A(3)-1/79-III dated 18-05-2009	350
29.28	Letter No. Per(AP.II)A(3)-1/79-III dated 23-03-2011	350
29.29	Letter No. Per(Vig)F-3(HPMC)181/94 dated 06-12-1995	351
29.30	Letter No. Per(AP.II)A(3)-1/79 dated 22-10-1997	352
29.31	Letter No. Per(AP.II)A(3)-1/79-Pt. dated 20-11-1997	354
29.32	Letter No. Per(AP.II)A(3)-1/79 dated 01-07-1999	354
29.33	Letter No. Per(AP.II)A(3)-1/79 dated 20-11-1999	355
29.34	Letter No. Per(AP)C-F(10)-4/2010 dated 23-10-2013	355

Appendix-29.1

State Government's orders prescribing the Appointing, Disciplinary and Appellate Authorities under Central Rules

(Referred to in para 29.2 (5), 29.2 (8), 29.2 (18) and 29.4)

Copy of H.P. Govt. Deptt. of Personnel Notification No. 88-45/56-DP (Apptt-II) (I) dated 18-5-1974.

In exercise of the powers conferred by sub-rule(2) of rule 9, Sub-rule (2) of Rule 12 and sub-rule (1) of Rule 24 of the Central Civil Services (Classification, Control and Appeal) rules, 1965 and all other powers enabling him in this behalf in so far as the officers governed under the Central Rules, are concerned the Governor, Himachal Pradesh, is pleased to direct that in respect of the services and posts in Class I, Class II, Class III and Class IV specified in column No. 1 of the Schedule annexed hereto, the authorities specified in column No. 2 thereof shall be appointing authorities and the authorities specified in columns No. 3 and 5 shall be the disciplinary authorities in respect of the penalties specified therein and the authorities specified in column No. 4 and 6 shall be the appellate authorities in regard to the penalties specified in columns No. 3 and 5 respectively.

2. This supersedes all earlier orders issued by the Government of Himachal Pradesh from time to time.

Note:- The Schedule as annexed to this Notification has been suitably amended so as to incorporate upto date orders of the Government.

Schedule showing up-dated position of Appointing, Disciplinary and Appellate Authorities under the Central Civil Services (CCA) Rules, 1965.

Description of posts	Appointing authority	Competent authority to impose penalties with reference to items No. (1) to (iv) of rule 11 of CCS (CCA) Rules, 1965	Appellate authority in respect of penalties specified in column No. 3	Competent authority to impose penalties with reference to items No. (v) to (ix) of rule 11 of the CCS(CCA) Rules, 1965	Appellate authorities in respect of penalties specified in column No. 5
1	2	3	4	5	6
1) Heads of Deptts.(other than those borne on All India Service Cadres)					
2) Deputy Secretaries, Under Secretaries & Section Officers (Sectt. Cadre)	State Government	Chief Secretary	State Government	State Government	-----
3) Himachal Pradesh Administrative Service Officers					
4) H.P. Police Service Officers					
5) All Class I and Class II services in all Departments (excluding All India Service Officers & the categories of officers mentioned as S.No. 1 to 4 above)	State Government	Secretary of the Department concerned	State Government	State Government	-----
5-A) Sub Divisional officers (PR) and Assistant Engineers (Class II) of Public Works Deptt. working in Rural Integrated Development Department	-----	Secretary of Rural Integrated Dev. Departments	State Govt. in the Rural Integrated Dev. Deptt.	State Government in the Public Works Deptt.	-----
5-B) Class I i.e. Under Secretary and Class II i.e. Section officer,	Secretary to Governor	Secretary to Governor	Chief Secretary	Secretary to Governor	Chief Secretary

Comptroller House
Hold and Private
Secy. In the
Governor's
Secretariat.

6) All Class III and Class IV services in all Deptts. (where the appointing authority is the Head of Deptt. under the relevant recruitment rules or declared otherwise.	Head of Deptt.	Head of office	Head of Department	Head of Department	State Govt.
6 A) Asstt. Draftsmen, Divisional Draftsmen, Junior Engineers and tracers (all class III employees of Public Works Deptt. working in Rural Integrated Development Department.			Head of the Department of Rural Integrated Development Department	State Govt. in the Rural Integrated Development Department	Head of the Deptt. in Public Works Department State Government in the Public Works Deptt.
7) All class III and Class IV services in all Deptt. (where the appointing authority is Head of office or some other authority subordinate to the Head of the Deptt. duly declared as such either under the recruitment rules or otherwise.	Head of office or other authority as specified by the Govt.	Any authority subordinate to the Head of Deptt. declared by the competent appointing authority.	Head of Department	Any authority subordinate to the Head of Deptt. declared by the competent appointing authority.	Head of Deptt.

Notes:-

1. The appointing, Disciplinary and Appellate Authorities were initially prescribed under C.C.S. (Classification Control and Appeal) Rules, 1965 vide Notification No. 88-45/56-DP (Apptt.-II) (I) dated 18-5-1974.
2. The original entries of "Head of Deptt." and State Govt." in col. Nos. 3 and 4 against S.No. 6 of the Schedule annexed to Notification dated 18-5-1974 (Note I above) were changed to " Head of office" and "Head of Deptt." vide Notification No. 88-45/56-DP (Aptt. -II)(I) dated 20-9-1975.

3. Certain additions asto Asstt. Enginerrrs and Junior Engineers of Public Works Deptt. working in Rural Integrated Development Deptt. were made vide Notification No. PER(AP-II)A(3)1/74(I) dated 15-12-1978.
4. The additions made as at Note (3) above were superseded and the original Notifications dated 18-5-1974 and 20-9-1975 were partially modified to insert item No. 5-A and 6-A vide Notification No. Karmik (Ni-II)A(3)1/74 dated 6-6-1980
5. Item No. 5-B has been added by partial modifying the Notification dated 18-5-1974 (Note-I above) vide Notification No. PER(AP-II)A(3)-10/75 dated 3-7-1981.
6. Item No. 5-B has been substituted further vide Notifications Nos. PER(AP-II)A(3)-10/75 dated 28-10-1986, 21-2-1990 and 17-11-1993. The existing entry is according to notification dated 17-11-1993.

Appendix 29.II

State Government's orders prescribing the Appointing, Disciplinary and Appellate Authorities under Punjab Rules

(Referred to in paras 29.2 (5), 29.5(8), 29.2(18) and 29.4)

Copy of H.P. Govt. Deptt. of Personnel Notification No. 88-45/56-DP (Apptt-II)(2) dated 18-5-1974.

.....

In exercise of the powers conferred by Rules 2.42 and 14.4 of the Punjab Civil Services Rules, Vol. I (Part-I) read with Rules 6,10 and 12 of the Punjab Civil Services (Punishment and Appeal) Rules, 1952 and all other powers enabling him in this behalf inso far as the officers governed under the Punjab Rules are concerned, the Governor, Himachal Pradesh, is please to direct that in respect of the services and posts in Class I, Class II, Class III and Class IV specified in column No. 1 of the schedule annexed hereto, the authorities specified in column No. 2 thereof shall be the appointing authorities and the authorities specified in columns No. 3 & 6 shall be the disciplinary authorities in respect of penalties specified therein and the authorities specified in columns No. 4, 5, 7 and 8 shall be the appellate authorities in regard to the penalties specified in columns No. 3 and 6 respectively.

2. This supersedes all earlier orders issued by the Government of Himachal Pradesh from time to time.

Note: The schedule as annexed to this Notification has been suitably amended so as to incorporate upto date orders of the Government.

Schedule showing updated position of Appointing, Disciplinary and Appellate authorities under the Punjab Civil Services (Punishment and Appeal) Rules, 1970.

Description of posts	Appointing authority	Competent authority to impose penalties with reference to item Nos. (1), (2), (3) and (4) of Rule 5 of Punjab Civil Services (Punishment and Appeal) Rules, 1970	Appellate authority in respect of penalties specified in Col. No.3	Competent authority to impose penalties with reference to item Nos. (5), (6), (7), (8) and (9) of Rule 5 of Punjab Civil Services (Punishment and Appeal) Rules, 1970	Appellate authority in respect of penalties specified in Col. No 5
1	2	3	4	5	6
1. Heads of Deptts. (other than those borne on All India service cadres)	State Government	Chief Secretary	State Government	State Government	---
2. Deputy Secretaries/ Under Secretaries and Section Officers (Secretariat cadre)	State Government	Chief Secretary	State Government	State Government	----
3. HH.P. Administrative Service Officers	State Government	Chief Secretary	State Government	State Government	-----
4. HH.P. Police Service Officers	State Government	Chief Secretary	State Government	State Government	-----
5. All class I and Class II services in all Departments (excluding All India Service Officers and the categories of officers and the categories of officers mentioned at S. No. 1 to 4 above)	State Government	Secretary of the Department concerned	State Government	State Government	-----
5A. Sub-Divisional Officers (PR) and Asstt. Engineers (Class II) of Public Works Department working in Rural Integrated Development	-----	Secretary of the Rural Integrated	State Government in the Rural	State Government in Public Works	-----

Department.		Development	Integrated Development Department	Deptt.	
6. AAll Class III and Class IV services in all Departments (where the appointing authority is Head of Department under the relevant Recruitment Rules or declared otherwise)	Head of Department	Head of office	Head of Department	Head of Department	State Government
6A. Junior Engineers, Assistant Draftsmen, Divisional Draftsmen, Tracers (all class III employees) of Public Works Deptt. working in Rural Integrated Development Deptt.		Head of the Department of Rural Integrated Development Department	State Government in the Rural Integrated Development Department	Head of Department of Public Works Deptt.	State Government in the Public Works Deptt.
7. AAll Class III and IV Services in all Departments (where the appointing authority is the Head of office or some other authority subordinate to the Head of Deptt. duly declared as such either under the recruitment rules or otherwise)	Head of office or other authority as declared by the Government	Any authority subordinate to the Head of Deptt. declared by the competent authority as appointing authority	Head of Deptt.	Any authority subordinate to the Head of Deptt. declared by the competent authority as appointing authority	Head of Deptt.

Notes:-

1. The appointing, Disciplinary and Appellate Authorities were originally prescribed under the Punjab Civil Services (Punishment and Appeal) Rules, 1952 vide H.P. Govt. Deptt. of Personnel Notification No. 88-45/56-DP- (Apptt. II) (2) dated 18-5-1974 and later on item no. 6 of the Schedule was substituted vide Notification No. 88-45/56-DP (Apptt-II) (2) dated 20-9-1975, so as to change the original entries of "Head of Deptt." and "State Government" in column No. 3 and 4 by the words "Head of office" and "Head of Deptt.".
2. Certain additions as to the Assistant Engineers and Junior Engineers of Public Works Department working in Rural Integrated Department were made vide Notification No. PER(AP-II)-A(3)1/74 (2) dated 15-12-1978.
3. The Notification prescribing appointing, disciplinary and appellate authorities under the Punjab Civil services (Punishment and Appeal) Rules, 1952 as at Sl. Nos. 1&2 above were superseded and fresh order under the Punjab Civil Services

(Punishment and Appeal) Rules, 1970 were issued by H.P. Govt. Deptt. of Personnel Notification No. Karmik (Ni-II)-A(3)-1/74 dated 20-9-1979.

4. Entries as at item Nos. 5-A and 6-A have been made by superseding the Notification at Sl. No. 2 above and partially modifying the notification dated 20-9-1979 (Sl. No. 3 above) vide Notification No. Karmik (Ni-II) A(3)-1/74-Vol-II(2) dated 6-6-1980.

.....

Annexure 29.1

Copy of HP. Government, Department of Personnel letter No: 3-2/68-DP (Apptt.) dated 28-8-1971 addressed to all Secretaries, Heads of Departments etc.

.....

[Referred to in HP. Government's decision No. (1) below par 29.5]

.....

Sub:- Delay in the settlement of disciplinary cases of suspended employees- prescription of a time schedule.

It has been observed that in disciplinary cases, action is immediately taken to place Government servants under suspension but the suspended employees continue to remain in such a state for a very long time. Instances have come to notice where suspended employees have not even been served with the charge-sheet after the expiry of one year of the initial suspension. Disciplinary cases are being delayed at every stage with the result that it takes years to decide the cases of suspended employees. Quite often, the Heads of Departments and other officers, who are aware of the circumstances which led to immediate suspension, have moved on to other posts and places and the evidence against the suspended employees is lost sight of with the passage of time. In many of the cases, the causes of delay in the finalisation of the disciplinary proceedings are attributable to the departmental heads. The monetary amount of suspension allowance has to be increased after the expiry of twelve months, under proviso to F.R. 53(1) (ii) (a), and the delay in progressing the case causes avoidable financial burden on the State exchequer.

2. Prolonged suspension of a Government servant naturally warrants alternative arrangements to cope with the existing quantum of work, because the suspended employee is not allowed to perform any duty although the Government is liable to pay to him the suspension and other allowances. Constant idleness of officials also leads to demoralisation of Government personnel. It has, thus, been decided that a time schedule be prescribed for progressing the cases of suspended employees.

3. All cases against Government Servants placed under suspension should be finally decided within a maximum period of one year from the date on which the Government

servant is placed under suspension, or is deemed to have been placed under suspension. Only in such cases where the employee is involved in a case pending in a Court of Law and which case has been the reason for his suspension, may there be an exception in the application of this time schedule.

4. Accordingly, the charge-sheet must be served on the Government servant within 15 days from the date of suspension or the deemed date of suspension. Issues relating to the inspection of documents, papers and the requests of Government servants pertaining to such matters should be disposed of within one month of the date of suspension. Similarly, the question of appointing an enquiry officer or otherwise should be decided upon within two months of the date of suspension. The enquiry officer should submit his report, after completing all formalities, within a maximum period of three months of the date of his appointment as an enquiry officer.

5. After the receipt of the enquiry report, the disciplinary authority should take a final decision, after completing all necessary procedural requirements and communicate his decision to the Government servant not later than the expiry of one year from the date of suspension.

6. All disciplinary authorities may, therefore, be directed to observe strictly the above orders of Government in the matter of disposal of cases against Government servants placed under suspension. Disciplinary authorities shall be personally responsible for the adherence of the above time schedule for the disposal of such cases and any breach of these orders will be viewed with concern. If, however, there are certain exceptional circumstances whereby this time schedule cannot be strictly adhered to, a report on the circumstances should be sent to the concerned Head of Department where the Head of Department is not the disciplinary authority and in all other cases to the Govt. These orders will take effect immediately but will not have retrospective effect in the cases of employees already placed under suspension.

7. These orders may be brought to the notice of all concerned for strict compliance.

Kindly acknowledge receipt.

Annexure 29.2

Copy of H.P. Government, Department of Personnel letter No: 3-2/68-Apptt. Dated 29-10-1971 addressed to all the Secretaries to the Govt. and Heads of Departments etc.

.....

[Referred to H.P. Govt.'s decision No. 7 below para 29.5]

.....

Sub: Proviso (C) to Article 311 (2) of the Constitution-Rule 19 of the C.C.S. (C.C.A.) Rules, 1965-Satisfaction of the President that in the interest of the security of the State it is not expedient to hold an enquiry.

I am directed to forward herewith a copy of the Govt. of India, Department of Personnel (Cabinet Secretariat) letter No: 6/1(S)/71-Ests (B), dated the 21st June, 1971 together with a copy of the Judgement of the Supreme Court delivered on the 21st January, 1971 in the case of Sardari Lal Vs. Union of India and others (Civil Appeal No. 576 of 1969), for information and guidance.

.....

Enclosures to Annexure 29.2

Copy of Govt. of India, Deptt., of Personnel (Cabinet Secretariat) letter No. 6/1(s) /71-Ests (B) dated 21-6-1971

Sub: Proviso (C) to Article 311(2) of the Constitution-Rule 19 of the C.C.S. (C.C.A.) Rules, 1965-Satisfaction of the President that in the interest of the security of the State it is not expedient to hold an enquiry.

.....

I am directed to forward herewith a copy of the judgement of the Supreme Court delivered on the 21st January, 1971 in the case of Sardari Lal Vs Union of India and others (Civil Appeal No. 576 of 1969). It would be seen from the judgement that the Supreme Court have decided that the function in clause (c) of the proviso to Article 311 (2) cannot be delegated by the President to anyone else in the case of a civil servant of the Union. In other words, he has to be satisfied personally that in the interest of the security of the State, it is not expedient to hold the enquiry prescribed by clause (2).

2. The Government of India have examined the procedure to be adopted where it is proposed to invoke the proviso (c) to Article 311 (2) of the Constitution to dismiss or remove or compulsorily retire a Central Government servant without holding an inquiry in the light of the judgement referred to in the preceding paragraph and it has been decided that orders of the President, should be obtained in such cases. This may be done by preparing a self-contained note on the subject and by submitting it to the President, through the Minister-in-Charge. The self contained note should be such as to enable the President to satisfy himself that in the interest of the security of the State it is not expedient to hold an inquiry as contemplated by the said clause. Where necessary the relevant documents and papers may also be sent to the President along with the self-contained note as annexures to enable him to take a decision in the matter. This procedure is also to be adopted mutatis mutandis where provisions of sub-rule (iii) of rule 19 of the CCS(CCA) Rules, 1965 are proposed to be invoked by the disciplinary authority on the ground that the President is satisfied that in the interest of the security of the State it is not expedient to hold an inquiry in the manner provided in these rules.

3. I am to request that the State Government may consider adoption of similar procedure in regard to cases of State Government servants where it is proposed to take recourse to proviso (c) to article 311 (2) of the Constitution and/or the corresponding provisions in the State disciplinary rules.

.....

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 575 OF 1969

B.K. SARDARI LAL.....APPELLANT.

VS

UNION OF INDIA & ORS.....RESPONDENTS.

JUDGEMENT

GROVER J.

This is an appeal by certificate from common judgement of the Delhi High Court which disposed of a batch of 14 petitions under Art. 226 of the Constitution. The question involved is of importance and relates to the exercise of powers expressly conferred on the President by clause (c) of the proviso to Art.311 (2) of the Constitution.

On 14th April, 1967, the appellant and 17 others members of the Delhi Police Force were dismissed from service. The order dismissing the appellant is reproduced below:-

ORDER

“Whereas, you Shri Sardari Lal, Sub-Inspector, Delhi Police No. 331/D, Police Station Kamla Market, Delhi hold your office during the pleasure of the President, and

Whereas the President is further satisfied that you are unfit to be retained in the public service and ought to be dismissed from service, and

Whereas the President is further satisfied under sub clause (c) of proviso to clause (2) of article 311 of the Constitution that in the interest of the Security of the State it is not expedient to hold an inquiry.

Now, therefore, the President is pleased to dismiss you from service with immediate effect omit.

By order and in the name of
the President of India.

SD/-

(B. VENKATARAMAN)
JOINT SECRETARY TO THE GOVT. OF INDIA
IN THE MINISTRY OF HOME AFFAIRS.

It was common ground before the High Court and has not been disputed before us that the President had no occasion to deal with the case of the appellant himself and the order was made by Shri Venkataraman, Joint Secretary to the Govt. of India in the Ministry of Home Affairs. It was claimed by him that he was competent to make the orders by virtue of the authority which he derived under the Govt. of India (Allocation of Business) Rules, 1964 made under Art. 77(3) of the Constitution. Before the High Court, the controversy was confined to the narrow point whether the function which is to be performed by the President under clause (c) of the proviso to Art. 311 (2) could be performed and by the authority to whom such function has been allocated under the aforesaid Rules. The High Court negatived the contention raised on behalf of the appellant that such a function could not have been delegated by the President to any other authority. The High Court also relied on the provisions of Art. 77 (2) which provides for the authentication of orders made in the name of the President.

Under Art. 53 (1) the Executive power of the Union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with the Constitution. Art. 77(1) lays down that all executive action of the Government of India shall be expressed to be taken in the name of the President. Clause (3) of that Article enables the President to make rules for the more convenient transaction of the business of the govt. of India. Chapter I of part XIB contain inter alia the three main provisions relating to the services. Articles 309, 310 and 311 may be set out to the extent necessary.

“309: Subject to the provisions of this Constitution, Act of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or of any State:

Provided that it shall be competent for the President or such persons as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment and the conditions of service of persons appointed, to such services and posts until provision in that behalf is made by or under an Act of the appropriate legislature under this article, and any rules so made shall have effect subject to the provisions of any such Act.”

310 (i): Except as expressly provided by this Constitution, every person who is a member of a defence service or of a civil service, of the Union or of an all India service or holds any post connected with defence or any civil post under the Union, holds office during the pleasure of the President, and every person who is a member of a civil service of a State or holds any civil post under a State holds office during the pleasure of the governor of the State.

311 (i): No person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds a civil post under the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed.

(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charge against him and given a reasonable opportunity of being heard in respect of those charges and where it is proposed, after such inquiry, to impose on him any such penalty, until he has been given a reasonable opportunity of making representation on the penalty proposed, but only on the basis of the evidence adduced during such inquiry:

Provided that this clause shall not apply-

- (a) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge or
- (b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or
- (c) where the President or the Governor, as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry.
- (d) If, in respect of any such person as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in Clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.”

These Articles have come up for consideration before this Court in several cases and in connection with diverse points. The view that has been taken with regard to their true content, scope and inter connection and the nature of the power exercisable under them is that while Article 310 provides for the tenure at the pleasure of the President or the Governor, Article 309 enables the Legislature or the Executive as the case may be to make any law or rule in regard inter alia to conditions of service without impinging upon the overriding power recognised under Article 310 read with Article 311. The power to dismiss a public servant at pleasure is outside the scope of Articles 53 and 154 of the Constitution and cannot be delegated by the President or the Governor, to a subordinate officer and can be exercised by him only in the manner prescribed by the Constitution. This, however, does not mean that a law cannot be made under Article 309 or a rule cannot be framed under the proviso to the said Article prescribing the procedure by which and the authority by whom the said pleasure can be exercised. Vide Moti Ram Deka etc. Vs. General Manager, N.E.F. Railways, Maligaon, Pandu, etc. AIR1964 SC 600 at page 619 & 620. Article 311 contains the main safeguards for civil servants in the matter of dismissal or removal or reduction in rank while the procedure provided in Clause (2) must be followed before the dismissal or removal or reduction in rank of a civil servant can be ordered, there are certain exceptions which have been made where it is not necessary to comply with the requirements of the substantive part of Clause (2) of Article 311. These exceptions are contained in the three clauses-(a), (b) and (c) of the proviso to Clause (2).

As in the cases mentioned in the proviso, the procedure laid down in clause (2) has not to be followed and the only protection which is conferred on a civil servant cannot be availed of by him, we most look at them carefully. A dichotomy has been introduced in Clause (b) and (c) with regard to the authority or the functionary who has to be satisfied about the matters stated therein. In clause (b), it is only the authority empowered to dismiss or remove a person or to reduce him in rank who has to be satisfied that it is not reasonably practicable to hold the inquiry provided by Clause (2) and his decision in terms of Clause (3) of the Article shall be final. But in Clause (c) it is the President or the Governor alone, as the case may be, who has to be satisfied that in the interest of the security of the State it is not expedient to hold such inquiry. Now the argument on behalf of the appellant has proceeded on these lines. Article 53(1) vests the Executive power of the Union in the President but Article 77 deals only with executive action of the Government of India. There are several Articles under which the President is required to be satisfied before an action is taken. Clause (c) of the proviso to Clause (2) of Article 311 is one of such provisions. The other provision which also deals with the question of satisfaction about the security of India being threatened etc. is the one contained in Article 352 which relates to Proclamation of emergency. Article 356 says that if the President on receipt of a report from the Governor of a State or otherwise, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of the Constitution, he may make a Proclamation as provided in the Article. Article 360 which contains provisions relating to financial emergency also employs the language "if the President is satisfied that a situation has arisen whereby the financial stability or credit of India or of any part of the territory thereof is threatened, he may by a Proclamation make a declaration to that effect." The enumeration of the aforesaid Articles is merely illustrative and not exhaustive. In such cases, it is the President who has to be personally satisfied on the material placed before him about the various matters on which action has to be taken. Such functions may pertain to the executive power of the Union which is vested in him under Article 53(1) but these cannot fall within Article 77(1) which is confined to executive action of the Government of India. Apart from the Articles mentioned above, there are several other Articles which may also be considered in this connection. It would be best to refer to the observations in *Jayanti Lal Amrit Lal Shodhan V. F.N. Rana and other.* (AIR 1964 SC 648 at page 656) .

“The power to promulgate ordinances under Article 123; to suspend the provisions of Articles 268 to 279 during an emergency; to declare failure of the Constitutional machinery in States under Article 356; to declare a financial emergency under Article 360; to make rules regarding the recruitment and conditions of service of persons appointed to posts and services in connection with the affairs of the Union under Article 309-to enumerate a few out of the various powers-are not powers of the Union Government; these are powers vested in the President by the Constitution and are incapable of being delegated or entrusted to any other body or authority under Article 258(1). The plea that the very nature of these powers is such that they could not be intended to be entrusted under Article 258(1) to the State or officer of the State, and therefore, that clause must have a limited content, proceeds upon an obvious fallacy. Those powers cannot be

delegated under Article 258(1) because they are not the powers of this Union, and not because of their special character. There is a vast array of other powers exercisable by the President-to mention only a few-appointment of Judges: Articles 124 & 217, appointment of Committees of Official Languages Act; Article 344, appointment of Commissions to investigate conditions of backward classes; Article 340, appointment of Special Officer for Scheduled Castes and Tribes :Article 338, exercise of his pleasure to terminate employment: Article 310, declaration that in the interest of the security of the State it is not expedient to give to a public servant sought to be dismissed an opportunity contemplated by Art, 311(2)-these are executive powers of the President and may not be delegated or entrusted to another body or officer because they do not fall within Article 258.

It seems to us that there is a good deal of substance in the argument raised on behalf of the appellant. On the principles which have been enunciated by this Court, the function in Clause (c) of the proviso to Article 311(2) cannot be delegated by the President to anyone else in the case of a civil servant of the Union. In other words he has to be satisfied personally that in the interest of the security of the State, it is not expedient to hold the inquiry prescribed by clause (2). In the first place, the general consensus has been that executive functions of the nature entrusted by the Articles, some of which have been mentioned before and in particular those Articles in which the President has to be satisfied himself about the existence of certain fact or state of affairs cannot be delegated by him to anyone else. Secondly even with regard to Clause (c) of the proviso, there is a specific observation in the passage extracted above from the case of Jayanti Lal Amrit Lal Shodhan that the powers of the President under that provision cannot be delegated. Thirdly, the dichotomy which has been specifically introduced between the authority mentioned in Clause (b) and the President mentioned in Clause (c) of the proviso cannot be without significance. The Constitution makers apparently felt that a matter in which the interest of the security of the State had to be considered should receive should be himself satisfied that an inquiry under the substantive part of Clause (2) of Article 311 was not expedient for the reasons stated in Clause (c) of the proviso in the case of a particular servant.

We are not impressed with the reasoning of the High Court with reference to Article 77(2). If the function or the power exercisable under Clause (c) of the proviso under consideration could not be delegated or allocated to anyone else by the President, Article 77(2) will not stand in the way of the Court in the matter of examining the validity of the orders:

For all the above reasons this appeal is allowed and the judgment of the High Court is set aside. The impugned order by which the appellant was dismissed from service shall stand quashed on the ground that it was illegal ultra vires and void. The appellant shall be entitled to costs in this Court and the High Court.”

Sd/- J.C. Shah	CJI
Sd/- G.K. Mitter	J
Sd/- K.S. Hegde	J

Sd/-A.N. Grover J
Sd/- A.N. Ray J

.....

NEW DELHI
DATED JANUARY, 21, 1971

.....

Annexure 29.3

Copy of H.P. Govt., Department of Personnel, letter No. PER(AP-II)-A(3)-1/73 dated 2-7-1977 addressed to all Administrative Secretaries, Joint Secretaries and Under Secretaries to the Government of Himachal Pradesh, all the Heads of Departments, all the Deputy Commissioners in Himachal Pradesh.

[Referred to in H.P. Govt's decision No. (1) below para 29.5]

.....

Sub: Delay in the settlement of disciplinary cases of suspended employees-prescription of a time schedule.

I am directed to say that the instructions regarding the expeditions settlement of disciplinary cases of employees under suspension were issued to all Departments vide this Department letter No. 3-2/68-DP (Apptt.), dated the 28th August, 1971 (copy at Annexure 29.1). In these instructions it was desired that all cases against Government servants placed under suspension should be finally decided within a maximum period of one year from the date on which the Government servant is placed under suspension or it deemed to have been placed under suspension. Only such cases where the employee is involved in a case pending in a Court of Law and which cases have been the reason for his suspension, were exempted from the application of this time schedule. In spite of the above said instructions, it has been observed that the employees still continue to remain under suspension for years, with the result that not only justice is delayed but also the delay in processing the case causes avoidable financial burden on the State exchequer.

2. I am, therefore, to request you again that the aforesaid instructions and the time schedule of one year prescribed for finalisation of suspension cases should be strictly adhered to.

3. These orders may be brought to the notice of all concerned for strict compliance.

.....

Annexure 29.4

Copy of H.P. Govt., Department of Personnel (Vigilance) letter No. 2-87/75-Vig date 7-2-78 addressed to all Secretaries, all Heads of Departments, and Deputy Commissioners, in Himachal Pradesh.

[Referred to in H.P. Govt's decision No. (4) below para 29.5]

.....

Sub: Engagement of Legal Practitioner by Govt. servant to present the case on his behalf before Inquiring Authority in Departmental proceedings.

.....

I am directed to invite your attention to sub-rule 8 of rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, which is reproduced below:

“The Government servant may take the assistance of any other Government servant to present the case on his behalf but may not engage a legal practitioner for the purpose unless the presenting officer appointed by the disciplinary authority is a legal Practitioner, or, the disciplinary authority, having regard to the circumstances of the case, so permits.”

It will be observed that the aforesaid sub-rule provides that a Government servant may, as a matter of right, engage a Legal Practitioner to present the case on his behalf before the Inquiring Authority, in case the Presenting Officer appointed by the disciplinary authority, is a legal Practitioner. But where the Presenting officer is not a Legal Practitioner, he may seek the permission of the disciplinary authority to engage a Legal Practitioner and the disciplinary authority may accord such permission after taking into consideration the circumstances of the case.

2. As you are aware, there is attached with the Vigilance Department a Commissioner for Departmental Enquiries and a Director for Departmental Enquiries for conducting enquiries against Gazetted and non-Gazetted Officers, respectively. A Public Prosecutor has been attached with the Commissioner for Departmental Enquiries and an Assistant Public Prosecutor has been attached with the Director for Departmental Enquiries to act as the Presenting Officer on behalf of the disciplinary authority. The question that has been under consideration of the Government was whether the Public Prosecutor and the Assistant Public Prosecutor attached with the Commissioner for Departmental Enquiries and the Director for Departmental Enquiries, respectively, are the Legal Practitioners within the meaning of sub-rule 8 of rule 14 of the aforesaid Rule. The matter has been examined in detail in consultation with the Law Department who have opined that though the Public Prosecutors and Assistant Public Prosecutors do not strictly fall within the definition of legal Practitioners as given in the Legal Practitioner's Act 1897 and advocates Act, 1961, yet in view of their qualification and nature of duties, experience and attainments, they are in no way inferior to Legal Practitioner and as such when the department is represented before the Inquiring Authority by the Public Prosecutor or Assistant Public Prosecutor, the charged Government servant should have the right to engage a Legal Practitioner for his defence and if such a right is not afforded to him, it would lead to the denial of reasonable opportunity within the meaning of Article 311 (2) of the Constitution of India. In view of the opinion of the Law Department, I am to clarify that in all cases of departmental enquiries where the disciplinary authority has appointed a Public Prosecutor or Assistant

Public Prosecutor as Presenting Officer to present the case on its behalf, the charged Government servant will have the right to engage a Legal Practitioner to present the case on his behalf and for doing so, he would not be required to obtain the permission from the disciplinary authority.

3. In cases where the disciplinary authority appoints the Presenting Officer, who is not a Legal Practitioner, the charged Government servant will have to seek permission of the disciplinary authority for engaging a Legal Practitioner. The disciplinary authority in such cases will have to use its discretion in granting such permission after taking into consideration the circumstances of the cases such as complexity of facts, volume of evidence, educational attainments and experiences of the charged Government servant, which may show that without the legal assistance, the charged Government servant will not be able to adequately cross-examine the witness or to establish his innocence as in such circumstances, denial of legal assistance may be equivalent to denial of 'reasonable opportunity' within the meaning of Art. 311 (2) of the Constitution.

4. The aforesaid guidelines will also be applicable in relation to sub rule 9 of rule 8 of All India Services (Discipline and Appeal) Rules, 1969.

5. I am to request that the aforesaid clarification may please be brought to the notice of all the disciplinary authorities in your department for their guidance.

Kindly acknowledge receipt.

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अनुबन्ध 29.5

हिमाचल प्रदेश सरकार, कार्मिक विभाग के पत्र संख्या: पी.ई.आर.(ए.पी.-।।)ए(3)1/74 दिनांक 3-1-1979 जो कि सभी सचिवों, विभागाध्यक्षों आदि को सम्बोधित है की प्रतिलिपि।

(पैरा 29.5 के नीचे हि.प्र. सरकार के निर्णय (5) में उल्लेखित)

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विषय: केन्द्रीय सिविल सेवायें (सी.सी.ए.) नियम 1965 के नियम 14(8) के अन्तर्गत अभियुक्त कर्मचारी द्वारा जांच के समय अन्य सरकारी कर्मचारी की सहायता लेना।

मुझे यह कहने का निदेश हुआ है कि केन्द्रीय सिविल सेवायें (सी.सी.ए.) नियम 1965 के नियम 14.8 के अन्तर्गत अभियुक्त कर्मचारी अपना केस प्रस्तुत करने के लिये किसी भी सरकारी कर्मचारी की सहायता ले सकता है। विजिलेंस मैनुअल के अध्याय 9 के पैरा 24.2 के अन्तर्गत सरकारी कर्मचारी की सहायता करने के लिये कार्यालय से अनुपस्थित होने के लिये अपने नियन्त्रक अधिकारी की आज्ञा लेनी पड़ती है।

सरकार के ध्यान में ऐसा मामला लाया गया है जिसमें सरकारी कर्मचारी ने एक अनुशासनिक कार्यवाही के मामले को विभागीय स्तर पर व्यवहृत (कमंस) किया और बाद में अनुशासनिक प्राधिकारी ने उसी कर्मचारी को अभियुक्त कर्मचारी की जांच के समय में सहायता करने की आज्ञा दे दी। सरकार ने इस

मामले पर विचार करने के बाद यह निर्णय लिया है कि किसी भी ऐसे कर्मचारी को जांच में अभियुक्त कर्मचारी की सहायता करने की अनुमति नहीं दी जानी चाहिये जिसने विभागीय स्तर पर उस केस को व्यवहृत (deal) किया हो या इसे परीक्षण करने में अनुशासनिक प्राधिकारी की सहायता की हो।

कृपया ये अनुदेश समस्त सम्बन्धित अधिकारियों के ध्यान में लाये जायें।

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अनुबन्ध 29.6

हिमाचल प्रदेश सरकार, कार्मिक विभाग के पत्र संख्या: का(नि-11)ए(क)1/74 भाग-11 दिनांक 11-1-1980 जो सभी सचिवों, विभागाध्यक्षों आदि को सम्बोधित है की प्रतिलिपि।

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(पैरा 29.5 के नीचे हि.प्र. सरकार के निर्णय (9) (ए)में उल्लेखित)

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विषय: केन्द्रीय सिविल सेवायें (पेंशन) नियमावली, 1972 के अन्तर्गत विभागीय जाँच के मामलों सम्बन्धी।

उपर्युक्त विषय पर मुझे यह कहने का निदेश हुआ है कि केन्द्रीय सिविल सेवायें (पेंशन) नियमावली, 1972 के नियम 9(2)(बी) के प्रावधान के अनुसार यदि किसी कर्मचारी के विरुद्ध विभागीय कार्यवाही उसकी नौकरी के दौरान आरम्भ नहीं की गई हो तो बाद में राज्यपाल की स्वीकृति से ही आरम्भ की जा सकती है और वह भी उस घटना के बारे में नहीं की जा सकती है, जो प्रस्तावित विभागीय कार्यवाही आरम्भ करने की तारीख के चार वर्ष पुरानी हो। सरकार के ध्यान में कुछ ऐसे मामले आये हैं जिनमें विभाग छानबीन ही करता रहा कि अनुशासनिक कार्यवाही की जानी चाहिये या नहीं और इसी बीच सरकारी कर्मचारियों को सेवा निवृत्त हुये 4 वर्ष से ऊपर समय हो गया।

वास्तव में विभागों को ऐसे मामलों में अन्तिम निर्णय लेने में इतना विलम्ब नहीं करना चाहिये। यदि कोई मामला सरकारी कर्मचारी की सेवा निवृत्ति के समय या सेवा निवृत्ति के तुरन्त बाद विभाग को मालूम हो जाता है तो विभाग को चाहिये कि उस मामले को उच्च प्राथमिकता दी जाये और यह ख्याल रखा जाये कि ऐसे मामले में किसी स्तर पर विलम्ब न हो। किसी भी अवस्था में यदि अनुशासनिक कार्यवाही करने की आवश्यकता हो तो पूर्णविधि अपना कर उपरोक्त अवधि के अन्दर-2 कार्यवाही आरम्भ कर दी जानी चाहिये। ध्यान रहे कि ऐसे मामलों में तनिक देरी के कारण सरकार को आर्थिक हानि हो सकती है जो कि अन्यथा अनुशासनिक कार्यवाही करके पूरी की जा सकती है।

इन अनुदेशों का सख्ती से पालन किया जाये तथा इन्हें सभी सम्बन्धित व्यक्तियों के ध्यान में लाया जाये।

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Annexure 29.7

Copy of H.P. Govt. Department of Personnel letter No. PER (AP-II) A(3)1/80 dated the 4th June, 1980, addressed to all Financial Commissioners, all Administrative Secretaries, all Heads of Departments and all Deputy Commissioners in Himachal Pradesh.

[Referred to in H.P. Govt's decision No. (9) (b) below para 29.5]

Subject:- Disposal of Complaints against Government Officer/Officials.

It has come to the notice of the Government that complaints about misconduct of Government servants, particularly relating to corrupt practices, harassment of people, partiality to one group of people to the detriment of other weaker groups like Harijans are not being looked into in a proper manner by the officers being looked into in a proper manner by the officers receiving such complaints. In most cases it has been found that the complaints are sent down to lower officials for necessary action or disposal, and ultimately these are sent for comments to the officials complained against. This leads to a situation where the truth does not come out and the official not only tries to cover his lapse while giving his comments but also tries to be revengeful against the complainant who suffers twice in this manner.

All the Secretaries/Heads of Departments are requested to ensure personally that all complaints are dealt with properly. You may evolve your own method of ensuring proper action on these complaints, keeping in view the following principles:

- 1) All complaints should be entered in a register by the officer to whom these are addressed. It should be monitored properly and should not be struck off the register till the officer is satisfied about its proper disposal;
- 2) Before asking for the comments of the official complained against, an officer of an appropriate level, which you may determine for your Department/Office should call the complainants to arrive at a tentative conclusion about the truth or otherwise of the complaint;
- 3) If the officer is satisfied prima-facie about the fact that there is some substance in the complaint as a result of the aforesaid enquiry from the complainant, he should convey the allegations contained in the complaint to the officer complained against for comments without disclosing the name of the complainant, if it is found necessary to get the comments of the officers complained against. In many cases, however, where complaints are from one individual of a specific act of misconduct by the officer complained against; the question of obtaining comments of the officer complained against should not arise and an officer of the higher rank should hold a proper enquiry himself and call for the explanation of the defaulting officer/official and take action for the final disposal of the complaint at his own level.
- 4) In cases in which after dealing with the complaint in the manner stated above the Inquiring Officer comes to the conclusion that the allegations stand proved, he should send his findings and recommendations to the authority competent to take disciplinary action against the delinquent officer/official with intimation to the

officer to whom the complaint was sent originally. In cases where the allegations in the complaint are not proved the Inquiring Officer should send his findings only to the officer to whom the complaint was sent originally.

- 5) The authority competent to take disciplinary action should on receipt of the recommendations of the Inquiring Officer initiate proceedings as prescribed in the Rules under intimation to the officer to whom the complaint was originally addressed.

Strict compliance of these instructions may be ensured.

Please acknowledge receipt of this letter.

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Annexure 29.8

Copy of HP Govt., Deptt. of Personnel Letter No: Per (AP-II)A(3)1/74 dated 6-10-1980 addressed to all the Secretaries to the Government of Himachal Pradesh.

[Referred to in HP Govt.' decision
No.(8) below para 29.5]

.....

Subject:- Proviso (b) to Articles 311 (2) of the Constitution, Rule 19 of the CCS(CCA) Rules, 1965-Satisfaction of the Appointing Authority where it is not expedient to hold an inquiry.

I am directed to say that proviso under Article 311(2) of the Constitution of India, provides that no person who is a member of Civil Service of a State or holds a civil post under the Union or the State shall be dismissed or removed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him. It has further been laid down that the clause *ibid* will not apply in cases where an authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reasons to be recorded by that authority in writing, it is not reasonably practicable to give that person an opportunity of showing cause. The corresponding provision of Article 311 (2) and sub-clause (b) thereof already exists under rule 14 and 19 of the CCS(CCA) Rules 1965 respectively. The proviso under rule 19(ii) of the Central Civil Services (Classification Control and Appeal) Rules, 1965 lays down that where disciplinary authority is satisfied for reasons to be recorded in writing, it is not reasonably practicable to hold an inquiry in the manner provided in these rules, the disciplinary authority has the right to impose any of the penalties without conducting an inquiry, but for that purpose reasons have to be recorded in writing that it is not possible to conduct an inquiry.

In this behalf it may be pointed out that the satisfaction under proviso (b) to articles 311 (2) read with rule 19 (ii) of the Central Civil Services (Classification Control and Appeal) Rules, 1965 has to be of the disciplinary authority who has the power to dismiss, remove or reduce in rank the Government servants. As a check against the arbitrary use of this exception the said authority must record the reasons in writing. Each case has to be considered by the appointing or the authority competent to remove or dismiss an employee on merits and on the basis of the material before him while resorting to proviso (b) of Article 311(2). The departure from the normal procedure can be made in cases where, the Government servant concerned has absconded or where for other reasons, it is impracticable to communicate with him. However, this procedure may be adopted in exceptional cases and in consultation with Law Department.

The above instructions may kindly be brought to the notice of all concerned for information and guidance.

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Annexure 29.9

Copy of HP Govt., Department of Personnel letter no. PER(AP-II)A(3)-1/73 dated the 23rd November, 1982 addressed to all Secretaries to the Govt., all Heads of Departments and all Deputy Commissioners in H.P.

[Referred to in HP Govt. decision No. (2) below para 29.5)

.....

Subject:- Delay in the settlement of disciplinary cases of suspended employees- prescription of time schedule.

.....

I am directed to invite your attention to this Department letters of even number, dated the 20th July, 1977, 10th May 1978, on the subject cited above and to say that it has come to the notice of the Government that a considerable number of disciplinary cases against Govt. Officers/Officials are lying pending for years together with the Departments. The Government have taken a serious view in the matter and have decided that disciplinary cases of Government officers/officials should be decided finally within a period of six months from the date officers/officials are placed under suspension. It has also been decided that all the Departments would render a quarterly progress report of the cases pending with them to the Department of Personnel on the attached proforma.

2. You are, therefore, requested to bring the above instructions to the notice of all concerned for strict compliance. First quarterly progress report for the quarter ending 30th Sept., 1982 may kindly be sent by 25th November, 1982 and further quarterly reports may also be furnished regularly by 10th of the ensuing month of the each quarter.

PROFORMA

S.No.	Name of Officer/Official	Designation	Date of suspension
1.	2.	3.	4.
5.	6.	7.	

Details of the disciplinary case. Present position of the case. Detailed reasons for suspension continuing beyond six months.

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Annexure 29.10

Copy of HP Govt. Department of Personnel letter No. PER(AP-II)A(3)-1/74-III dated the 6th June, 1985 addressed to all Secretaries, all Heads of Departments and all Deputy Commissioners in H.P.

(Referred to in H.P. Govt. decision
No. (2) below para 29.5)

.....

Subject:- Delay in the settlement of disciplinary cases of suspended employees-prescription of time schedule.

I am directed to invite your attention to this department letter No. PER (AP-II)A(3)-1/73, dated 23rd November, 1982 vide which instructions were issued that cases of suspended officers/officials should be finalised within six months from the date of their suspension. The departments were also requested to send quarterly reports of pending cases of officers/officials on the prescribed proforma to the Department of Personnel. On scrutiny of the statements sent by the departments, it has been seen that cases of suspended officers/officials are lying pending for years together. In many cases the delinquent officer/official have not be served with charge-sheets even after a number of years from the date of their suspension.

2. The prolonged suspension of a Govt. servant causes avoidable financial burden on State Exchequer as it warrants alternative arrangements to cope with the existing quantum of work, because the suspended employee is not allowed to do any duty. In addition to this the Govt. is liable to pay to him the suspension and other allowances.

3. The Govt. has taken a serious view of the matter. You are, therefore, requested to impress upon all the concerned authorities to comply with the Govt. instructions strictly. Any lapse in this behalf will be viewed seriously.

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Annexure 29.11

Copy of HP Govt. Department of Personnel letter No. PER (AP-II) A(3)-1/74-III dated 30-3-1993 addressed to all Secretaries, Heads of Departments & Deputy Commissioners.

[Referred to in HP Govt. decision No. 3 below para 29.5]

Subject: Delay in the settlement of disciplinary cases of suspended employees-prescription of time schedule.

I am directed to say that it has come to the notice of the Government that a large number of officers/officials still continue to be under suspension for quite a long period, though instructions were earlier issued to finalise such disciplinary cases of suspended employees within a maximum period of six months. Continued suspension of a Government servant for a long period is not a desirable state of affairs as it deprives the Govt. of the services of such persons and causes financial loss to the Government apart from humiliation and harassment to the suspended employee. Accordingly, it is desirable that the cases of suspension should be reviewed from time to time in order to assess whether continued suspension is essential or need to be revoked. In this context it has also been decided that while reviewing the cases of suspended Government servant it should be considered whether the presence of the Government servant on the same post/station from which he was suspended is detrimental to the collection of evidence or whether he is likely to tamper with the evidence and if so, the question of his posting on another post/station where he may not be at all in a position to tamper with or destroy collection of evidence may also be considered while reviewing the suspension cases.

2. Accordingly, it has been decided by the Government that cases of Government servants under suspension for more than six months should be reviewed quarterly by a review committee, the constitution of which shall be as under:

Cases of All India / State Service Officers

1. Chief Secretary/Additional Chief SecretaryChairman
2. FC to be nominated by CS/ACSMember
3. FC/Secy. (Per.) in case of IAS & HAS
Secy (Home) for IPS & HPPS Member
Secy. (Forests) for IFS and HPFS.....

Cases of other Class I and II Officers.

1. Senior most Financial Commissioner
(Other than the one whose Departmental
cases are to be considered).....Chairman
2. Secretary/Special Secretary of the
Department concernedMemberMember
3. Heads of the Department.....Member

Cases of Class III and IV

1. Secretary of the Department concernedChairman
2. Heads of Department..... ..Member
3. Addl. /Joint/ Dy./ Under Secretary of the
Concerned Department.....Member

The above instruction may kindly be brought to the notice of all concerned for strict compliance and the first review of cases be completed by 30th April, 1993.

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Annexure 29.12

Copy of H.P. Govt. Department of Personnel letter No. PER(AP-II) A(3)-1/79 dated 29-9-1993 addressed to all Secretaries, Heads of Departments etc.

[Referred to in HP Govt.'s decision
No. (6) below para 29.5)

.....

Subject: Disciplinary proceedings under Rule-14 of CCS (CCA) Rules, 1965-Issuance of instructions thereof.

I am directed to state that it has been brought to the notice of the Government by the Himachal Pradesh Public Service Commission that as per Government of India's instructions contained in para (7) below Rules-15 of the CCS(CCA) Rules, 1965 (Swamy's Compilation of CCS (CCA) Rules-as contained in Government of India's letter No. 5-26/88-vig-III dated 18-8-1988) in all disciplinary cases where an inquiry has been held in accordance with the provisions of Rule-14 of the CCS (CCA) Rules, the disciplinary authority, if it is different from the inquiry authority, shall before making an final order in the case, forward a copy of the inquiry report to the Government servant concerned. But in

large number of disciplinary cases referred to the Public Service Commission by the various departments for advice, the above requirement is not fulfilled by the Department and the Himachal Pradesh Public service Commission has to make back reference in such cases which results in delay in the finalization of the disciplinary cases. I am therefore, to request that it may please be ensured that these instructions of the Government are complied with in letter and spirit.

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Annexure 29.13

Copy of Government of Himachal Pradesh Department of Personnel Notification No. Per(AP.II)A(3)-10/75 dated 7th June, 2004 forwarded to all concerned.

{Referred to in Para 29.4(13)}

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In supersession of this department notification of even number dated 17-11-1993 and in exercise of the powers conferred by sub rule (2) of Rule-9, sub-rule(2) of Rule-12 and sub-rule(1) of Rule 24 of the Central Civil Services (Classifications, Control and Appeal) Rules, 1965 and all other powers enabling him in this behalf, the Governor, Himachal Pradesh is pleased to direct that in respect of the services and posts in Class-I in respect of the Governor's Secretariat, the authorities specified hereunder shall be the Appointing, Disciplinary and Appellate Authorities etc. in regard to the penalties specified therein respectively:-

Description of posts	Appointing Authority	Competent authority to impose penalties with reference to items No. (i) to (iv) of rule-11 of CCS (CCA) Rules, 1965.	Appellate authority in r/o penalties specified in column No. 3	Competent authority to impose penalties with reference to items No. (v) to (x) of rule 11 of CCS (CCA) Rules, 1965	Appellate authority in r/o penalties specified in column No. 5
1. Class-I i.e. Under Secretary, Senior Private Secretary, Section Officer, Comptroller House Hold.	2. Secretary to Governor	3. Secretary to Governor	4. Chief Secretary	5. Secretary to Governor	6. Chief Secretary

.....

Annexure 29.14

Copy of Government of Himachal Pradesh Department of Personnel Notification No.Per(AP-B)A(3)1/96 dated 7th December, 1996 forwarded to all Administrative Secretaries, Divisional Commissioners, Heads of Departments and Deputy Commissioners, in H.P.

{Referred to in Para 29.4(14)}

.....

In exercise of the powers conferred by sub-rule(2) of Rule 9, Sub-rule (2) of Rule 12 and sub-Rule (1) of Rule 24 of the Central Civil Services (Classifications, Control and Appeal) rules, 1965 in so far as the officers governed under the Central rules are concerned, the Governor of Himachal Pradesh is pleased to direct that in respect of services and posts in Class-III & IV as specified in column No. 1 of the schedule annexed hereto, the authorities specified in Col No. 2 & 4 shall be the disciplinary authorities in respect of the penalties specified thereunder and authorities specified in column 3 & 5 shall be the appellate authorities in regard to the penalties specified in column No. 2 and 4 respectively.

2. The orders contained in Notification No. 88-45/56/DP Apptt-II (1) dated 20-09-1975 shall stand modified to the above extent in so far as they relate to the Class-III & IV staff of the Departments of Rural Development and Panchayati Raj working in the field offices.

SCHEDULE

Description of post	Competent authority to impose penalties with reference to items No. (i) to (iv) of rule 11 of CCS(CCA) Rules, 1965.	Appellate authority in respect of penalties specified in Col. No. 2	Competent authority to impose penalties with reference to items Nos (v) to (ix) of Rule 11 of CCS(CC&A) Rules, 1965	Appellate authority in respect of penalties specified in Column No. 4
1	2	3	4	5
All Class III & IV services in Rural Development & Panchayati Raj Deptts. working in the field offices (where the appointing	Deputy Commissioner/Head of Office (Block Development Officer/District Panchayat Officer)	Head of Department	Head of Department	State Govt.

authority is the
Head of
Department
under R&P Rule
or declared
otherwise)

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Annexure 29.15

Copy of Government of Himachal Pradesh Department of Personnel Notification No. Per(AP-II)A(3)-1/76 dated 29th November, 2000 forwarded to all the Administrative Secretaries, Heads of Departments and Deputy Commissioners, in H.P.

{Referred to in Para 29.5(15)}

.....

In exercise of the powers conferred by sub-rule(2) Rule 9, sub-rule(2) of Rule (12) and sub-rule(1) of Rule 24 of the Central Civil Services (Classification, Control and Appeal) Rule-1965 in so far as the officers governed under the Central rules are concerned, the Governor of Himachal Pradesh is please to direct that in respect of services and post as specified in column No. 1 of the schedule annexed hereto, the authorities specified in column No. 2 shall be the disciplinary authorities in respect of the penalties specified thereunder and authorities specified in column No. 3 shall be appellate authorities in regard to the penalties specified in column No. 2 respectively.

2. The Governor in exercising of the powers vested in him under Rule 10(1) of CCS(CC&A) Rules 1965 is further pleased to empower the Commissioner (Revenue) Himachal Pradesh to place the Tehsildars under suspension in cases which are of serious nature or where a disciplinary proceedings against them are contemplated in the public interest.

3. The orders contained in Notification No. 88-45/56/DP-Apptt.-II(I) dated 18-05-1974 shall stand modified to the above extent in so far as they relate to the Tehsildars in the Revenue Department.

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Annexure 29.16

Copy of Government of Himachal Pradesh Department of Personnel letter No.Per(AP-II)A(3)-1/79-Pt. dated 18th July, 2001 addressed to all the Administrative Secretaries, Commissioner (Revenue), Heads of Departments and Deputy Commissioners, in H.P.

{Referred to in Para 29.5 under rule 10 (1.1)}

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Subject: Delay in processing/finalization of the disciplinary proceedings.

I am directed to refer to above cited subject and to say that the time limits for the disposal of disciplinary cases has been prescribed in Rules 14 & 15 of CCS(CCA) Rules,

1965 and GOI's decisions thereunder. It has come to the notice of the Government that these rules/instructions are not adhered to strictly by the Government Departments. Some Departments take a very long time in the processing of cases from the date of issue of the charge-sheets.

The Government has taken a serious view of the matter and decided to invite the attention of all Departments to rules *ibid*. All the Departments are requested to adhere to the time limits as prescribed in the rules/instructions and cut down abnormal delay in finalizing the disciplinary cases and also to ensure that cases are referred to the H.P. Public Service Commission & Vigilance Department, wherever necessary, with complete records within a reasonable time, to avoid harassment to the concerned officers/officials.

These instructions may kindly be brought to the notice of all concerned working under your control for strict compliance.

Please acknowledge the receipt.

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Annexure 29.17

Copy of Government of Himachal Pradesh Department of Personnel letter No.Per(AP-II)A(3)-1/79-Pt. dated 25th February, 2005 addressed to all the Administrative Secretaries, Heads of Departments and Deputy Commissioners, in H.P.

[Referred to in Para 29.5 under rule 10(1.2)]

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Subject: Delay in the settlement of disciplinary cases of suspended employees and in processing/finalization of the disciplinary proceedings – prescription of time schedule.

I am directed to invite your attention to this Department letter No. Per(AP-II)A(3)-1/74-III dated 30-03-1993 (Annexure 29.11 of Hand Book on Personnel Matters-Vol.-III. Second Edition)and also to this Department letter of even No. dated 18-07-2001 on the subject cited above and to say that it has come to the notice of the Govt. that the instructions contained therein are not being adhered to in letter and spirit by the Department.

Oflate it is observed that a large number of cases of suspended employees remain pending for disposal in various Govt. Departments, which causes loss to the Government as well as to the employees concerned as it deprives the Government of the services of such employees and causes financial loss to the Govt. apart from the humiliation and harassment to the suspended employees. It is desirable to finalize such cases of suspension within a maximum period of six months. Similarly, some Departments take a very long time in the processing of disciplinary cases from the date of issue of the charge sheets.

Accordingly, it is requested that the cases of suspension be reviewed from time to time in order to assess whether continued suspension is essential or needs to be revoked. The Inquiry Officers may also be directed to finalize the departmental inquiries expeditiously, not later than six months failing which an adverse refection may be made in their ACRs.

It is again emphasized that the cases of officers/officials under suspensions may be reviewed quarterly so that no official remain suspended unnecessarily.

These instructions may kindly be brought to the notice of all concerned working under your control for scrupulous compliance and cases of non-compliance will be viewed seriously.

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Annexure 29.18

Copy of Government of Himachal Pradesh Department of Personnel letter No. Per(AP-II)A(3)-1/79-III. dated 16th June, 2007 to all the Administrative Secretaries, Divisional Commissioners, Heads of Departments, Deputy Commissioners and Chairmen/MD's/Secretaries/Registrars of all Boards/Corporations/Autonomous Bodies, in H.P.

[Referred under rule 11 clause (vi)]

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Subject: Imposition of penalty of reduction to a lower time scale of pay, grade, post or service.

The undersigned is directed to enclose a copy of Government of India, Ministry of Personnel, PG and Pensions O.M. No. 11012/2/2005-Estt.(A), dated 14-05-2007 alongwith its enclosures, on the subject cited above and to request that these may please be brought to the notice of all concerned for information and strict compliance.

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Enclosure to Annexure 29.18

Copy of GOI, Ministry of Personnel, Public Grievances and Pensions Department of Personnel & Training, New Delhi O.M. No. 11012/2/2005 Estt.(A) dated 14th May, 2007 addressed to Chief Secretaries of all State Governments/Union Territory Administration, Lok Sabha/Rajya Sabha Secretaries etc.

Subject: Imposition of penalty of reduction to a lower time scale of pay, grade, post or service.

Attention of the Ministries/Departments is invited to the provisions of rule 11 of the Central Civil Services (Classification, Control and Appeal), Rules, 1965. Clause (vi) thereof provides for the imposition on a Government servant of a penalty of reduction to lower time scale of pay, grade, post or Service which shall ordinarily be a bar to the promotion of the Government servant to the time-scale of pay, grade, post or Service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post or service from which the Government servant was reduced, and his seniority and pay on such restoration to that grade, post or Service.

2. The Staff side of the National Council (JCM) has made a request that the penalty of reduction to lower time scale of pay in the said clause (vi) should not be imposed on the Charged Officer on a permanent basis on the ground that it is harsh and does not allow the employee to be promoted to the next grade even if he improves his working and the Competent Authority later finds him fit for promotion. The Staff Side has suggested that

the penalty in question should be for a specified time-period with clear directions regarding restoration to the higher grade.

3. The existing rule position is that the imposition of the penalty of reduction to a lower grade, post or service is normally a bar to the promotion to a higher grade, post or service (from which he was reduced) unless the conditions of restoration are specified. It is open to the Disciplinary Authority to prescribe the conditions of restoration to the higher grade in deserving cases.

4. The minor penalties and major penalties in rule 11 of the CCS (CCA) Rules, 1965 have been graded in order of the severity to be awarded to a charged Government servant in proportion to the gravity of misconduct/negligence which has given rise to the charge-sheet. While the major penalties of compulsory retirement, removal from service and dismissal from service have been included as clauses (vii), (viii) and (ix) of the said rule 11, the penalty reduction to a lower time scale of pay, grade, post or Service has been incorporated therein as clause (vi). This clause also provides that while imposing this penalty, the Disciplinary Authority or the Appellate/Revision Authority is also required to indicate in the penalty order whether or not the individual charged Government servant would be eligible for restoration to the grade/post or Service from which he was reduced and his seniority and pay on such restoration and the conditions for such restoration. It will, therefore, be seen that the penalty has been provided to be awarded to an individual who may not be sent out of Government service (through dismissal/removal etc.) but who needs to be given a very severe penalty in view of the gravity of his misconduct.

5. Attention in this connection is also invited to the Government of India, MHA O.M. No. 9/13/92-Estt.(D) dated 10.10.1962 and No. 9/30/63-Estt. (D) dated 07.02.1964 which stipulates that an order imposing the penalty of reduction to a lower service, grade or post or to a lower time-scale should invariably specify the period of reduction unless the clear intention is that the reduction should be permanent or for an indefinite period. These instructions also indicate the manner in which the order should be framed when the reduction is for specified period of indefinite period. In case the intention of the Competent Authority is to award the penalty of reduction on permanent basis, the same may be specifically stated in the order so that the intention is conveyed to the Government servant in unambiguous terms and he is afforded full opportunity for submission of his appeal as provided in the rules.

6. Ministries/Departments are requested to please bring the above to the notice of all concerned for information and necessary action.

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Annexure 29.19

Copy of Government of Himachal Pradesh Department of Personnel O.M. No. Per(AP-II)A(3)-1/79-III dated 24th July, 2008 to all the Administrative Secretaries, Heads of Departments, Deputy Commissioners and Chairman/MD's/Registrars of Boards/Corporations/Universities, in H.P.

{Referred to in Para 29.5 under rule 11(3.2)}

Subject: CCS(CCA) Rules, 1965 – Promotion to a higher grade or post – clarification regarding effect of warnings etc. on promotion.

The undersigned is directed to enclose a copy of Government of India, Ministry of Personnel, PG and Pensions, Office Memorandum No. 11012/6/2008-Estt.(A), dated 7th July, 2008, on the subject cited above and to request that these guidelines may please be brought to the notice of all concerned for information and strict compliance.

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Enclosure to Annexure 29.19

Copy of Government of India, Ministry of Personnel, Public Grievances and Pensions, New Delhi Office Memorandum No. 11012/6/2008-Estt.(A), dated 7th July, 2008 addressed to All Ministries/Departments of Govt. of India and endorsed to the President's Secretariat, Prime Minister's Office, Central Vigilance Commission, New Delhi and Chief Secretaries of all State Governments and UT Administrations etc.

Subject: CCS(CCA) Rules, 1965 – Promotion to a higher grade or post – clarification regarding effect of warnings etc. on promotion.

The undersigned is directed to refer to the DOPT's O.M. No. 22011/2/78- Estt. (A) dated 16th February, 1979 on the above mentioned subject and to say that at present, administrative devices like warning, letter of caution, reprimand etc. are being used by the various administrative Ministries/Departments for cautioning the Government servants against such minor lapses as negligence, carelessness, lack of thoroughness and delay in disposal of official work with a view to toning up efficiency or maintaining discipline. These administrative actions do not, however, constitute any of the penalties specified in rule 11 of the CCS (CCA) Rules, 1965. Doubts have often been raised about the actual effect of such informal administrative actions as warning, letter of caution and reprimand on the promotion of a Government servant.

2. In this connection, the existing provisions regarding the effect of warning etc. as distinguished from Censure on promotion are reiterated and clarified as follows :-

- (i) There is no objection to the continuance of the practice of issuing oral or written warnings. However, where a copy of the warning is also kept on the Confidential Report dossier, it will be taken to constitute an adverse entry and the officer so warned will have the right to represent against the same in accordance with the existing instructions relating to communication of adverse remarks and consideration of representations against them.

- (ii) Warnings, letters of caution, reprimands or advisories administered to Government servants do not amount to a penalty and, therefore, will not constitute a bar for consideration of such Government servants for promotion.
- (iii) Where a departmental proceeding has been instituted, and it is considered that a Government servant deserves to be penalized for the offence/misconduct, one of the prescribed penalties may only be awarded and no warning recordable or otherwise, should be issued to the Government servant.
- (iv) The term 'empanelment' occurring in para 1 of DOPT's O.M. No. 11012/11/2007-Estt.(A) dated 14.12.2007 relating to guidelines on grant of vigilance clearance does not cover cases of promotion. Cases of promotion of Government servants during the pendency of disciplinary proceedings would be regulated by DOPT's O.M. No. 22011/4/91-Estt. (A) dated 14.09.1992, O.M. No. 22012/1/99-Estt. (D) dated 25.10.2004 and after imposition of any of the prescribed penalties as per O.M. No. 22034/5/2004- Estt. (D) dated 15.12.2004.

3. All Ministries/Departments are, therefore, requested to keep in view the above guidelines while dealing with cases of promotion of the Government servants.

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Annexure 29.20

Copy of Government of Himachal Pradesh Department of Personnel O.M. No.Per (AP-II)A(3)-1/79-III dated 11th May, 2010 to all the Administrative Secretaries, Heads of Departments, Deputy Commissioners and Chairman/ MD's/Registrars of Boards /Corporations /Universities, in H.P.

{Referred to in Para 29.5 under rule 11(3)}

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The undersigned is directed to enclose a copy of O.M. number 11012/2/2005-Estt. (A), dated 8th April, 2010 from the Under Secretary, GOI, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, New Delhi regarding amendment of rule 11 of the CCS(CCA) Rules, 1965 and to say that the same will also be applicable to the employees of the State Government.

2. This amendment may kindly be brought to the notice of all concerned for their information and strict compliance.

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Enclosure to Annexure 29.20

Copy of Government of India, Ministry of Personnel, Public Grievances and Pensions, New Delhi Office Memorandum No. 11012/2/2005-Estt.(A), dated 8th April, 2010 addressed to All Ministries/Departments of Govt. of India and endorsed to CAG of India/Lok Sabha Secretariat/Rajya Sabha Secretariat/Ministry of Parliamentary Affairs/UPSC/President's

Secretariat/Vice President's Secretariat/Prime Minister's Office/Central Vigilance Commission, New Delhi and Chief Secretaries of all State Governments and UT Administrations etc.

Subject: Notification for amendment of rule 11 of the CCS (CCA) Rules, 1965.

The undersigned is directed to refer to clause (vi) of rule 11 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and say that the provisions regarding the major penalty referred to therein have since been amended vide Notification NO. G.S.R. 55(E) dated 02-02-2010 published in the Gazette of India Extraordinary. A copy of the Notification is enclosed. The provisions of the major penalty in the amended clause (vi) of rule 11 of the said rules read as follows:-

"(vi) reduction to lower time-scale of pay, grade, post or Service for a period to be specified in the order of penalty, which shall be a bar to the promotion of the Government servant during such specified period to the time scale of pay, grade, post or service from which he was reduced, with direction as to whether or not, on promotion on the expiry of the said specified period –

- (a) the period of reduction to time-scale of pay, grade, post or service shall operate to postpone future increments of his pay, and if so, to what extent: and
- (b) the Government servant shall regain his original seniority in the higher time scale of pay , grade, post or service;"

2. All the Ministries/Departments are requested to please bring the contents of the aforementioned amendment to the notice of all concerned for information and compliance.

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Annexure 29.21

Copy of Government of Himachal Pradesh Department of Personnel letter No. Per(AP-II)-A(3)10/75-Vol-IV dated 18th April, 2016 to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioners, MD's/Registrars/ Secretaries of all Boards/ Corporations/Autonomous Bodies etc., in H.P.

[Referred to in Para 29.5 under Rule 11 (3.5) & Rule 14(2)]

Please see Annexure 28.39 of Chapter 28 of this Hand Book.

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Annexure 29.22

Copy of Government of Himachal Pradesh Department of Personnel letter No. Per(AP-II)-A(3)-10/75-IV-Pt dated 26th June, 2019 to all the Administrative Secretaries, Heads of Departments, in H.P.

{Referred to in Para 29.5 under rule 11 (3.5)}

Subject: Requirement and steps for conducting inquiry in case of allegations of sexual harassment.

I am directed to refer to the subject cited above and to say that O.M. F No. 11013/2/2014-Estt. (A-III) dated 16th July, 2015 issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training on the subject cited had been circulated vide this department's OM dated 18th April, 2016 (Please see Annexure 28.39). A guide on the subject was also enclosed with the O.M. mentioned as above. Despite this, clarification is being sought by various Departments as to what procedure is to be followed while conducting inquiry in cases pertaining to allegations of sexual harassment.

In this regard, O.M. *ibid* is being again enclosed herewith. For sake of ready reference, the following facts/ provisions/ salient features are highlighted and reiterated:

- (i) The internal Complaints Committee set up in each organization under the provisions of the Section 4(1) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 has a dual role. In the first stage, upon receipt of a complaint, it can conduct a preliminary enquiry/fact finding enquiry or investigation to verify the facts by collecting the documentary evidence as well as recording statements of any possible witness including the complainant. Under Section 11 (4) of the Act, the enquiry shall be conducted within ninety days.
- (ii) If it is felt necessary to issue a charge-sheet, then disciplinary authority, under Rule 14 (3), relies upon the investigation/ preliminary/ fact finding enquiry for drafting the imputations as well as for evidence by which the charges are proposed to be sustained.
- (iii) The Charged Officer should be given an opportunity of replying to the charge-sheet. As per the Rule 14 (5), the disciplinary authority after considering the reply of the Charged Officer takes a decision whether a formal enquiry is to be conducted.
- (iv) The Complaints Committee shall be deemed to the Inquiring Authority and enquiry into the charges framed shall be held, as far as practicable as per the Rule 14 of the CCS (CCA) Rules, 1965.
- (v) When allegations of bias are received against an Inquiring Authority, the enquiry/investigation shall be stayed till the disciplinary authority takes a decision on the allegations of bias.
- (vi) Under Rule 14(5) (c), a Presenting Officer is appointed, the examination, cross-examination and re-examination of prosecution/defence witnesses is done. Under Rule 14(18), General Examination of the Charged Officer is conducted and he is required to submit his written brief. The Complaints Committee is empowered to make its recommendations on specific points.

In this regard, attention is invited to the provisions contained in Rule-14(1) of CCS (CCA) Rules, 1965 which specifically stipulates that no order of imposition of any of the penalties specified in clauses (v) to (ix) of Rule 11 shall be made unless an inquiry is held

in the manner provided in Rule-14 and Rule-15 otherwise the entire process would be vitiated, might entail unnecessary litigation and may not be legally tenable.

These instructions may be brought to the knowledge of all concerned for strict compliance.

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Annexure 29.23

Copy of Government of Himachal Pradesh Department of Personnel letter No. Per(AP-II)A(3)-10/75-IV dated 28th January, 2005 to all the Administrative Secretaries, Heads of Departments, Divisional Commissioner, Deputy Commissioners, Registrar, High Court etc., in H.P.

[Referred to in Para 29. 5 under Rule 14(5.1)]

Subject: Prevention of sexual harassment of women at work place amendment in the CCS(CCA) Rules, 1965.

The Governor, Himachal Pradesh, is please to approve the adoption of the amendment of sub-rule(2) of Rule 14 of CCS(CCA) Rules, 1965 by insertion of a proviso thereto as contained in Notification number 11012/5/2001-Estt.(A), dated 1st July, 2004 from the Director, GOI, Ministry of Personnel, public Grievances & Pensions, Department of Personnel & Training, New Delhi (copy enclosed) and to make applicable to the employees of the State Government with immediate effect.

2. These instructions may kindly be brought to the notice of all concerned for strict compliance.

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Enclosure to Annexure 29.23

Copy of Government of India, Ministry of Personnel, Public Grievances and Pensions, New Delhi Notification No. 11012/5/2001-Estt. (A) dated 1st July, 2004 addressed to the Manager, GOI Press and a copy to all Ministries/Departments of the GOI, Comptroller and Auditor General of India, Union Public Service Commission, Central Bureau of Investigation, all Union Territory, Lok Sabha/Rajya Sabha Secretariat, all attached and Subordinate Offices of the Ministry of Personnel, PG & Pensions and Ministry of Home Affairs and all officers and Sections in the Ministry of Personnel, PG & Pensions and Ministry of Home Affairs.

GSR----- In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Classification, Control and Appeal) Rules, 1965, namely:-

1.

- (1) These rules may be called the Central Civil Services (Classification, Control and Appeal) Amendment Rules, 2004.
- (2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Central Civil Services (Classification, Control and Appeal) Rules, 1965, in rule 14, in sub-rule(2), before the Explanation, the following proviso shall be inserted, namely:

“Provided that where there is a complaint of sexual harassment within the meaning of rule 3 C of the Central Civil Services (Conduct) Rules, 1964, the Complaints Committee established in each Ministry or Department or Office for inquiring into such complaints, shall be deemed to be the inquiring authority appointed by the disciplinary authority for the purpose of these rules and the Complaints Committee shall hold, if separate procedure has not been prescribed for the Complaints Committee for holding the inquiry into the complaints of sexual harassment, the inquiry as far as practicable in accordance with the procedure laid down in these rules.”

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Annexure 29.24

Copy of Government of Himachal Pradesh Department of Personnel letter No. Per(AP-II)A(3)-1/79-III dated 29th December, 2010 to all the Administrative Secretaries, Heads of Departments, Divisional Commissioner, Deputy Commissioners and Secretaries/MD's/Registrars of Boards/Corporations/Universities, in H.P.

[Referred to in Para 29. 5 under Rule 15(2)]

Subject: Communicating tentative reasons for disagreement under rule 15(2) of the CCS(CCA) Rules, 1965.

The under signed is directed to enclose a copy of Government of India, Ministry of Personnel, PG and Pensions, Office Memorandum No. 11012/12/2010-Estt.(A), dated 12th November, 2010 on the subject cited above and to request that the guidelines contained therein may please be brought to the notice of all concerned for information and strict compliance.

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Copy of Government of India, Ministry of Personnel, Public Grievances and Pensions, New Delhi Office Memorandum No. 11012/12/2010-Estt.(A) dated 12th November, 2010 addressed to All Ministries/Departments of Govt. of India and endorsed to CAG of India, Lok Sabha Sectt./ Rajya Sabha Sectt., President's Secretariat, New Delhi, Prime Minister's Office, New Delhi, Central Vigilance Commission, Chief Secretaries of all State Governments and UT Administrations etc.

Subject: Communicating tentative reasons for disagreement under rule 15(2) of the CCS (CCA) Rules, 1965.

The undersigned is directed to say that rule 15(2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 states that 'The Disciplinary Authority shall forward or cause to be forwarded a copy of the report of the inquiry, if any, held by Disciplinary Authority or where the Disciplinary Authority is not the Inquiring Authority, a copy of the report of the Inquiring Authority together with its own tentative reasons for disagreement, if any, with the findings of Inquiry Authority on any article of charge to the Government Servant who shall be required to submit, if he so desires, his written representation or submission to the Disciplinary Authority within fifteen days, irrespective of whether the report is favourable or not, to the Government Servant.

2. The necessity of following the aforementioned rule 15(2) both in letter and spirit is reiterated. The communication forwarding the IO's report alongwith the tentative reasons for disagreement, if any, seeking comments/representation of the charged officer should reflect this position. All Ministries/Departments are, therefore, requested to ensure that the communication forwarding the IO's report etc. does not contain phrases such as 'Article of charge is fully proved' or 'Article of charge is fully substantiated' which could be construed to mean that the disciplinary - authority is biased even before considering the representation of the charged officer and this would be against the letter and spirit of the CCS (CCA) Rules, 1965.

3. Ministry of Finance etc. may bring the contents of the above OM to the notice of all concerned.

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Annexure 29.25

Copy of Government of Himachal Pradesh Department of Personnel letter No. Per(AP-II)A(3)-1/79-III dated 4th February, 2008 to all the Administrative Secretaries, Heads of Departments, Divisional Commissioner, Deputy Commissioners, Chairmen/MD's/ Secretaries/Registrars of all Boards/Corporations/Autonomous Bodies., in H.P.

[Referred to in Para 29.5 under Rule 32(8.1)]

Subject: Central Civil Services (Classification, Control and Appeal) Rules, 1965 -Advice of the Union Public Service Commission (UPSC) to be communicated to the delinquent Government servant along with the final order of penalty.

The undersigned is directed to enclose a copy of Government of India, Ministry of Personnel, PG and Pensions O.M. No. 11012/10/2007-Estt.(A), dated 7th January, 2008 on the subject cited above and to request that these guidelines may please be brought to the notice of all concerned for information and strict compliance.

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Enclosure to Annexure 29.25

Copy of GOI, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training, New Delhi O.M. No. 11012/10/2007-Estt.(A) dated 7th January, 2008 addressed to all Ministries/Departments of the GOI and endorsed to Lok Sabha/Rajya

Sabha Secretariat/Ministry of Parliamentary Affairs/PUSC/Chief Secretaries of all State Governments/Union Territory Administrations etc.

Subject: Central Civil Services (Classification, Control and Appeal) Rules, 1965 -Advice of the Union Public Service Commission (UPSC) to be communicated to the delinquent Government servant along with the final order of penalty.

The undersigned is directed to refer to the provisions of rule 32 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and to say that the nature of consultation with the Union Public Service Commission (UPSC) and the manner of communication of the advice of the UPSC to the delinquent Government servant have been subject matter of litigation in some cases in CAT/High Courts etc. The questions raised from time to time are whether consultation with the UPSC under Article 320 (3) (c) of the Constitution is mandatory and binding on the appropriate authority; and whether a copy of the UPSC's advice should be furnished to the Charged Officer before the order imposing a penalty is issued. The Hon'ble Supreme Court of India has finally decided the matter in its judgment dated the 19th April, 2007 in Civil Appeal No. 2067 of 2007 (Union of India and Another vs. T.V. Patel).

2. In the above judgment, the Hon'ble Supreme Court referred to the cases of State of U.P. vs. Mandbodhan Lal Srivastava (Constitution Bench of the Hon'ble Supreme Court) [1958 SCR 533] and Ram Gopal Chaturvedi vs. State of Madhya Pradesh (three Judge Bench) [1969 (2) SCC 240] and did not agree with the contentions on behalf of the respondent that non-supply of a copy of the advice tendered by the UPSC before the final order was passed deprived the delinquent officer of making an effective representation and that it, therefore, vitiates the order. The Hon'ble Supreme Court held as follows :-

"In view of the law settled by the Constitution Bench of this Court in the case of Srivastava (supra) we hold that the provisions of Article 320(3)(c) of the Constitution of India are not mandatory and they do not confer any rights on the public servant so that the absence of consultation or any irregularity in consultation process or furnishing a copy of the advice tendered by the UPSC, if any, does not afford the delinquent government servant a cause of action in a court of law. "

3. The judgement of the Hon'ble Supreme court in the case of S.N. Narula vs. Union of India and others [SLP(c)12188/2003], on the facts and circumstances of that case apparently did not lay down any law. Whereas in the later judgement in T.V. Patel's case delivered on 19.4.2007, the Apex Court has laid down law relying on two earlier decisions of the Apex Court, one of the Constitution Bench and another of a three Judge Bench. In view of the judgment dated 19.04.2007 of the Hon'ble Supreme Court it is clear that the Disciplinary Authority is not required to furnish a copy of the advice tendered by the Union Public Service Commission to the Charged Officer before the final order of penalty is passed.

4. All Ministries/Departments/Offices etc. are, therefore, requested to comply with the existing provisions of CCS(CCA) Rules, 1965 and bring the contents of this O.M. to the notice of all concerned for adopting a uniform stand and to make serious efforts to get the litigation cases on this subject disposed of by the various courts on the basis of the law laid down by the Hon'ble Supreme Court in the judgements referred to in the preceding paragraphs.

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Annexure 29.26

Copy of Government of Himachal Pradesh Department of Personnel letter No. Per(AP-II)A(3)-1/79-III dated 31st August, 2007 to all the Administrative Secretaries, Heads of Departments, Divisional Commissioner, Deputy Commissioners, Chairmen/MD's/Secretaries/Registrars of all Boards/Corporations/Autonomous Bodies, in H.P.

[Referred to in Para 29.5 (9)(c)]

Subject: Simultaneous action of prosecution in a court and initiation of departmental proceedings.

The undersigned is directed to enclose a copy of Government of India, Ministry of Personnel, PG and Pensions O.M. No. 11012/6/2007-Estt.(A), dated 1st August, 2007 on the subject cited above and to request that these guidelines may please be brought to the notice of all concerned for information and strict compliance.

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Enclosure to Annexure 29.26

Copy of GOI, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training, New Delhi O.M. No. 11012/6/2007-Estt.(A) dated 1st August, 2007 addressed to all Ministries/Departments of Government of India and endorsed to CAG of India, UPSC, President's/Vice President's Sectt./PMO, ECI, CVC, CBI, all UTs and Chief Secretaries of all State Governments/Lok Sabha/Rajya Sabha Secretariat etc.

Subject:- Simultaneous action of prosecution in a court and initiation of departmental proceedings.

The undersigned is directed to refer to the M.H.A. O.M. No. 39/30/54-Ests. Dated the 7th June, 1955 and No. 39/8/64-Ests. Dated the 4th September, 1964, on the above subject which state that prosecution should be the general rule in all cases which are found fit to be sent to Court and in which the offences are of bribery, corruption or other criminal misconduct involving loss of substantial public funds and that in such cases, departmental action should not precede prosecution. References are being received in this Department seeking clarification as to whether departmental action can also be taken, where the same matter has been taken up in a court of competent jurisdiction for prosecution of the Government servant concerned.

2. What may be deduced from the above instructions is that in serious cases involving offences such as bribery/corruption etc., action should be launched for prosecution as matter of course. The Hon'ble Supreme Court had held in their various judgements, the

important ones being, State of Rajasthan Vs. B.K. Meena & Others (1996 6 SCC 417), Capt. M. Paul Anthony Vs. Bharat Gold Mines Limited (1999 3 SCC 679), Kendriya Vidyalaya Sangthan & Others Vs. T. Srinivas (2004 (6) SCALE 467) and Noida Entrepreneurs Association Vs. Noida (JT 2007 (2) SC 620), that merely because a criminal trial is pending, a departmental inquiry involving the very same charges as is involved in the criminal proceedings is not barred. The approach and objective in the criminal proceedings and disciplinary proceedings are altogether distinct and different. In the disciplinary proceedings, the question is whether the respondent is guilty of such conduct as would merit his removal from service or a lesser punishment, as the case may be, whereas in the criminal proceedings, the question is whether the offences registered against the Government servant are established and if established, what sentence can be imposed on him. In serious nature of cases like acceptance of illegal gratification, the desirability of continuing the concerned Government servant in service in spite of the serious charges leveled against him may have to be considered by the Competent Authority to proceed with departmental action.

3. However, if the charge in the criminal case is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case. This will depend upon the nature of offence and the evidence and material collected against the Government servant during investigation or as reflected in the charge-sheet. If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were kept pending on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty, his honour may be vindicated and in case he is found guilty, the administration may get rid of him at the earliest, if the case so warrants.

4. In the case of Hindustan Petroleum Corporation Ltd. Vs. Sarvesh Berry (2004 (10) SCALE Page 340), it has been held in Para 9 that "it is not desirable to lay down any guidelines as inflexible rules in which the departmental proceedings may or may not be stayed pending trial in criminal case against the delinquent officer. Each case requires to be considered in the back drop of its own facts and circumstances. There would be no bar to proceed simultaneously with departmental inquiry and trial of a criminal case unless the charge in the criminal trial is of grave nature involving complicated questions of fact and law." The apex court has referred to the conclusions given in Para 22 of Captain M. Paul Anthony's case.

5. It is, therefore, clarified that stay of disciplinary proceedings is not a must in every case, where there is a criminal trial on the very same charges and the concerned authority may decide on proceeding with the departmental proceedings after taking into consideration the fact and circumstances of each case and the guidelines given by the Hon'ble Supreme Court, as mentioned in the preceding paragraphs.

6. All Ministries/Departments are, therefore, requested to keep in view the above guidelines while dealing with cases of criminal misconduct of Government servants.

Annexure 29.27

Copy of Government of Himachal Pradesh Department of Personnel letter No. Per(AP-II)A(3)-1/79-III dated 18th May, 2009 addressed to all the Administrative Secretaries,

Heads of Departments, Divisional Commissioner, Deputy Commissioners, Chairmen/MD's/ Secretaries/Registrars of all Boards/Corporations/Autonomous Bodies., in H.P.

[Referred to in Para 29.5 (9)(c)]

Subject: Simultaneous action of prosecution in a court and initiation of departmental proceedings.

I am directed to invite your attention to this Department O.M. of even number dated 31st August, 2007 on the subject cited above and to say that it has come to the notice of the Government that the instructions contained therein are not being complied with strictly, for which Govt. has taken a serious view.

It is, therefore, again emphasized that these instructions may strictly be adhered to and brought to the notice of all concerned for strict compliance. Any deviation to these instructions will be viewed seriously and stern action may be initiated against defaulting officers/officials.

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Annexure 29.28

Copy of Government of Himachal Pradesh Department of Personnel letter No. Per(AP-II)A(3)-1/79-III dated 23rd March, 2011 addressed to all the Administrative Secretaries, Heads of Departments, Divisional Commissioner, Deputy Commissioners, Chairmen/MD's/ Secretaries/Registrars of all Boards/Corporations/Autonomous Bodies., in H.P.

[Referred to in Para 29.5 (9)(c)]

Subject: Simultaneous action of prosecution in a court and initiation of departmental proceedings.

I am directed to invite your attention to this Department O.M. of even number dated 31st August, 2007 and 18-05-2009 on the subject cited above and to say that it has been noticed that the instructions contained therein are not being complied with strictly.

It is, therefore, again emphasized that these instructions may be adhered to in letter and spirit. Strict compliance of these instructions may please be ensured. Any lapse in this regard will be viewed seriously and stern action may be initiated against defaulting officers/officials.

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Annexure 29.29

Copy of Government of Himachal Pradesh Department of Personnel letter No. Per(Vig.)F-3(HPMC)181/94 dated 6th December, 1995 addressed to all the Administrative Secretaries, Heads of Departments and Public Sector Undertakings, in H.P.

[Referred to in Para 29.6(i)]

Subject: Initiation of departmental enquiries to be conducted by the CDE/DDE, H.P. – instructions thereof.

It has come to the notice of the Government that the Administrative Departments, Head of Departments and the Heads of Public Sector Undertakings are sending enquiries direct to the Commissioner, Departmental Enquiries and Director, Departmental Enquiries, H.P. without complying with the provisions of H.P. Vigilance Manual. In this regard the Government has decided that the following guidelines be borne in mind while sending the enquiries against the delinquent officers/officials:-

1. Where the Govt. department or any Public Sector Undertaking or Corporate body comes to this conclusion that an enquiry is to be initiated against the delinquent and if they intend to get the enquiry conducted through C.D.E. or D.D.E. they are advised to follow to the provisions of Para 22.4 Chapter IX of the H.P. Vigilance Manual which provides as under:-

“Disciplinary enquiries against gazetted/non-gazetted officers/officials without any vigilance angle should normally be entrusted to departmental officers for oral enquiries.”

However, in cases where the disciplinary authority feels that the issues are complicated or have peculiar features involving vigilance angle the disciplinary authority may approach the Vigilance Department setting out the facts in detail and request for the nomination of the C.D.E. or D.D.E. as inquiry officer or as the case may be.

2. Where the Vigilance Department upon such request of the concerned disciplinary authority approves the holding of departmental enquiry from C.D.E. or D.D.E., in that event the question of payment of fees or remuneration to the C.D.E. or D.D.E. or its staff does not arise in view of the provisions of Chapter-1, para 9 of the H.P. Vigilance Manual. This being so because the Public Sector Undertakings or Corporate Bodies are Government organisations and are wholly owned by the State Government.

These instructions are being issued in continuation of this office circular letter No. Per(Vig.)F-3(PWD)-257/83 dated 28th July, 1995.

Keeping in view of the above, all the disciplinary authorities are requested to strictly adhere to the above guidelines.

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Annexure 29.30

Copy of H.P. Government Department of Personnel letter No. Per(AP-II)A(3)-1/79 dated 22-10-1997 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

[Referred to in para 29.6(ii)]

Subject: Appointment of Inquiry Officers in Departmental Enquiries- thereof.

Jai Hind.

I am directed to say that as per instructions contained in H.P. vigilance Manual, vigilance cases against gazetted officers are inquired into by the Commissioner Departmental Enquiries and those against non-gazetted officials by the Director Departmental Enquiries and in all other cases the Disciplinary Authority himself holds the inquiry or appoints Inquiry Officers to conduct the inquiry. It has come to the notice of the Government that a large number of Departmental Enquiries are pending with the inquiry Officers in various departments. The Inquiry Officers either do not give adequate attention to the finalisation of inquiries or have not time owing to pre-occupation in their substantive jobs. It was also felt that some of the Departmental Inquiry Officers do not either possess adequate inquiring skills and proper knowledge of rules and procedures or are found to be biased at times.

In order, therefore, to expedite finalisation of Departmental enquiries in all the departments in a time bound manner as also in the interest of expediency and fair play, it has been decided that, henceforth, enquiries in all fresh disciplinary proceedings to be initiated by the Disciplinary Authorities in all the Departments of Himachal Pradesh Government shall be entrusted to the Commissioner Departmental Enquiries/Director Departmental Enquiries, Himachal Pradesh. In order to devise an inbuilt system for timely and expeditious finalisation of Departmental Enquiries, the following procedures have been laid down:-

1. All fresh inquiries in disciplinary proceedings to be initiated against Gazetted Officers (Class-I & Class- II) will be entrusted to the Commissioner, Departmental Enquiries and those against the Non-Gazetted Officers/officials will be entrusted to the Director, Departmental Enquiries. For the present, enquiries in respect of officers/officials borne on District Cadre will continue to be conducted by the Departmental Enquiry Officers.
2. The Disciplinary Authority will prepare the chargesheet, get it served on the delinquent, obtain reply on the chargesheet from the delinquent, process the reply and send the case alongwith relevant documents to the Commissioner, Departmental Enquiries (CDE)/Director, Departmental Enquiries (DDE). The entire process should be completed within a maximum period of one & half months.
3. Disciplinary Authority shall remain primarily responsible for bringing all the disciplinary cases to their logical conclusion as per relevant rules through periodical monitoring and review of proceedings going on with Commissioner, Departmental Enquiries/Director Departmental Enquiries.

4. Disciplinary Authority shall get the charge-sheet served on the delinquent immediately after a decision is taken to initiate disciplinary proceedings.
5. On receipt of orders appointing them as Inquiring Authority, the CDE/DDE will immediately proceed with the enquiry and will ensure completion thereof within a period of 6 months. In case the time schedule of six months is, in any case, not adhered to, the CDE/DDE will have to assign reasons for delay.
6. There shall be a Nodal Officer in each department for coordination and follow-up with the Commissioner, Departmental Enquiries and Director, Departmental Enquiries.
7. Presenting Officer shall be from the department who is well versed with the factual position. He shall be a Gazetted Officer for presenting the case before the Commissioner, Departmental Inquiries.
8. It will be the responsibility of the Disciplinary Authority concerned to supply unlisted record, on the request of the CDE/DDE during the course of inquiry, within a period of 15 days. In case where the delinquent evades inquiry on medical grounds, it will be the responsibility of the Disciplinary Authority to get the delinquent medically examined from the duly constituted Medical board within a maximum period of one month. The Disciplinary Authority at the Government level as also at the Department level will be responsible to cooperate with the CDE/DDE and to assist them in the expeditious finalisation of inquiries.
9. The CDE/DDE will submit their reports in all such Departmental proceedings directly to the Disciplinary Authority both at the Government/Department level.

With a view to streamlining the above system, strengthen the Enquiry Agency and for the greater convenience of public as also to make the Commissioner Departmental Enquiries/Director Departmental Enquiries mobile, the following infrastructural facilities will be provided to them:-

1. CDE/DDE may be provided with Court room facilities in H.P. Secretariat (preferably in ground floor),
2. Independent vehicle may be provided to CDE and DDE so as to ensure touring upto Tehsil level for conducting inquiries,
3. Additional staff to CDE/DDE may be provided as and when necessary keeping in view the increase in the work-load.
4. CDE/DDE may be provided with Court Rooms at the Sub-division/Tehsil level on an adequate previous notice from them.
5. Process Serving Agency in the District as well as in Sub-Division/Tehsil level may be activated and utilised by the CDE/DDE for service of the summons issued by them.

Accordingly, all the Disciplinary Authorities are requested to comply with these instructions meticulously.

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Annexure 29.31

Copy of H.P. Government Department of Personnel letter No. Per(AP-II)A(3)-1/79-Pt. dated 20-11-1997 addressed to the Managing Director, H.P. Sch. Castes & Sch. Tribes Dev. Corp. Jain Bhawan, Hospital Road, Solan, H.P.

[Referred to in para 29.6(iii)]

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Subject: Appointment of Inquiry Officers in Departmental Inquiries- thereof.

Jai Hind.

With reference to your letter No. SCDC(B)(2)80/85-(Estt) 9019 dated 27-10-1997 on the above cited subject, I am directed to say that the instructions issued vide this Department letter of even number dated 22-10-1997 are not applicable in the case of the employees of the Boards/Corporations.

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Annexure 29.32

Copy of H.P. Govt., Department of Personnel letter No: Per(AP-II)A(3)-1/79 dated 01-07-1999 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

.....

[Referred to in Para 29.6(iv)]

.....

Subject: Appointment of Inquiry Officers in Departmental Inquiries-Instructions thereof.

Jai Hind.

I am directed to invite your attention to this Department letter of even number dated 22-10-1997 on the above cited subject and to say that despite of clear instructions in the matter many major departments are not entrusting the departmental enquiries to the Commissioner Departmental Enquiries/Director Departmental Enquiries and the Government has taken a serious view of it. It is, therefore, again emphasised that with a view to expedite finalisation of departmental enquiries in all the departments in a time bound manner as also in the interest of expediency and fair play, enquiries in all fresh disciplinary proceedings to be initiated by the Disciplinary Authorities in all the Departments of Himachal Pradesh Government shall be entrusted to the Commissioner Departmental Enquiries/Director Departmental Enquiries, Himachal Pradesh as the case may be.

Accordingly, all the Disciplinary authorities are again requested to comply with these instructions strictly.

Please acknowledge the receipt.

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Annexure 29.33

Copy of H.P. Govt., Department of Personnel letter No: Per(AP-II)A(3)-1/79 dated 20-11-1999 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

.....
[Referred to in para 29.6(v)]

.....
Subject: Appointment of Inquiry Officers in Departmental Inquiries-Instructions thereof.

Jai Hind.

On the above cited context, I am directed to say that owing to the large number of departmental enquiries pending in various Departments, the Department of Personnel vide its letter of even number dated 22nd October, 1997 had issued instructions to entrust all the enquiries to the Commissioner Departmental Enquiries and Director Departmental Enquiries. On a review after two years of the issuance of above instructions, it has been noted that the number of cases with the Commissioner Departmental Enquiries and Director Departmental Enquiries are not sufficient to justify the posting of two officers exclusively for this purpose. Besides, factors like problems of extra expenditure involved in TA/DA of all concerned visiting Shimla etc. have been considered. It has, therefore, been decided that all Departmental enquiries which do not involve any vigilance angle, shall henceforth be conducted by the Departmental Officers. Only cases involving vigilance angle shall be sent to the Commissioner Departmental Enquiries in respect of both Gazetted Officers and Non Gazetted Officials.

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Annexure 29.34

Copy of Government of Himachal Pradesh Department of Personnel letter No. PER(AP)-C-F(10)-4/2010 dated 23rd October, 2013 to all the Administrative Secretaries, Heads of Departments, Divisional Commissioner, Deputy Commissioners, Chairmen/MD's/Secretaries /Registrars of all Boards/Corporations/ Universities, in H.P.

{Referred to in Para 29.5(9)(Misc matters) (d)}

Subject: Action against Government servants who get appointment on the basis of false SC/ST/OBC certificates.

I am directed to refer to this department's letter No. Per(AP)-C-F(10)-4/2005, dated 15-05-2007 on the subject cited above and to say that the existing instructions on the matter provides as under:-

“Wherever it is found that a Government servant, who was not qualified or eligible in terms of the recruitment, rules etc., for initial recruitment in service or had furnished false information or produced a false certificate in order to secure appointment, he should not

be retained in service. If, he is probationer or a temporary Government servant, he should be discharged or his services should be terminated. If he has become a permanent Government servant, an inquiry as prescribed in Rule 14 of CCS (CCA) Rules, 1965 may be held and if the charges are proved, the Government servant should be removed or dismissed from service. In no circumstances should any penalty be imposed”.

2. It has been observed that disciplinary proceedings in the cases involving appointments on the basis of false/fake caste certificates take considerable time and the persons who have secured employment on the basis of false caste certificates enjoy the benefits of Government service whereas such Government servants should be removed/dismissed from the service at the earliest.

3. It is, therefore, requested that disciplinary enquiries involving the matter of securing jobs on the basis of false/fake certificates should be completed in a time bound manner and unscrupulous persons who have got appointment on the basis of the fake/false caste certificates should not be retained in service and should be dismissed/removed thenceforth.

4. These instructions may be followed in letter & spirit and brought to the notice of all concerned for strict compliance.

5. Kindly acknowledge the receipt.

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Central Civil Services (Classification, Control and Appeal) Rules, 1965

The principal rules were published in the Gazette of India vide notification number S.O. 3703, dated the 20th November, 1965 and subsequently amended vide the following notifications:-

S. No.	Notification No.	Published in Gazette of India vide.	Amendment in Rules.
1.	7/3/66-Ests.(A) dated 06.04.1966	S.O. No. 1149 dated 13.04.1966	Part -II of the Schedule.
2.	7/3/66-Estt.(A) dated 28.05.1966	S.O. No. 1596 dated 04.06.1966	Part -III of the Schedule.
3.	7/9/66-Ests.(A) dated 01.07.1966	S.O. No. 2007 dated 09.07.1966	Rule 9
4.	7/8/66-Ests.(A) dated 27.08.1966	S.O. No. 2648 dated 03.09.1966	Part-I and Part-II of the Schedule.
5.	7/6/66-Ests.(A) dated 22.09.1966	S.O. No. 2854 dated 01.10.1966	Part -II of the Schedule.
6.	7/8/66-Ests.(A) dated 22.09.1966	S.O. No. 2855 dated 01.10.1966	Part -II of the Schedule.
7.	7/2/67-Ests.(A) dated 10.04.1967	S.O. No. 1282 dated 15.04.1967	Part-IV of the Schedule.
8.	7/4/64-Ests.(A) dated 18.04.1967	S.O. No. 1457 dated 29.04.1967	Rule 24
9.	7/4/67-Ests.(A) dated 07.09.1967	S.O. No. 3253 dated 16.09.1967	Part-I and Part-II of the Schedule.
10.	7/9/67-Ests.(A) dated 26.09.1967	S.O. No. 3530 dated 07.10.1967	Part -II of the Schedule.
11.	7/10/67-Ests.(A) dated 14.11.1967	S.O. No.4151 dated 25.11.1967	Part-III of the Schedule.
12.	7/1/67-Ests.(A) dated 29.02.1968	S.O. No. 821 dated 09.03.1968	Rule 10
13.	7/5/68-Ests.(A) dated 23.05.1968	S.O. No. 1870 dated 01.06.1968	Part-II of the Schedule.
14.	7/6/68-Ests.(A) dated 13.09.1968	S.O. No. 3423 dated 28.09.1968	Part-II and Part-III of the Schedule.
15.	7/14/69-Est.(A) dated 19.12.1969	S.O. No. 5008 dated 27.12.1969	Part-I of the Schedule.
16.	7/15/69-Estt.(A) dated 23.01.1970	S.O. No. 397 dated 07.02.1970	Part-III and Part-IV of the Schedule.
17.	7/3/68-Ests.(A) dated 21.08.1971	S.O. No. 3521 dated 25.09.1971	Part-I to Part-V of the Schedule.
18.	7/11/71-Est.(A) dated 29.11.1971	S.O. No. 249 dated 01.01.1972	Rule 2
19.	7/6/72-Ests.(A) dated 05.04.1972	S.O. No. 990 dated 22.04.1972	Rule 3-A

20.	7/3/68-Ests.(A) dated 22.04.1972	S.O. No. 1600 dated 01.07.1972	Part-II of the Schedule.
21.	7/3/68-Estt.(A) dated 03.08.1972	S.O. No. 2789 dated 14.10.1972	Part-II, Part-III and Part-IV of the Schedule.
22.	7/9/72-Ests.(A) dated 21.03.1973	S.O. No 929 dated 31.03.1973	Part-V of the Schedule.
23.	7/3/74-Estt.(A) dated 07.06.1974	S.O. No. 1648 dated 06.07.1974	Part-V of the Schedule.
24.	11012/8/76-Ests.(A) dated 14.07.1976	S.O. No. 2742 dated 31.07.1976	Part-II of the Schedule.
25.	7/4/69-Estt.(A) dated 24.11.1976	S.O. No. 4664 dated 11.12.1976	Rule-14
26.	11012/10/77-Ests.(A) dated 20.09.1977	S.O. No. 3062 dated 08.10.1977	Part-I of the Schedule.
27.	11012/2/76-Estt.(A) dated 01.11.1977	S.O. No. 3573 dated 26.11.1977	Rule 12
28.	11012/12/77-Ests(A) dated 01.11.1977	S.O. No. 3574 dated 26.11.1977	Part-I, Part-II, Part-III and Part-IV of the Schedule.
29.	11012/21/77-Estt.(A) dated 14.11.1977	S.O. No. 3671 dated 03.12.1977	Rule 14
30.	11012/15/77-Estt.A dated 14.08.1978	S.O. No. 2464 dated 02.09.1978	Part-V of the Schedule.
31.	11012/2/77-Estt.A dated 16.08.1978	S.O. No. 2465 dated 02.09.1978	Rule 15
32.	11012/11/1978- Estt.(A) dated 02.03.1979	S.O. No. 920 dated 17.03.1979	Rule 27 and Rule 29
33.	11012/5/80-Ests.(A) dated 09.01.1981	S.O. No. 264 dated 24.01.1981	Part-V of the Schedule.
34.	11012/1/1981- Estt.(A) dated 25.07.1981	S.O. No. 2126 dated 08.08.1981	Part-V of the Schedule.
35.	11012/1/80-Estt.(A) dated 06.08.1981	S.O. No. 2203 dated 22.08.1981	Rule 29
36.	35012/2/80-Ests.(A) dated 07.09.1981	S.O. No. 2512 dated 03.10.1981	Rule 10
37.	11012/3/81-Ests.(A) dated 07.01.1982	S.O. No. 168 dated 23.01.1982	Rule 24
38.	11012/7/82-Estt.(A) dated 25.04.1984	S.O. No. 1535 dated 12.05.1984	Part-I and Part-V of the Schedule.
39.	11012/15/84-Estt.(A) dated 05.07.1985	G.S.R. No. 671 dated 20.07.1985	Rule 23, Rule 29
40.	11012/05/85-Estt.(A) dated 29.07.1985	G.S.R. No. 746 dated 10.08.1985	Part-II and Part-III of the Schedule.

41.	11012/6/85-Estt.(A) dated 06.08.1985	G.S.R. No. 812 dated 31.08.1985	Rule 29 and Rule 29-A
42.	11012/12/85-Estt.(A) dated 06.12.1985	S.O. No. 5637 dated 21.12.1985	Part-I of the Schedule.
43.	11012/8/85-Estt.(A) dated 11.12.1985	S.O. No. 5743 dated 28.12.1985	Part-III of the Schedule
44.	11012/24/85-Estt.(A) dated 26.11.1986	S.O. No. 4089 dated 13.12.1986	Part-I and Part-V of the Schedule.
45.	11012/13/86-Estt.(A) dated 11.03.1987	S.O. No. 830 dated 28.03.1987	Rule 19
46.	11012/12/86-Estt.(A) dated 19.03.1987	S.O. No. 831 dated 28.03.1987	Part-II of the Schedule.
47.	11012/11/86-Ests.(A) dated 10.06.1987	S.O. No. 1591 dated 27.06.1987	Rule 11
48.	11012/3/87-Estt.(A) dated 03.07.1987	S.O. No. 1825 dated 18.07.1987	Part-I to Part-III of the Schedule.
49.	11012/11/88-Estt.(A) dated 29.09.1988	S.O. No. 3060 dated 15.10.1988	Part-II of the Schedule.
50.	11012/10/88- Estts.(A) dated 30.09.1988	S.O. No 3061 dated 15.10.1988	Part-III of the Schedule.
51.	11012/3/89-Ests.(A) dated 21.08.1989	S.O. No. 2207 dated 16.09.1989	Part-I and Part-II of the Schedule.
52.	11012/13/89-Estt.(A) dated 30.03.1990	S.O. No. 1084 dated 28.04.1990	Rule 29 and Part-II of the Schedule.
53.	11012/4/86-Estt.(A) dated 03.08.1990	S.O. No. 2208 dated 25.08.1990	Rule 11
54.	11012/4/86-Estt.(A) dated 26.05.1992	S.O. No. 1481 dated 13.06.1992	Rule 11
55.	11012/6/92-Estt.(A) dated 04.06.1992	G.S.R. No. 289 dated 20.06.1992	Rule 14
56.	11012/2/92-Estt.(A) dated 09.12.1992	G.S.R. No 589 dated 26.12.1992	Part-II of the Schedule.
57.	11012/12/90-Estt.(A) dated 22.09.1994	G.S.R. No 499 dated 08.10.1994	Part-III of the Schedule.
58.	11012/4/94-Estt.(A) dated 03.05.1995	G.S.R. No 276 dated 10.06.1995	Rule 15 and Rule 17
59.	11012/8/94-Estt.(A) dated 02.01.1996	G.S.R. No 17 dated 20.01.1996	Rule 14, Rule 22 and Rule 27
60.	11012/3/96-Estt.(A) dated 28.02.1996	G.S.R. No 125 dated 16.03.1996	Part-II of the Schedule.
61.	11012/3/96-Estt.(A) dated 18.09.1996	G.S.R. No 417 dated 05.10.1996	Part-II of the Schedule.
62.	11012/2/2000- Estt.(A) dated 11.10.2000	G.S.R. No. 420 dated 28.10.2000	Rule 11

63.	11012/10/2000- Estt.(A) dated 30.03.2001	G.S.R. No 211 dated 14.04.2001	Part-II, Part-III and Part- IV of the Schedule.
64.	11012/10/2000- Estt.(A) dated 13.02.2002	G.S.R. No. 60 dated 23.02.2002	Part II and Part IV of the Schedule.
65.	11012/4/2003- Estt.(A) dated 23.12.2003	G.S.R. No. 2 dated 03.01.2004	Rule 10
66.	11012/4/2003- Estt.(A) dated 02.04.2004	G.S.R. No. 249(E) dated 02.04.2004	Rule 10
67.	11012/4/2003- Estt.(A) dated 29.03.2004	G.S.R. No. 113 dated 10.04.2004	Rule 10
68.	11012/5/2001- Estt.(A) dated 01.07.2004	G.S.R. No. 225 dated 10.07.2004	Rule 14
69.	11012/5/2003- Estt.(A) dated 23.08.2004	G.S.R. No. 287 dated 28.08.2004	Rule 11
70.	11012/4/2003- Estt.(A) dated 04.11.2004	G.S.R. 384 dated 13.11.2004	Rule 10
71.	11012/10/2004- Estt.(A) dated 20.12.2004	G.S.R. No. 1 dated 01.01.2005	Part-I and Part-II of the Schedule.
72.	11012/10/2004- Estt.(A) dated 11.07.2005	G.S.R. No. 246 dated 23.07.2005	Part-II of the Schedule.
73.	11012/4/2003- Estt.(A) dated 06.06.2007	G.S.R. No. 105 dated 16.06.2007	Rule 10
74.	11012/10/2004- Estt.(A) dated 18.03.2008	G.S.R. No. 49 dated 29.03.2008	Part-II of the Schedule.
75.	11012/8/2008- Estt.(A) dated 29.01.2009	G.S.R. No. 12 dated 07.02.2009	Part-V of the Schedule.
76.	11012/3/2009- Estt.(A) dated 17.07.2009	S.O.No 1762(E) dated 16.07.2009	Part-V of the Schedule.
77.	11012/2/2005- Estt.(A) dated 02.02.2010	G.S.R. No. 55(E) dated 02.02.2010	Rule 11
78.	11012/2/2005- Estt.(A) dated 10.12.2011	G.S.R. No. 877(E) dated 05.12.2011	Rule 14

79.	11012/8/2011- Estt.(A) dated 31.10.2014	G.S.R. No. 769(E) dated 31.10.2014	Rule 15, Rule 16, Rule 17, Rule 19, Rule 27 Rule 29, Rule 29-A, Rule 3
80.	11013/2/2014- Estt.(A) dated 19.11.2014	G.S.R. No. 822(E) dated 19.11.2014	Rule 11
81.	11012/9/2016- Estt.(A) dated 02.06.2017	G.S.R. No. 548(E) dated 02.06.2017	Rule 14, Rule 16, Rule 19, Rule 27, Rule 29, Rule 29-A
82.	11012/01/2016- Estt.(A-III) dated 12.09.2017	S.O. No. 2167 dated 16.09.2017	Part-V of the Schedule.
83.	11012/3/2009- Estt.(A-III) dated 08.03.2018	G.S.R. No. 216(E) dated 08.03.2018	Part-V of the Schedule.

Chapter 30

DEPARTMENTAL EXAMINATIONS

30.1 Departmental Examination Rules

The Himachal Pradesh Departmental Examination Rules, 1976 were notified with the approval of the Public Service Commission as also with the prior approval of the central Government as required under section 82 of the Punjab Re-Organization Act, 1966, and section 42 of the State of Himachal Pradesh Act, 1970, vide notification No. HIPA (Exam)12/75, dated the 23rd March, 1976. The rules came into force w.e.f. 23-3-1976.

These rules govern the Departmental Examination in respect of:-

1. The members of the H.P. Administrative Services
2. The members of the H.P. Forest service;
3. The Tehsildar and Naib-Tehsildar;
4. All other Gazetted officers working in Himachal Pradesh not included in (1) to (3) above; and
5. Any other class or category of officers which may be included by the Government from time to time.

The Departmental Examination prescribed in these rules, in its relation to Indian Administrative service and Indian Forest Service Officers, is deemed to be the Departmental Examination or examination contemplated in Rule 6(1) of the I.A.S (pay) Rules, 1954 and Rule 6(1) of the Indian Forest Service (Pay) Rules, 1968 respectively.

The Himachal Pradesh Departmental Examination Rules, 1976 as amended upto 16th June, 1990 were printed and issued by the H.P. Government Department of Personnel (Training and Foreign Assignments) in 1990, which may be referred to. The booklet containing the Rules is not being reproduced here.

30.2 Provision for passing of Departmental Examination in all Recruitment & Promotion Rules of all Gazetted posts/services.

Simultaneous with the notification of the Himachal Pradesh Departmental Examination Rules, 1976, the Government decided that every Gazetted Officer working in connection with the affairs of the State shall pass a departmental examination as prescribed in Departmental Examination Rules at least once during his service. For implementing this decision directions were also issued to all Govt. Departments to make provisions in various service rules relating to Recruitment & Promotion Rules Gazetted Officers in the State, excepting Himachal Pradesh Administrative Service, H.P. Tehsildari

Service Rules and H.P Naib-Tehsildari Rules where adequate provision already existed. The draft provision had been processed through all channels and was to be made in all Rules of gazetted services/posts straightway and the fact of approval of the Central Govt. and consultation with H.P Public Service Commission was to be indicated in the proposed provision in the form of an amendment.

The provision for Departmental Examination in the rules of Gazetted services/posts was first desired to be made through O.M No. HIPA(Exam)-12/75 dated 23-3-1976 and subsequently certain amendments having been carried out in the Himachal Pradesh Departmental Examination Rules, 1976, the provision for departmental examination in service rules of various gazetted services/posts (excepting Indian Administrative Services, H.P. Administrative Services, H.P. Tehsildari and Naib Tehsildari Service Rules) was revised. The revised provision was circulated vide H.P. Govt. Personnel Department (Training) Memo No. HIPA (Exam)12/75-VIII, dated 17-08-1984.

30.3 Departmental Examination Rules – w.e.f 13-03-1997

The Himachal Pradesh Departmental Examination Rules, 1997 have been notified by Department of Personnel (Training and Foreign Assignments) vide notification No. Per.(Trg.)B(12)-40/95, dated the 13th March,1997 in exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and all other powers in this behalf regarding conduct of Departmental Examination for the various categories of services in Himachal Pradesh by repealing the Himachal Pradesh Departmental Examination Rules, 1976, as amended from time to time. The Himachal Pradesh Departmental Examination Rules, 1997 governs the Departmental Examination in respect of:-

- i) the members of Himachal Pradesh Administrative Services;
- ii) the members of Himachal Pradesh Forest Services;
- iii) Tehsildars and Naib-Tehsildars;
- iv) all other gazetted officers working in connection with the affairs of the State of Himachal Pradesh not included in Clauses(i) to (iii) above;
- v) Superintendent grade-II and Sr. Assistants of H.P. Govt. (Non Gazetted) and
- vi) all such other Non-Gazetted officials who have put in not less than 10 years of regular service in connection with the affairs of the State of Himachal Pradesh whose next promotion or placement as and when it takes place shall put them in a Gazetted rank.
- vii) any other class or category of officers which may be included by the Government from time to time;

Provided that the departmental examination prescribed in these rules, shall in its relation to Indian Administrative Service and Indian Forest Service Officers, be deemed to be the departmental examination or examination contemplated in rule 6 (1) of the Indian Administrative Service (Pay) Rules,1968 respectively.

30.4 Pass percentage:-

As per rule 13 of the Himachal Pradesh Departmental Examination Rules, 1997, the pass percentage for each paper prescribed for all services is 50% of the total marks for that paper.

30.5 Failure to pass the Departmental Examination:-

A member of the service shall not be eligible for proficiency step-up/higher scale next due, confirmation in service even after completing of probationary period and promotion to the next higher post unless he passes the departmental examination prescribed in these rules provided that if there are specific rules governing the conditions of service of a category or a class of officers, the provisions contained in such rules relating to the effect of failure to pass the departmental examinations shall prevail. It has also been provided in these rules that the provisions of this Rule shall not be applicable to the category of employees {Superintendent Grade-II and Sr. Assistants of H.P. Govt. (Non-Gazetted)} as specified in clause (v) of sub-rule (2) of Rule 2 until they are promoted/appointed against the Gazetted posts. The rules further provides further that any employee failing under the category as specified in clause (v) of sub-rule (2) of Rule 2 who passes the departmental examination under these rules shall not be required to pass the departmental examination under these Rules on his appointment/promotion to the Gazetted post as specified in clause (iv) of sub-rule (2) of rule-2.

30.6 Exemptions clause, power to grant exemption and power to relax:-

Rule 23, 23-A, 25 and 26 of the Himachal Pradesh Departmental Examination Rules,1997 provide for exemptions clause, power to grant exemption and power to relax respectively and the same are as follows:

“23. Exemption Clause:-

- (1) If an officer has passed the Hindi Examination in Matriculation or equivalent examination or above either as an elective subject or as an optional subject or has qualified the same in a competitive examination conducted by the Himachal

Pradesh Public Service Commission or the Union Public Service Commission, he shall not be required to requalify the same.

- (2) A gazetted officer on the attainment of 55 years of age shall not be required to pass the departmental examination prescribed under these rules, as amended from time to time for the purpose of Proficiency Step Up/Higher Scale, next due and confirmation in the service. However, Gazetted officers irrespective of their age shall get further promotion whenever due only after passing such examination. Provided further that no non-gazetted promotee to a gazetted post will be allowed to cross the efficiency bar/ proficiency set-up/ higher scale next due and confirmation in service before the age of 50 years until and unless he passes the prescribed departmental examination. In such cases the same will be treated automatically released only on attaining 50 years of age and not from the due date.
- (3) The officer who have qualified the departmental examination in whole or in part prescribed under any other rules before the Notification of these rules, shall not be required to qualify the whole or in part of the examination as the case may be: Provided that for the Indian Administrative Service/Himachal Administrative Service officers who have qualified the departmental examination prescribed under these rules notified vide Government of Himachal Pradesh (Department of Personnel-A) notification No. 7-10/72- Apptt., dated 5th May,1972 as amended up to 1.9.1974 by the prescribed standard or Punjab Extra Assistant Commissioner Departmental Examination by the higher standard only shall not be required to qualify the whole or part of the examination as the case may be.
- (4) The Financial Commissioner may in consultation with Commission grant exemption in pursuance of Rule 14 (vi) of Himachal Pradesh Tehsildari Service Rules, 1973 for reasons to be recorded in writing in accordance with these rules.
- (5) The Divisional Commissioner may grant exemption in pursuance of Rule -13 of Himachal Pradesh Naib-Tehsildari Service Rules, 1973 for reasons to be recorded in writing in accordance with these rules.
- (6) The Officers of the Finance Department who have qualified the S.A.S. examination may be exempted by the Finance Department in pursuance of Rule 23-A from appearing in such paper(s) which are included in the S.A.S. examination.

Application for exemption is to be made on the prescribed form attached to the Himachal Pradesh Departmental Examination Rules, 1997.

23-A Power to grant exemption:-

The Government may in consultation with the Commission, grant exemption in pursuance of the respective Service Rules of the category of officers, covered by these Rules, for reasons to be recorded in writing, in accordance with these rules.

25. Copies or order passed regarding exemption –

A copy of the orders passed under rule 23 shall be forwarded to the Secretary.

26. Power to relax:

Where the Government is of the opinion that it is necessary or expedient to do so, it may in consultation with the Board and H.P. Public Service Commission, by order for reasons to be recorded in writing relax any of the provisions of these rules with regard to any class or category of persons or posts.”

30.7 - Paper and Syllabus

The rule 24 of the Himachal Pradesh Departmental Examination Rules, 1997 governs the paper and syllabus and the number of papers and the syllabus for the examination conducted by the Board of Departmental Examination for various categories of post are given in the Schedule A, B, C, D, E and A1 , B1 , C1 , D1 and E1 attached to these rules. The papers for the Departmental Examination and the syllabus for the papers prescribed in the above schedules is to be amended by the Board of Departmental Examination with the prior consultation of the Commission, from time to time. The Officers/Officials (Non-Gazetted) belonging to the Education Department, Technical Education Department, Law Department, Architects and Assistant Town Planners of the Public Works Department, except Administrative and Ministerial Officers of these departments are only required to pass paper 1 and 2 i.e. Financial Administration and Hindi. The Private Secretaries (Gazetted) of the Himachal Pradesh Government are only be required to pass paper 1, 2, and 3 i.e. Financial Administration, Hindi and Secretariat Administration and General (Office Management).

The instructions-guideline, eligibility, applications form and syllabus have been uploaded by the HIPA on its official website; therefore, the same are not reproduced in this chapter.

The Himachal Pradesh Departmental Examination Rules, 1997, amended from time to time, are annexed at **Annexure 30.1**.

Annexures to Chapter 30
Departmental Examination

Annexure No.	Details of communications	Page No.
30.1	Government of Himachal Pradesh, Department of Personnel (Training) Notification No. Per (Trg.)B(12)-40/95, dated 13-03-1997 (amended from time to time)	368

Annexure 30.1

Copy of Government of Himachal Pradesh, Department of Personnel (Training) Notification No. Per (Trg.)B(12)-40/95, dated 13-03-1997 (amended from time to time) addressed to all Secretaries and Heads of Departments etc.

(Referred to in Para 30.3)

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and all other powers in this behalf, the Governor, Himachal Pradesh, in consultation with the Himachal Pradesh Public Service Commission is pleased to make the following Rules regarding conduct of Departmental Examination for the various categories of services in Himachal Pradesh:-

1. Short Title:- These Rules shall be called the Himachal Pradesh Departmental Examination Rules, 1997.

2. Commencement and Application:-

(1) These shall come into force from the date of publication in H.P. Rajpatra.

(2) These shall govern the Departmental Examinations in respect of-

(i) The members of Himachal Pradesh Administrative Services;

(ii) The members of Himachal Pradesh Forest Services;

(iii) Tehsildars and Naib-Tehsildars;

(iv) all other gazetted officers working in connection with the affairs of the State of Himachal Pradesh not included in Clauses(i) to (iii) above;

(v) * Superintendent grade-II and Sr. Assistants of H.P. Govt. (Non Gazetted) and

(vi) ** all such other Non-Gazetted officials who have put in not less than 10 years of regular service in connection with the affairs of the State of Himachal Pradesh whose next promotion or placement as and when it takes place shall put them in a Gazetted rank.

(vii) any other class or category of officers which may be included by the Government from time to time;

Provided that the departmental examination prescribed in these rules, shall in its relation to Indian Administrative Service and Indian Forest

Service Officers, be deemed to be the departmental examination or examination contemplated in rule 6 (1) of the Indian Administrative Service (Pay) Rules,1968 respectively.

* Amendment. vide notification No. Per(Trg) B (12)-40/95-1 dated 28.11.1998 by the Govt. of H.P

** Amendment vide notification No. Per (Trg)-A(4)-2/92-II-Part dated 18.4.2007 by the Govt. of H.P

3. Definitions:- In these rules, unless the context otherwise requires-

- (i) "BOARD" means Board of Departmental Examination constituted under these rules;
- (ii) "CHAIRMAN" means Chairman of the Board of Departmental Examinations;
- (iii) "COMMISSION" means the Himachal Pradesh Public Service Commission;
- (iv) "DEPARTMENTAL EXAMINATION" means the Departmental Examination prescribed under these rules;
- (v) "FORM" means form attached to these rules;
- (vi) "GOVERNMENT" means the Government of Himachal Pradesh; (vii)"SCHEDULE" means schedule attached to these rules;
- (viii) "SECRETARY" means Secretary of the Board of Departmental Examination;
- (ix) "SERVICE" means service or services to which these rules are applicable from time to time; and
- (x) "TECHNICAL OFFICER" means an officer who at the time of entry into gazetted service is required to possess a special professional qualification for example: B.Sc.(Agriculture), M.B.B.S., Bachelor of Engineering, BVSC, M.Sc. (Geology) etc., or is imparted training at specialised Institutions and the training was deemed complete only after the end of course/examination.

Note: The State Government shall in consultation with the Himachal Pradesh Board of Departmental Examination, through notification in the official gazette declare the "Technical Officers" under the above definition.

4. Board of Departmental Examination:

1 **The Board of Departmental Examinations shall consist of:-

- | | |
|--|-----------------------|
| (i) The Chief Secretary of the Government | Chairman |
| (ii) Principal Secretary/Secretary (Revenue) | Member |
| (ii) Principal Secretary/Secretary(Horticulture) | Member |
| (iv) Principal Secretary/Secretary(Personnel) | Member |
| (v) Principal Secretary/Secretary (Finance) | Member |
| (vi) Principal Secretary/Secretary (Training) | Member |
| (vii) Director General/Director, H.P. Institute
of Public Administration*** | Member Administration |

Provided that the Chairman may co-opt a Secretary/Principal Secretary to the Government and/or Head of Department concerned as Member whenever necessary.

The Secretary of the Board of Departmental Examination will be ex-officio member.

** Amendment vide notification No. Per (Trg)-A(4)-2/92-II-Part dated 18.4.2007 by the Govt. of H.P.

***Amendment vide notification No. HIPA (Exam)-20/76-6 dated 3.12.2013 by the consultation of Govt. of H.P

2. The Board shall be overall in-charge of departmental examinations and shall be responsible to ensure the implementation of these rules. The decision of the Board under these rules shall be final.

- (1) The officer-on-Special Duty, Himachal Pradesh Institute of Public Administration or any other officer of the Himachal Pradesh Institute of Public Administration as may be appointed by the Chairman, shall be the Secretary of the Board.
- (2) The Secretary shall issue all orders on behalf of the Board.
- (3) The Secretary under the over-all control of the Chairman shall be responsible:
 - (a) for making arrangements for the conduct of the departmental examinations;
 - (b) for the appointment of the examiners and to receive the question papers and make arrangements for their printing or cyclostyling in accordance with these rules;
 - (c) for making arrangements of superintendents of the examination, transmission of answer books to the examiners and to receive back the answer books from the examiners ;
 - (d) for compiling and declaring the result (s); and
 - (e) for any other function envisaged by these rules or entrusted by the Chairman from time to time.

6. Conduct of Examinations:-

(1) The departmental examinations shall be held twice in a year on such dates as may be notified by the Secretary with the approval of the Chairman and published in the Himachal Pradesh Rajpatra at least one month before the commencement of the examination:

Provided that the Board may in its discretion decide to hold an examination on a shorter notice, if the circumstances so warrant;

Provided further that the Board may decide to hold an additional examination or may hold only one examination in a year instead of two keeping in view exigencies of public service.

(2) The examination may be held at such place or places as may be notified by the Secretary with the approval of the Chairman.

7. Applications for Departmental Examination

- (1) * An officer/official eligible in accordance with these rules and desiring to appear in the Departmental Examination prescribed for his service, shall intimate on the prescribed form his intention of appearing in the Departmental Examination after notification of the date of commencement of examination in the Himachal Pradesh Rajpatra. The application should be submitted to the secretary through the Head of Department/Head of Office concerned which should reach him before the date prescribed in this behalf Provided that an officer/official may also submit an advance copy of the application direct to the Secretary for appearing in the Departmental Examination which should reach him on or before the date prescribed for submission of applications. Roll Numbers and Admission Cards to the candidates shall, however, be issued provisionally. Original application (along with eligibility certificate duly appended there with) should also reach the Secretary, Board of Departmental Examination at least 10 (Ten) days prior to the date of commencement of examination, failing which provisionally issued Roll Numbers and Admission Cards shall stand cancelled.
- (2) An officer who fails to intimate his intention to appear in the departmental examination in the manner mentioned in sub-rule (1) above will not be permitted to appear in that examination. Similarly if an officer fails to include any paper of examination in the list of papers intimated in the form prescribed, he/she shall be precluded from the examination in that paper even if he may subsequently desire to be examined in it. Provided that if the facilities are available, the Secretary may permit such officer to appear in that paper as a special case.
- (3) The officers of Indian Administrative Service mentioned in Rule 6(1) of the Indian Administrative Service (Pay) Rules, 1954 and officers appointed to the Himachal Pradesh Administrative Service under Rule 15 of the Himachal Pradesh Administrative Service Rules, 1973 and those mentioned in Rule 19 of the said rules shall be eligible to appear in the departmental examination prescribed for them under these rules.
- (4) The officers of the Indian Forest Service mentioned in Rule 6 (1) of the Indian Forest Service (Pay) Rules, 1968 and officers appointed to Himachal Pradesh Forest

Service, shall be eligible to appear in departmental examination prescribed for them under these rules.

- (5) (a) The officer eligible for appointment as Tehsildars in accordance with Himachal Pradesh Tehsildari Service Rules,1973 shall be allowed to appear in departmental examination in papers 1 to 8 prescribed for them under these rules.
- (b) The officers eligible for appointment as Naib-Tehsildars in accordance with the Himachal Pradesh Naib-Tehsildari Service Rules, 1973 shall be allowed to appear in departmental examination in papers 1 to 5 prescribed for them under these rules.

* Amendment. vide notification No. Per(Trg) B (12)-49/95-1 dated 12.3.2001 by the Govt. of H.P .

* Amendment vide notification No. Per(Trg)-A(4) 2/92-Vol.II-Part dated 12.6.2008 by the Govt. of H.P{D.E.Form 7(1)}

* Amendment vide notification No.HIPA(Exam)-20/76-6 dated 3.12.2013 by the consultation of Govt. of H.P. {Form DE-1 Rule7(1)}

- (c) The applications of the candidates referred to in sub-rule (a) and (b) above for appearing in the departmental examination shall be forwarded to the Secretary by the Financial Commissioner in case of officers mentioned in sub-rule(a) above and by the Divisional Commissioner(Revenue) in case of officers mentioned in sub-rule(b) above after certifying the eligibility of the officers.
- (6) The officers of all other departments appointed to the gazetted services of the State of Himachal Pradesh by promotion or by direct recruitment or by any other method other than Technical Officers as declared by the State Government under Clause(x) of Rule-3 of these rules shall be eligible to appear in the departmental examination prescribed for that service under these rules.
- (7) The officers who have been declared Technical Officers under Clause (x) of Rule3 of these rules shall be eligible to appear in the departmental examination prescribed for that service under these rules.
- (8) * All the Superintendent Grade-II and Senior Assistant, Class-III (Non- Gazetted) appointed to the non-gazetted services of the State of Himachal Pradesh by promotion or by direct recruitment or by any other method of recruitment shall be eligible to appear in the Departmental Examination under these Rules irrespective of the fact whether departmental examination has been prescribed in their recruitment and promotion rules or not.

8. Commencement of the examination:-

The date of commencement of the examination will be notified in the Himachal Pradesh Rajpatra by the Secretary and date-sheet thereof will also be sent to each candidate along with the Roll Number on the address given in his application form.

9. Appointment of Superintendent (s) and Invigilators etc.:-

The Secretary will with the approval of the Chairman appoint examination Superintendent(s), Invigilators and other Staff for the examination centre, keeping in view the work -load and may issue such instructions as he may deem necessary for the conduct of the examination.

10. Answer Books:-

- a) The Secretary will supply the required number of blank answer books (in which the examinees will write answers), piece of blotting paper and question papers. The answer books will bear the seal of the Secretary and will be signed or stamped by the Superintendent of the Examination.
- b) Answers by the candidates must be written legibly on both sides of the paper. On no account whatever, must a sheet or part of a sheet be torn or removed from the answer book. The examinees shall not write their names or any other marks anywhere in the answer book, which may indicate the identity of the candidate.

* Amendment. vide notification No. Per(Trg) B (12)-40/95-1 dated 28.11.1998 by the Govt. of H.P

- c) All answer books collected from the examinees will be packed properly immediately on the conclusion of each paper and shall be sealed by the Examination Superintendent and forwarded to the Secretary. At the end of the examination the Superintendent of the Examination will send to the Secretary an account of the answer books received and used together with all the unused answer books, on the prescribed form.

11. Question Papers:-

- a) The secretary will appoint the examiner for each paper with the approval of the Chairman. The question papers received from the examiners will be printed or cyclostyled by the Secretary with the approval of the Chairman under complete secrecy.

- b) The question papers for the examination duly sealed will be despatched to the Examination Superintendent by the Secretary, before the commencement of the examination.
- c) The sealed packets containing question papers will be kept intact in his personal custody by the Examination Superintendent.
- d) The packets containing question papers will be opened by the Examination Superintendent in the examination hall not more than half an hour before the commencement of the examination. The seals will be broken after showing these to the Invigilators present, who will sign the covers containing the papers in token of their having found the seals intact before being opened and also send a certificate to this effect on the prescribed form.
- e) At the end of the examination the Examination Superintendent will return to the Secretary all the unused question papers together with an account of the same on the prescribed form.

12. Examination of answer books and publication of result:-

- 1) The Secretary will cause the answer books of various papers examined by the examiners appointed under Rule 11(1) and the Examiners shall prepare an award list on the prescribed form and forward the same to the Secretary along with the answer books.
- **2) The result will be compiled by the Secretary on the receipt of award lists and will be placed before the Chairman for approval with such recommendations, as he may deem necessary.
- * 3) (i) Marks will be conveyed to all the examinees in their result card. If a candidate feels that his/her answer sheet has not been fairly evaluated and his/her score is not less than 40% he/she may within 21 days from the date of issue of the result card by the Board of Departmental Examination, apply to the Secretary, Board of Departmental Examination on a simple application accompanied by result card in original and the prescribed fee at Rs.100/-per paper in the shape of Bank Draft payable in favour of Director, HIPA, Fairlawns, Shimla-171012.

* Amendment. vide notification No. Per(Trg) B (12)-40/95-1 dated 28.11.1998 by the Govt. of H.P

** Amendment vide notification No. Per (Trg)-A(4)-2/92-II-Part dated 18.4.2007 by the Govt. of H.P

- (ii) An examiner other than the one who had originally evaluated will re-evaluate the Answer Sheet and average of the two awards shall be the final award in case the

variation (increase or decrease) in the two awards is not more than 10% of the maximum marks allotted to the papers.

- (iii) The answer sheet be referred to a third examiner in case variation (increase or decrease) is more than 10% in the two awards and the average of two-higher awards (out of the three) shall be the final awards.
- (iv) Decimals will be rounded off to the nearest whole number.
- (v) The change in awards after re-evaluation shall be conveyed to the candidate.
- (vi) In case the re-evaluation result is received after the commencement of the subsequent examination which the applicant has taken, out of the two results i.e. one on the basis of the re-evaluation and the other on the basis of his performance in the subsequent examination, the result that is advantageous to the applicant, will be conveyed to him.
- (vii) Board will not be responsible for the delay/rejection of the case, if the form is not complete in all respects or not accompanied by full fee and original detailed marks card/certificate.
- (viii) A candidate who applied for re-evaluation shall not be entitled to claim any retrospective benefit on the basis of the declaration of the result of re-evaluation.

13. Pass percentage:-

The pass percentage for each paper prescribed for all services shall be 50% of the total marks for that paper.

14. Remuneration for paper setters, evaluation of answer books, Superintendents of examination etc. :-

The rates of the honorarium which shall be payable to the examiners/paper setters and the officers/officials deployed for the conduct of examination by H.P. Public Service Commission from time to time shall be automatically applicable to the paper setters/Examiners and Officers and Officials engaged in conduct of Departmental Examinations from 1.7.1998.

15. Direction for conduct of departmental Examination:-

The Secretary may with the approval of the Chairman from time to time issue directions in consonance with these rules for the conduct of departmental examination and for implementation of these rules and such instructions will be deemed to have the effect of these rules.

* Amendment. Vide notification No. Per (Trg) B (12)-40/95-1 dated 28.11.1998 by the Govt. of H.P

16. Conduct in the examination hall:-

- 1) A candidate appearing in the departmental examination shall be required to maintain perfect discipline and abide by the instructions given by the examination Superintendent who will ensure that during his absence from the examination hall, the candidate has no opportunity of obtaining any information relating to the question paper.
- 2) Any violation of the sub-rule (1) committed by the candidate will be deemed to be misconduct and the matter will be reported to the Secretary and the case will be dealt with in the manner mentioned in rule 17.

17. ** Unfair means-

The case of an officer who either at the time of examination or subsequently is found to have used unfair means will be reported to the Secretary forthwith along with the answer book(s) and any other documentary or oral evidence who shall place the matter before the Chairman for deciding the action to be taken against such officer.

The Chairman may impose any of the following penalties:-

- i) the officer may be declared fail in the entire examination
- ii) the officer may be declared fail in one or more papers;
- iii) debarring the officer from appearing in the future examination; and
- iv) any other action, which the Chairman may like to suggest to the department concerned to be taken against him:

Provided that before imposing any of the penalties, the Chairman may give an opportunity to the candidate to make representation, orally or in writing.

18. Use of books:-

The candidate will be allowed to answer questions with the aid of only Bare Acts and Rules if applicable for answering the questions set in the paper.

19. Grant of travelling allowance/leave etc.

- a) The departmental examination prescribed under these rules will be treated as obligatory examination and every member of the service will be entitled to draw T.A. as envisaged in Supplementary Rules 130 or any other corresponding rules as may be applicable in Himachal Pradesh for appearing in the departmental examination prescribed for his service.
- b) The period spent for appearing in the departmental examination will be treated as duty.

**Amendment vide notification No. Per (Trg)-A(4)-2/92-II-Part dated 18.4.2007 by the Govt. of H.P

19(A) * Grant of travelling allowance/leave etc.

The Departmental Examination under these Rules to the categories of employees as specified in clause (v) of sub-rule (2) of the rule 2 shall be treated as optional Examination but every such member shall be entitled for the grant of T.A./ Leave etc. and the period spent for appearing in departmental examination will be treated as duty as per provisions of Rule 19.

20. Destruction of answer books:-

The answer books of the departmental examination will be destroyed on the expiry of three months from the date of declaration of the result unless a particular answer book or a set of answer books is needed for the decision of any case for which the Secretary shall use his discretion.

21. Failure to pass the Departmental Examination:-

A member of the service shall not be eligible for:

- (i)** proficiency step-up/higher scale next due
- (ii) confirmation in service even after completing of probationary period; and
- (iii) Promotion to the next higher post.

Unless he passes the departmental examination prescribed in these rules;

Provided that if there are specific rules governing the conditions of service of a category or a class of officers, the provisions contained in such rules relating to the effect of failure to pass the departmental examinations shall prevail.

Provided further that the provisions of this Rule shall not be applicable to the category of employees as specified in clause (v) of sub-rule(2) of Rule 2 until they are promoted/appointed against the Gazetted posts.

Provided further that any employee failing under the category as specified in clause(v) of sub-rule(2) of Rule 2 who passes the departmental examination under these rules shall not be required to pass the departmental examination under these Rules on his appointment/promotion to the Gazetted post as specified in clause(iv) of sub-rule (2) of rule-2.

22.*** Creation of data base of Departmental Examination of employees on PMIS by respective Departments :

The provision is as under:-

- (a) HIPA will put on its website a Department wise/year wise folder of the results; and
- (b) Departments concerned should integrate this data with Personal Management Information System (PMIS) of its employees.

*Amendment. vide notification No. Per(Trg) B (12)-40/95-1 dated 28.11.1998 by the Govt. of H.P.

* * Amendment vide notification No. Per (Trg)-A(4)-2/92-II-Part dated 22.7.2008 by the Govt. of H.P

***As per decision conveyed vide letter No. Per(Trg.)B(12)-40/95-II dated 29th August,2013.

23. Exemption Clause:-

- (1) If an officer has passed the Hindi Examination in Matriculation or equivalent examination or above either as an elective subject or as an optional subject or has qualified the same in a competitive examination conducted by the Himachal Pradesh Public Service Commission or the Union Public Service Commission, he shall not be required to requalify the same.
- (2) **A gazetted officer on the attainment of 55 years of age shall not be required to pass the departmental examination prescribed under these rules, as amended from time to time for the purpose of Proficiency Step Up/Higher Scale, next due and confirmation in the service. However, Gazetted officers irrespective of their age shall get further promotion whenever due only after passing such examination. Provided further that no non-gazetted promotee to a gazetted post will be allowed to cross the efficiency bar/ proficiency set-up/ higher scale next due and confirmation in service before the age of 50 years until and unless he

passes the prescribed departmental examination. In such cases the same will be treated automatically released only on attaining 50 years of age and not from the due date.

- (3) The officer who have qualified the departmental examination in whole or in part prescribed under any other rules before the Notification of these rules, shall not be required to qualify the whole or in part of the examination as the case may be: Provided that for the Indian Administrative Service/Himachal Administrative Service officers who have qualified the departmental examination prescribed under these rules notified vide Government of Himachal Pradesh (Department of Personnel-A) notification No. 7-10/72- Apptt., dated 5th May,1972 as amended up to 1.9.1974 by the prescribed standard or Punjab Extra Assistant Commissioner Departmental Examination by the higher standard only shall not be required to qualify the whole or part of the examination as the case may be.
- (4) The Financial Commissioner may in consultation with Commission grant exemption in pursuance of Rule14 (vi) of Himachal Pradesh Tehsildari Service Rules, 1973 for reasons to be recorded in writing in accordance with these rules.
- (5) The Divisional Commissioner may grant exemption in pursuance of Rule -13 of Himachal Pradesh Naib-Tehsildari Service Rules, 1973 for reasons to be recorded in writing in accordance with these rules.
- (6) The Officers of the Finance Department who have qualified the S.A.S. examination may be exempted by the Finance Department in pursuance of Rule 23-A from appearing in such paper(s) which are included in the S.A.S. examination.

Note: Application for exemption should be made on the prescribed form attached to these rules.

23. -A Power to grant exemption:-

The Government may in consultation with the Commission, grant exemption in pursuance of the respective Service Rules of the category of officers, covered by these Rules, for reasons to be recorded in writing, in accordance with these rules.

** Amendment vide notification No. Per (Trg)-A(4)-2/92-II-Part dated 18.4.2007 by the Govt. of H.P

** Amendment vide notification No. Per (Trg)-A(4)-2/92-II-Part dated 22.7.2008 by the Govt. of H.P

24. Paper and Syllabus:-

- (1) ** The number of papers and the syllabus for the examination conducted by the Board of Departmental Examination for various categories of post are given in the Schedule A, B, C, D, E and A 1 , B1 , C1 , D1 and E1 attached to these rules
- (2) The papers for the Departmental Examination and the syllabus for the papers prescribed in the above schedules may be amended by the Board of Departmental Examination with the prior consultation of the Commission, from time to time
- (3) * The Officers/Officials (Non-Gazetted) belonging to the Education Department, Technical Education Department, Law Department, Architects and Assistant Town Planners of the Public Works Department, except Administrative and Ministerial Officers of these departments are only required to pass paper 1 and 2 i.e. Financial Administration and Hindi
- (4) The Private Secretaries (Gazetted) of the Himachal Pradesh Government shall only be required to pass paper 1, 2, and 3 i.e. Financial Administration, Hindi and Secretariat Administration and General (Office Management).

INTERPRETATIONS, REPEAL AND SAVINGS

25. Copies or order passed regarding exemption –

A copy of the orders passed under rule 23 shall be forwarded to the Secretary.

26. Power to relax:

Where the Government is of the opinion that it is necessary or expedient to do so, it may in consultation with the Board and H.P. Public Service Commission, by order for reasons to be recorded in writing relax any of the provisions of these rules with regard to any class or category of persons or posts.

27. Repeal and Savings:

- (1) The Himachal Pradesh Departmental Examination Rules, 1976 notified vide Notification No. HIPA (Exam) 12/75, dated 23 March, 1976 and as amended from time to time are hereby repealed.
- (2) Any other rules, instructions or orders laying the procedure for the departmental examinations, now contained in these rules, shall be deemed to have been repealed.
- (3) Notwithstanding such repeal, any action taken or anything done under the rules so repealed shall be deemed to have been validly taken or done under these rules.

*Amendment. vide notification No. Per(Trg) B (12)-49/95-1 dated 28.11.1998 by the Govt. of H.P.

* * Amendment of Syllabus vide notification No. HIPA(Exam)-12/75-16 dated 29th October,2010

** Amendment of Syllabus vide notification No.HIPA(Exam)-20/76-VI dated 9th May,2014.

** Amendment of Syllabus vide notification No. HIPA (Exam)-20/76-VII dated 24th June,2015

SCHEDULE-A

PAPERS FOR THE EXAMINATION OF INDIAN ADMINISTRATIVE SERVICE AND HIMACHAL PRADESH ADMINISTRATIVE SERVICE OFFICERS.

The papers for the Departmental Examinations and the maximum marks allotted to each paper shall be as under:-

Paper No.	Nomenclature of Paper	Maximum Marks
1	Criminal Law and Procedure	100
2	Criminal Case	100
3	Revenue Law and Procedure	100
4	Hindi (Written-60 Marks) Two hours (Oral -40 Marks) One hour	100
5	Revenue Case	100
6	General Administration	100
7	Planning and Development	100
8	Constitution and Civil Law	100
9	Civil Service, Treasury and Financial Rules	100
10	Special Acts (Criminal), Manuals and Rules	10
11	Minor (Revenue) Acts and Manuals	100
12	Motor Mechanism and Driving (Written-50, Practical-50)	100
13	Target Shooting (Rifle-Revolver)	280
14	Computer (Written-50 Marks) One & half hour, (Practical-50 Marks) One & half hour	100

NOTE:- Officers belonging to the Indian Administrative Service will not have to appear in the Papers: 6, 7,8,13 & 14.

SCHEDULE-B

PAPERS FOR THE DEPARTMENTAL EXAMINATION OF TECHNICAL OFFICERS

The papers for the Departmental Examinations and the maximum marks allotted to each paper shall be as under:-

Paper No.	Nomenclature of Paper	Maximum Marks
1	Financial Administration 1	100
2	Hindi (Written-60 Marks) Two hours (Oral -40 Marks) One hour	100
3	Rules and Acts pertaining to the respective department and general knowledge regarding developmental problems of the Pradesh as identified from the angle of the respective department	100

SCHEDULE-C

PAPERS FOR THE DEPARTMENTAL EXAMINATION OF TEHSILDARS AND NAIB TEHSILDARS

The papers for the Departmental Examinations of Tehsildars and Naib Tehsildars and the maximum marks allotted to each paper shall be as under:-

Paper No.	Nomenclature of Paper	Maximum Marks
1	Land Revenue Acts and Rules	100
2	Arithmetic and Patwaries Mensuration	100
3	Minor Revenue Acts and Rules	100
4	4 Hindi (Written)	100
5	Criminal Law and Procedure	100
6	Revenue Case	100
7	Local and Special Laws	100
8	Local Fund, Treasury and Financial Rules	100

NOTE:-Provided that for the purpose of Himachal Pradesh Tehsildari Service Rules 1973, Paper 1 to 8 above will constitute the Tehsildars Departmental Examination and for the

purpose of Himachal Pradesh Naib- Tehsildari Service Rules, 1973. Paper 1 to 5 will constitute the Naib- Tehsildars Departmental Examination.

SCHEDULE-D

PAPERS FOR THE DEPARTMENTAL EXAMINATION OF NON-TECHNICAL OFFICERS

The papers for the Departmental Examinations and the maximum marks allotted to each paper shall be as under:-

Paper No.	Nomenclature of Paper	Maximum Marks
1	Financial Administration (Paper-1)	100
2	Hindi (Paper - 2) (Written-60 Marks, Oral-40 Marks)	100
3	Non Technical (Paper-3) Rules & Acts pertaining to concerned Department	100
4	Non Technical (Paper-4) Rules & Acts pertaining to concerned Department	100
5	Non Technical (Paper-5) Rules & Acts pertaining to concerned Department	100

SCHEDULE-E

PAPERS FOR THE DEPARTMENTAL EXAMINATION OF EXCISE AND TAXATION INSPECTORS.

The papers for the Departmental Examinations and the maximum marks allotted to each paper shall be as under:-

Paper No.	Nomenclature of Paper	Maximum Marks
1	Law of Crimes	100
2	Excise Law	100
3	Law relating to Allied Taxes	100
4	Sales Tax Law and Practices	100
5	Book Keeping and General Commercial Knowledge	100

PAPERS FOR THE DEPARTMENTAL EXAMINATION FOR CLASS-II OFFICERS/ OFFICIALS OF THE H.P.BOARD OF SCHOOL EDUCATION (Section Officers & above of the Board)

The papers for the Departmental Examinations and the maximum marks allotted to each paper shall be as under:-

Paper No.	Nomenclature of Paper	Maximum Marks
1	FINANCIAL ADMINISTRATION	100
2	ADMINISTRATION AND GENERAL	100
3	BOARD ACT AND REGULATIONS	100

PAPERS FOR THE DEPARTMENTAL EXAMINATION OF ENGINEERING OFFICERS (ELECTRICAL & CIVIL/MECH.) OF H.P.STATE ELECTRICITY BOARD LTD.

The papers for the Departmental Examinations and the maximum marks allotted to each paper shall be as under:-

Paper No.	Nomenclature of Paper	Maximum Marks
I	WORKS,STORES & COMMERCIAL ACCOUNTS/MANUALS	300
II	FINANCIAL RULES, BUDGET, SERVICE REGULATIONS, ACTS AND OFFICE PROCEDURE	200

PAPERS FOR THE DEPARTMENTAL EXAMINATION FOR SENIOR MANAGERS AND ASSISTANT ENGINEERS (CIVIL) OF THE H.P. TOURISM DEVELOPMENT CORPORATION LTD.

The papers for the Departmental Examinations and the maximum marks allotted to each paper shall be as under:-

Paper No.	Nomenclature of Paper	Maximum Marks
1	Accounts & Administration (Common for Sr. Managers and Assistant Engineers of HPTDC Ltd.)	100
2	Hotel Management (Sr. Managers of HPTDC)	100
3	Project Management & Engineering (Rules & Acts) (Assistant Engineers(C) of HPTDC Ltd.)	100

Chapter 31

FUNCTIONS OF RESIDENT COMMISSIONER, NEW DELHI

31.1 Revised functions

The functions of the Resident Commissioner for the Government of Himachal Pradesh at Delhi were prescribed vide letter No. 2-12/73-DP(Apptt.) dated 26-07-1973, which were revised vide letter No. 2-12/73-DP.Apptt. dated 29-6-1983 (**Annexure 31.2**) and additional functions were entrusted vide letter No. 2-12/73-DP.Apptt. dated 29-12-1983 (**Annexure 31.3**). With a view to revamp and strength the office of the Resident Commissioner, Himachal Pradesh at Delhi and to make it more effective and meaningful, in partial modification of instructions issued vide letters dated 29-06-1983 and 29-12-1983, the revised functions (not wholly exhaustive but indicative in nature) of the Resident Commissioner for the Government of Himachal Pradesh at Delhi are as under:

1. To maintain high level liaison with Ministries/Departments/ Institutions in Government of India, Foreign Diplomatic Missions, International Donors/Aid Agencies, Trade and Industry Organisation etc.
2. To interact with entrepreneurs for encouraging investments in the State not merely in the traditional fields of Agriculture, Horticulture, Industry etc. but in upcoming and frontier areas of Energy, Information technology, Bio-Technology, Forestry, Floriculture, Tourism, Health, Alternate Systems of Medicines, Education and other identified sectors which are "thrust areas" for the State Government.
3. To follow up matters pending with the Government of India and other agencies at personal level including those where prolonged correspondence by State Government has not been affective.
4. To represent the State Government in negotiations/ discussions/meetings on important subjects with Central Ministries/ State Governments as and when required by the State Government, and to obtain and provide important information as may be required by the State Government from time to time from various quarters.
5. To make available any information/material/documents, required by the Members of Parliament for raising important issues concerning the State in parliament, as and when necessary.
6. To attend to protocol duties pertaining to His Excellency, the Governor and Hon'ble Chief Minister, whenever they visit Delhi.
7. All Delhi based offices/officers of Himachal Government would work under the supervision and control of Resident Commissioner to ensure better co-ordination

and their optimum functioning. Resident Commissioner has to act as the eyes and ears of the Himachal Pradesh Government in Delhi and should ensure that the officials are punctual, diligent and efficient in the discharge of their duties. However, day to day functional supervision and control would continue to be exercised by the concerned Heads of Departments/Managing Directors etc.

8. The office of the Resident Commissioner has to be a repository of information about all the Departments of Himachal Pradesh Government. It will be the responsibility of the State Departments to keep Resident Commission posted and updated on the main policies, programmes, projects to enable the Resident Commissioner to use this information for expeditious release of funds against various schemes and garner investments for various schemes which the State wishes to promote.
9. To hold informal get-togethers with various stakeholders to promote the interest of the State and to maintain liaison with HP Cadre Offices posted in the Central Government in various capacities.
10. To undertake any additional responsibility specifically entrusted by the Chief Secretary/Chief Minister.

(H.P. Government Department of Personnel Office Order No. Per (AP)A-B(15)-3/2000, dated 16th October, 2001 - **Annexure 31.1**)

31.2 Elaboration of functioning of the Resident Commissioner's office at Delhi

It has been observed that various departments of the State Government are not utilizing the services of the resident Commissioner, Delhi with the result that many issues are pending with Govt. of India for a long time. The main function of the Resident Commissioner is to follow up matters pending with Govt. of India and other agencies where prolonged correspondence by the State Government has not brought about the desired results. With the posting of an officer of the rank of Financial Commissioner as Resident Commissioner, the liaison institution at Delhi has been strengthened. It is of utmost importance that his services are utilised for high-level liaison at the senior-most levels of the Government of India.

2. There are a number of conferences, meetings, seminars, workshops etc. held by various organisations in Delhi. Sometimes the State Government officers cannot attend these meetings because of other engagements clashing with these meetings etc. There are some meetings, conferences etc. where the H.P. Government goes totally un-represented or is represented at a very junior level. In such cases the services of the Resident Commissioner should be utilised.

3. Similarly, he should be requested by the concerned officers to pursue cases on their behalf with Central Ministries where they cannot go to Delhi themselves. The Resident

Commissioner being a very senior officer can take up matters at sufficiently high levels in various Ministries.

4. In order to ensure the effective working of the office of the Resident Commissioner, New Delhi, a list of all important pending cases may be supplied to the Resident Commissioner from time to time to enable him to get the decisions of Government of India expedited. The Resident Commissioner or Deputy Resident Commissioner may also be contacted for getting the information/data from Govt. of India and other State Governments, on various issues whenever needed for reference. A copy of the important communications to the Govt. of India should be endorsed to the Resident Commissioner for follows up action.

5. The office of the Resident Commissioner at New Delhi should be repository of information about all the departments of H.P. Government. It should be actively involved in problem solving tasks for the various departments. All the relevant information relating to each department should be supplied to the Resident Commissioner. All important letters/circulars should also be endorsed to the Resident Commissioner.

(H.P. Government Department of General Administration letter NO. GAB-3-G(1)-10/80-II dated 19-08-1983 – **Annexure 31.4**)

31.3 Restrictions on tour of officers to Delhi – Representation through Resident Commissioner.

The Govt. has taken the following decisions regarding tours of officers to Delhi:-

No officer from the State should go to Delhi for ordinary formal meetings of various Ministries, Central Offices, Corporations, Boards to be held at Delhi. The Department should send the entire information relating to that meeting well in time to the Resident Commissioner who should represent the Department in all such meetings. If it is essential for any officer/official to go to Delhi, then decision to this effect should be taken by the Secretary of the Department in case of other officers and by the Chief Secretary in case of a tour by the Secretary of the Department. Officers from the State will go to Delhi for only such meetings where the Government cannot be represented by the Resident Commissioner.

The Resident Commissioner shall have control over offices of the H.P. Government Corporations/Boards located at Delhi. The work relating to participation in different meetings of Corporations/ Boards in different Ministries, Central offices/Corporations/ Boards at Delhi should be entrusted to the Resident Commissioner and officers/officials of the Corporations /Boards should not go to Delhi for taking part in such meetings and should send complete papers and brief details for meetings etc. to the Resident Commissioner well before the meeting.

For meeting for which the Central Government invites the Ministers and discussion can be held only through the Ministers, either the Administrative Secretary or Head of the Department (but not both) may accompany the Minister for participation in the meeting.

(H.P. Government Department of Personnel Office Order No. 2-12/73-Karmik dated 11-02-1991 – **Annexure 31.5**)

31.4 आवासीय आयुक्त, नई दिल्ली के कार्यालय का पूर्ण उपयोग करना ।

माननीय मुख्य मन्त्री महोदय के ध्यान में निम्नलिखित तथ्य आये हैं कोई भी सचिव अपने पत्रों की प्रति आवासीय आयुक्त, नई दिल्ली को नहीं भेजते हैं जिस कारण आवासीय आयुक्त राज्य सरकार द्वारा केन्द्र सरकार के साथ उठाये गये विभिन्न मुद्दों से अनभिज्ञ रहते हैं तथा विभागीय सचिव बात-बात के लिये दिल्ली जा रहे होते हैं यह स्थिति बहुत वांछनीय नहीं है। कार्मिक विभाग व सामान्य प्रशासन विभागों द्वारा दिनांक 29-6-1983, 29-12-1983 तथा 19-08-1983 (Annexure 31.2, 31.3 तथा 31.4) को जारी किये गये आदेशों/अनुदेशों की पुनरावृत्ति करते हुए सरकार द्वारा इस संदर्भ में निम्नलिखित निर्णय लिये गये :-

- (क) भारत सरकार के साथ जिन-जिन मुद्दों पर अनुवर्ती कार्यवाही उचित है उनकी प्रतिलिपि आवासीय आयुक्त को भी भेजी जाये।
- (ख) विभागीय सचिव दिल्ली उसी अवस्था में जहां कि ऐसा करना पूरी तरह अपरिहार्य हो अन्यथा भारत सरकार की बैठकों में भी आवासीय आयुक्त ही भाग लिया करेंगे, तथा
- (ग) जिन मुद्दों पर केन्द्र सरकार को पत्र माननीय मुख्य मन्त्री द्वारा लिखा जाता है उसकी प्रतिलिपि भी बिना किसी अपवाद के आवासीय आयुक्त, दिल्ली को भेजी जाये।

(H.P. Government Department of Personnel Office Order No. Per (AP) A-B(15)-3/2000 dated 22-05-2000 – **Annexure 31.6**)

Annexures to Chapter 31

Functions of Resident Commissioner, Delhi

Annexure No.	Details of communications	Page No.
31.1	H.P. Government Department of Personnel Office order No. Per(AP)A-B(15)-3/2000 dated 16-10-2001	390
31.2	H.P. Government Department of Personnel Office order No. 2-12-73-DP-Apptt. dated 29-6-1983	391
31.3	H.P. Government Department of Personnel Office order No. 2-12-73-DP-Apptt. dated 29-12-1983	392
31.4	H.P. Government General Administration Department letter No. GAB-3-G(1)-10/80-II dated 19-8-1983	394
31.5	H.P. Government Department of Personnel Office order No. 2-12-73- Karmik dated 11-2-1991.	395
31.6	H.P. Government Department of Personnel letter No. Per(AP)A-B(15)-3/2001 dated 22-05-2000	397

Annexure 31.1

Copy of Himachal Pradesh Department of Personnel Office Order No. Per (AP)A-B(15)-3/2000 dated 16-10-2001 addressed to all the Secretaries, Heads of Departments etc.

(Referred to in Para 31.1)

In partial modification of all instructions issued vide Order No. 2-12/73-DP.Apptt. dated 29th June and 29th December, 1983 and with a view to revamp and strength the office of the Resident Commissioner, Himachal Pradesh at Delhi and to make it more effective and meaningful the functions of the Resident Commissioner are indicated below (which are again not wholly exhaustive but indicative in nature):-

1. To maintain high level liaison with Ministries/Departments/ Institutions in Government of India, Foreign Diplomatic Missions, International Donors/Aid Agencies, Trade and Industry Organisation etc.
2. To interact with entrepreneurs for encouraging investments in the State not merely in the traditional fields of Agriculture, Horticulture, Industry etc. but in upcoming and frontier areas of Energy, Information technology, Bio-Technology, Forestry, Floriculture, Tourism, Health, Alternate Systems of Medicines, Education and other identified sectors which are "thrust areas" for the State Government.
3. To follow up matters pending with the Government of India and other agencies at personal level including those where prolonged correspondence by State Government has not been affective.
4. To represent the State Government in negotiations/ discussions/meetings on important subjects with Central Ministries/ State Governments as and when required by the State Government, and to obtain and provide important information as may be required by the State Government from time to time from various quarters.
5. To make available any information/material/documents, required by the Members of Parliament for raising important issues concerning the State in parliament, as and when necessary.
6. To attend to protocol duties pertaining to His Excellency, the Governor and Hon'ble Chief Minister, whenever they visit Delhi.
7. All Delhi based offices/officers of Himachal Government would work under the supervision and control of Resident Commissioner to ensure better co-ordination and their optimum functioning. Resident Commissioner has to act as the eyes and ears of the Himachal Pradesh Government in Delhi and should ensure that the officials are punctual, diligent and efficient in the discharge of their duties. However,

day to day functional supervision and control would continue to be exercised by the concerned Heads of Departments/Managing Directors etc.

8. The office of the Resident Commissioner has to be a repository of information about all the Departments of Himachal Pradesh Government. It will be the responsibility of the State Departments to keep Resident Commission posted and updated on the main policies, programmes, projects to enable the Resident Commissioner to use this information for expeditious release of funds against various schemes and garner investments for various schemes which the State wishes to promote.
9. To hold informal get-togethers with various stakeholders to promote the interest of the State and to maintain liaison with HP Cadre Offices posted in the Central Government in various capacities.
10. To undertake any additional responsibility specifically entrusted by the Chief Secretary/Chief Minister.

Annexure 31.2

Copy of Himachal Pradesh Department of Personnel Office order No. 2-12/73-DP-Apptt. dated 29-06-1983 addressed to all the Secretaries, Heads of Departments etc.

(Referred to in Para 31.1)

The functions of the Resident Commissioner for Government of Himachal Pradesh at Delhi circulated vide this Department's letter of even number dated the 26th July, 1973 have been modified and his revised functions shall henceforth be as under:-

1. To maintain high-level liaison with Ministries of Govt. of India, Foreign Diplomatic Missions in India (through Protocol/Territorial divisions of the Ministry of External Affairs), International Agencies/Organisations and Members of Parliament.
2. To represent the State Government in negotiations/discussions on vital matters with Central Ministries/ State Governments as and when required by the State Government.
3. To follow up matters pending with Govt. of India and other agencies at personal level where prolonged correspondence by State Govt. has not brought about good results.
4. To promote the interests of the State in the matter of location of Central Projects in Himachal Pradesh.

5. To circulate amongst members of Parliament, on the eve of Parliament Sessions, material received from various Departments of the State in order to enable M.Ps to take up pending matters concerning the State in Parliament as and when necessary.
6. To act as convener of the Committee of M.Ps from Himachal Pradesh presided over by the Chief Minister and to convene meetings as and when required.
7. To encourage entrepreneurs to make investment in Industrial units located in the State within the framework of the policies and plans of the State Government.
8. To make special efforts for the development of tourism and tourist industry in the State.
9. To receive the Governor and Chief Minister and attend to protocol duties whenever they come to Delhi.
10. To carry out any other instructions issued by the Chief Secretary/Chief Minister.
11. To organize and maintain a suitable office at Delhi for the efficient discharge of his functions.
12. All officers of the State Government belonging to any Department posted in Delhi will be under the overall control of the Resident Commissioner and receive instructions from him for efficient discharge of their duties and better coordination of work.

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Annexure 31.3

Copy of Himachal Pradesh Department of Personnel Office order No. 2-12/73-DP-Apptt. dated 29-12-1983 addressed to all the Secretaries, Heads of Departments, Resident Commissioner Delhi etc.

(Referred to in Para 31.3)

The functions of the office of the Resident Commissioner, Himachal Pradesh, New Delhi were prescribed vide Department of Personnel office order dated 29th June, 1983. The Resident Commissioner's office has been performing mainly liaison functions. There has been little attempt to build up the office as a repository of information about all the departments of H.P. Government or to be actively involved in problem solving tasks for the various Departments.

It has, therefore, been decided to entrust the following additional function also to the Resident Commissioner's office:-

- (a) Supply of information: Many offices of the Central Government or of other State Governments or international, national and even private organisations are in need of information about Himachal Pradesh. They may want names, addresses, telephone Nos., maps, lists of facilities, distances statistics and so on. All this information has to be collected by Resident Commissioner's office and kept constantly up-to-date.
- (b) Intermediary between other Organisations and the State: There are numerous occasions on which the Central Ministries and other organisations want replies to Parliament Questions, immediate reports, copies of documents etc. These can be obtained by the Resident Commissioner's office through a direct telex link with Shimla. There is also a need for a courier service so that important papers, documents, parcels can be sent from Delhi to Shimla and vice versa. Resident Commissioner's office will also obtain documents, notifications copies of Govt. of India's orders, decisions, whenever these are required by the State Govt. This will eliminate delays which take place in obtaining this material by post.
- (c) Substantive Office work: There has to be a core of substantive office work in the Resident Commissioner's office. It has to be briefed on all important issues with which the State Government is concerned. The Resident Commissioner, being a senior office, can receive a brief by post or by special messenger, can discuss the issues with the concerned officer in Shimla on phone and adequately represent H.P. Government when required.

All important letters, circulars etc. have to be endorsed to the Resident Commissioner. Files on all important subjects are to be maintained in his office. The concerned officers may request him to pursue cases on their behalf with central Ministries, where they cannot come themselves. His seniority ensures that he can take these up at sufficiently high levels in the various Ministries.

Liaison work: For day-to-day liaison work, a personal rapport may be built with all important people in Delhi and arrangements for their visits to Himachal Pradesh etc. be made by the Resident Commissioner. Similarly we may look after the visiting dignitaries and officials of Himachal Pradesh in Delhi. This office should be in a position to provide support to the visiting Ministers and Officers in the shape of Stenographers, typists, duplicating facilities, press conferences, entertainment etc.

Material of other States: The Resident Commissioner may collect material from other on all aspect of various activities including development schemes, projects, commissions, new policies and programmes, achievements in various fields.

Himachal Publications: The Resident Commissioner may ensure that Central Library and other libraries at Delhi are stocked with publications of Himachal Pradesh.

Library: A Library may be set up in the office of the Resident Commissioner, in which material on all aspects of various activities of the State Governments and Central Government and their publications and of H.P. Government Departments may be kept. A Reading Room may also be set up.

Miscellaneous work: There is considerable other miscellaneous work. All officials of the H.P. Government and its Corporations in Delhi need a local coordinator or a senior officer who can solve their local problem. He can also keep an eye on all of them so that they are punctual and diligent in the performance of their official duties. He has to supervise the Himachal Bhawan, the other rest houses, skating rink, handicraft Emporium, HPMC Office, MIDC Liaison Office, Tourism Corporation Office and other such establishment.

The Resident Commissioner's office should act as the eyes and ears of the H.P. Government in Delhi.

Annexure 31.4

Copy of Himachal Pradesh General Administration Department letter No. GAB-3-G(1)-10/80-II dated 19-08-1983 addressed to all the Secretaries, Heads of Departments Managing Directors of Boards/Corporations etc.

(Referred to in Para 31.2)

Subject:- Functioning of the Resident Commissioner's office at Delhi.

It has been observed that various departments of the State Government are not utilizing the services of the resident Commissioner, Delhi with the result that many issues are pending with Govt. of India for a long time. The main function of the Resident Commissioner is to follow up matters pending with Govt. of India and other agencies where prolonged correspondence by the State Government has not brought about the desired results. With the posting of an officer of the rank of Financial Commissioner as Resident Commissioner, the liaison institution at Delhi has been strengthened. It is of utmost importance that his services are utilised for high-level liaison at the senior-most levels of the Government of India.

2. There are a number of conferences, meetings, seminars, workshops etc. held by various organisations in Delhi. Sometimes the State Government officers cannot attend these meetings because of other engagements clashing with these meetings etc. There are some meetings, conferences etc. where the H.P. Government goes totally un-represented or is represented at a very junior level. In such cases the services of the Resident Commissioner should be utilised.

3. Similarly, he should be requested by the concerned officers to pursue cases on their behalf with Central Ministries where they cannot go to Delhi themselves. The Resident Commissioner being a very senior officer can take up matters at sufficiently high levels in various Ministries.

4. In order to ensure the effective working of the office of the Resident Commissioner, New Delhi, a list of all important pending cases may be supplied to the Resident

Commissioner from time to time to enable him to get the decisions of Government of India expedited. The Resident Commissioner of Deputy Resident Commissioner may also be contacted for getting the information/data from Govt. of India and other State Governments, on various issues whenever needed for reference. A copy of the important communications to the Govt. of India should be endorsed to the Resident Commissioner for follows up action.

5. The office of the Resident Commissioner at New Delhi should be repository of information about all the departments of H.P. Government. It should be actively involved in problem solving tasks for the various departments. All the relevant information relating to each department should be supplied to the Resident Commissioner. All important letters/circulars should also be endorsed to the Resident Commissioner.

6. The telephone numbers and address of the Resident Commissioner and Deputy Resident Commissioner are given below:

1.	Shri S.K.Chauhan, Resident Commissioner , Government of Himachal Pradesh, 27 Sikendra Road, New Delhi <u>Residential Address</u> D-I/67 Bhart Nagar, New Delhi.	Telephone No.	381954 (O) 386574 (O) 615813 (R)
2.	Smt. Renu Sahni Dhar, Dy, Resident Commissioner, Government of Himachal Pradesh, 27-Sikendra Road, New Delhi <u>Residential Address</u> B-1 Pamposh Enclave, New Delhi	Office	Res. 381964 647852 646105

Annexure 31. 5

हिमाचल प्रदेश सरकार, कार्मिक विभाग के पत्र संख्या 2-12/73-कार्मिक दिनांक 11-02-1991 जोकि सभी सचिवों, विभागाध्यक्षों, प्रबन्ध निदेशकों/सचिवों निगम, बोर्ड आदि को सम्बोधित है, की प्रतिलिपि।

(पैरा 31.3 में उल्लेखित)

विषय : आवासीय आयुक्त, दिल्ली के कार्य ।

उपरोक्त विषय पर मुझे यह कहने का निदेश हुआ है कि आवासीय आयुक्त, दिल्ली को सौंपे गए कार्यों का विवरण इस विभाग के कार्यालय आदेश संख्या: 2-12/73-डी.पी.-नियुक्ति दिनांक 29 जून 1983 तथा 29-12-1983 एवं सामान्य प्रशासन विभाग के पत्र सं0 जी.ए.बी-3(जी)(1)-10/80-11, दिनांक 19.8.1983 में वर्णित हैं । इन अनुदेशों के संबंध में निम्नलिखित सूचना कृपया 31-1-91 तक इस विभाग को भेजें ।

- (1) पत्र दिनांक 29-6-83 में चर्चित 12 बिन्दुओं पर की गई कार्यवाही की पूरी रिपोर्ट जिसमें यह ब्यौरा स्पष्ट रूप से अलग से दिया जाये कि पिछले एक वर्ष में क्या कार्यवाही की गई ।
- (2) उपरोक्त पत्र के बिन्दु 5 के अनुसार सांसदों को प्रदेश सम्बन्धी सामग्री देने का आदेश है । यह सूचना भेजी जावे कि कब-कब यह सामग्री प्रशासनिक विभागों द्वारा आवासीय आयुक्त, हिमाचल प्रदेश सरकार को उपलब्ध करवाई गई । दिसम्बर, 1990 में लोक सभा सत्र के समय जो सामग्री उपलब्ध करवाई गई उसका भी ब्यौरा दें ।
- (3) पिछले एक वर्ष में दिल्ली प्रवास पर जाने वाले अधिकारियों बारे सूचना अलग से पत्र सं० पर(ए-1)ए(9)-1/91 दिनांक 8.1.1991 एवं दिनांक 21-1-1991 द्वारा माँगी गई है जो तुरन्त उपलब्ध करवाई जाए ।
2. सरकार ने निम्नलिखित निर्णय भी लिया है :-
- (क) कोई भी अधिकारी/कर्मचारी दिल्ली सरकारी गाड़ी लेकर नहीं जाएगा यदि कोई असाधारण परिस्थिति या आवश्यकता है तो मुख्य सचिव, हि० प्र० सरकार की अनुमति से ही सरकारी गाड़ी दिल्ली ले जाई जा सकेगी । इस बारे पहले भी सरकार के स्पष्ट आदेश हैं ।
- (ख) विभिन्न मन्त्रालयों, केन्द्रीय कार्यालयों, निगमों, बोर्डों की दिल्ली में होने वाली साधारण औपचारिक बैठकों के लिए प्रदेश से कोई भी अधिकारी दिल्ली न जाए । उस बैठक से संबंधित सारी जानकारी समय पर विभाग दिल्ली आवासीय आयुक्त को भेज दें । आवासीय आयुक्त उसका अध्ययन कर आवश्यकता अनुसार और जानकारी प्राप्त करें और ऐसी सब बैठकों में प्रतिनिधित्व करें । यदि किसी कर्मचारी/अधिकारी का दिल्ली जाना आवश्यक हो तो उसका निर्णय सचिव विभाग द्वारा लिया जाएगा । उनकी अनुमति से ही उनके नीचे के अधिकारी/कर्मचारी दिल्ली जाएंगे । किसी सचिव के दिल्ली जाने की आवश्यकता का निर्णय मुख्य सचिव करेंगे । जिन बैठकों में आवासीय आयुक्त प्रतिनिधित्व नहीं कर सकते उन्हीं के लिए प्रदेश से अधिकारी दिल्ली जाएंगे । इस कार्य के लिए यह भी उपयुक्त होगा कि सभी विभाग/निगम/बोर्ड अपने क्रिया-कलापों एवं लिए गए निर्णयों से आवासीय आयुक्त को समय-समय पर अवगत करवाते रहें ताकि आवासीय आयुक्त का कार्यालय सभी विभागों के निर्णयों से अवगत रहे ।
- (ग) हिमाचल प्रदेश के सरकारी निगम/बोर्ड के दिल्ली स्थित कार्यालयों पर आवासीय आयुक्त दिल्ली का नियन्त्रण होगा । सभी निगमों/बोर्डों के विभिन्न मन्त्रालयों/ केन्द्रीय कार्यालयों/निगमों/बोर्डों के दिल्ली के कार्य एवं विभिन्न बैठकों में भाग लेने का काम भी आवासीय आयुक्त को सौंपा जाए

तथा निगमों/बोर्डों के अधिकारी/कर्मचारी भी किसी प्रकार कर बैठक में भाग लेने के लिए दिल्ली नहीं जाएंगे तथा बैठकों आदि के लिए पूरा मसौदा और संक्षिप्त विवरण आवासीय आयुक्त को बैठक के समय से पूर्व भेज देंगे ।

(घ) कुछ ऐसी बैठकों, जिनमें भारत सरकार मन्त्री महोदयों को आमंत्रित करती हैं व केवल मंत्री के माध्यम से ही वार्तालाप होता है, में भाग लेने के लिए मंत्री के साथ या तो प्रशासनिक सचिव या विभागाध्यक्ष दिल्ली जाएं । दोनों अधिकारियों का साथ जाना केवल बहुत कम अवस्थाओं तक सीमित रखा जाए । इन दो अधिकारियों के अतिरिक्त कोई भी कर्मचारी या अधिकारी इस अवस्था में प्रवास पर न जाए ।

3. आपसे अनुरोध है कि उपरोक्त निदेशों तथा इससे पूर्व जारी उपरोक्त आदेशों का निष्ठा से पालन किया जाए और दिल्ली स्थित आवासीय आयुक्त के कार्यालय का पूरा प्रयोग किया जाए तथा इस सम्बन्ध में जो निर्देश विभिन्न कार्यालयों को देने हैं वे तुरन्त जारी किए जाएं तथा उनकी प्रतिलिपि इस विभाग को भेजी जाए ।

4. इस पत्र के पैरा 1 में मांगी गई सूचना 15-2-91 तक इस विभाग को अवश्य भेज दें ।

5. कृपया पावती भेजें ।

Annexure 31.6

Copy of H.P. Government Department of Personnel letter No: Per(A-P)(A-B)(15)-3/2000 dated 22-05-2000 addressed to all Secretaries, Heads of Departments and MD's of all Corporations and Boards, in H.P.

[Referred to in Para 31.4]

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विषय: आवासीय आयुक्त, नई दिल्ली के कार्यालय का पूर्ण उपयोग करना—अनुदेश ।

उपरोक्त विषय पर मुझे यह कहने का निदेश हुआ है कि माननीय मुख्य मन्त्री महोदय के ध्यान में निम्नलिखित तथ्य आये हैं:—

1. कोई भी सचिव अपने पत्रों की प्रति आवासीय आयुक्त, नई दिल्ली को नहीं भेजते हैं जिस कारण आवासीय आयुक्त राज्य सरकार द्वारा केन्द्र सरकार के साथ उठाये गये विभिन्न मुद्दों से अनभिज्ञ रहते हैं ।

2. विभागीय सचिव बात-बात के लिये दिल्ली जा रहे होते हैं यह स्थिति बहुत वांछनीय नहीं है। कार्मिक विभाग द्वारा समय समय पर जारी किये गये अनुदेशों जोकि कार्यालय आदेश संख्या 2-12/73-डी.पी. दिनांक 29-6-1983 तथा 29-12-1983 व सामान्य प्रशासन विभाग द्वारा जारी अनुदेश संख्या जी.ए.बी. 3-सी(1)10/80-। दिनांक 19-08-1983 (प्रतिलिपियां संलग्न है) द्वारा पहले ही स्पष्ट निर्देश जारी किये गये हैं जिनकी अनुपालना ऐसा प्रतीत होता है कि गम्भीरता से नहीं की जा रही है। इन पूर्वोक्त आदेशों/अनुदेशों की पुनरावृत्ति करते हुए मुझे यह भी कहने का निर्देश हुआ है कि सरकार द्वारा इस संदर्भ में निम्नलिखित निर्णय लिये गये हैं:-

(क) भारत सरकार के साथ जिन-जिन मुद्दों पर अनुवर्ती कार्यवाही उचित है उनकी प्रतिलिपि आवासीय आयुक्त को भी भेजी जाये।

(ख) विभागीय सचिव दिल्ली उसी अवस्था में जहां कि ऐसा करना पूरी तरह अपरिहार्य हो अन्यथा भारत सरकार की बैठकों में भी आवासीय आयुक्त ही भाग लिया करेंगे, तथा

(ग) जिन मुद्दों पर केन्द्र सरकार को पत्र माननीय मुख्य मन्त्री द्वारा लिखा जाता है उसकी प्रतिलिपि भी बिना किसी अपवाद के आवासीय आयुक्त, दिल्ली को भेजी जाये।

अतः यह स्पष्ट करना है कि इन अनुदेशों की कृपया गम्भीरता/दृढ़ता से अनुपालना की जाये।
कृपया इसकी पावती भेजें।

Chapter 32

ADMINISTRATIVE INSTRUCTIONS ON TOURS TO DELHI

32.1 Orders regarding tours to Delhi

According to the orders of the Government, the Resident Commissioner should normally represent the State in the meetings relating to the works of different Ministries, Central Offices, Boards/ Corporations located at Delhi and permission of the Secretary concerned is obtained by the Head of Department if there is a need for a departmental representative to go for any meeting. Secretaries must obtain approval of the Chief Secretary if they have to proceed on tour to Delhi. It has been decided by the Govt. that for proceeding on tour to Delhi, a copy of the Note seeking prior approval of the tour programme should be sent to the Principal Secretary to the Chief Minister for the information of the Chief Minister. It should also be clearly mentioned in the Note sent to the concerned Secretary/Chief Secretary seeking approval of tour programme that a copy of the said Note has been sent to the Principal Secretary to the Chief Minister for information of the Chief Minister. These orders will also apply to the Chairmen/Managing Directors and other officers of the Corporations/Boards.

(H.P Govt. Department of Personnel letter No. 2-12/73-DP (Niyukti) dated 8-5-1991 – **Annexure 32.5**)

If any employee is permitted to proceed on tour to Delhi, then intimation in this behalf too should be sent to the Principal Secretary to the Chief Minister by the concerned Head of the department/ concerned Secretary/ concerned Managing Director/ Secretary. These orders will come into force immediately and be strictly implemented.

(H.P Govt. Department of Personnel letter No. 2-12/73-DP (Niyukti) dated 15-5-1991 – **Annexure 32.6**)

32.2 Taking of vehicles to Delhi

It has come to the notice of the Government that some officers are taking Government vehicle during tour to Delhi without taking prior approval of the Chief Secretary to the Government of Himachal Pradesh. It has now been decided that no officer while on tour can use a Government vehicle for going to Delhi without taking prior permission of the Chief Secretary to the Government of Himachal Pradesh.

(H.P Govt. Department of Personnel letters No. 2-12/73-DP-Karmik dated 11-2-1991 (Para (ka) **Annexure 31.4** of Chapter 31) and No. Per(A-1)B(15)-7/86-loose dated 2-3-1994 – **Annexure 32.11**)

32.3 Tours by Secretaries to the Government and Heads of Departments – presence of the next-in-command at Headquarters

It has been observed that in some cases where the Secretaries to the Government/Heads of Departments proceed on tour/leave, the next senior officers is also not available for disposal of immediate business or for attending meetings etc. which puts the whole administration to a lot of avoidable embarrassment. Although instructions exist on this issue, it has been noticed that the Secretaries to the Government/Heads of Departments have not observed the same in the right spirit. It has, accordingly, been decided that whenever Secretaries to the Government/Heads of Departments have to proceed on tour or leave, they must indicate, the name and designation of the next senior-most officer who will be present at Headquarters/Branch in their tour programme or leave application to be submitted for approval either to the Chief Secretary or to the Secretary concerned, as the case may be. Suitable directions be issued to such officer to be available during the leave/tour, as the case may be, of the officer proceeding on tour/leave.

The above instructions may be adhere to strictly in the absence of which tour programme or the leave application will not be processed.

(D.O letter No. Per(A-I)B(15)-7/86 dated 31-3-1987 from Secretary (Personnel) to all Secretaries and Heads of Departments – **Annexure 32.1**, D.O letter No. Per(A-I)B(15)-7/86 dated 6-11-1990 from Secretary (Personnel) to all Secretaries and Heads of Departments – **Annexure 32.2**, and D.O letter No. Per(A-I)B(15)-7/86 dated 18-12-1990 from the Secretary (Personnel) to all Financial Commissioners, Commissioner-cum-Secretaries to the Government of Himachal Pradesh etc. – **Annexure 32.3**)

32.4 Leave, Training and Tour – Instructions regarding absence of Secretaries/Heads of Departments from Headquarters

It has been noticed by the Government that the officers sometimes before proceeding on leave do not make proper working arrangements as a result of which it becomes difficult to contact any responsible officer in the Department during their leave. Accordingly, it has been decided that at the time of taking, sanctioning or recommending leave, the following points should be kept in view:

- (1) In no Department, both the Secretary and the Head of Deptt. should be on leave at the same time;
- (2) In a Department, the Secretary and Joint/Deputy Secretary, both should not be on leave at the same time; and
- (3) In the same way, in Directorate, the Heads of Departments and Additional/Joint Directors should not at the same time be on leave.

In the same way, during long term training, tour or absence from headquarters on other account similar arrangement should be made.

(H.P Govt. Department of Personnel letter No. Ka (Ni-I)B(15)-7/86 dated 13-12-1991 – **Annexure 32.7**)

32.5 Indication of Full address during leave on the leave application

It has been often noticed that a majority of the officers do not write their full address during leave period on their applications as a result of which great inconvenience is caused to contact them during leave. It is essential to mention full address during leave in the application so that there is no difficulty if for any reason they may have to be recalled from leave or intimation of rejection of extension of leave is to be given.

All the I.A.S officers, Heads of Departments, H.P.A.S officers etc. are requested to ensure that in future full address (telephone No. too if available) during the leave period is written on the leave application before sent to the Personnel Department. In future, if any leave application not containing full address is received, then before taking any action on the application, the same will have to be returned for writing address during leave and sanction to leave can be delayed. Accordingly all are again requested to write on their application forms the address during leave period.

(H.P Govt. Department of Personnel letter No. Per(Ni-I)B(15)-7/86 dated 01-05-1991 – **Annexure 32.4**)

32.6 Cut in Tour programmes of officers as Economy measure.

There is dire need for economy in the present context of financial position of the State. Accordingly, the Government have decided that in addition to the other economy

measures, reduction should also be made in the tours of officers. Accordingly it may be ensured that only minimum and essential touring is done by all officers.

(H.P Govt. Department of Personnel letter No. Ka (Ni-I)B(15)-7/86 dated 29-04-1993 – **Annexure 32.9**)

32.7 Touring by Secretaries/Heads of Departments etc. – keeping the Ministers informed

Whenever the Secretaries have necessarily to proceed on tour or leave, they submit their tour programme/leave applications to the Chief Secretaries for approval. While, these are dealt with for sanction, it is normally expected that officers should keep the Ministers/Advisors in the picture before proceeding on tour/leave. Similarly, when Secretaries sanction the tour programme of their Heads of Departments, they may also keep the Advisor in the picture accordingly. This salutary principle should be honoured by all officers concerned, as Secretaries being overall incharge of their Heads of Departments can also instruct about the priority of such tour/leave and give appropriate guidance in the matter suitably.

(H.P Govt. Department of Personnel letter No. Per (A.I)B(15)-7/86 dated 11-06-1993 – **Annexure 32.10**)

32.8 Touring by Administrative Secretaries – restrictions thereon

In the past instructions were issued to all the Administrative Secretaries that they should get their proposed tour programmes approved from the Chief Secretary before actually proceeding on tour. It has been observed of late that the Administrative Secretaries remain out of headquarters on tours for a considerable period and their absence from the headquarters causes inconvenience to the public and avoidable delay in the Government work.

The Chief Minister too has observed that these tours outside Shimla and especially to Delhi for meetings etc. should be curtailed and officers of the rank of the Secretary to the Government and Heads of Departments should not remain on tour to more than 3 days excluding journey time at a stretch and not more than twice in a month. It was also observed by him that it is not always necessary for Secretary to go for these meetings. He can be represented by the concerned Head of Department or even the Resident Commissioner.

Accordingly, it has been decided that the Administrative Secretaries should not remain on tour out of Headquarters for a period of more than three days at a stretch

excluding journey days and in no case more than twice a month. To avoid embarrassment, these guidelines must be adhered to strictly as ordinarily no exception will be allowed.

(H.P Govt. Department of Personnel letter No. Per (A.I)B(15)-7/86 dated 04-05-1994 – **Annexure 32.12**)

32.9 Control over Managing Director of Corporations

The H.P. Government have decided that the control over the Managing Directors of all Corporations shall vest in their Administrative secretaries and tour programme of all Managing Directors will be approved by their concerned Administrative Secretaries and if vehicle is to be taken out of the State, then permission for the same shall have to be obtained from the Chief Secretary. Casual leave and station leave etc. will also be sanctioned by the Secretary of the concerned department, but applications for sanction of other type of leave will be sent to the Personnel Department through the concerned Secretary.

Orders for controlling officers of Managing Directors regarding travelling allowance and Medical reimbursement allowance will be separately issued by the Finance Department.

(H.P Govt. Department of Personnel letter No. Ka(Ni-I)B(15)-7/86 dated 16-01-1992 – **Annexure 32.8**)

FROM 16th May, 1998

32.10 Touring by Administrative Secretaries/Heads of Departments etc.

In supersession of all previous instructions issued from time to time by the Department of Personnel, the State Government decided that all Administrative Secretaries to the Government of Himachal Pradesh would approve their own tour programmes including programmes outside the State (within the country) and copy of such tour programme shall be sent in advance to the Chief Secretary for information. It has further been decided that Administrative Secretaries will decide at their own level about the level at which the tour programmes of Heads of Departments/Managing Directors of Corporations/Boards under their Department are to be approved.

(Government of Himachal Pradesh, Department of Personnel No. Per (A-I)B(15)-7/86-II dated 16-05-1998 - **Annexure 32.13**)

32.11 Touring by Administrative Secretaries Modification of decision number 32.10

Keeping in view the instructions issued by GAD (Parliamentary Affairs Department) vide letter dated 26-06-1998 to the effect that no officer at any level will go on tour till the Vidhan Sabha Session is over. Accordingly it has been clarified that no Administrative Secretary in future will go on tour out of the headquarters during the Vidhan Sabha Session without the prior approval of Chief Secretary and the instructions issued vide letter dated the 16th May, 1998 modified to this extent.

(Government of Himachal Pradesh, Department of Personnel No. Per (A-I)B(15)-7/86-II dated 09-07-1998 - **Annexure 32.14**)

32.11.1 - Touring by Administrative Secretaries/ Heads of Departments (Withdrawal/supersession of instructions/ letters dated 16-05-1998 and 09-07-1998 - Annexures 32.12 & 32.14)

The Finance Department vide letter dated 03-06-2014 issued revised instructions regarding delegation of financial powers/revision of economy instructions and under SOE 'Travel Expenses' it has been provided that the Secretaries to the Government will obtain approval of the Chief Secretary about their tour programme. The instructions issued by Department of Personnel vide letters dated 16th May, 1998 (Annexure 32.13) and 9th July, 1998 (Annexure 32.14) has become infructuous. The instructions issued by the Finance Department vide letter dated 03-06-2014 shall prevail and regulate the tour programme of the officers of the State Government only, therefore, the aforesaid instructions have been withdrawn by Department of Personnel.

(H.P. Government Department of Personnel letter No. Per(A-I)B(15)-7/86-III dated 26-10-2020 - **Annexure 32.17**)

32.12 Providing of vehicles to the officers.

It has come to the notice of the Government that in certain cases officers are using more than one vehicle either that of the Directorate or in case of more than one charge, of the Department of which such officer is holding additional charge. To discontinue this practice, the Govt. decided that all the Administrative Secretaries/Heads of Departments and Managing Directors of Boards/Corporations shall henceforth use only one vehicle which is available against the post of which substantive charge is being held.

(Government of Himachal Pradesh, Department of Personnel No. Per (A-I)B(15)-7/86-Vol-II dated 29-12-1998 - **Annexure 32.15**)

32.13 Regarding frequent tours of Administrative Secretaries

It was observed that the work of public interest and grievances of the general people are not being attended on day to day basis due to frequent and long tours of the Administrative Secretaries to the Government of Himachal Pradesh during the tours of the concerned Ministers. The Government decided that all the Administrative Secretaries should remain at headquarter during the tours of the concerned Ministers, except under unavoidable circumstances, so that the official work involving public interest does not suffer and citizen grievances are promptly redressed.

(Government of Himachal Pradesh, Department of Personnel No. Per (A-I)B(15)-7/86-Part dated 15-12-2015 - Annexure 32.16)

32.14 Approval of tour and travelling by official vehicle

Travel Expenses - FD's instructions dated 03-06-2014.

(iii) for travelling by official vehicle to Delhi or outside the State, the permission will be obtained from the Chief Secretary.

(iv) Secretaries to the Government will obtain approval of the Chief Secretary about their tour programme.

Annexures to Chapter 32

Administrative Instructions on Tours to Delhi

Annexure No.	Details of communications	Page No.
32.1	H.P Govt. Secretary (Personnel) D.O. letter No. Per(A.I)B(15)-7/86 dated 31-3-1987	407
32.2	H.P Govt. Commr.-cum-Secretary (Personnel) D.O. letter No. Per(A.I)B(15)-7/86 dated 6-11-1990	407
32.3	H.P Govt. Commr.-cum-Secretary (Personnel) D.O. letter No. Per(A.I)B(15)-7/86 dated 18-12-1990	408
32.4	H.P Govt. Department of Personnel letter No. 2-12/73-DP (Niyukti) dated 1-5-1991	408
32.5	H.P Govt. Department of Personnel letters No. 2-12/73-DP-(Niyukti) dated 8-5-1991	409
32.6	H.P Govt. Department of Personnel letters No. 2-12/73-DP-(Niyukti) dated 15-5-1991	410
32.7	H.P. Government Department of Personnel letter No. Ka(ni-I)B(15)-7/86 dated 13-12-1991	410
32.8	H.P. Government, Department of Personnel O.M No. Ka(Ni-I)B(15)-7/86 dated 16-1-1992	411
32.9	H.P. Government, Department of Personnel letter No. Ka(Ni-I) B(15)-7/86 dated 29-4-1993	411
32.10	H.P. Government, Department of Personnel letter No. Per(A-I)B(15)-7/86 dated 11-6-1993	412
32.11	H.P. Government, Department of Personnel letter No. Per(A-I)B(15)-7/86 (loose) dated 2-3-1994	412
32.12	H.P. Government, Department of Personnel letter No. Per(A-I)B(15)-7/86 dated 4-5-1994	413
32.13	H.P. Government, Department of Personnel letter No. Per(A-I)B(15)-7/86-II dated 16-5-1998	414
32.14	H.P. Government, Department of Personnel letter No. Per(A-I)B(15)-7/86-II dated 09-07-1998	414
32.15	H.P. Government, Department of Personnel letter No. Per(A-I)B(15)-7/86-II dated 29-12-1998	415
32.16	H.P. Government, Department of Personnel letter No. Per(A-I)B(15)-7/86-Part dated 15-12-2015	415
32.17	H.P. Government, Department of Personnel letter No. Per(A-I)B(15)-7/86-III dated 26-10-2020	416

Annexure 32.1

Copy of D.O. letter D.O. letter No. Per(A.I)B(15)-7/86 dated 31-3-1987 from Secretary (Personnel) to all Secretaries and Heads of Departments, H.P.

(Referred to in Para 32.3)

Subject: Tours by Secretaries to the Government and Heads of Departments – presence of the next-in-command at Headquarters.

It has been observed that in some cases where the Secretaries to the Government/Heads of Departments proceed on tour/leave, the next senior officers is also not available for disposal of immediate business or for attending meetings etc. which puts the whole administration to a lot of avoidable embarrassment. Although instructions exist on this issue, it has been noticed that the Secretaries to the Government/Heads of Departments have not observed the same in the right spirit. It has, accordingly, been decided that whenever Secretaries to the Government/Heads of Departments have to proceed on tour or leave, they must indicate, the name and designation of the next senior-most officer who will be present at Headquarters/Branch in their tour programme or leave application to be submitted for approval either to the Chief Secretary or to the Secretary concerned, as the case may be. Suitable directions be issued to such officer to be available during the leave/tour, as the case may be, of the officer proceeding on tour/leave.

The above instructions may kindly be adhered to strictly in the absence of which tour programme or the leave application will not be processed.

vucl/k 32-2

हिमाचल प्रदेश सरकार, सचिव (कार्मिक) के अर्ध सरकारी पत्र संख्या पर (एपी-1)बी(15)-7/86 दिनांक 6-11-1990 जो सभी सचिवों को सम्बोधित है, की प्रतिलिपि ।

(पैरा 32.3 में उल्लेखित)

कृपया इस विभाग के सम संख्या अर्ध सरकारी पत्र दिनांक 31-3-1987 की ओर ध्यान दें जो सभी प्रशासनिक सचिवों को सम्बोधित था कि प्रशासनिक सचिव तथा विभागाध्यक्ष दौरे/छुट्टी पर जाते समय यह सुनिश्चित करें कि मुख्यालय में उनका कार्य उनके अधीन वरिष्ठतम अधिकारी देखेगा ।

2. इन हिदायतों कर प्रतिलिपि विभागाध्यक्षों को भी भेजी गई थी । इन हिदायतों में यह स्पष्ट किया गया था कि जब भी सरकार के सचिव/विभागाध्यक्षों को दौरे अथवा छुट्टी पर जाना हो, वह दौरे के कार्यक्रम अथवा छुट्टी के प्रार्थना पत्र में, जो वह मुख्य सचिव अथवा सम्बन्धित सचिव को भेजें, उस

वरिष्ठतम अधिकारी का नाम तथा पदनाम जरूर बतलाएं जो छुट्टी अथवा दौरे की अवधि में, जैसी भी स्थिति हो, उनका काम देखेगा । परन्तु यह देखा गया है कि इन हिदायतों का पूर्ण रूप से पालन नहीं हो रहा है ।

3. आपसे अनुरोध कि इन हिदायतों का पूर्ण रूप से पालन करने का कष्ट करें, क्योंकि मुख्य सचिव ने आदेश दिये है कि भविष्य में जो दौरे के कार्यक्रम अथवा छुट्टी के प्रार्थना पत्र ऐसे अधिकारी नाम तथा पदनाम जो मुख्यालय में हाज़िर रहेगा, बताए बिना प्रस्तुत किए जाएंगे, उन पर कार्यवाही नहीं की जाएगी ।

vucpl/k 32-3

हिमाचल प्रदेश सरकार, सचिव (कार्मिक) के अर्ध सरकारी पत्र संख्या पर(एपी-1) बी(15)-7/86 दिनांक 18-12-1990 जोकि सभी वित्तायुक्तों, आयुक्तों एवं सचिवों को सम्बोधित है और प्रतिलिपि विभागाध्यक्षों को प्रेषित है, की प्रतिलिपि ।

(पैरा 32.3 में उल्लेखित)

मैं आपका ध्यान इस विभाग के अर्धशासकीय पत्र दिनांक 6-11-1990 की ओर दिलाना चाहूंगा जिसके द्वारा यह अनुरोध किया गया था कि प्रशासनिक सचिव तथा विभागाध्यक्ष दौरे/छुट्टी पर जाते समय यह सुनिश्चित करेंगे कि मुख्यालय में उनका कार्य उनके अधीन वरिष्ठतम अधिकारी देखेगा ।

2. इन अनुदेशों के जारी होने के पश्चात भी सरकार के ध्यान में यह आया है कि हाल ही में किसी विभाग के सभी सम्बन्धित अधिकारी दौरे/छुट्टी पर पाये गये तथा आवश्यकता पड़ने पर किसी भी अधिकारी से सम्पर्क स्थापित नहीं किया जा सका । मुख्य सचिव महोदय ने इन हिदायतों के पालन की आवश्यकता व औचित्य को फिर से आपके ध्यान में लाने की इच्छा प्रकट की है ।

3. आपसे मेरा अनुरोध है कि ऊपर वर्णित पत्र पर सुझाई प्रणाली का अनुपालन करने की कृपा करें ।
आदर सहित ।

vucpl/k 32-4

हिमाचल प्रदेश सरकार, सचिव (कार्मिक) के अर्ध सरकारी पत्र संख्या पर(एपी-1) बी(15)-7/86 दिनांक 1-5-1991 जोकि समस्त भारतीय प्रशासनिक सेवा अधिकारियों, सचिवालय सेवा अधिकारियों एवं विभागाध्यक्षों को प्रेषित है, की प्रतिलिपि ।

(पैरा 32.5 में उल्लेखित)

विषय: अर्जित अवकाश के प्रार्थना पत्र पर अवकाश के दौरान पूरा पता दिए जाने के सम्बन्ध में ।

मुझे उपरोक्त विषय में यह कहने का निदेश हुआ है कि प्रायः यह देखने में आया है कि अधिकतर अधिकारीगण अपने प्रार्थना पत्र पर अवकाश की अवधि में अपना पूरा पता नहीं लिखते, जिसके फलस्वरूप उनसे अवकाश के दौरान सम्पर्क करना हो तो बहुत असुविधा होती है । प्रार्थना पत्र में यह आवश्यक रूप में अंकित करना होता है ताकि यदि किसी कारणवश उन्हें अवकाश से वापिस बुलाना पड़े अथवा अवकाश की बढ़ोतरी की अस्वीकृति आदि की सूचना देनी हो तो उसमें बड़ी कठिनाई आती है ।

2. उपरोक्त वर्णित परिस्थितियों में यह अनुरोध है कि भविष्य में आप अपने अवकाश के प्रार्थना पत्र इस विभाग को भेजने से पहले अवश्य सुनिश्चित करें कि प्रार्थना पत्र में अवकाश की अवधि में आपका पूरा पता (टेलीफोन नम्बर भी यदि उपलब्ध हो) लिखा हो । यदि भविष्य में आपका पूरा पता लिखे बिना अवकाश का प्रार्थना पत्र प्राप्त होगा तो उस पर कोई कार्यवाही करने से पहले केवल अवकाश अवधि का पता प्रार्थना पत्र पर लिखवाने हेतु वापिस करना पड़ेगा तथा अवकाश स्वीकृति के लिए विलम्ब हो सकता है । अतः एक बार पुनः आपसे अनुरोध है कि अपने अवकाश प्रार्थना पत्रों में अवकाश अवधि का पता अवश्य लिखा करें ।

vucU/k 32-5

हिमाचल प्रदेश कार्मिक विभाग के पत्र संख्या 2-12/73- डी.पी. (नियुक्ति) दिनांक 8-5-1991 जोकि सभी सचिवों, विभागाध्यक्षों, प्रबन्ध निदेशकों/अध्यक्षों निगम, बोर्ड आदि को सम्बोधित है, की प्रतिलिपि ।

(पैरा 32.1 में उल्लेखित)

विषय: दिल्ली प्रवास पर जाने सम्बन्धी आदेश ।

उपरोक्त विषय पर मुझे यह कहने का निदेश हुआ है कि सरकार के आदेशानुसार दिल्ली स्थित विभिन्न मन्त्रालयों, केन्द्रीय कार्यालयों, बोर्डों/निगमों सम्बन्धी कार्यों हेतु बैठकों में सामान्यतः आवासीय आयुक्त ही राज्य का प्रतिनिधित्व करते हैं तथा जिन बैठकों में विभागीय प्रतिनिधि का जाना आवश्यक हो जो उस बारे विभागाध्यक्ष सम्बन्धित सचिव की स्वीकृति लेते हैं । सचिवों ने दिल्ली प्रवास पर जाना हो तो वे स्वीकृति मुख्य सचिव से प्राप्त करते हैं । सरकार ने अब यह निर्णय लिया है कि दिल्ली प्रवास पर जाना हो तो प्रवास कार्यक्रम की पूर्व स्वीकृति प्राप्त करने के पत्र/नोट की एक प्रति सदैव माननीय मुख्य मन्त्री जी के प्रधान सचिव को मुख्य सचिव जी के सूचनार्थ भेजा करें । स्वीकृति प्राप्त करने हेतु जो पत्र/नोट सम्बन्धित सचिव/मुख्य सचिव जी को भेजा जाए उसमें यह स्पष्ट उल्लेख होना चाहिये कि इस पत्र/नोट की एक प्रति माननीय मुख्य मन्त्री जी के सूचनार्थ उनके प्रधान सचिव जी को भेज दी गई है । यह आदेश निगमों/बोर्डों के अध्यक्षों/प्रबन्ध निदेशकों एवं अन्य अधिकारियों पर भी लागू होंगे ।

2. उपरोक्त निर्णय सभी अधिकारियों के ध्यान में लाया जाए और इसका पूर्णतः अनुपालन किया जाए ।

vucll/k 32-6

हिमाचल प्रदेश कार्मिक विभाग के पत्र संख्या 2-12/73- डी.पी. (नियुक्ति) दिनांक 15-5-1991 जोकि सभी सचिवों, विभागाध्यक्षों, प्रबन्ध निदेशकों/अध्यक्षों निगम/बोर्ड को सम्बोधित है, की प्रतिलिपि ।

(पैरा 32.1 में उल्लेखित)

विषय: दिल्ली प्रवास पर जाने सम्बन्धी आदेश ।

उपरोक्त विषय पर इस विभाग के समसंख्यक पत्र दिनांक 8 मई, 1991 के सन्दर्भ में मुझे यह कहने का निदेश हुआ है कि यदि किसी कर्मचारी को प्रवास पर दिल्ली जाने की अनुमति दी जाती है तो उस बारे भी सूचना मुख्य मन्त्री जी के प्रधान सचिव को सम्बन्धित विभागाध्यक्ष/सम्बन्धित सचिव/सम्बन्धित प्रबन्ध निदेशक/सचिव द्वारा भेजी जाए । यह आदेश तुरन्त लागू होंगे और इनका दृढ़ता से पालन किया जाये ।

vucll/k 32-7

हिमाचल प्रदेश सरकार, कार्मिक विभाग के संख्या पर(एपी-1) बी(15)-7/86 दिनांक 13-12-1991 जो सभी सचिवों एवं विभागाध्यक्षों को सम्बोधित है, की प्रतिलिपि ।

(पैरा 32.4 में उल्लेखित)

विषय: अवकाश/मुख्यालय से अनुपस्थिति के दौरान कार्य व्यवस्था ।

मुझे आपका ध्यान आयुक्त एवं सचिव (कार्मिक) हिमाचल प्रदेश सरकार के अर्धशासकीय पत्र दिनांक 31-5-1987, 6-11-1990 तथा 18-12-1990 की ओर आकृष्ट करने का निदेश हुआ है । सरकार के ध्यान में यह बात आयी है कि अधिकारीगण, यदाकदा अवकाश पर जाने से पूर्व सुचारु कार्यव्यवस्था करके नहीं जाते हैं जिसके फलस्वरूप अधिकारियों के अवकाश के दौरान विभाग में किसी भी उत्तरदायी अधिकारी से सम्पर्क करना कठिन हो जाता है । अतः यह निर्णय लिया गया है कि अवकाश लेते समय या देते समय या सिफारिश करते समय निम्न बातों का ध्यान रखा जाये :

- (1) किसी भी विभाग से सचिव या विभागाध्यक्ष दोनो एक ही समय अवकाश पर नहीं होने चाहिए ।
- (2) विभाग में सचिव तथा संयुक्त/उप सचिव दोनो एक समय में अवकाश पर नहीं होने चाहिये ।

(3) इसी तरह निदेशालयों में विभागाध्यक्ष तथा अतिरिक्त/संयुक्त निदेशक एक ही समय अवकाश पर नहीं होने चाहिये ।

यथावत जहाँ लम्बी अवधि का प्रशिक्षण या प्रवास या अन्य प्रकार की अनुपस्थिति मुख्यालय से बाहर हो, वहाँ पर भी उपरोक्त के अनुसार ही व्यवस्था की जाये ।

vucll/k 32-8

हिमाचल प्रदेश कार्मिक विभाग के कार्यालय ज्ञापन संख्या का (नि.-1) बी(15)-7/86 दिनांक 16-01-1992 जोकि सभी सचिवों, विभागाध्यक्षों, प्रबन्ध निदेशकों आदि को सम्बोधित है, की प्रतिलिपि ।
(पैरा 32.9 में उल्लेखित)

हिमाचल प्रदेश सरकार ने यह निर्णय लिया है कि सभी निगमों के प्रबन्ध निदेशकों का नियन्त्रण उनके प्रशासनिक सचिवों के अधीन होगा तथा सभी प्रबन्ध निदेशकों के प्रवास कार्यक्रम उनके सम्बन्धित प्रशासनिक विभाग के सचिव स्वीकृत करेंगे और यदि राज्य से बाहर गाड़ी ले जानी हो तो उस की स्वीकृति मुख्य सचिव महोदय से लेनी होगी । आकस्मिक अवकाश तथा स्थान छोड़ने की स्वीकृति इत्यादि भी सम्बन्धित विभाग के सचिव ही देंगे परन्तु अन्य प्रकार के अवकाश को स्वीकृति के लिए प्रार्थना पत्र सम्बन्धित सचिव के माध्यम से कार्मिक विभाग को भेजे जायेंगे । यह सुनिश्चित किया जाये कि इन हिदायतों का पूर्ण पालन हो ।

2. निगमों के प्रबन्ध निदेशकों के यात्रा भत्ते एवं चिकित्सा प्रतिपूर्ति भत्ते के नियन्त्रण अधिकारी बारे वित्त विभाग द्वारा अलग से आदेश जारी किये जा रहें हैं ।

vucll/k 32-9

हिमाचल प्रदेश कार्मिक विभाग के पत्र संख्या का (नि.-1) बी(15)-7/86 दिनांक 29-4-1993 जोकि सभी सचिवों, विभागाध्यक्षों को सम्बोधित है और प्रतिलिपि सभी प्रबन्ध निदेशकों को प्रेषित है, की प्रतिलिपि ।

(पैरा 32.6 में उल्लेखित)

विषय: मितव्ययता उपाय के दृष्टिगत अधिकारियों के प्रवास कार्यक्रम में कटौती ।

उपरोक्त विषय पर मुझे यह कहने का निदेश हुआ है कि जैसा कि आपको मालूम ही है कि प्रदेश की वर्तमान वित्तीय स्थिति के दृष्टिगत मितव्ययता की बहुत आवश्यकता है अतः सरकार ने यह निर्णय

लिया है कि मितव्ययता के अन्य उपायों के साथ-साथ सभी अधिकारियों के प्रवास कार्यक्रमों में भी कमी की जाये । आपसे अनुरोध है कि आप इन मितव्ययता उपायों के दृष्टिगत अपने अधीन सभी अधिकारियों के प्रवास कार्यक्रम इस सीमा तक ही करने सुनिश्चित करें जितने कि अत्यन्त आवश्यक हो ।

कृपया इन निर्देशों को सख्ती से पालन करें और इस पत्र की पावती भेजें ।

Annexure 32.10

Copy of Himachal Pradesh Government Department of Personnel letter No. Per(A.I)B(15)-7/86 dated 11-6-1993 from Chief Secretary addressed to all Secretaries/Heads of Departments, H.P.

(Referred to in Para 32.7)

Subject: Touring by Secretaries/Heads of Departments etc.

In continuation of this Department's letter of even number dated the 29th April, 1993 on the subject noted above, I am directed to say that whenever the Secretaries have necessarily to proceed on tour or leave, they submit their tour programme/leave applications to the Chief Secretaries for approval. While, these are dealt with for sanction, it is normally expected that officers should keep the Ministers/Advisors in the picture before proceeding on tour/leave. Similarly, when Secretaries sanction the tour programme of their Heads of Departments, they may also keep the Advisor in the picture accordingly. This salutary principle should be honoured by all officers concerned, as Secretaries being overall incharge of their Heads of Departments can also instruct about the priority of such tour/leave and give appropriate guidance in the matter suitably.

Annexure 32.11

Copy of Himachal Pradesh Government Department of Personnel letter No. Per(A.I)B(15)-7/86 (loose) dated 2-3-1994 addressed to all Secretaries/Heads of Departments, H.P.

(Referred to in Para 32.2)

Subject: Touring by Secretaries/Heads of Departments etc.

I am directed to refer to the subject cited above and to say that it has come to the notice of the Government that some officers are taking Government vehicle during tour to Delhi without taking prior approval of the Chief Secretary to the Government of Himachal Pradesh. It has now been decided that no officer while on tour can use a Government vehicle for going to Delhi without taking prior permission of the Chief Secretary to the Government of Himachal Pradesh. It is, therefore, requested that these instructions may be adhered to scrupulously.

Annexure 32.12

Copy of Himachal Pradesh Government Department of Personnel letter No. Per(A.I)B(15)-7/86 dated 4-5-1994 addressed to all Secretaries/Heads of Departments, H.P.

(Referred to in Para 32.8)

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Subject: Touring by Administrative Secretaries restrictions thereon.

I am directed to address you on the subject cited above and to say that in the past instruction were issued to all the Administrative Secretaries that they should get their proposed tour programmes approved from the Chief Secretary before actually proceeding on tour. It has been observed of late that the Administrative Secretaries remain out of headquarters on tours for a considerable period and their absence from the headquarters causes inconvenience to the public and avoidable delay in the Government work.

2. Hon'ble Chief Minister too has observed that these tours outside Shimla and especially to Delhi for meetings etc. should be curtailed and officers of the rank of the Secretary to the Government and Heads of Departments should not remain on tour to more than 3 days excluding journey time at a stretch and not more than twice in a month. It was also observed by him that it is not always necessary for Secretary to go for these meetings. He can be represented by the concerned Head of Department or even the Resident Commissioner.

3. Accordingly, it has been decided that the Administrative Secretaries should not remain on tour out of Headquarters for a period of more than three days at a stretch excluding journey days and in no case more than twice a month. To avoid embarrassment, these guidelines must be adhered to strictly as ordinarily no exception will be allowed.

4. Receipt of this letter may kindly be acknowledged.

Annexure 32.13

Copy of H.P. Government Department of Personnel letter No. Per(A-I)B(15)-7/86-II dated 16-05-1998 addressed to all Secretaries, Heads of Departments, Deputy Commissioners and MD's of Boards/Corporations, in H.P.

(Referred to in Para 32.10)

.....

Subject: Touring by Administrative Secretaries/Heads of Departments etc.

Jai Hind.

In supersession of all previous instructions issued from time to time by the Department of Personnel on the subject cited above, I am directed to say that it has now been decided that henceforth all Administrative Secretaries to the Government of Himachal Pradesh would approve their own tour programmes including programmes outside the State (within the country) and copy of such tour programme may be sent in advance to the Chief Secretary for information. It has further been decided that Administrative Secretaries will decide at their own level about the level at which the tour programmes of Heads of Departments/Managing Directors of Corporations/Boards under their Department are to be approved.

.....

Annexure 32.14

Copy of Himachal Pradesh Government Department of Personnel letter No. Per(A-I)B(15)-7/86-II dated 9-07-1998 addressed to all Administrative Secretaries, in H.P.

(Referred to in Para 32.11)

.....

Subject: Touring by Administrative Secretaries.

Jai Hind.

This is with reference to the instructions issued by this Department's letter of even number, dated the 16th May, 1998 wherein all Administrative Secretaries to the Government of Himachal Pradesh have been allowed to approve their own tour programmes including programmes outside the State (within the country) and to send a copy thereof in advance to the Chief Secretary, and also the instructions issued by the General Administration Department (Parliamentary Affairs Department), vide their letter No. GAD-C(D)7-1/97, dated the 26th June, 1998 to the effect that no officer at any level will go on tour till the Vidhan Sabha Session is over. It has been observed that a few Administrative Secretaries are going on tours out of their headquarters at the time when the Vidhan Sabha is in session, despite the instructions issued by the General

Administration Department (Parliamentary Affairs Department) to this effect. It is, therefore, clarified that no Administrative Secretary in future will go on tour out of the headquarters during the Vidhan Sabha Session without the prior approval of Chief Secretary. Instructions issued vide this Department's letter of even number, dated the 16th May, 1998 are modified to this extent.

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Annexure 32.15

Copy of Himachal Pradesh Government Department of Personnel letter No. Per(A-I)B(15)-7/86-Vol-II dated 29-12-1998 addressed to all Administrative Secretaries, Heads of Department and MD's of Board/Corporations, in H.P.

(Referred to in Para 32.12)

.....

Subject: Providing of Govt. Vehicles to the Officers.

Jai Hind.

I am directed to invite a reference on the subject cited above and to say that it has been brought to the notice of the Government that in certain cases officers are using more than one vehicle either that of the Directorate or in case of more than one charge, of the Department of which such officer is holding additional charge. As a measure to discontinue this practice, it has now been decided that all the Administrative Secretaries/Heads of Departments and Managing Directors of Boards/Corporations shall henceforth use only one vehicle which is available against the post of which substantive charge is being held. You are, therefore, requested to comply with these instructions. You are also requested kindly to send information with reference to second vehicle which is available and being used by you at an early date alongwith acknowledgement of these instructions.

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Annexure 32.16

Copy of H.P. Government Department of Personnel letter No. Per(A-I)B(15)-7/86-Part dated 15-12-2015 addressed to all Administrative Secretaries, in H.P.

(Referred to in Para 32.13)

.....

Subject: Regarding frequent tours of Administrative Secretaries.

Instructions have been issued by this Department from time to time on the need to curtail frequent tours of the officers. During recent times, it has been observed that the work of public interest and grievances of the general people are not being attended on day to day basis due to frequent and long tours of the administrative Secretaries to the

Government of Himachal Pradesh during the tours of the concerned Ministers. It has been further observed that even the Secretaries are not available in the Secretariat. Therefore, it has been decided by the Government that all the Administrative Secretaries should remain at headquarter during the tours of the concerned Ministers, except under unavoidable circumstances, so that the official work involving public interest does not suffer and citizen grievances are promptly redressed.

2. These instructions may kindly be adhered to strictly.
3. This has the approval of the Hon'ble Chief Minister.

.....

Annexure 32.17

Copy of H.P. Government Department of Personnel letter No. Per(A-I)B(15)-7/86-III dated 26-10-2020 addressed to all Administrative Secretaries, in H.P.

(Referred to in Para 32.11.1)

.....

Subject: Touring by Administrative Secretaries/ Heads of Departments etc.

I am directed to refer to this department's letter No. Per (AP.I)B(15)-7/86-II, dated 16th May, 1998 (Annexure 32.13) and 9th July, 1998 (Annexure 32.14), on the above noted subject and to say that consequent upon the issuance of revised instructions regarding delegation of financial powers/revision of economy instructions by Finance Department vide letter No. Fin-F(A)(11)-11/2004, dated 03-06-2014, the instructions issued by this department vide above referred letters have become infructuous. Only the instructions issued by the Finance Department vide its above referred letter shall prevail and regulate the tour programme of the officers of the State Government, Therefore, the aforesaid instructions issued by this department are withdrawn/superseded accordingly.

CHAPTER 33

DELEGATION OF ADMINISTRATIVE POWERS, GENERALLY AND UNDER SINGLE LINE ADMINISTRATION.

33.1 General

The question of decentralisation of powers in administrative matters had been considered by the Govt. from time to time. Orders with regard to the use of powers at lower level regarding transfer of Government officers/officials are given in detail in the transfer policy. In administrative matters, the Govt. has delegated powers as discussed in the following paras.

33.2 Powers delegated to different authorities throughout the State.

33.2.1 Orders dated 24-4-1979.

(1) Casual leave.

The following officers shall have full powers to sanction casual leave to the class of officers/officials as indicated against each:-

- | | | |
|----|---|---|
| a) | All heads of offices lower level Gazetted officers (such as Sub-Divisional officers, Tehsildars, Asstt. Engineers, Block Development Officers (and Non-Gazetted officers Incharge having supervision and control over the institutions (such as Headmasters, Block Education Officers etc.) | Full powers in respect of all Class IV and Class III employees subordinate to them. |
| b) | All District level and equivalent officers (such as Divisional Forest Officers, Executive Engineers) and Zonal level officers (such as Conservators of Forests, Superintending Engineers and Deputy Directors). | Full powers in respect of Class II officers' sub-ordinate to them. |
| c) | Heads of Departments. | Full powers in respect of all Class I officers under them. |
| d) | Administrative Secretaries. | Full powers in respect of Heads of Deptts. Under them. |

(1.1) Proportionate entitlement of Casual Leave (for all)

After consideration of proportionate entitlement of casual leave, the State Government in Department of Personnel vide letter dated 18-02-1997 decided to issue the instructions as under:

- (i) In regard to persons who join the government service in the middle of the calendar year the authority competent to grant such casual leave shall allow casual leave at the calculated rate of one casual leave for one month only.
- (ii) In regard to the persons who retire from the government service shall be entitled to casual leave proportionate to period he serves the government at the rate of one casual leave for one month.

(2) Approval of Tour Programme.

For approving tour programmes powers have been delegated to different authorities in respect of officers and officials as indicated against each:-

- a) Concerned Zonal officers (such as superintending Engineer, Conservators of Forests), District level officers and Heads of offices. Full powers in respect of Class IV and Class III officials.
- b) Regional Officers and District level and equivalent officers. Full powers in respect of officers under them.
- c) Head of Departments. Official tours of employees subordinate to them.
- d) Secretaries of the Departments Official tour of Heads of Departments.

The officers who have been empowered to approve tours within Himachal Pradesh may allow the taking of Government vehicle from the adjoining area of Himachal Pradesh to Chandigarh, Pathankot, Nangal, Yamuna Nagar and Talwara Township.

(3) Efficiency bar.

The following officers will order crossing of efficiency bar in respect of the officers/officials as indicated against each:-

Name of the officer to whom power has been given	Category of officers/officials in respect of whom power has been given.
a) District level and equivalent officers (Except in Secretariat).	Class IV and III subordinate employees of all Departments (Except in Secretariat).
b) Under Secretary (Secretariat Administration)	All Class IV employees of the Sectt.
c) Secretary (Chief Secretaries Branch)	All Class III employees of the Secretariat.
d) All Heads of Departments	All Class IV, III and II employees/officers.

Note : The efficiency bar has been abolished w.e.f. 01-01-1996.

(4) Custody of Character Rolls.

Now the Character Rolls of Class II employees will be kept in the offices of the Heads of Departments. The Character Rolls of Class III and IV employees will be kept in the offices of the District level officers. In the event of transfer of an employee, the character rolls will be sent to the concerned district level offices alongwith the service book.

(5) Forwarding of applications for employment.

All Heads of Department will send applications of Class II, III and IV employees under them for employment elsewhere in accordance with the general policy. The concerned officers will exercise the above powers in proper manner and keeping above all the public interest.

(H.P. Govt. Deptt. of Personnel O.M. No. Karmik (Ni-II)A(6)1/79 dated 24-4-1979-Annexure-33.1 read with O.M. No. Karmik (Ni-II)A(6)-1/79 dated 8-5-1979-Annexure-33.2).

Note : The Chapter 26 of this Hand Book contains the detailed procedure for forwarding of application for employment.

33.2.2 Orders dated 29-11-1979 with amendments:

The Divisional Commissioners have been delegated the following powers in respect of the officers working within their respective Divisions:-

(1) To sanction Casual leave to Deputy Commissioners.

(2) To sanction earned leave upto 30 days to all Indian Administrative Services/Himachal Pradesh Administrative Service Officers posted in General Administration, Revenue and Development Departments under the Deputy Commissioners. Before sanctioning earned leave it will be essential to ascertain the title to leave from the Personnel Deptt. (Appointment-I) or other concerned department and copy of the sanction to leave will be sent to the concerned department.

Note 1: Item (2) was substituted on 29-10-1987 as under:-

“ To sanction earned leave, Half pay, commuted leave on medical certificate upto 60 days to all Indian Administrative Service, H.P. Administrative Service Officers posted in General Administration, Revenue and Development Departments under the Deputy Commissioners. It will be essential to ascertain title to leave from the Personnel Deptt. (Apptt-I) or from the other concerned Deptt. before sanctioning leave and copy of the sanctioned leave will be sent to the concerned Departments.

(H.P. Govt. Deptt. of personnel officer order No. Karmik (Ni-II) A(6)1/79 dated 29-10-1987-Annexure-33.9)

Note 2: Item No. (2) has been further substituted as under from 01-05-1992:-

(2) (a) The Deputy Commissioners concerned shall be competent to sanction earned/half pay/commuted leave on medical certificate to all Indian Administrative service/Himachal Pradesh Administrative Service Officers posted in General Administration, Revenue and Development Department under Deputy Commissioners upto 30 days and the Divisional Commissioners concerned shall be empowered to sanction such leave above 30 days and upto 60 days.

(b) If title to leave is not known then condition of “subject to title to leave” be inserted. A copy of the order be sent to the Personnel Dett. (Apptt-I), Joint Controller (now Controller) (Finance and Accounts) Deptt. of Personnel, besides others.

(c) The Controller shall intimate the title of leave to the Deputy Commissioners in respect of Indian Administrative Services/Himachal Pradesh Administrative Services Officers under them (Deputy Commissioners) on 1st January and 1st September every year.

(d) The authorities empowered to sanction leave shall be competent to post any other officer under them to look after the work of the officers proceeding on leave in addition to his own work.

(H.P. Govt. Deptt. of Personnel office order No. Karmik (Ni-II)A(6)-1/79 dated 1-5-1992-Annexure-33.15).

(2.1) Amendment in O.M dated 01-05-1992

Consequent upon the closure of offices of Divisional Commissioners in the State, The Government decided that the Deputy Commissioners will be competent to sanction earned leave, half pay leave, commuted leave to all the I.A.S. and H.P.A.S. officers working under them in General Administration, Revenue, Development and other wings upto a period of 30 days. The applications for leave exceeding this period will be referred to the Government in the Department of Personnel alongwith recommendations of the Deputy Commissioner. The para "Ka" of O.M. dated 01-05-1992 was modified to the above extent. It was further decided that like the Deputy Commissioners, the Heads of Departments and Managing Directors of Boards/Corporations will also be competent to sanction leave of the kinds above mentioned upto 30 days in respect such IAS/HAS officers and applications exceeding this limit will be referred to the Government in the Department of Personnel. The leave sanctioning authority will be competent to order to hand over the charge of the officer on leave to another officer working under his control in addition to his own work.

(H.P. Govt. Deptt. of Personnel O.M No. Per(AP.II)A(6)-1/79-II dated 22-07-2002 - **Annexure-33.23**).

(2.2) In continuation of O.M. dated 22nd July, 2002, it has been decided that the Pr. Secretary/Secretary in the Administrative Department will be competent to sanction earned leave, upto 30 days to the Heads of Departments under their control, henceforth. The application for leave exceeding this period will be referred to the Department of Personnel alongwith their recommendations. The respective Pr. Secretary/Secretary will also be competent to give the charge of the post of the officer proceeding on leave to any other officer in addition to his own duties. However, where the charge is required to be given to an officer posted in another office/Department, the proposal for the grant of leave will be sent to the Govt. in the Department of Personnel.

(H.P. Govt. Deptt. of Personnel O.M No. Per(AP.II)A(6)-1/79-II dated 29-07-2010 - **Annexure-33.24**).

(2.3) Sanction of earned leave to Class-I officers of TD

It has been decided that AC, TD will be competent to sanction earned leave upto 30 days to Class-I officers of Tribal Development and application for exceeding this period will be referred to Commissioner (TD) alongwith recommendations.

(H.P. Govt. Deptt. of Personnel O.M No. Per(AP.II)A(6)-1/79-III dated 07-05-2015 - **Annexure-33.25**).

- (3) To approve official tour programmes of Deputy Commissioners and Additional Deputy Commissioners within the State/District.
- (4) To transfer under the rules Class III and IV employees of the offices of Deputy Commissioners from one district to the other or to ask for transfer within the Distt. In special cases.
- (5) To have power of appeal and revision in disciplinary matter in respect of employees mentioned in 4 above.

(H.P. Govt. Deptt. of Personnel office order No. Karmik (Ni-II)A(6)1/79 dated 29-11-1979 Annexure-33.5).

Changes in Item 3 above.

- (a) The Deputy Commissioner, Lahaul and Spiti need not obtain prior permission of the Divisional Commissioner for undertaking tour within the district, but tour daily will as usual be sent to the Divisional Commissioner.

(H.P. Govt. Deptt. of Personnel letter No. Karmik (Ni-II) A(6)-1/79 dated 3-8-1981).

- (b) The Deputy Commissioner shall be empowered to approve the tour programmes of the Additional Deputy Commissioners within the State/District.

(H.P. Govt. Deptt. of Personnel letter No. Karmik (Ni-II)A(6)-1/79 dated 21-9-1981).

33.2.3 Delegation of Enhanced Financial/Administrative Powers-Orders dated 7-5-1979 with amendments.

For decentralising the financial/administrative powers in the interest of expeditious disposal of Government work the State Government have delegated powers as detailed below to the authorities as indicated against each item:

Item	Powers
1. Transfer of Govt. Servants on foreign service/ deputation.	Administrative departments in the case of Class-I and II Officers and the Heads of Departments in the case of Class-III and IV employees, are authorised to send the Govt. employees, on deputation, on foreign service, subject to the condition, that ordinarily the period of deputation does not exceed 3 years at a time, and

that there is no deviation from the standard terms and conditions prescribed by the Finance Department. These terms and conditions are contained in Finance Department's O.M. No. 7-2/65-Fin. (R&E), dated 4th December, 1975.

Note: From 1-7-1991 onwards, the terms and conditions are contained in Finance Deptt's O.M. No. Fin.(C)-B(12)-1/91 dated 26-8-1991

2. Controlling Officers for travelling allowance purposes. etc. Secretaries including the Joint Secretaries and Deputy Secretaries, the Heads of Departments and the Deputy Commissioners shall be their own Controlling Officers for travelling allowance purposes under Supplementary Rule 191 subject to the normal procedure regarding approval of tour programmes, as at present in vogue, being observed by these officers. The Chief Secretary, the Financial Commissioner, the Chairman, Public Service Commission and the Deputy Commissioner, Lahaul and Spiti District already stand declared as their controlling officers.
3. Fixation of pay of civil pensioners on their re-employment. The Administrative Departments are authorised to fix the pay of civil pensioners on their re-employment subject to the fulfilment of the conditions laid down in the relevant rules/guiding principles. Main provisions which apply in such cases is contained in Govt. of India's decision (6) below F.R. 69 in Posts and Telegraphs Compilation of Fundamental and Supplementary Rules, Volume-I.

Note: From 1-6-1988 onwards, the fixation of pay of civil/military

pensioners re-employed in civil service in State Government of H.P. is regulated under the H.P. State Civil Service (Fixation of pay of Re-employed Pensioners) Orders, 1988 as circulated with Finance Deptt.'s O.M. No. Fin.(C)B(7)10/84 dated 1-12-1988 (See Annexure 18.24 in Chapter 18 of Vol. I of this Handbook).

4. Sanctioning of advances/withdrawals from Provident Fund for various purposes. The restriction imposed by the Finance Department vide O.M. No. 11-29/71-Fin. (Reg.) Vol. II, dated the 15th June, 1973, and subsequently reiterated, under which the Heads of Departments are required to refer the proposals to the Finance Department in which a second advance has to be sanctioned is hereby withdrawn and the power vested in various authorities under the relevant Provident Fund Rules restored subject to the condition that provisions of the rules, are strictly followed in deciding such cases.
5. Grant of advance increment. Heads of Departments are authorised to dispose of individual cases at their own level in accordance with the policy laid down by the Administrative Department concerned with the concurrence of the Finance Department.
6. Grant of honorarium and special pay. The Heads of Departments/Administrative Secretaries are authorised to grant honorarium only in such cases where such remuneration is to be paid under an approved policy/pattern of the Govt. In respect of Administrative Secretaries, this power shall vest in the Chief Secretary. In all other cases, the present procedure of obtaining prior concurrence of the Finance Department shall continue to be followed.

Cases pertaining to grant of special pay shall be disposed of by the Administrative Secretaries after obtaining prior concurrence of the Finance Department.

(Substituted vide H.P. Govt. Finance Department O.M. No. Fin. (C)A(2)-8/77 dated 10-8-1979 Annexure-33.4).

7. Permission to undertake work of another Govt./public body and to accept remuneration therefor. The Heads of Departments shall be competent to decide such cases, at their own level subject to the fulfilment of conditions laid down in the rules i.e. F.R. 46 (a), 46(b) and S.Rs. 11 and 12.
8. Fixation of pay in cases of combination of appointment. The Administrative Secretaries are authorised to dispose of such cases, subject to the observance of the principles laid down in F.R. 49. The other condition that shall apply in regulating the payment of additional pay in such cases, will be that the holding of additional charge of a post in the same office by another officer posted in the same office, in a leave arrangement, shall be regarded as re-distribution of functions/ business among the officers and not a specific addition to duties or responsibilities of the officer concerned. Cases involving departure from general principles will, however, be referred to the Finance Department.

Finance Department vide letter No. Fin(C)B(15)-2/2009 dated 13-01-2012 has withdrawn the powers delegated to the appropriate authorities to consider the cases of combination of appointment under FR-49.

9. Grant of leave other than casual leave.

In supersession of all previous orders on the subject, the Heads of offices and the Heads of Departments etc. are delegated power to sanction leave, as under , subject to the fulfilment of conditions laid down in the relevant rules:-

a) Heads of offices shall be competent to grant earned leave to Class-III and IV employees working under them provided it does not involve appointing a new employee.

b) Heads of Departments shall be competent to grant earned leave to Class-I and II officers working under them excluding the officers immediately subordinate to them e.g. Joint/Deputy Director, Joint /Deputy Registrar, etc., provided it does not involve appointing substitutes.

Note: This provision shall also apply in the case of granting half-pay and commuted leave.

2. If in the absence of a Govt. servant, on leave, a substitute is required to be appointed, then the competent authority to grant leave to such a Govt. servant, shall be the appointing authority.

While issuing sanctions, authorities to whom powers have been delegated, shall ensure that copies of the orders, covered by items 1,3,4,5,6,7 and 8 are invariably endorsed to the Finance department (Regulation Section) in the interest of proper verification/check.

(H.P. Govt. F.D. O.M. No. Fin.(C)-A(2)-8/77, dated 7-5-1979-Annexure-33.3).

SINGLE LINE ADMINISTRATION

33.3 In Pangi Sub-Division of Chamba District.

For better administration and development of the area, single line administration was introduced in Pangi Sub-Division of Chamba District on 3-4-1986 with the Resident Commissioner as head of the single line administration.

For proper administration, the Resident Commissioner has been given the following powers in administrative, financial and technical matters:-

(i) In Revenue matters:

He will exercise the powers of Commissioner for revenue matters in Pangi.

(ii) Powers of Head of Department:

He shall exercise technical, administrative and financial powers vested in all the heads of departments in respect of their departmental works/programmes/schemes in Pangi. Cases which may be beyond his competence shall be sent direct to the Commissioner (Tribal Development) for expeditious disposal.

He shall exercise the powers of Head of Department in all administrative matters in respect of offices located in Pangi in terms of fundamental Rules, C.S.R., CCS (CCA) Rules, 1965, Central Civil Services (Pension) Rules, 1972, Central Civil Services (Conduct) Rules, 1964 and Central Civil Services (Temporary Service) Rules, 1965. The cases which are beyond the competence of the Head of Department will be sent by the Resident Commissioner to the Commissioner-cum-Secy. (Tribal Development).

Note: Regarding sanction of leave to Div. Forest Officer, Deputy Conservator of Forests and Executive Engineers, please see para 33.6 (3)

(iii) As disciplinary authority:

As Head of Department he shall be the disciplinary authority in respect of non-gazetted staff located in offices in Pangi. He shall also have the powers to impose minor penalty in respect of gazetted officers of offices located in Pangi.

(iv) Writing of Annual Confidential Reports (now APAR's):

(a) In respect of Annual Confidential Reports of Non-gazetted establishment, he shall be the final accepting authority.

(b) In respect of gazetted officers of all offices located in Pangri, he shall be the initiating authority in case the earlier initiating authority was not located in Pangri and he shall be the Reviewing Authority in respect of Annual Confidential Reports of those gazetted officers whose initiating Authority is also located in Pangri. The ACRs initiated/reviewed by him shall be sent to the Secretary to the Govt. in the Department concerned directly without being routed through the normal Head of Department.

Note: For ACRs of Divisional Forest Officers/Deputy Conservator of Forests and Executive Engineers, separate procedure has been prescribed. Please see para 33.6(3).

(c) Regarding writing of ACRS under the Single Line Administration.

The State Government has introduced Single Line Administration in respect of Tribal areas of the Pradesh and as per the existing instructions, circulated vide letter No. TBD(A)4-5/91-II dated 2nd June, 2010 by Principal Secretary (TD) to the Government of Himachal Pradesh, under the single line administration, the ADM Bharmour, R.C. Pangri and SDM Pangri and Bharmour has been delegated the powers of Heads of Departments in respect of all State Government Departments located in their respective jurisdictions in all administrative and financial matters including grant of administrative approval and expenditure sanctions. Under the Single Line Administration the ACRs of such officers exercising the powers of Heads of Departments in respect of administrative and financial matters of all Government departments situated in their respective jurisdiction are being initiated by the Pr. Secretary (TD) to the Government of Himachal Pradesh under whom they have not worked directly. The matter regarding writing/initiating the ACRs of ADM Bharmour, R.C. Pangri and SDM Pangri and Bharmour, who are exercising the powers of Head of Departments in respect of all Departments situated in their respective jurisdictions in certain administrative and financial matters was considered and in view of various factor, the State government decided that the Annual Confidential Reports (now APARs) of the ADM Bharmour, R.C. Pangri and SDM Pangri and Bharmour shall be initiated at the level of Deputy Commissioner, Chamba with effect from the next financial year, 2011-12. Rest of the authorities i.e. Reviewing and Accepting shall remain unchanged.

(H.P. Govt. Department of Personnel letter No. Per(AP.B)B(15)-1/2002-IV dated 16-07-2011 addressed to all Administrative Secretaries, HoD's, Divisional Commissioners, DC in H.P. – **Annexure 33.17**)

(d) Regarding writing of ACRS under the Single Line Administration- modification of instructions dated 16-07-2011

The State Government modified the instructions issued vide letter dated 16-07-2011 (Annexure 33.20) to the following extent:

“The APAR/ACRs of the Resident Commissioner, Pangri shall be initiated by the Administrative Secretary and the APAR/ACRs of SDM Pangri shall be initiated by the Resident Commissioner, Pangri. Rest of the authorities’ i.e Reviewing and Accepting shall remain unchanged”.

(H.P. Govt. Department of Personnel letter No. Per(AP.B)B(15)-1/2002-IV dated 03-09-2013 addressed to all Administrative Secretaries, HoD’s, Divisional Commissioners, DC in H.P. – **Annexure 33.18**)

(vi) Transfers:

Transfer of officials to and from Pangri will be by the concerned authority with prior approval of the Resident Commissioner. Prior approval has been kept rather than consultation in order to vest the Resident Commissioner with real authority.

(vii) All Offices located at Killar merged in the office of Resident Commissioner.

All the existing officers located at Killar will be merged in the office of the Resident Commissioner, Pangri at Killar and they shall form part and parcel of the Resident Commissioner’s office through in separate cadres.

There shall be no correspondence between Resident Commissioner’s office and other offices in Pangri and instead all cases requiring his orders will be put up to him on the departmental files.

(H.P. Govt. Personnel Deptt. Wireless message No. PER(A-I)B(2)-9/85 dated 7-4-1986 letter No. PER(AP-II)-B(15)1/84 dated 12-5-1986 and No. Per (A-I)B(2)-9/85, dated 16.5.1986-Annexure-33.6, 33.7 and 33.8 respectively).

33.4 Single line administration in ITDP area of Kinnaur, Lahaul, Spiti & Bharmour.

33.4.1 Proposal for the introduction of single –line administration in the remaining four ITDP areas, viz. Kinnaur, Lahaul, Spiti and Bharmour on Pangri pattern was considered by the Government and after analysing the achievements made consequent to the introduction of similar scheme in Pangri Sub-Division of Chamba District, it has been decided to introduce single –line administration in the Districts of Kinnaur and Lahaul-Spiti and Bharmour Sub-Division of Chamba District with effect from 15-4-1988.

It has been decided that the following officers will head the single line administration and function as Head of Department in respect of all departments and will exercise the same powers as are delegated to the Resident Commissioner, Pangri in respect of the different departments in their areas:-

- a) Kinnaur : Deputy Commissioner, Kinnaur.
- b) Lahaul : Deputy Commissioner, Lahaul & Spiti.

- c) Spiti-Kaza : Additional Deputy Commissioner, Kaza
- d) Bharmour : Deputy Commissioner, Chamba.

The Deputy Commissioners/Additional Deputy Commissioner heading the single-line administration in the above areas will exercise all powers of the Head of the Department in respect of all officers upto Divisional level i.e. executive Engineers, Deputy Conservators of Forests etc. posted in their areas. All these Divisional level officers will exercise technical powers to the extent of one step higher in their respective ladders.

33.4.1.1 Rationalisation of posts in respect of ITDP area of Bharmour

The matter regarding delegation of powers of Single line Administrator to an officer of ADC or ADM level based at Bharmour, as the case may be, was approved by the Government and for Chamba district one post of ADC and one post of ADM was sanctioned. In respect of ITDP area of Bharmour it was decided that either ADC or ADM, as the case may be, will be the Single Line Administrator with headquarter at Bharmour and will also function as Project Officer, ITDP Bharmour. The post of BDO Bharmour will be kept in abeyance and the SDO(C) Bharmour will also function as BDO, Bharmour. The reporting system with respect to officers including ADM and SDO(C) Bharmour will also be same as prevalent in other tribal areas.

(H.P. Govt. Department of Personnel letter No. Per(A.I)B(2)-9/85-Vol-V dated 02-06-2001)

33.4.2 Functions and Powers under single-line administration:

For ensuring single-line administrative in respect of development, law and order, administrative and revenue activities in the above areas, the functions of the Officers heading them. i.e. Deputy Commissioners Kinnaur, Lahaul-Spiti and Chamba and Additional Deputy Commissioner, Kaza shall be as under:-

- i) They will exercise the powers of Commissioner for revenue matters in their respective areas.
- ii) They will exercise powers of Heads of Departments in all administrative and financial powers.
- iii) The Divisional level officers i.e. Executive Engineers, Deputy Conservators of Forests etc. will exercise technical powers to the extent of one step higher in their respective ladders. The Superintending Engineers/Conservators of Forests etc. working in these areas or incharge of these areas will exercise technical powers of the Chief Engineer/Chief Conservator of Forests etc. for works relating to these areas.

- iv) There shall be no correspondence between the Deputy Commissioner/Additional Deputy Commissioner and the Heads of the offices in these areas and all the Heads of offices shall put up their files direct to the respective Deputy Commissioners/Additional Deputy commissioners for orders.

The Deputy Commissioners/Additional Deputy Commissioner will intimate ACRs of all Gazetted officers working in their respective areas and send the same to the Head of the Department concerned for counter-signature, who will further process the same in accordance with the Govt. orders for getting the same finally accepted. The ACRs of Non-gazetted Govt. servants will be finally accepted by the Deputy Commissioners/Additional Deputy Commissioners of these areas.

Note: For sanctioning leave and writing of Annual Confidential Reports of Divisional Forest Officers, Deputy Conservators of Forests and Executive Engineers, please see separate instructions/decision in para 33.6(3).

(H.P. Govt. Deptt. of Personnel letter No. Per(A-I)B(2)-9/85 dated 11-4-1988-Annexure-33.11 and Per (A-I)-B(2)-9/85-II dated 19-11-1988-Annexure-33.13).

33.4.3 Withdrawal of special financial powers

Finance Department in supersession of its notifications dated 17-01-1986 and 17-01-1989 withdrew the special financial powers delegated to the DC, L&S, RC Pangi at Killar. ADC, Kaza and ADM, Bharmour and ordered that the Commissioner, Tribal development will exercise financial powers as follows :

Item/Nature of Power	Authority to whom power delegated	Extent of Power
To sanction individual schemes including administrative approval for the repairs and maintenance work.	Commissioner (TD)	Full powers
To sanction expenditure on the purchase of materials through prescribed sources for the execution of schemes.	Commissioner (TD)	Full powers
To sanction grant-in-aid to various local institutions.	Commissioner (TD)	Full powers
To accord administrative approval to original works.	Commissioner (TD)	Full powers
To sanction expenditure for the repairs of various tools, equipments, machinery etc.	Commissioner (TD)	Full powers

The Commissioner, TD may delegate/re-delegate powers under above items partly or wholly to the various authorities working under Single Line Administration on his responsibility by keeping proper check on funds utilization within the available budget allocation.

(H.P. Govt. Finance Department Notification No. Fin(C)A(3)-6/83 dated 17th May, 2010 – Annexure 33.20)

33.4.4 Parity in respect of Financial and Administrative powers to all the five ITDPs i.e. Kinnaur, Lahaul & Spiti, Kaza, Pangi and Bharmour.

Keeping in view the provisions of Department of Personnel letters dated 11-04-1988 and 21-09-1998 and Finance Department's notification dated 17-05-2010, Tribal Development Department has prescribed the Financial and Administrative powers, duties and responsibilities to be exercised by the five ITDPs i.e. Kinnaur, L&S, Pangi, Kaza and Bharmour under Single Line Administration as under:-

- i) The Deputy Commissioner, Lahaul & Spiti, Resident Commissioner, Pangi at Killar, Additional District Magistrate, Bharmour will exercise the powers of Head of Department with respect to all State Government Departments located in their respective areas in all administrative and financial matters, including grant of administrative approval and expenditure sanction.
- ii) All the District level officers posted in the jurisdiction/office of the Deputy Commissioner, Lahaul & Spiti, Resident Commissioner, Pangi, Additional Deputy Commissioner, Kaza and Additional District Magistrate, Bharmour will exercise technical powers to the extent of one step higher in their respective ladder.
- iii) With respect to HPPWD and IPH, respective Executive Engineers will now exercise powers of technical sanction on step higher as delegated vide Notification No. Fin(C)-A(3)25/75, dated 30-07-1996. While exercising technical sanction powers by the Executive Engineers, copies of technical sanction orders will be endorsed to concerned Superintending Engineers for their scrutiny.
- iv) Superintending Engineers of HPPWD and IPH will exercise on step up power with respect to Technical matters only i.e. that of Chief Engineer, as delegated in "Item No. 2 Technical Sanction" of the notification of Finance Department mentioned in clause (iii) above with respect to projects in Tribal areas. They will also scrutinize technical sanctions accorded by respective Executive Engineers, particularly with respect to the sanction under enhanced powers delegated to Executive Engineers as per clause (iii) above.
- v) Superintending Engineers and Conservator of Forests shall carry out supervision and inspections of offices/works as per the norms applicable for non-tribal areas. Since the Divisional Officers are under the administrative control of the Deputy Commissioner, Resident Commissioner, Additional Deputy Commissioner and Additional District Magistrate, the Deputy Commissioner, Resident Commissioner,

Additional Deputy Commissioner and Additional District Magistrate will facilitate such supervision/inspections by effective co-ordination.

- vi) The Deputy Commissioner, Lahaul & Spiti, Resident Commissioner, Pangri at Killar, Additional Deputy Commissioner, Spiti at Kaza and Additional District Magistrate, Bharmour will initiate ACRs of all Gazetted Officers working in their respective areas and send the same to Heads of Departments concerned for review, who will further process the same in accordance with the Government orders for getting the same finally accepted. While doing so, the Deputy Commissioner, Resident Commissioner, Additional Deputy Commissioner and Additional District Magistrate will obtain the comments particularly with respect to technical matters, on the performance of concerned Executive Engineers of PWD and IPH and of DFOs from the concerned S.Es/Conservators of Forests on the self appraisal report and the comments of the concerned S.E./C.F. will form part of the ACR. ACRs of Non-Gazetted employees will finally be accepted by the Deputy Commissioner, Lahaul & Spiti, Resident Commissioner, Pangri at Killar, Additional Deputy Commissioner, Spiti at Kaza and Additional District Magistrate, Bharmour.
- vii) There will be no correspondence between Heads of Offices and Deputy Commissioner, Resident Commissioner, Additional Deputy Commissioner, and Additional District Magistrate and all the Heads of Offices shall put up their files direct to the Deputy Commissioner, Resident Commissioner, Additional Deputy Commissioner and Additional District Magistrate.
- viii) The Deputy Commissioner, Resident Commissioner, Additional Deputy Commissioner and Additional District Magistrate will coordinate with respective Heads of Departments at the State level to take advantage of their experience and resources and ensure their active participation in effective administration. Head of Departments will also carry out inspection/undertake visits to their respective areas at par with other Departments of the State.
- ix) The Deputy Commissioner, Resident Commissioner, Additional Deputy Commissioner and Additional District Magistrate will exercise the powers of Commissioner with respect to administrative matters of Revenue Department. However, with respect to court and appellate matters, the powers of Commissioners, will rest with the Divisional Commissioner.

(H.P. Govt, Tribal Development Department letters No. :-

1. TBD(A)4-5/91-II dated 2nd June, 2010 – **Annexure 33.21**
2. TBD(A)4-5/91-II dated 25th June, 2010 – **Annexure 33.22**

33.5 In Dodra Kwar Tehsil.

33.5.1 Proposal to introduce single line administration in Dodra Kwar area of Shimla District has been considered by the Govt. and it has been decided that single line administration will be introduced in Dodra Kwar area w.e.f. 15-4-1988 under the over-all control and supervision of a Sub-Divisional Officer (Civil). Accordingly Dodra Kwar Tehsil has been upgraded to Sub-Division.

33.5.2 Powers and Functions

The Sub Divisional Officer will exercise the following powers:-

- i) He will be considered as Head of the administrative machinery in Dodra Kwar area.
- ii) There will be no correspondence between the Head of the Institutions/offices in Dodra Kwar area and District level officers. All heads of the Institutions/Heads of officers will submit their cases to the S.D.O. (C) for this orders, who will, if considered necessary, correspond with the District level officers.
- iii) The ACRs of all Gazetted officers and Heads of offices/Institutions will be initiated by the S.D.O. (Civil) who will submit the same further to the Heads of the Department for further necessary action. The ACRs of Non-gazetted officials (other than the Heads of offices/institutions) will be submitted to the SDO(C) for review and further transmission to the Head of the Department concerned.
- iv) He will exercise powers of the Head of the office/institution in the area both in administrative and financial matters.

(H.P. Govt. Deptt. of Personnel letter No. Per(A-I)B(2)-9/85 dated 11-4-1988-Annexure-33.12 and order No. Per (A-I)B(2)-9/85-II dated 19-11-1988-Annexure-33.13).

33.6 Certain orders applicable to Kinnaur, Lahaul & Spiti Districts and Pangti Sub-Division of Chamba Distt.

(1) Delegation of powers of appointment for Class III and IV District Cadre posts which are not within the purview of the HP.P.S.C.

It has been decided that the Deputy Commissioners Lahaul & Spiti and Kinnaur and the Resident Commissioner, Pangti shall be the Appointing Authorities in respect of All Class-III and IV posts which are not within the purview of the Public Service Commission and which form part of the district cadres. For other Class III and IV post which form part of the State or Zonal Cadres and which are not within the purview of H.P. Public Service Commission, the respective Departments may examine the feasibility of forming district cadres of these posts in respect of Lahaul & Spiti and Kinnaur District and the Pangti Sub-Division of Chamba District so that appointment to these posts can be made by Deputy Commissioner, Lahaul & Spiti and Kinnaur and the Resident Commissioner, Pangti.

It has also been decided that for the purpose of recruitment at district level, the Selection committee shall be headed by the Deputy Commissioner concerned or the Resident Commissioner, Pangti. The senior most officer of the Department concerned to which the posts relate and one more officer nominated by the Deputy Commissioner/Resident Commissioner shall be the other members of this Selection Committee.

(H.P. Govt. Deptt. of Personnel letter No. PER(AP-II) B(2)-1/85 dated 10-4-1988 Annexure-33.10)

(2) Submission of Tour Programmes and leave applications.

It has been decided by the Government that the following Officers working in Tribal Areas in Himachal Pradesh will submit under advice to respective Divisional Commissioner and Deputy Commissioner, as the case may be, their tour programmes for approval of the Financial Commissioner (Tribal Development), Himachal Pradesh. These officers will also submit their leave applications to the appropriate authorities through the Financial Commissioner (Tribal Development), Himachal Pradesh:-

1. Resident Commissioner, Pangi, Distt. Chamba.
2. Deputy Commissioner, Lahaul & Spiti.
3. Deputy Commissioner, Kinnaur.
4. Additional Deputy Commissioner, Kaza.

(H.P. Govt. Deptt. of Personnel order No. Per(A-I)B(2)-9/85-II dated 26-6-1990-Annexure-33.14).

(3) Improvement in single line Administration-sanction of leave and writing of annual Confidential Reports of certain officers of Forests and Public Works Deptts.

In continuation of the Govt. orders dated 11-4-1988 (paras 33.4.2 and 33.5.2) and subsequent orders, the Govt. have taken the following decisions to strengthen the single line Administration in Tribal areas:-

(i) Sanction of earned leave:

The following officers shall have power to sanction earned leave to the Divisional Forest Officers/Deputy conservators of Forests/Executive Engineers upto the limits shown against each:-

- | | |
|---|--------------------|
| a) Deputy Commissioners, Additional Deputy Commissioner, Resident Commissioner. | Upto 15 days. |
| b) Conservators of Forests/Superintending Engineers. | Upto 30 days |
| c) Concerned Head of the Department. | Exceeding 30 days. |

As and when the competent authorities sanction leave, copy of the order sanctioning leave should invariably be sent to all the above mentioned concerned authorities.

(ii) Writing of annual Confidential Reports.

The Deputy Commissioners/ Additional Deputy Commissioners/ Resident Commissioner and Conservator of Forests/ Superintending Engineers will write the Annual Confidential Reports of Divisional Forest Officers/Deputy Conservators of Forests and Executive Engineers on separate forms. Both separate reports will be sent to the concerned Heads of Departments and the Heads of Departments after reviewing both the reports will send the same to the concerned Secretary for further review and acceptance in accordance with the policy prescribed by the Government. The Head of the Department will divide the prevalent form of Annual Confidential Report into three parts and the first part will be that of the reporting officer, second part for review and the third part for acceptance. Columns for Review/ Acceptance shall be prepared on separate sheets of paper so that the reports written by the Deputy Commissioner/ Additional Deputy Commissioner and Conservator of Forest/Superintending Engineer are clubbed together and the report in part 2 and 3 are in consolidated form.

(iii) Communication with Departments

Communication from Heads of Departments will be dealt with by the Resident Commissioner, Deputy Commissioners, and Additional Deputy Commissioners on priority basis.

(H.P. Govt. Deptt. of Personnel letter No. Ka(Ni-I)-B(2)-9/85-Khand -3 dated 03-06-1993 - **Annexure 33.16**).

Annexures to Chapter-33

Delegation of Administrative powers generally and under single line administration.

Annexure No.	Details of Communications	Page No.
33.1	H.P. Govt. Personnel Deptt. O.M. No. Karmik (Ni-II)A(6)1/79 dated 24-4-1979	439
33.2	H.P. Govt. Personnel Deptt. O.M. No. Karmik (Ni-II)A(6)-1/79 dated 8-5-1979.	440
33.3	H.P. Govt. Finance Deptt. O.M.No. Fin.(C)A(2)-8/77 dated 7-5-1979.	441
33.4	H.P. Govt. Finance Deptt. O.M.No. Fin.(C)A(2)-8/77 dated 10-8-1979.	445
33.5	H.P. Govt. Personnel Deptt. office order No. Karmik (Ni-II)A(6)1/79 dated 29-11-1979.	445
33.6	H.P. Govt. Deptt. of Personnel Wireless message No. PER (A-I) B(2)-9/85 dated 7-4-1986.	446
33.7	H.P. Govt. Deptt. of Personnel letter No. PER (AP-II)-B(15)-1/84 dated 12-5-1986.	447
33.8	H.P. Govt. Deptt. of Personnel letter No. Per (A-I)-B(2)-9/85 dated 16-5-1986.	448
33.9	H.P. Govt. Deptt. of Personnel office order No. Karmik (Ni-II)A(6)-1/79 dated 29-10-1987.	449
33.10	H.P. Govt. Deptt. of Personnel letter No. PER(AP-II)B(2)-1/85 dated 10-4-1988.	450
33.11	H.P. Govt. Deptt. of Personnel letter No. PER(A-I)-B(2)-9/85 dated 11-4-1988.	450
33.12	H.P. Govt. Deptt. of Personnel letter No. PER(A-I)-B(2)-9/85 dated 11-4-1988.	452
33.13	H.P. Govt. Deptt. of Personnel order No. Per(A-I)-B(2)-9/85-II dated 19-11-1988.	453
33.14	H.P. Govt. Deptt. of Personnel order No. Per(A-I)-B(2)-9/85-II dated 26-6-1990.	454
33.15	H.P. Govt. Deptt. of Personnel officer order No. Karmik (Ni-II) A(6)-1/79 dated 1-5-1992.	454
33.16	H.P. Govt. Deptt. of Personnel letter No. Ka(Ni-I)-B(2)-9/85-Khand-3 dated 3-6-1993.	455
33.17	H.P. Govt. Deptt. of Personnel letter No. Per(AP.B)B(15)-1/2002-IV dated 16-07-2011	456

33.18	H.P. Govt. Deptt. of Personnel letter No. Per(AP.B)B(15)-1/2002-IV dated 03-09-2013	457
33.19	H.P. Govt. Deptt. of Personnel letter No. Per(A.I)B(2)-9/85-Vol-V dated 02-06-2001.	457
33.20	H.P. Govt. Finance Department notification No. Fin(C)A(3)-6/83 dated 17 th May, 2010.	458
33.21	H.P. Govt. Tribal Development Department letter No. TBD(A)4-5/91-II dated 02-06-2010.	459
33.22	H.P. Govt. Tribal Development Department letter No. TBD(A)4-5/91-II dated 25-06-2010.	461
33.23	H.P. Govt. Department of Personnel O.M No. Per(AP.II)A(6)-1/79-II dated 22 nd July, 2002.	462
33.24	H.P. Govt. Department of Personnel O.M No. Per(AP.II)A(6)-1/79-III dated 29 th July, 2010.	462
33.25	H.P. Govt. Department of Personnel O.M No. Per(AP.II)A(6)-1/79-III dated 7 th May, 2015.	463

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हिमाचल प्रदेश सरकार कार्मिक विभाग के कार्यालय ज्ञापन संख्या: कार्मिक (नि-।।)ए(6)1/79 दिनांक 24-4-1979 जो कि सभी सचिवों, विभागाध्यक्षों आदि को सम्बोधित है की प्रतिलिपि।

(पैरा 33.2.1 में उल्लेखित)

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विषय: प्रशासनिक शक्तियों का प्रत्योजन (Delegation of administrative powers)

उपर्युक्त विषय पर मुझे यह कहने का निदेश हुआ है कि प्रशासनिक मामलों में शक्तियों के विकेन्द्रीकरण का मामला कुछ समय से सरकार के विचाराधीन था। सरकारी अधिकारियों/कर्मचारियों के स्थानान्तरण सम्बन्धी शक्तियों के निम्न स्तर पर प्रयोग के बारे में आदेश स्थानान्तरण निति के अनुदेशों में ही विस्तृत रूप से दिये हुए हैं। इसके अतिरिक्त सरकार ने अब निम्नलिखित अन्य प्रशासनिक मामलों में शक्तियों के प्रत्योजन का निर्णय लिया है।

1. आकस्मिक अवकाश

(अ) सभी कार्यालय अध्यक्ष निम्न स्तर के राजपत्रित अधिकारियों (जैसे उप-मण्डल दण्डाधिकारी तहसीलदार, सहायक इंजीनियर, खण्ड विकास अधिकारी) तथा पर्यवेक्षण एवं नियंत्रण का कार्य करने वाले संस्थाओं के प्रभारी अराजपत्रित अधिकारियों (जैसे हैडमास्टर, खण्ड शिक्षा अधिकारी आदि) को अपनी अधीनस्थ चतुर्थ श्रेणी तथा तृतीय श्रेणी के सभी कर्मचारियों को आकस्मिक अवकाश देने का पूर्ण अधिकार होगा।

(व) सभी जिला स्तरीय तथा समकक्ष अधिकारी (जैसे वन मण्डलाधिकारी, अधिशासी अभियन्ता) तथा जोनल स्तर के अधिकारी (जैसे अरण्यपाल, अधीक्षण अभियन्ता और उप निदेशक) को अपने अधीनस्थ सभी द्वितीय श्रेणी के अधिकारियों को आकस्मिक अवकाश देने का पूर्ण अधिकार होगा।

(स) विभागाध्यक्षों को अपने अधीनस्थ सभी प्रथम श्रेणी के अधिकारियों को अपने अधीनस्थ सभी श्रेणी के अधिकारियों को आकस्मिक अवकाश देने का पूर्ण अधिकार होगा। विभागीय सचिव को अपने अधीनस्थ सभी विभागाध्यक्षों को आकस्मिक अवकाश देने का पूर्ण अधिकार होगा।

2. दौरे के कार्यक्रम की स्वीकृति:

(अ) तृतीय तथा चतुर्थ श्रेणी के कर्मचारियों के दौरे के प्रोग्राम सम्बन्धित क्षेत्रीय अधिकारी (जैसे अधीक्षक अभियन्ता, अरण्यपाल) जिला स्तरीय अधिकारी तथा कार्यालय अध्यक्ष अनुमोदित कर सकेंगे।

(व) क्षेत्रीय अधिकारी तथा जिला स्तरीय तथा समकक्ष अधिकारी अपने अधीनस्थ अधिकारियों के दौरे के कार्यक्रम अनुमोदित कर सकेंगे।

(स) विभागाध्यक्ष अपने अधीनस्थ कर्मचारियों के सरकारी दौरे के कार्यक्रम अनुमोदित कर सकेंगे।

(द) विभागाध्यक्षों के सरकारी दौरे विभागीय सचिवों द्वारा अनुमोदित किये जायेंगे।

(क) हिमाचल प्रदेश के निकटवर्ती क्षेत्र से सरकारी वाहन को चण्डीगढ़, पठानकोट, नंगल, यमुनानगर ले जाने की अनुमति वही अधिकारी दे सकेंगे जिन्हें हिमाचल क्षेत्र में दौरे की अनुमति करने के अधिकार दिये गये हैं।

3. दक्षता रोध

दक्षता रोध पार करने के आदेश निम्नलिखित अधिकारी दे सकेंगे:

जिस वर्ग के कर्मचारियों/अधिकारियों के केसों के बारे में शक्ति दी जा रही है। उस अधिकारी का नाम जिसे शक्ति दी जा रही है।

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|----|--|---|
| 1. | सभी विभागों के अधीनस्थ चतुर्थ श्रेणी के कर्मचारी (सचिवालय को छोड़कर) | (सचिवालय के अतिरिक्त)
जिला स्तरीय तथा समकक्ष अधिकारी |
| 2. | सचिवालय के सभी चतुर्थ श्रेणी के कर्मचारी। | अवर सचिव (सचिवालय प्रशासन) |
| 3. | सचिवालय के सभी तृतीय श्रेणी के कर्मचारी | सचिव (मुख्य सचिव शाखा) |
| 4. | सभी चतुर्थ, तृतीय तथा द्वितीय श्रेणी के कर्मचारी/अधिकारी | सभी विभागाध्यक्ष |

4. चरित्र पंजिकाओं की संभाल

अब तृतीय श्रेणी के कर्मचारियों की चरित्र पंजिकायें विभागाध्यक्षों के कार्यालय में रखी जायेगी। चतुर्थ तथा तृतीय श्रेणी के कर्मचारियों की चरित्र पंजिकायें जिला स्तर के अधिकारी के कार्यालय में रखी जायेगी। कर्मचारी के तबादले की स्थिति में चरित्र पंजीकायें सम्बन्धित जिला स्तरीय अधिकारी को सर्विस बुक के साथ भेज दी जायेगी।

5. सभी विभागाध्यक्ष अपने अधीनस्थ द्वितीय, तृतीय तथा चतुर्थ श्रेणी के कर्मचारियों के अन्यत्र नौकरी के लिये आवेदन पत्र सामान्य निति के अनुसार भेज सकेंगे।

उपरोक्त शक्तियों का प्रयोग सभी सम्बन्धित अधिकारी उचित ढंग से एवं जनहित को सर्वोपरि जान कर करेंगे।

अनुबन्ध 33.2

हिमाचल प्रदेश सरकार कार्मिक विभाग के कार्यालय ज्ञापन संख्या: कार्मिक (नि-।।)ए(6)-1/79 दिनांक 8-5-1979 जो कि सभी सचिवों, विभागाध्यक्षों आदि को सम्बोधित है की प्रतिलिपि।

(पैरा 33.2.1 में उल्लेखित)

विषय: प्रशासनिक शक्तियों का प्रत्योजन।

उपर्युक्त विषय पर इस विभाग के सम संख्यक कार्यालय ज्ञापन दिनांक 24 अप्रैल 1979 के संदर्भ में मुझे यह कहने का निदेश हुआ है कि उक्त ज्ञापन के पैरा 1 के भाग 4 की प्रथम पंक्ति में शब्द "तृतीय" के स्थान पर "द्वितीय" पढ़ा जावे।

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Annexure 33.3

Copy of Himachal Pradesh Government Finance Department O.M. No. Fin(C)A(2)-8/77 dated 7th May, 1979 addressed to all Secretaries, Heads of Department etc.

(Referred to in para 33.2.3)

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Subject: Delegation of enhanced financial/administrative powers.

The undersigned is directed to say that the question of decentralising the financial/administrative powers for expeditious disposal of Government work was receiving attention of the State Government for sometime past. After due consideration, the Governor, Himachal Pradesh is pleased to delegate powers, as under:

Item -----	Powers -----
1. Transfer of Govt. servants on foreign service/deputation.	Administrative Departments in the case of Class-I and II officers and the Heads of Departments in the case of Class III and IV employees, are authorised to send the Govt. employees on deputation, on foreign service subject to the condition that ordinarily the period of deputation does not exceed 3 years at a time, and in no case, more than five years and that there is no deviation from the standard terms and conditions prescribed by the Finance Department. These terms and conditions are contained in Finance Department's O.M. No: 7-2/65-Fin(R&E) dated 4 th December, 1975.
2. Controlling Officers for travelling allowance etc. purposes.	Secretaries including the Joint Secretaries and Deputy Secretaries, the Heads of Departments and the Deputy Commissioners shall be their own Controlling Officers for travelling allowance purposes under

Supplementary Rule 191, subject to the normal procedure regarding approval of tour programmes, as at present in vogue, being observed by these officers. The Chief Secretary, the Financial Commissioner, the Chairman , Public Service Commission and the Deputy Commissioner, Lahaul and Spiti and Kinnaur Districts already stand declared as their controlling officers.

3. Fixation of pay of civil pensioners on their re-employment
 The Administrative Departments are authorised to fix the pay of civil pensioners on their re-employment subject to the fulfilment of the conditions laid down in the relevant rules/guiding principles. Main provision which apply in such cases is contained in Govt. of India's Decision (6) below F.R. 69 in posts and Telegraphs compilation of Fundamental and Supplementary Rules Volume I.

4. Sanctioning of advances/withdrawals from Provident Fund for various purposes.
 The restriction imposed by the Finance Department vide O.M. No. 11-29/71-Fin (Reg) Vol. II, dated 15th June, 1973, and subsequently reiterated; under which the Heads of Departments are required to refer the proposals to the Finance Department in which a second advance has to be sanctioned, is hereby withdrawn and the powers vested in various authorities under the relevant authorities under the relevant Provident Fund Rules restored subject to the condition that provisions of the rules are strictly followed in deciding such cases.

5. Grant of advance increments.
 Heads of Departments are authorised to dispose of individual cases at their

own level in accordance with the policy laid down by the Administrative Department concerned with the concurrence of the Finance Department.

6. Grant of Honorarium. The Heads of Departments are authorised to grant honorarium only in such cases where such remuneration is to be paid under an approved policy/pattern of the Government. In all other cases, the present procedure of obtaining prior concurrence of the Finance Department shall continue to be followed.
7. Permission to undertake work for another Government or a private/public body and to accept remuneration therefor. The Heads of Departments shall be competent to decide such cases, at their own level subject to the fulfilment of conditions laid down in the rules i.e. F.R. 46(a), 46(b) and S.Rs. 11 and 12.
8. Fixation of pay in cases of combination of appointment. The Administrative Secretaries are authorised to dispose of such cases subject to the observance of the principles laid down in F.R. 49. The other condition that shall apply in regulating the payment of additional pay in such cases, will be that the holding of additional charge of a post in the same office by another officer posted in the same office, in a leave arrangement, shall be regarded as redistribution of functions/business among the officers and not a specific addition to duties or responsibilities of the officer concerned. Cases involving departure from general principles will, however, be referred to the Finance Department.
9. Grant of leave other than In supersession of all previous orders

casual leave.

on the subject, the Heads of offices, and the Heads of Departments etc. are delegated power to sanction leave, as under subject to the fulfilment of conditions laid down in the relevant rules:-

a) Heads of offices shall be competent to grant earned leave to class III and IV employees working under them provide it does not involve appointing a new employee.

b) Heads of departments shall be competent to grant earned leave to Class I and II officers working under them excluding the officers immediately subordinate to them e.g. Joint/Deputy Director. Joint/Deputy Registrar, etc., provided it does not involve appointing a substitute.

Note 1: This provision shall also apply in the case of granting half-pay and commuted leave.

2: If in the absence of a Government servant, on leave, a substitute is required to be appointed, then the competent authority to grant leave to such a Govt. Servant, shall be the appointing authority.

2. While issuing sanctions, authorities to whom powers have been delegated, shall ensure that copies of the orders, covered by items 1, 3, 4, 5, 6, 7 and 8 are invariably endorsed to the Finance Department (Regulation Section) in the interest of proper verification/check.

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Annexure 33.4

Copy of HP Govt. Department of Finance OM No. Fin (C)-A(2)-8/77 dated 10-8-1979 addressed to all Secretaries, Heads of Departments etc.

(Referred to in para 33.2.3)

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Subject: Delegation of enhanced financial/administrative powers.

In this department's office Memorandum of even number, dated the 7th May, 1979, delegating enhanced financial/administrative powers, existing serial No. 6 be substituted as under:-

6. Grant of Honorarium and Special Pay. The Heads of Departments/Administrative Secretaries are authorised to grant honorarium only in such cases where such remuneration is to be paid under an approved policy/pattern of the Govt. In respect of Administrative Secretaries, this power shall vest in the Chief Secretary. In all other cases, the present procedure of obtaining prior concurrence of the Finance Department shall continue to be followed.

Cases pertaining to grant of special pay shall be disposed of by the Administrative Secretaries after obtaining prior concurrence of the Finance Department.

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अनुबन्ध 33.5

हिमाचल प्रदेश सरकार के कार्मिक विभाग के कार्यालय आदेश संख्या: कार्मिक (नि-11)ए(6) 1/79 दिनांक 29-11-1979 जो कि सभी सचिवों, विभागाध्यक्षों, मण्डलायुक्तों आदि को सम्बोधित है की प्रतिलिपि।

(पैरा 33.2.2 में उल्लेखित)

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हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश के मण्डलायुक्तों को उन के सम्बन्धित मण्डलों में कार्यरत अधिकारियों के बारे में निम्नलिखित शक्तियां प्रत्यायोजित करने के आदेश देते हैं:

(1) जिलाधीशों को आकस्मिक अवकाश देना;

(2) जिलाधीशों के अधीन सामान्य प्रशासन, राजस्व तथा विकास विभागों में नियुक्त सभी अखिल भारतीय प्रशासनिक सेवायें/हिमाचल प्रदेश प्रशासनिक सेवाएं अधिकारियों को 30 दिन तक अर्जित अवकाश देना। अर्जित अवकाश स्वीकृत करने से पहले छुट्टी का हक (Title) कार्मिक विभाग नियुक्ति-। या अन्य सम्बन्धित विभाग से पूछना आवश्यक होना तथा छुट्टी स्वीकृति पत्र की प्रतिलिपि भी सम्बन्धित विभाग को भेजनी होगी।

(3) जिलाधीशों तथा अतिरिक्त जिलाधीशों के राज्य/जिले के भीतर सरकारी दौरों के कार्यक्रमों को अनुमोदित करना;

(4) जिलाधीशों के कार्यालयों के तृतीय तथा चतुर्थ श्रेणी कर्मचारियों की नियमानुसार एक जिले से दूसरे जिले में बदलना या जिले के भीतर बदलने को कहना (विशेष मामले में);

(5) नम्बर 4 में निर्दिष्ट कर्मचारियों के अनुशासनिक मामलों में अपील तथा निगरानी (appeal and revision) का अधिकार।

Annexure 33.6

Copy of HP Govt. Department of Personnel Wireless Message No. PER(A-1)-B(2)-9/85 dated 7.4.1986 addressed to the Resident Commissioner Pangri, all Secretaries and Heads of Departments etc.

(Referred to in para 33.3)

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FOR ENSURING SINGLE LINE ADMINISTRATION IN RESPECT OF DEVELOPMENT LAW AND ORDER ADMINISTRATIVE AND REVENUE ACTIVITIES IN PANGRI SUB DIVISION OF CHAMBA DISTRICT FUNCTIONS OF RESIDENT COMMISSIONER WILL BE AS UNDER:

- (1) HE WILL EXERCISE THE POWERS OF COMMISSIONER FOR REVENUE MATTERS IN PANGRI (.)
- (2) ALL THE EXISTING OFFICERS LOCATED AT KILLAR WILL BE MERGED IN THE OFFICE OF RESIDENT COMMISSIONER PANGRI AT KILLAR AND THEY SHALL FORM PART AND PARCEL OF THE RESIDENT COMMISSIONER'S OFFICE THROUGH IN SEPARATE CADRE (.)
- (3) THERE SHALL BE NO CORRESPONDENCE BETWEEN THE OFFICERS AT KILLAR AND THE RESIDENT COMMISSIONER PANGRI AND ALL THE OFFICERS SHALL PUT UP THE FILES DIRECT TO THE RESIDENT COMMISSIONER PANGRI FOR ORDERS (.)

- (4) SINCE THE RESIDENT COMMISSIONER SHALL EXERCISE THE POWERS OF HEAD OF DEPARTMENTS, THE ANNUAL CONFIDENTIAL REPORTS INITIATED/REVIEWED BY HIM WILL BE SENT DIRECT TO SECRETARY TO THE CONCERNED DEPARTMENTS IN RESPECT OF GAZETTED OFFICERS AND THESE SHALL NOT BE RUOUTED THROUGH THE HEADS OF DEPARTMENT (.) HE SHALL BE THE FINAL ACCEPTING AUTHORITY IN RESPECT OF NON-GAZETTED ESTABLISHMENTS (.) HE SHALL BE DISCIPLINARY AUTHORITY IN RESPECT OF ALL NON-GAZETTED ESTABLISHMENT LOCATED IN PANGI AREA AND SHALL BE VESTED WITH THE POWERS OF IMPOSITION OF A MINOR PENALTY IN RESPECT OF GAZETTED ESTABLISHMENT (.)
- (5) HE SHALL EXERCISE TECHNICAL, ADMINISTRATIVE AND FINANCIAL POWERS VESTED IN ALL THE HEADS OF DEPARTMENT IN RESPECT OF THEIR DEPARTMENTAL WORKS/PROGRAMMES/SCHEMES IN PANGI (.) CASES WHICH MAY BE BEYOND HIS COMPETENCE SHALL BE SENT DIRECT TO THE COMMISSIONER (TRIBAL DEVELOPMENT) FOR EXPEDITIOUS DISPOSAL (.)
- (6) TRANSFERS OF OFFICIALS TO AND FROM PANGI WILL BE DONE BY THE CONCERNED AUTHORITY WITH PRIOR APPROVAL OF THE RESIDENT COMMISSIONER PANGI (.) PRIOR APPROVAL HAS BEEN KEPT RATHER THAN MERE CONSULTATION IN ORDER TO VEST THE RESIDENT COMMISSIONER WITH REAL AUTHORITY (.)

ORDERS REGARDING SERVICE CONDITIONS OF RESIDENT COMMISSIONER WILL BE ISSUED SEPARATELY (.) IT HAS ALSO BEEN DECIDED TO CREATE TEMPORARY POSTS OF THE PERSONAL ASSISTANT (RS.600- 1120) ONE ASSISTANT (RS. 600-1120) ONE JAMADAR (RS. 325-495 AND ONE PEON (RS. 300-430) FOR YOUR OFFICE TO BE FILLED IN BY TRANSFER/DEPUTATION (.) CREATION ORDERS WILL FOLLOW (.) YOU ARE REQUESTED TO GIVE EFFECT TO THESE FUNCTIONS (.) SECRETARIES CONCERNED ARE BEING REQUESTED TO CONFER REQUISITE POWER ON THE RESIDENT COMMISSIONER PANGI AS ENUMERATED ABOVE (.)

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Annexure 33.7

Copy for HP Govt. Department of Personnel letter No. PER (AP-II)-B(15)1/84 dated 12-5-1986 addressed to all Secretaries, Heads of Deptts. etc.

(Referred to in Para 33.3)

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Subject:- Delegation of powers to Resident commissioner, Pangl as a sequel of declaring him as Head of Department.

I am directed to say that a Resident Commissioner has been posted at Pangri for the better administration and development of the area. For this purpose he has been vested with the following administrative powers:-

- 1) There will be no correspondence between Resident Commissioner's Office and other offices in Pangri and instead all cases requiring his orders will be put up to him on the departmental file.
- 2) The Resident Commissioner shall exercise the powers of Head of Department in all administrative matters in respect of Offices located in Pangri in terms of Fundamental Rules, CSR, CCS (CCA) Rules, 1965, Central Civil Services (Pension) Rules, 1972, Central Civil Services (Conduct) Rules, 1974, Central Civil Services (Temporary Service) Rules, 1965. The cases which are beyond the competence of Head of Department will be sent by Resident Commissioner to the Commissioner-cum-Secretary (T.D).
- 3) a) In respect of Annual Confidential Reports of Non- Gazetted establishment he shall be the final Accepting Authority.

b) In respect of Gazetted Officers of all offices located in Pangri, he shall be the Initiating Authority in case the earlier Initiating Authority was not located in Pangri and he shall be the Reviewing in respect of ACRs of those Gazetted Officers whose Initiating Authority is also located in Pangri. The ACRs initiating/reviewed by him shall be sent to the Secretary to Government in the Department concerned directly without being routed through the normal Head of the Department.
- 4) Transfer of officials to and from Pangri will be by the concerned authority with prior approval of Resident Commissioner.
- 5) As Head of Department he shall be the Disciplinary Authority in respect of non-Gazetted staff located in offices in Pangri. He shall also have the power to impose minor penalty in respect of Gazetted Officers of offices located in Pangri.

Accordingly, instructions may be issued to all offices located in Pangri to give effect to these order.

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Annexure 33.8

Copy of HP Govt. Department of Personnel letter No. PER(A-1)-B(2)-9/85 dated 16-5-1986 addressed to Resident Commissioner Pangri and copy to others.

(Referred to in para 33.3)

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Subject:- Terms and conditions of appointment of Resident Commissioner, Pangri.

I am directed to convey the sanction of the Governor, Himachal Pradesh to the following terms and conditions of appointment of the Resident Commissioner, Pangi, District Chamba:-

- i) He will be entitled to sumptuary allowance of Rs. 300/- (Rs. Three hundred) per month.
- ii) He will be allowed to keep his family if he so desires in rent free accommodation in any city in Himachal Pradesh of his choice during the period that he is posted as Resident Commissioner.
- iii) His tenure will not exceed normally two years and after the completion of his tenure, he will be allowed to exercise a choice of three posts for which the Govt. can appoint him to any one, in his normal scale.
- iv) He will be entitled to free movement by helicopter during winter months between Killar and Jammu/Chamba etc., if necessitated by administrative or medical consideration.

2. This issues with the prior concurrence of the Finance Department obtained vide their U.O. No: 1058-Fin(C)-B(7)-1/78 dated the 5th May, 1986.

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अनुबन्ध 33.9

हिमाचल प्रदेश सरकार कार्मिक विभाग के कार्यालय आदेश संख्या: कार्मिक(नि-11)ए (6)-1/79 दिनांक 29-10-1987 जो सभी सचिवों, विभागाध्यक्षों आदि को सम्बोधित है की प्रतिलिपि।

(पैरा 32.2.2 में उल्लेखित)

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हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश के मण्डलायुक्तों को शक्तियां प्रत्यायोजित करने सम्बन्धी इस विभाग के सम संख्यक कार्यालय आदेश दिनांक 29-11-1979 में निम्नलिखित संशोधन करने के सहर्ष आदेश देते हैं।

मदद संख्या (2) को निम्नलिखित अनुसार प्रतिस्थापित किया जाये:

(2) जिलाधीशों के अधीन सामान्य प्रशासन, राजस्व तथा विकास विभागों में नियुक्त सभी अखिल भारतीय प्रशासनिक सेवाएँ/हिमाचल प्रदेश प्रशासनिक सेवाएं अधिकारियों को 60 दिन तक अर्जित/अर्ध वेतन/चिकित्सा प्रमाण पत्र पर परिवर्तित अवकाश स्वीकृत करना। अवकाश स्वीकृत करने से पहले छुट्टी का हक (Title) कार्मिक विभाग (नियुक्ति-1) या अन्य सम्बन्धित विभाग से पूछना आवश्यक होगा। छुट्टी स्वीकृति पत्र की प्रतिलिपि भी सम्बन्धित विभाग को भेजनी होगी।

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Annexure 33.10

Copy of HP Govt. Department of Personnel letter No. PER(II)B(2)-1/85 dated 10-4-1988 addressed to all Secretaries, Heads of Deptts. etc.

[Referred to in para 33.6(1)]

Subject: Delegation of powers to the Deputy Commissioners, Lahaul and Spiti and Kinnaur and Residential Commissioner, Pangri in the matter of appointment to those Class III and IV posts which are not within the purview of the H.P. P.S.C.

I am directed to say that the government has been considering the question of delegating powers to make appointment to certain Class-III & IV posts in Lahaul & Spiti District. After careful consideration, it has been decided that the Deputy Commissioners Lahaul & Spiti and Kinnaur and the Resident Commissioner, Pangri, shall be the Appointing Authorities in respect of all Class-III and IV posts which are not within the purview of the Public Service Commission and which form part of the district cadres. So far as those Class-III and IV posts which form part of State or Zonal Cadres and which are not within the purview of HP Public Service Commission, the respective Departments may examine the feasibility of forming district cadres of these posts in respect of Lahaul & Spiti and Kinnaur Districts and the Pangri Sub-Division of Chamba District so that appointment to these posts can be made by the Deputy Commissioner, Lahaul & Spiti and Kinnaur and the Resident Commissioner, Pangri.

2. It has also been decided that for the purpose of recruitment at district level, the Selection Committee shall be headed by the Deputy Commissioner concerned or the Resident Commissioner, Pangri. The Senior most officer of the Department concerned to which the posts relate and one more officer nominated by the Deputy Commissioner/Resident Commissioner shall be the other members of this Selection Committee.

3. The above decision may kindly be implemented with immediate effect.

Annexure 33.11

Copy of HP Govt. Department of Personnel letter No. PER(A-I)-B(2)-9/85 dated 11-4-1988 addressed to all Secretaries, Heads of Deptts. etc.

(Referred to in paras 33.4.1 and 33.4.2)

Subject: Introduction of single-line administration in ITDP areas of Kinnaur, Lahaul, Spiti and Bharmour.

I am directed to say that proposal for the introduction of single-line administration in the remaining four ITDP areas, viz. Kinnaur, Lahaul-Spiti and Bharmour on Pangri pattern had been under consideration of the Government for some time post. After careful consideration of the matter and also after analysing the achievements made consequent to the introduction of similar scheme in Pangri Sub-Division of Chamba District, it has been decided to introduce single-line administration in the Districts of Kinnaur and Lahaul-Spiti and Bharmour Sub Division of Chamba District with effect from 15-4-1988.

2. Consequently it has been decided that the following officers will head the single line administration and function as Head of Department in respect of all Departments and will exercise the same powers as are delegated to the Resident Commissioner, Pangri in respect of the different departments in their areas:-

a)	Kinnaur	Deputy Commissioner, Kinnaur.
b)	Lahaul	Deputy Commissioner, Lahaul & Spiti.
c)	Spiti-Kaza	Additional Deputy Commissioner,
d)	Bharmour (Distt. Chamba)	Deputy Commissioner, Chamba.

3. The Deputy Commissioner/Additional Deputy Commissioner heading the single-line administration in the above areas will exercise all powers of the Head of the Department in respect of all officers up to Divisional level i.e. Executive Engineers, Deputy Conservators of Forests etc. posted in their areas. All these Divisional level officers will exercise technical powers to the extent of one step higher in their respective ladders.

4. For ensuring single-line administration in respect of Development, law and order, administrative and revenue activities in the above areas, the functions of the officers heading them as aforesaid will be as under:

Action by Revenue Department i) They will exercise the power of Commissioner for revenue matters in their respective areas.

Action by Finance Deptt./ All Deptts. ii) They will exercise powers of Heads of Departments in all administrative and financial matters.

Action by PWD/ Forest Deptts. iii) The Divisional level officers i.e. Executive Engineers, Deputy Conservators of Forests etc. will exercise technical powers to the extent of one step higher in their respective ladders. The Superintending Engineers/Conservators of Forests etc., working in these areas will exercise

technical powers of the Chief Engineers/Chief Conservator of Forests etc, for works relating to these areas.

iv) There shall be no correspondence between the Deputy Commissioner/Additional Deputy Commissioner and the Heads of the offices in these areas and all the Heads of offices shall put up their files direct to the respective Deputy Commissioners/ Additional Deputy Commissioners for orders.

Action by All v) The Deputy Commissioner/Additional Deputy Commissioners will initiate A.C.Rs. of all Gazetted Officers working in their respective areas and send the same to the Head of the Department concerned for counter-Signatures, who will further process the same in accordance with the Govt. order for getting the same finally accepted. The A.C.Rs of Non-Gazetted Govt. servants will be finally accepted by the Deputy Commissioners/Additional Deputy Commissioners of these areas.

5. I am accordingly to request that the above decisions may kindly be given effect with effect from 15.4.1988 and suitable action in this behalf be taken immediately.

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Annexure 33.12

Copy of HP Govt., Deptt. of Personnel letter No. Per(A-I)-B(2)-9/85 dated 11-4-1988 addressed to all Financial Commissioners, Secretaries, Div. Commissioners with copy to all the Heads of Deptts. etc.

(Referred to in paras 33.5.1 and 33.5.2)

Subject:- Introduction of single line administration in Dodra Kwar Tehsil.

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I am directed to say that a proposal to introduce single line administration in Dodra Kwar area of Shimla District has been under consideration of the Govt. for some time past. It has now been decided that single line administration will be introduced in Dodra Kwar area under the over-all control and supervision of a Sub-Divisional Officer (Civil). Accordingly, necessary action to upgrade Dodra Kwar Tehsil to a Sub-Division and creation

of the post of S.D.O. (Civil) and other essential posts is being taken separately. After the creation of the post of S.D.O. (Civil) and posting of an incumbent there, single line administration will be introduced in Dodra Kwar area, the S.D.O. (Civil) exercising the following powers:-

- i) He will be considered as Head of the Administrative machinery in Dodra Kwar area.
- ii) There will be no correspondence between the Head of the Institutions/offices in Dodra Kwar area and District level officers. All Heads of the Institutions/Heads of Offices will submit their cases to the S.D.O. (C) for his orders, who will, if considered necessary, correspond with the District level officers.
- iii) The A.C.Rs of all Gazetted officers and Heads of Officers/Institutions will be initiated by the S.D.O. (Civil) who will submit the same further to the Heads of the Department for further necessary action. The A.C.Rs of Non-Gazetted officials (other than the Heads of offices/institutions) will be submitted to the S.D.O.(C) for review and further transmission to the Head of the Department concerned.
- iv) He will exercise powers of the Heads of the office/Institution in the areas both in administrative and financial matters.

The above arrangement will take effect from 15-4-1988. It is requested that immediate necessary action in this behalf may kindly be taken by all concerned.

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Annexure 33.13

Copy of HP Govt., Deptt. of Personnel Order No: Per (A-1)-B(2)-9/85-II dated 19-11-1988 copy endorsed to all Secretaries, Heads of Departments etc.

(Referred to in paras 33.4 and 33)

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The Governor, Himachal Pradesh is pleased to accord sanction to the grant of sumptuary allowance of Rs. 250/- (Rupees Two Hundred and Fifty) only p.m. to the Additional Deputy Commissioner, Kaza and the Sub-Divisional Officer (Civil) Dodra Kwar from the dates of their taking over these assignments, after introduction of single Line Administration in these areas with effect from 15-4-1988.

This issues with the concurrence of the Finance Department obtained vide their Dy. No. 1135-Fin (C)B(7)1/78, dated 16-9-1988

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Copy of HP Govt., Deptt. of Personnel Order No: Per (A-1)-B(2)-9/85-II dated 26th June, 1990 copy endorsed to all Financial Commissioners, Secretaries, Divisional Commissioners, Deputy Commissioners etc.

[Referred to in para 33.6(2)]

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It has been decided by the Government that the following Officers working in Tribal Areas in Himachal Pradesh will submit under advice to respective Divisional Commissioner and Deputy Commissioner, as the case may be, their tour programmes for approval of the Financial Commissioner (Tribal Development), Himachal Pradesh. These officers will also submit their leave applications to the appropriate authorities through the Financial Commissioner (Tribal Development), Himachal Pradesh:-

1. Resident Commissioner, Pangi, District Chamba.
2. Deputy Commissioner, Lahaul & Spiti
3. Deputy Commissioner, Kinnaur,
4. Additional Deputy Commissioner, Kaza.

2. The above instructions may be followed by all concerned.

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vucl/k 33-15

हिमाचल प्रदेश सरकार के कार्मिक विभाग के कार्यालय आदेश संख्या: कार्मिक (नि-।।)ए(6)-1/79 दिनांक 1-5-1992 जो सभी सचिवों, विभागाध्यक्षों, मण्डलायुक्तों, उपायुक्तों, आदि को सम्बोधित है की प्रतिलिपि।

(पैरा 33.2.2 में उल्लेखित)

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इस विभाग के सम-संख्यक कार्यालय आदेश दिनांक 29 अक्टूबर, 1987 का अधिक्रमण करते हुए हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश के मण्डलायुक्तों को शक्तियां प्रत्यायोजन करने सम्बन्धी सम-संख्यक कार्यालय आदेश दिनांक 29-11-1979 के मद्द संख्या (2) को पुनः निम्नलिखित अनुसार प्रतिस्थापित करने के सहर्ष आदेश देते हैं:

- (क) जिलाधीशों के अधीन सामान्य प्रशासन, राजस्व तथा विकास विभागों में नियुक्त सभी अखिल भारतीय प्रशासनिक सेवायें/हिमाचल प्रदेश प्रशासनिक सेवायें अधिकारियों को 30 दिन तक अर्जित/आधे वेतन/चिकित्सा प्रमाण पत्र पर परिवर्तित अवकाश स्वीकृत करने का अधिकार सम्बन्धित जिलाधीश को होगा तथा 30 दिन से ऊपर 60 दिन तक ऐसे अवकाश स्वीकृत करने का अधिकार सम्बन्धित मण्डलायुक्त को होगा।

- (ख) यदि अवकाश का हक (title) मालूम न हो तो अवकाश के खाते में उपलब्ध होने की शर्त (subject to title) कर दिया जाये। आदेश की प्रति कार्मिक विभाग (नि0-1), संयुक्त नियंत्रक (वित्त एवं लेखा) कार्मिक विभाग को अन्धों के अतिरिक्त भेजी जाये।
- (ग) हर वर्ष के पहली जनवरी तथा पहली सितम्बर को संयुक्त नियंत्रक समस्त जिलाधीशों को उनके अधीनस्थ भारतीय प्रशासनिक सेवा/हिमाचल प्रदेश प्रशासनिक सेवा के अधिकारियों के title of leave से अवगत करायेंगे।
- (घ) अवकाश स्वीकृत करने वाले प्राधिकारी किसी अन्य अधीनस्थ अधिकारी को अपने कार्यभार के अतिरिक्त अवकाश पर जाने वाले अधिकारी के कार्य को देखने के लिये भी सक्षम होंगे।

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vucl/k 33-16

हिमाचल प्रदेश सरकार कार्मिक विभाग के पत्र संख्या (नि-1)-बी(2)-9/85-खण्ड-3 दिनांक 3-6-1993 जो कि सभी वित्तायुक्तों, सचिवों तथा विभागाध्यक्षों को प्रेषित है की प्रतिलिपि।

(पैरा 33.6 (3) में उल्लेखित)

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विषय: जन-जातीय क्षेत्रों में लागू इकहरी प्रशासन प्रणाली में सुधार लाने बारे।

उपरोक्त विषय पर मुझे इस विभाग के समसंख्यक पत्र दिनांक 11 अप्रैल, 1988 तथा इस संदर्भ में समय-समय पर जारी निर्देशों का क्रम जारी रखते हुए यह कहने का निर्देश हुआ है कि हिमाचल प्रदेश के जन-जातीय क्षेत्रों में इकहरी प्रशासन प्रणाली को सुदृढ़ करने हेतु राज्य सरकार ने निम्नलिखित निर्णय किये हैं:

- (1) वन मण्डलाधिकारियों/उप वन अरण्यपालों/अधिशाली अभियन्ताओं को 15 दिन तक अर्जित अवकाश स्वीकृत करने की शक्ति उपायुक्त/अतिरिक्त उपायुक्त/आवासीय आयुक्त को होगी व 30 दिनों तक अरण्यपाल/अधीक्षण अभियन्ता को और 30 दिनों से अधिक सम्बन्धित विभागाध्यक्ष को होगी, परन्तु जब भी अवकाश सक्षम प्राधिकारी स्वीकृत करेंगे वे उपरोक्त सभी सम्बन्धित अधिकारियों को स्वीकृत आदेश की प्रतिलिपि अवश्य भेजेंगे।
- (2) जन-जातीय क्षेत्रों में तैनात वन मण्डल अधिकारियों/उप वन अरण्यपालों एवं अधिशाली अभियन्ताओं की रिपोर्ट जिलाधीश/अतिरिक्त जिलाधीश/आवासीय आयुक्त तथा अरण्यपाल/अधीक्षण अभियन्ता अलग अलग फार्मों पर लिखेंगे। दोनों अलग अलग रिपोर्ट सम्बन्धित विभागाध्यक्षों को भेजी जायेगी तथा विभागाध्यक्ष दोनों रिपोर्टों की समीक्षा करने उपरान्त सम्बन्धित सचिव को अग्रिम पुनः निरीक्षण एवं सरकार द्वारा निर्धारित निति अनुसार स्वीकृति हेतु भेजेंगे। विभागाध्यक्ष प्रचलित वार्षिक गोपनीय रिपोर्ट के फार्म को तीन भागों में बांटेगा तथा रिपोर्टिंग अधिकारी का फार्म पहला भाग होगा, पुनः निरीक्षण का दूसरा और स्वीकृति का तीसरा भाग होगा। पुनः निरीक्षण/स्वीकृति की मर्दे/कालम अलग-2 कागज पर

बनाए जायेंगे ताकि उपायुक्त/अतिरिक्त उपायुक्त तथा अरण्यपाल/अधीक्षण अभियन्ता द्वारा लिखी हुई रिपोर्ट इकट्ठी करके उन दोनों पर विचार भाग 2 और 3 में इकट्ठा आ सके।

- (3) आवासीय आयुक्त/उपायुक्त/अतिरिक्त उपायुक्त द्वारा विभागाध्यक्षों के पत्राचार को प्राथमिकता के आधार पर निपटाया जायेगा।

आपसे अनुरोध है कि इन निर्णयों के कार्यान्वयन बारे इस विभाग को तुरन्त सूचित करने की कृपा करें।

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Annexure 33.17

Copy of Government of Himachal Pradesh Department of Personnel letter No. PER(AP-B)B(15)-1/2002-IV dated 16th July, 2011 addressed to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioners, in H.P.

[Referred to in Para 33.3 (iv)(c)]

Subject: Regarding writing of ACRS under the Single Line Administration.

On the subject cited above, I am directed to say that as per existing system prescribed in Chapter 19.11 of the Handbook on Personnel Matters Vol-II, the Administrative Secretary is the Reporting Officers in respect of initiating ACRs of Heads of Departments.

3. The State Government has introduced Single Line Administration in respect of Tribal areas of the Pradesh and as per the existing instructions, circulated vide letter No. TBD(A)4-5/91-II dated 2nd June, 2010 by Principal Secretary (TD) to the Government of Himachal Pradesh, under the single line administration, the ADM Bharmour, R.C. Pangi and SDM Pangi and Bharmour has been delegated the powers of Heads of Departments in respect of all State Government Departments located in their respective jurisdictions in all administrative and financial matters including grant of administrative approval and expenditure sanctions.

4. It has been brought to the notice of the Government that under the Single Line Administration the ACRs of such officers exercising the powers of Heads of Departments in respect of administrative and financial matters of all Government departments situated in their respective jurisdiction are being initiated by the Pr. Secretary (TD) to the Government of Himachal Pradesh under whom they have not worked directly.

5. The matter regarding writing/initiating the ACRs of ADM Bharmour, R.C. Pangi and SDM Pangi and Bharmour, who are exercising the powers of Head of Departments in respect of all Departments situated in their respective jurisdictions in certain administrative and financial matters was under active consideration of the Government for the past some time and after careful consideration and in view of various factor, it has been decided that the Annual Confidential Reports of the ADM Bharmour, R.C. Pangi and SDM Pangi and Bharmour shall be initiated at the level of Deputy Commissioner, Chamba with

effect from the next financial year, 2011-12. Rest of the authorities i.e. Reviewing and Accepting shall remain unchanged.

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Annexure 33.18

Copy of Government of Himachal Pradesh Department of Personnel letter No. PER(AP-B)B(15)-1/2002-IV dated 3rd September, 2013 addressed to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioners, in H.P.

[Referred to in Para 33.3 (iv) (d)]

Subject: Regarding writing of ACRS under the Single Line Administration.

I am directed to invite your kind attention to the instructions contained in this departments' letter of even number dated 16th July, 2011 on the subject cited above and to say that the instructions contained in the above mentioned letter have been modified to the extent indicated below:

“The APAR/ACRs of the Resident Commissioner, Pangri shall be initiated by the Administrative Secretary and the APAR/ACRs of SDM Pangri shall be initiated by the Resident Commissioner, Pangri. Rest of the authorities' i.e Reviewing and Accepting shall remain unchanged”.

The above instructions shall be applicable with immediate effect.

Annexure 33.19

Copy of Government of Himachal Pradesh Department of Personnel letter No. Per(AP-I)B(2)9/85-Vol-V dated 2nd June, 2001 addressed to the FC-cum-Secretary (Revenue), the Commr.-cum-Secretary(TD)and Commr.-cum-Secretary (RD) to the Govt. of H.P.

(Referred to in Para 33.4.1.1)

Subject: Introduction of Single Line Administration in ITDP areas of Kinnaur, Lahaul & Spiti and Bharmour. Rationalisation of posts in respect of ITDP area of Bharmour.

I am directed to refer to the subject cited above and to say that matter regarding delegation of powers of Single Line Administrator to an officer of ADC or ADM level based at Bharmour, as the case may be, has been approved by the Government. For Chamba District one post of ADC and one post of ADM is sanctioned. In respect of ITDP area of Bharmour either the ADC or the ADM as the case may be will be the Single Line

Administrator with Headquarters at Bharmour. He will also function as Project officer, ITDP Bharmour.

The post of BDO Bharmour will be kept in abeyance and the SDO(C)Bharmour will also function as BDO, Bharmour. The reporting system with respect to officers including ADM and SDO(C) Bharmour, will also be the same as prevalent in other tribal areas.

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Annexure 33.20

Copy of H.P. Government, Finance Department Notification No. Fin(C)A(3)-6/83 dated 17-05-2010

(Referred to in Para 33.4.3)

In supersession of this Department Notification of even number dated 17th June, 1986 and Notification No. Fin(C)A(2)-1/78, dated 17th January, 1989, the Governor, Himachal Pradesh is pleased to order the withdrawal of the special financial powers delegated to the Deputy Commissioner, Lahaul & Spiti, Resident Commissioner, Pangi at Killar, Additional Deputy Commissioner, Kaza and Additional District magistrate, Bharmour with immediate effect.

The Governor, Himachal Pradesh is further pleased to order that the Commissioner, Tribal development will exercise financial powers as under:-

Sl. No.	Item/Nature of Power	Authority to whom power delegated	Extent of Power
1	To sanction individual schemes including administrative approval for the repairs and maintenance work.	Commissioner (TD)	Full powers
2	To sanction expenditure on the purchase of materials through prescribed sources for the execution of schemes.	Commissioner (TD)	Full powers
3	To sanction grant-in-aid to various local institutions.	Commissioner (TD)	Full powers
4	To accord administrative approval to original works.	Commissioner (TD)	Full powers
5	To sanction expenditure for the repairs of various tools, equipments, machinery etc.	Commissioner (TD)	Full powers

The Commissioner, Tribal Development may delegate/re-delegate powers under above items partly or wholly, to the various authorities working under Single Line Administration on his responsibility by keeping proper checks on funds utilization within the available budget allocation.

This order shall come into force with immediate effect.

Annexure 33.21

Copy of Government of Himachal Pradesh, Tribal Development Department letter No. TBD(A)4-5/91-II dated 2nd June, 2010 addressed to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioner(L&S/Kinnaur), Resident Commissioner, Pangti at Killar etc. ,in H.P.

(Referred to in Para 33.4.4)

Subject: Restructuring/Reviewing of Special Financial Powers of DC, Lahaul & Spiti, RC, Pangti, ADC, Kaza and ADM, Bharmour.

I am directed to refer to the subject cited above and to say that there was a disparity with respect to financial powers exercised by DC Kinnaur and other 4 ITDPs viz Lahaul & Spiti, Kaza, Pangti and Bharmour. In order to have parity in respect of Financial and Administrative powers to all the five ITDPs i.e. Kinnaur, Lahaul & Spiti, Kaza, Pangti and Bharmour, the matter was examined at Govt. level and Finance Department issued a notification vide No. Fin(C)A(3)-6/83, dated 17th May, 2010. Now, in continuation to the letter Nos. Per(A-I)-B(2)-9/85, dated 11th April, 1988 and Per(A-I)B(2)-9/85-V, dated 21st September, 1998 issued by the Department of Personnel and the Notification of Finance Department No. Fin(C)A(3)-6/83, dated 17th May, 2010, the Financial and Administrative powers, duties and responsibilities which should be exercised by the above five ITDPs i.e. Kinnaur, L&S, Pangti, Kaza and Bharmour under Single Line Administration are as under:-

- x) The Deputy Commissioner, Lahaul & Spiti, Resident Commissioner, Pangti at Killar, Additional District Magistrate, Bharmour will exercise the powers of Head of Department with respect to all State Government Departments located in their respective areas in all administrative and financial matters, including grant of administrative approval and expenditure sanction.
- xi) All the District officers posted in the jurisdiction/office of the Deputy Commissioner, Lahaul & Spiti, Resident Commissioner, Pangti, Additional Deputy Commissioner, Kaza and Additional District Magistrate, Bharmour will exercise technical powers to the extent of one step higher in their respective ladder, except in the Department of HPPWD, IPH and Forests.
- xii) With respect to HPPWD and IPH, respective Executive Engineers will exercise powers of technical sanction to the extent of twice the amount delegated the executive Engineer (Selected) as per Notification No. Fin(C)A(3)-25/75, dated 30-07-1996 i.e. upto Rs. 12.00 lakhs. While exercising enhanced technical sanction

- powers by the Executive Engineer, copies of technical sanction orders will be endorsed to concerned Superintending Engineers for their scrutiny.
- xiii) Superintending Engineers of HPPWD and IPH will exercise on step up power with respect to Technical matters only i.e. that of Chief Engineer, as delegated in "Item No. 2 Technical Sanction" of the notification of Finance Department mentioned in clause (iii) above with respect to projects in Tribal areas. They will also scrutinize technical sanctions accorded by respective Executive Engineers, particularly with respect to the sanction under enhanced powers delegated to Executive Engineers as per clause (iii) above.
 - xiv) Superintending Engineers and Conservator of Forests shall carry out supervision and inspections of offices/works as per the norms applicable for non-tribal areas. Since the Divisional Officers are under the administrative control of the Deputy Commissioner, Resident Commissioner, Additional Deputy Commissioner and Additional District Magistrate, the Deputy Commissioner, Resident Commissioner, Additional Deputy Commissioner and Additional District Magistrate will facilitate such supervision/inspections by effective co-ordination.
 - xv) The Deputy Commissioner, Lahaul & Spiti, Resident Commissioner, Pangri at Killar, Additional Deputy Commissioner, Spiti at Kaza and Additional District Magistrate, Bharmour will initiate ACRs of all Gazetted Officers working in their respective areas and send the same to Heads of Departments concerned for review, who will further process the same in accordance with the Government orders for getting the same finally accepted. While doing so, the Deputy Commissioner, Resident Commissioner, Additional Deputy Commissioner and Additional District Magistrate will obtain the comments particularly with respect to technical matters, on the performance of concerned Executive Engineers of PWD and IPH and of DFOs from the concerned S.Es/Conservators of Forests on the self appraisal report and the comments of the concerned S.E./C.F. will form part of the ACR. ACRs of Non-Gazetted employees will finally be accepted by the Deputy Commissioner, Lahaul & Spiti, Resident Commissioner, Pangri at Killar, Additional Deputy Commissioner, Spiti at Kaza and Additional District Magistrate, Bharmour.
 - xvi) There will be no correspondence between Heads of Offices and Deputy Commissioner, Resident Commissioner, Additional Deputy Commissioner, and Additional District Magistrate and all the Heads of Offices shall put up their files direct to the Deputy Commissioner, Resident Commissioner, Additional Deputy Commissioner and Additional District Magistrate.
 - xvii) The Deputy Commissioner, Resident Commissioner, Additional Deputy Commissioner and Additional District Magistrate will coordinate with respective Heads of Departments at the State level to take advantage of their experience and resources and ensure their active participation in effective administration. Head of Departments will also carry out inspection/undertake visits to their respective areas at par with other Departments of the State.
 - xviii) The Deputy Commissioner, Resident Commissioner, Additional Deputy Commissioner and Additional District Magistrate will exercise the powers of Commissioner with respect to administrative matters of Revenue Department.

However, with respect to court and appellate matters, the powers of Commissioners, will rest with the Divisional Commissioner.

You are, therefore, accordingly requested that the decision now taken may kindly be implemented with immediate effect.

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Annexure 33.22

Copy of Government of Himachal Pradesh Tribal Development Department letter No. TBD(A)4-5/91-II dated 25th June, 2010 addressed to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioner(L&S/Kinnaur), Resident Commissioner, Pangti at Killar etc. ,in H.P.

(Referred to in Para 33.4.4)

Subject: Restructuring/Reviewing of Special Financial Powers of DC, Lahaul & Spiti, RC, Pangti, ADC, Kaza and ADM, Bharmour.

In partial modification of this department letter of even number dated 2nd June, 2010 on the subject cited above, I am directed to say that the Government has decided to replace the para-ii & iii of the aforesaid letter in respect of Lahaul & Spiti, Distt and Pangti & Bharmour of Chamba Distt. as under:-

- ii) All the District level officers posted in the jurisdiction/office of the Deputy Commissioner, Lahaul & Spiti, Resident Commissioner, Pangti, Additional Deputy Commissioner, Kaza and Additional District Magistrate, Bharmour will exercise technical powers to the extent of one step higher in their respective ladder.
- iii) With respect to HPPWD and IPH, respective Executive Engineers will now exercise powers of technical sanction on step higher as delegated vide Notification No. Fin(C)-A(3)25/75, dated 30-07-1996. While exercising technical sanction powers by the Executive Engineers, copies of technical sanction orders will be endorsed to concerned Superintending Engineers for their scrutiny.

The instructions mentioned in remaining paras will be same as intimated vide aforesaid letter of even number dated 2nd June, 2010.

You are, therefore, requested to bring it in the notice of the all concerned officers/officials under your control & the decision now taken may kindly be implemented with immediate effect.

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Annexure 33.23

Copy of Government of Himachal Pradesh Department of Personnel O.M. No. Per(AP-II)A(6)-1/79-II dated 22nd July, 2002 forwarded to all the Administrative Secretaries, Heads of Departments, Commissioner (Revenue), Registrar General, H.P. High Court, Deputy Commissioners and MD's of Boards/Corporations, in H.P.

(Referred to in Para 33.2 (2.1))

The undersigned is directed to invite a reference to this Department O.M. of even number dated 01-05-1992 (copy enclosed – Please see **Annexure 33.15**) and to say that the matter has been reconsidered consequent upon the closure of offices of Divisional Commissioners in the State and it has been decided by the Government that the Deputy Commissioners will be competent to sanction earned leave, half pay leave, commuted leave to all the I.A.S. and H.P.A.S. officers working under them in General Administration, Revenue, Development and other wings upto a period of 30 days. The applications for leave exceeding this period will be referred to the Government in the Department of Personnel alongwith recommendations of the Deputy Commissioner.

The para “Ka” of this Department O.M. as referred to above may be deemed to have been modified to this extent.

The question of delegating powers to Heads of Departments and Managing Directors of Boards/Corporations to sanction leave to I.A.S. and H.P.A.S. officers working under them in their respective departments/Boards/Corporations was also under consideration of the Government. After careful consideration it has also been decided that like the Deputy Commissioners, the Heads of Departments and Managing Directors of Boards/Corporations will also be competent to sanction leave of the kinds above mentioned upto 30 days in respect such IAS/HAS officers and applications exceeding this limit will be referred to the Government in the Department of Personnel.

The leave sanctioning authority will be competent to order to hand over the charge of the officer on leave to another officer working under his control in addition to his own work.

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Annexure 33.24

Copy of Government of Himachal Pradesh Department of Personnel O.M. No. Per(AP-II)A(6)-1/79-III dated 29th July, 2010 forwarded to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioners and MD's of Boards/Corporations, in H.P.

(Referred to in Para 33.2.2 (2.2))

In continuation to this Department O.M. of even No. dated 22nd July, 2002, the undersigned is directed to state that presently leave to Heads of Departments/Managing Directors is being sanctioned by the Department of Personnel and the question of delegating these powers to the concerned Administrative Secretary was under consideration of the Government for some time past. It has now been decided that henceforth the Pr. Secretary/Secretary in the Administrative Department will be competent to sanction earned leave, upto 30 days to the Heads of Departments under their control. The application for leave exceeding this period will be referred to the Department of Personnel alongwith their recommendations. The respective Pr. Secretary/Secretary will also be competent to give the charge of the post of the officer proceeding on leave to any other officer in addition to his own duties. However, where the charge is required to be given to an officer posted in another office/Department, the proposal for the grant of leave will be sent to the Govt. in the Department of Personnel.

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Annexure 33.25

Copy of Government of Himachal Pradesh Department of Personnel O.M. No. Per(AP-II)A(6)-1/79-III dated 7th May, 2015 forwarded to the Addl. Chief Secretary (TD), the Additional Commissioner, Tribal Development Department, in H.P. etc.

(Referred to in Para 33.2.2 (2.3))

The undersigned is directed to state that presently earned leave to Class-I officers of Tribal Development Department is being sanctioned by the Additional Chief Secretary (TD). The question of delegation of these powers to Additional Commissioner, Tribal Development Department was under consideration of the Government. After careful consideration, it has been decided that henceforth, Additional Commissioner, Tribal Development will be competent to sanction earned leave upto 30 days to Class-I officers of Tribal Development and application for leave exceeding this period will be referred to Commissioner (TD) alongwith recommendations.

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CHAPTER 34

DEPUTATION ON ASSIGNMENTS ABROAD

34.1 The Government of India, Ministry of Personnel, Public Grievances and Pensions had issued revised consolidated instructions on assignment of Indian experts for posts under International Organisations and Foreign Governments vide letter No.1-5/86-FAS dated 3-3-1986, which were circulated by the H.P. Govt. Department of Personnel letter No. Per (AP-II)B(12)-40-85, dated 29-1-1988, which were circulated by H.P. Govt. Deptt. of Personnel (Training and Foreign Assignment) letter No. Per(Trg. & FA)B(12)-8/88 dated 30-5-1988. Again, the Govt. of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training have issued revised comprehensive instructions in supersession of the instructions dated 29-1-1988 and all other letters, vide letter No. F.18/10/91-FA (UN) dated 20-6-1991, which have been circulated by the H.P. Govt. Department of Personnel (Training and Foreign Assignment) letter No. KA(Prashi Avam Bi-sa) B(12)8/88, dated 2-11-1991. These revised instructions, as applicable from 20.6.1991 are as given in the following paras:

34.2 Deputation on foreign assignments:

Deputation of Indian Experts on assignments abroad will be classified into the following categories:

- (a) Foreign posts of the Government of India (GOI) under the various ministries of the Government.
- (b) Bilateral assignments to the developing countries of Asia, Africa and Latin America.
- (c) Captive posts of GOI in the international organisations where recruitment is limited to Indian Officials.
- (d) International assignments covering assignments to the UN and its agencies, other multinational organisations, the government and public institutes in the oil-rich and developed countries.

34.3 Foreign posts of GOI

These include the posts in the Indian Missions abroad under the administrative control of the Ministries of Finance, Commerce etc. (other than the ministry of External Affairs), the overseas offices of the Ministry of Tourism, Ministry of Civil Aviation and other Ministries, the India Investment Centre and other similar public bodies.

34.3.1 Selection for these posts will be made through the Civil Services Board (CSB) according to the procedure prescribed for appointments under the Central

Staffing Scheme of GOI in order to ensure equality of opportunity and fairness in the selection procedure.

34.3.2 The officers appointed to the posts would be allowed a tenure of 3 years (and this will not count towards the ceiling prescribed for assignments under the international organisations).

34.4 Bilateral assignments to the developing countries:

These cover assignments under the ITEC (Indian Technical Economic Cooperation) and other similar programmes and contract appointments in the Governments and para-statal organisations in the developing countries of Asia, Pacific, Africa and Latin America and remunerated by the concerned developing countries (as distinguished from the oil-rich and developed nations) according to their salary scales.

34.4.1 As far as possible, all organised recruitment of experts at graduate professional level and above for bilateral assignments should be on a Government-to Government basis. In addition, individual officials may also secure such assignments by making applications in response to open advertisements by the Governments and para-statal organisations of the developing countries following the prescribed procedure; sometimes direct offers may also be received from these organisations by experts in recognition of their past work in the relevant areas.

34.4.2 Selection for assignments under the ITEC programme would be made as per the scheme being operated by the Ministry of External Affairs and the Department of Personnel and Training. For these and other bilateral assignments on a Government-to-Government basis, the panel of experts maintained in the Department of Personnel and Training will be utilised for making selections. In addition, if necessary, suitable experts could be located in consultation with the relevant nodal Ministries and the State Governments.

34.5 Captive posts of G.O.I. in the international organisations

These assignments include the posts of Executive Directors in the World Bank, the International Monetary Fund (IMF), the Asian Development Bank (ADB) etc., Advisers and Technical or Executive Assistants to the Executive Directors and other similar posts where recruitment is restricted to the Indian experts.

Selections for these posts would be made according to the procedure prescribed for appointments under the Central Staffing Scheme of G.O.I. However, the tenure of these officials in the international organisations will be subject to the provisions relating to the ceiling on tenure, cooling off recruitment etc. prescribed (in subsequent paragraphs) for international assignments.

34.6 International Assignments

This category covers the assignments under the international organisations like the UN and its specialised agencies, the World Bank, IMF, ADB and the Commonwealth Secretariat including the Commonwealth Fund for Technical Cooperation (CFTC) and other multinational public institutions. Included in this category are also assignments to the Governments, para-statal organisations and public institutions like Universities, Research and Academic Institutions in the oil-rich and developed countries.

34.6.1 The details concerning the selection procedures and terms relating to appointments including ceiling on tenure, cooling off requirements etc. in respect of international assignments have been outlined in the paragraphs that follow. Whenever some of these terms are also applicable to other categories of foreign assignments, this has been indicated at the appropriate place.

34.7 Types of international assignments

International assignments may be categorised by location and duration. As far as location is concerned (i) there are posts at the Secretariat or headquarters of an international organisation which are subject to country-quota restrictions. These may include key positions or posts of critical importance, which the Government would like its official nominees to hold. In case of a specific vacancy, the Government would file the most suitable candidate who in their view has a good chance of being finally selected for the post. (ii) Most international assignments are, however, project-related field jobs, operated in the developing countries under the auspices of the international organisations. These are professional jobs and final selection is usually made by the host country government in consultation with the international agency. There is no quota system governing these assignments, but the candidates are screened at various stages and selections are made on the basis of their professional qualifications and experience. The Government would, therefore, encourage the experts in various fields to apply for and secure these jobs by adopting a liberal approach.

34.7.1 From the point of view of duration, the assignments can be classified as (a) long-term jobs which are more than three months (90 days) in duration, and (b) short-term consultancies with duration of three months (90 days) or less.

34.8 Methods of selection and related matters

The primary criteria for permitting a government employee to undertake an assignment would be the convenience of the Government in sparing him from the point of view of the management of the service cadre to which he belongs and exigency of public service.

34.8.1 Subject to this overall condition, the Government and public sector employees may secure international and bilateral assignments through any of the following methods:-

- (i) nomination by the Government;
- (ii) direct offer from an international organisation/foreign Government due to past work;
- (iii) application made in response to open advertisement following the prescribed procedure; and
- (iv) by being picked up from the roster of an international organisation.

34.8.2 The Department of Personnel and Training, the cadre controlling authority of various service cadres and the nodal ministries for the international organisations will deal with various aspects relating to the nomination, selection and appointment of the government employees to posts under the international agencies and foreign governments. Each international agency is dealt with by a nodal Ministry; for instance the Ministry of Labour looks after the International Labour Organisation (ILO), the Ministry of Health liaises with the World Health Organisation (WHO) and the like.

34.8.3 Nomination by the Government

The Government may nominate suitable and qualified officers for posts under the international organisations or foreign governments under any of the following circumstances:-

- (a) Vacancy notices or requests are received by the Government (nodal Ministries and/or the Deptt. of Personnel and Training)
- (b) Information regarding the possible vacancies and the details of the post are made available by the Indian Missions abroad, individual officers and other sources including open advertisements and the Government decides to field candidates; and
- (c) The nodal Ministry/the Department of Personnel and Training indentify key or important posts in the international organisations with a view to making nominations.

34.8.4 It would not be necessary for the Government to make nomination in respect of all the posts for which information or vacancy notices are received from time to time. The nodal Ministry/the Department of Personnel and Training may decide the specific vacancy(ies) for which the Government would nominate its officers keeping in view the nature and importance of the post(s), the expertise available in the country and other

related considerations. However, when an officer is nominated for a specific international assignment, he would be treated as the “official nominee” and the Government may use its available sources, including the diplomatic channel, for canvassing support for his candidature.

34.8.5 Broad-based selection procedures would be adopted for identifying the best and most suitable candidate(s) for nomination. When a nodal Ministry receives a vacancy notice or details of the posts for which it is decided to nominate Indian experts, it would expeditiously circulate the same to all the relevant Departments and agencies of GOI and the State Governments inviting suitable nominations. A copy of the vacancy circular or notice containing the details of the post should also be endorsed to the Deptt. of Personnel and Training (Foreign Assignment Selection), which may suggest candidates from out of the panel of experts maintained by them and/or from among the members of the organised services under their administrative control including those on Central deputation.

34.8.6 The nodal Ministries will finalise the nominations for (i) the posts upto and including p.4 level in the Secretariat or headquarters of an international organisation, and (ii) upto and including p-5 level in the project-related field jobs. In its task, the nodal Ministry will be assisted by a Foreign Assignment Selection Committee (FASC) which would screen the applications received and suggest a name or a panel of names. The FASC in each nodal Ministry will include among others the representative of the Ministry and the Establishment Officer to the GOI or his representative. The nodal Ministry will obtain cadre clearance from the concerned cadre controlling authorities before forwarding the name(s) to the international agency. The clearance of the Establishment Officer to the GOI would also be required if the officer concerned is working in a post under the Central Staffing Scheme.

34.8.7 Applications or nominations in respect of the (a) posts of p-5 level and above in the Secretariat of an international organisation, and (b) all other posts above the p-5 level should be forwarded by the nodal Ministry concerned to the Deptt. of Personnel and Training (Office of the Establishment Officer) which would screen the applications and submit these to the Civil Services Board (CSB)/Cabinet Secretary for final selection. Therefore, nomination would be sent to the concerned international organisation.

34.8.8 Apart from the nodal Ministries, the Department of Personnel and Training may, when the time available for making nominations to an international agency is short or in other special circumstances, obtain applications/nominations from the concerned agencies in the Central and State Government and make appropriate recommendations with the approval of the competent authorities.

34.8.9 The Government may nominate an officer or a panel of names for a vacancy in an international organisation depending on the circumstances of each case. However, in respect of the vacancies identified as (a) key or important posts and (b) the posts considered to be of critical importance, the Government would nominate the best

candidate available (as he has to compete with the nationals of other countries) rather than a panel of names. Since the objective is to secure the key international assignment for the Indian experts, all qualified officers including those who have been on foreign assignment earlier would be considered for nomination, subject, however, to the condition that those who have completed the maximum period (ceiling) prescribed for international assignment would be required to resign/seek retirement from Government service on selection for the assignment.

34.8.10 Direct offers:

In case of an offer of assignment by an international agency or friendly Government directly to a Government employee due to his past work or expertise, the expert has to take cadre clearance from the cadre controlling authority as well as from the Department of Personnel and Training before accepting the offer.

34.8.11 Application against open Advertisement:

The Government employees may apply in response to the open or public advertisement of vacancies by the international organisations and foreign Governments with the prior permission of the cadre controlling authority concerned. In rare cases, when the time available for submitting the application is short, an officer may send his application to the concerned agency in advance with a copy to his cadre controlling authority and this may be confirmed or withdrawn subsequently depending on the decision of the authority. The cadre controlling authorities would consider each case only from the point of view of whether the officer could be spared or not; no other general considerations should be applied in taking a decision in the case. An officer may be permitted to apply in response to a public advertisement even if he has completed the permitted number of years he can spend in international assignment in his career. However, in such a case, he would have to resign or take retirement from Government service on selection. A Government employee applying for an international assignment in response to public advertisement will not be given the status of "official nominee" for the assignment. Correspondence relating to the grant or denial of permission will be between the officer concerned and the cadre controlling authority/Government and latter will not correspond with the international organisation on the subject.

34.8.12 Registration on the Rosters maintained by international organisations:

The Government employees may register their names in the rosters maintained by the international organisations by sending their applications directly to the concerned international agency, keeping their cadre controlling authorities and the relevant nodal Ministries informed. Cadre clearance would be sought when the international agency checks on the availability of the officer for a specific assignment. To cut down on the response time in respect of the vacancies circulated by the international organisations, the nodal Ministries may also maintain panels or experts.

34.8.13 Foreign assignment panels of the department of Personnel and Training:

The Department of Personnel and Training maintains two data banks of Indian experts comprising (i) the panel for bilateral assignments including those under the ITEC and similar programmes, and (ii) the list of experts in various disciplines interested in international assignments. Applications for registration in the panel for bilateral assignments are invited from Indian nationals both in Government and outside in a prescribed form which is available for sale in the sales depots in the Publication Division of the Government of India. The applications received are processed and the data stored in computer. The experts are registered in order of seniority based on the date of receipt of the valid application forms in the Deptt. of Personnel and Training and nominations are made strictly in order of seniority and suitability. The registration remains valid for a period of 3 years. Applications for registration should invariably be forwarded through proper channel and the forwarding authorities clearly recommend the applications for registration. This would mean that if selected the employer would relieve the experts concerned for taking up the assignment.

34.8.14 For registering experts for international assignments, applications are invited in the prescribed forms available in the Department of Personnel and Training from government employees and executives of the public sector enterprises and other government and semi-government organisations. These applications are to be forwarded with a clear recommendation by the concerned employers. Valid applications are registered under various categories of specialisation to which applicants belong. When a request for assignment is received, experts registered under the relevant fields are recommended according to their seniority of registration and also on the basis of their suitability in the specific jobs.

34.9 Ceiling on deputation of assignment:

An officer may be permitted to remain on long term assignment adding upto the maximum of five years during the first twenty-five years of his service. Beyond 25 years of service, there would be no ceiling. However, at that stage when an officer completes two years (24 months) of long-term assignment undertaken either in one spell or in instalments, he would not be considered for empanelment for posts of Joint Secretary and equivalent under the Central Staffing Scheme for a period of two years upon his return from the assignment; in the case if an officer eligible to be empanelled as Additional Secretary/Secretary or equivalent, the corresponding period would be one year. If, however, an officer is on a long-term assignment at the time of completing 25 years of service, he has to undergo the required cooling off period (two years) at the end of that assignment; and only thereafter he will be eligible to take up another long term assignment, which will be exempted from the ceiling prescribed for such assignments.

34.9.1 The provisions relating to the ceiling on deputation of assignment would be applicable to international assignments and the captive posts of GOI in the international

organisations but not the foreign posts of GOI, bilateral assignments to the developing countries and the U.N. volunteers.

34.9.2 Over and above the five-years ceiling mentioned above, an officer may be allowed to undertake short-term consultancies for an international organisation or foreign Government upto a maximum of twenty five (25) months, during his entire career. None of these assignments would exceed three months (90 days) during a calendar year, provided further that the administrative Department/Ministry under which he is working in a position to spare his services without any substitute being posted in his place.

34.10 Cooling off requirement:

An officer returning from a foreign assignment exceeding 180 days would not be eligible to go for a long-term assignment for a period of two years.

34.11 Prescribed levels for nominations:

The united Nations and its specialised agencies as well as other international organisations generally indicate the salary level of the post at the time of the announcement of the vacancy. It has been decided that for the posts in the secretariat of an international organisation, some correspondence between the ranks of the officers of the Government with the salary levels in the international agency would be ensured at the time of making nominations. For the project-related field assignments, however, such correspondence would not be insisted upon as the levels for these assignments are usually flexible and the salary and other terms are negotiable depending on the experience and seniority of the officer/expert. In order to guide the Ministries and Departments of the GOI in this area various criteria have been indicated in the ANNEX which would be observed while determining the categories of officers to be considered for different levels of posts in the secretariat of the UN, its specialised Agencies and other international organisations.

34.12 Restrictions on officers dealing with international organisations in official capacity

The officers in a nodal Ministry of GOI/Office of a Head of Department/Attached and Subordinate offices of the Government/Indian Missions abroad who are directly dealing with an international organisation in a coordinating or nodal capacity shall not be allowed to take up assignments in the secretariat of the concerned organisation for a period of two years after they have relinquished charge of their posts. At the same time, however, in very exceptional cases where a post at the headquarters/secretariat of an international agency is considered to be a key post or a post of critical importance and the Government feels that a particular officer though dealing with the organisation is the most suitable and qualified and is likely to be accepted, the officer may be nominated for the post with the recommendation of the Civil Services Board (CSB)/Cabinet Secretary and approval of the Prime Minister. Those assignments would typically include very high level posts in the

international organisations, some of which are primarily filled through selection or on considerations of regional representation of very high level of expertise.

34.12.1 The Government policy has always been that its officers should not lobby for international assignments. A serious view would be taken and appropriate action initiated against the officers and members of the official Indian delegations to international conferences who indulge in canvassing or lobbying for posts in the international organisations with which they have official dealings.

34.13 Cadre clearance

In all cases of foreign assignments, cadre clearance from the cadre controlling authority is to be obtained before officer proceeds on the assignment. For the officers working in the post under the Central Staffing Scheme, clearance of the Department of Personnel and Training (Establishment officer to GOI) would also be required. The sole criterion for giving them clearance would be whether the officer under consideration can be spared from the point of view of management of the cadre or of exigencies of public service, subject, of course, to the provisions regarding ceiling on duration of foreign assignment, cooling off requirements etc. laid down in this letter. No other general consideration (like the period of an officer's absence from the cadre etc.) would be relevant to giving such clearance.

34.13.1 In cases where the Government nominates an officer for a specific vacancy, cadre clearance should be given at the time of nomination. In all other cases, this will be obtained when a communication is received from the international organisation/foreign Government that the officer concerned is being considered for appointment or that a tentative decision has been taken to make him an offer of appointment.

34.13.2 In respect of the employees working under the State Government or their undertakings, the State Governments are empowered to decide whether to permit the expert to accept foreign assignment or not. Matters such as retention of their lien and protection of their seniority in service will also be decided by them in accordance with the service rules applicable to these experts.

34.14 General guidelines

In the preceding paragraphs, the responsibilities of the various nodal Ministries, the cadre controlling authorities and the Department of Personnel and Training have been outlined. The cadre controlling authorities of the various services of the Government of India and the State Governments will mainly be responsible to ensure that the officers under their control apply for and secure foreign assignments strictly according to these guidelines. They will maintain data relating to the periods spent by these officers on foreign assignments and enforce the provisions relating to the ceiling prescribed for such assignments, cooling off requirements etc.

34.14.1 While the cadre controlling authorities and the nodal ministries and Departments are competent to give various clearances as per these guidelines, any deviation proposed to be made there-from would require prior consultation and clearance from the Department of Personnel and Training.

34.14.2 If a nodal or administrative Ministries/Department is of the view that any category of expertise should be declared as “scarce” by the Government of India so as not to permit an easy exit of the Indian experts in that field for foreign assignment, it should send suitable proposals to the Department of Personnel and Training who would issue appropriate orders in this regard. When an Indian expert proposes to take up assignment abroad in any of the categories declared as “scarce”, he would have to obtain a “No Objection Certificate” from the relevant administrative Ministry of the Government of India before taking up the assignment.

34.14.3 The persons deputed to the UN agencies and other international organisations or those on bilateral assignments may resign from service without returning to India and to their parent department if they choose to continue on foreign assignment beyond the permissible period. The Government personnel deputed on ITEC assignment cannot resign while serving abroad as the Government of India in the Ministry of External Affairs bears the salary and other expenses of such persons.

34.14.4 No person who-

- (i) is on assignment under the Indian Technical and Economic Cooperation (ITEC) Programme of the Ministry of External Affairs and other Aid Programmes.
- (ii) is posted abroad in a foreign based office of a Ministry/Department;
- (iii) goes on specific contract assignment to a foreign government.

should be allowed to retire voluntarily unless, after having been transferred to India, he has resumed the charge of the post in India and served for a period of not less than one year. This restriction will, however, not be applicable in case of officers who are on deputation to the UN/International Organisations.

34.14.5 Since deputation of Indian officials abroad contributes to mutual goodwill and understanding between India and the foreign country concerned, it would be largely in the public interest, if, as a rule, the lien of Government employees and public sector employees selected for a foreign assignment is retained.

34.14.6 The State Governments are advised that their employees may be released for service abroad on Foreign Service terms in the public interest, after retaining the

applicant's lien and protecting his seniority. However, the State Government may allow their employees to go abroad in accordance with the rules which are enforced and applicable to the employees.

34.14.7 This order will take effect from the date of issue. All those who are on foreign assignment at present shall be governed by the provisions of this order in respect of the proposals for extension of their tenure of deputation etc.

34.8 All questions or doubts relating to interpretation of the instructions will be decided by the Department of Personnel and Training.

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ANNEX

LEVEL OF THE OFFICERS TO BE CONSIDERED FOR THE POST AT THE SECRETARIAT OF THE U.N. AGENCIES AND OTHER INTERNATIONAL ORGANISATIONS.

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Note 1: The following correspondence between the level of posts in an international organisation and the levels of Indian officers is relevant only as far as the posts at the Secretariat of an international organisation are concerned. No correspondence is prescribed for filed jobs on projects etc.

Note 2: Officers may be permitted to take up assignments which are one level above or below the level prescribed.

Post	Level of Post/salary scale of Indian experts eligible
D2	More than 17 years of IAS or equivalent service without any upper limit. Technical and other officers who could be equated with joint Secretariat or above to the Government of India; in other cases officers drawing more than Rs. 5900-6700.
D1	
:	
P 5	Officers between 14 and 17 years of IAS or equivalent service. Technical and other officers who could be equated with Directors in the Government of India. In other cases officers drawing Rs. 4500 to 5700.
P 4	Officer between 9 to 14 years of IAS or equivalent service. Technical and other officers who could be equated with Deputy Secretaries to the Govt. of India. In other cases officer drawing between Rs. 3700 to 5000.

- P 3 Officers between 6 to 9 years of IAS or equivalent service. Technical and other officers may be equated with Under Secretaries to the Govt. of India. In other cases officers drawing pay between Rs. 3000 to 4500.
- P 2 Officers between 4 to 6 years of IAS or equivalent service. Technical and other officers who may be equated with Junior Under Secretaries to the Govt. of India. In other cases officers drawing upto Rs. 3000.
- P 1 Officers upto 3 years of IAS or equivalent service. Technical and other officers who may be equated with attaches/registrars, Section Officers.

34.15 Fundamental instruction on Foreign Assignment

The Government of India, Ministry of Personnel, PG & Pensions, Department of Personnel & Training has issued Fundamental instruction on Foreign Assignment after 20-06-1991 from time to time, addressed/ to the Chief Secretaries of all the State Governments/UTs, which are as follows (date wise):

(1) Letter No. 14017/33/2005-AIS (II) (Part I) dated 27-12-2006

Subject : Guidelines for deputation of members of the All India Services under Rule 6(2)(ii) of the respective cadre rules.

We are receiving proposals for consideration of deputation under Rule 6(2)(ii) of the respective cadre rules. For quite some time, necessity was felt to frame a proper guideline to assess/screen the proposals. After detailed deliberations, the guidelines to consider deputation proposal under Rule 6(2)(ii) of the respective cadre rules have been finalised. A copy of the same is enclosed for information and necessary action.

GUIDELINES FOR DEPUTATION OF MEMBERS OF THE ALL INDIA SERVICES UNDER RULE 6(2)(11) OF THE RESPECTIVE CADRE RULES

1. Deputation under rule 6(2)(ii) may be allowed to the following categories of organisations:
 - a. Constitutional bodies
 - b. Statutory bodies created by law of Parliament or State legislatures
 - c. Multilateral bodies, bilateral bodies, international financial institutions, international organisations and NGOs and multilateral organisations, defined as follows:-

- International organisations notified by the MEA under the UN (Privileges and Immunities) Act, 1947:
 - (a) United Nations Organisations or Organisations under the UN.
 - (b) Bilateral bodies set up under the Vienna Convention i.e. Embassies and Bodies set up under them eg. USAID, DFID, NORAD etc.
 - (c) international financial institutions eg. The World Bank, IMF, Regional Banks like ADB, Afro-Asian Rural Reconstruction Organisation etc.
 - (d) Multilateral Organisations e.g. International Court of Justice, IAEA etc. and bodies of Regional Cooperation e.g. SAARC, EU etc.
 - (e) International NGOs e.g. International Committee of the Red Cross.
 - (f) Other foreign NGOs from whom India receives Technical/financial assistance eg. Action Aid – clearance from Ministry of Home Affairs and MEA would be sought for such deputations.
 - (g) International organisations, which are private bodies.
- d. Private bodies to be defined as follows:
- (a) Non Profit organisations of repute working in the fields of research, social work social development, infrastructure etc.
 - (b) Organisations registered under the Societies Registration Act.
 - (c) Organisations registered under the Charitable Trusts Act.
 - (d) Apex bodies of Industries and Commerce under the various statutes
 - (e) Organisations registered under the Cooperatives Act.
- e. Autonomous bodies not controlled by Government which are defined as follows:
- (a) The following criteria may be taken into account - any of the three may be the basis:
 - (i) Structure of the Organisation - Organisations covered by the Rule 6(2)(ii) may include Constitutional bodies, Statutory organisations, Commissions, Regulatory Authorities and organisations like Universities with functional autonomy created under Constitutional and statutory provisions. These organisations may opt for the Central Staffing Scheme or not opt for the same.
 - (ii) Financial Autonomy - Organisations with less than 50% share of government funding or organisations where Government is not a majority shareholder.
 - (iv) Power to give directions Organisations over which the Government has no power to give directions. The nature of bylaws and the power to guide would be important, for example, in the case of the Food Corporation of India (FCI). Organisations where Government officials hold ex officio positions cannot be considered as autonomous
2. Deputations to the international agencies shall be regulated in terms of Consolidated Instructions on Foreign Assignments issued from time to time.
3. The inclusion of organisations under the Registrations of Companies Act may be examined separately.
4. Deputations under rule 6(2)(ii) shall not be allowed to those private bodies:

- a. which are or have relations with organisations of a political, religious or sectarian nature.
 - b. Against which any FIR has been lodged or charge sheet filed or case pending for a violation of any law of the land, including private bodies which have in the past been convicted in a court of law for violation of any law of the land. The borrowing private body shall have to give a mandatory certificate in this regard.
5. The general principle of public interest shall be the overriding factor in deciding deputations under this rule to private bodies. Factors such as general reputation of the private body and the nature of its business shall also be examined in each case. The competent authority shall also see whether there is any enrichment of the experience of the officer by such deputation.
6. FCRA clearance shall be required for deputation to an organisation receiving foreign donations.
7. All deputations under Rule 6(2)(ii) shall be considered only with the consent of the officer concerned and the approval of the cadre controlling authority. Cadre Controlling Authority would mean the State Government concerned if the officer is in his cadre. If the officer is with the Government of India, then it would mean the Ministry of Home Affairs in the case of IPS officers, MOEF in the case of IFOS officers. This approval is a precondition for the cases being placed in the Committee detailed in Para 8 below. In the case of IAS officers serving in the Government of India, since the Committee at Para 8 below also includes Secretary (P) the proposals would directly be placed before the Committee.
8. A Committee under the Chairmanship of Cabinet Secretary comprising Secretary(P), Finance Secretary may be set up to screen, on a case to case basis, applications/requests seeking deputation under 6(2)(ii). For officers below the Joint Secretary level to Government of India, the recommendations of the Committee shall be approved by the MOS(PP). For officers of the level of JS and above the recommendations of the Committee would be routed through MOS(PP) to PM for approval.
9. No deputation under Rule 6(2)(ii) can be considered, 'under any Circumstances, as a mandatory posting.
10. A member of Service shall be eligible for deputation under Rule 6(2)(ii) only after he has served for at least 9 years in his/her cadre.
11. A member of Service shall be eligible for deputation under Rule 6(2)(ii) only if he is clear from vigilance angle.
12. For deputation under Rule 6(2)(ii) the officer should not have dealt with the borrowing organisation in the last five years.
13. An officer shall not be allowed to proceed on deputation to organizations in which he or any of his blood relations is connected with the setting up/management of the organization.

14. Mode of selection for the post may be based on advertisement, nomination or direct offer. For international organisations, these form part of the Consolidated Instructions.
15. An officer of service may be allowed deputation for an initial period of maximum of 5 years under Rule 6(2)(ii) and a maximum of 7 years of deputation can be allowed in the first 30 years of service. There shall be a minimum cooling off of three years between two stretches of deputation under Rule 6(2)(ii) in the first 30 years of service. Beyond 30 years of service, there shall be no limit to the period of deputation.
16. The limit of 5 years in one stretch and 7 years in the entire career shall not be extended under any circumstances. The officer shall be deemed to have resigned from service in case he/she fails to join the Government within one month of completion of his/her approved tenure with the concerned organisation.
17. In the first 30 years of service, an officer shall have to undergo a cooling off period of 3 years at the end of completion of deputation under Rule 6(2)(ii). If an officer is on deputation under Rule 6(2)(ii) at the time of completing 30 years of service, he shall have to undergo a cooling period of one year. Beyond 30 years of service, there shall be no requirement of cooling off, for officers completing a period of deputation under Rule 6(2)(ii).
18. While serving in Constitutional/statutory/ multilateral or bilateral organisation/international financial organisations, the officer shall be eligible to draw pay and allowances as per the scheme of the borrowing organisation. In the other organisations, the officer may opt for his grade pay or the pay of the post, whichever is more beneficial to him. The concerned organisation would also be required to pay the cost of retirement benefits/leave salary etc. of the officer failing which the officer shall pay to the concerned State Government on whose cadre he is borne.
19. While on deputation, the service conditions of the officer shall continue to be regulated under the relevant All India Service Rules. Other terms and conditions may be in accordance with standard terms devised from time to time.
20. The provisions of paying to the Government 1/3rd of the amount of fee earned by the officer during short-term assignments with international organisations may also be removed. This distinction between international organizations and other national organizations under Rule 6(2)(ii) may be modified in this respect also.
21. Participation in the pension scheme - The officers deputed, except to Constitutional bodies, which may have their own regular pension schemes, shall not be permitted to join the pension schemes of the organization under any circumstances. A member may join the Pension scheme of the UN bodies in accordance with the relevant rules. On joining the same, the service rendered by the officer during the deputation period shall not be counted as qualifying for pension.
22. The entire expenditure in respect of pension and leave salary contribution for the period of deputation shall be borne by the borrowing organization, failing which by the

member of the Service. However those allowed joining the pension schemes of the organizations mentioned above, shall not be required to make pension contributions.

23. Performance appraisal/ACRs during the period of deputation — The Competent Authority in the organisation accepting the officer shall provide an ACR/Performance appraisal written in such form as prescribed under rules. The report shall be placed in the PAR dossier and treated as mandatory input for empanelment and promotion.

24. The terms and conditions of deputation shall be finalised by the concerned State Government, if the officer is in the cadre. If the officer is in the Government of India, the Ministry concerned i.e. Ministry of Home Affairs in the case of IPS, MOEF in the case of IFOS and DOPT in the case of IAS shall finalise the same. However, this may be done in accordance with the standard terms and conditions prescribed by the DoPT.

25. Notwithstanding anything above, the Government shall have the absolute right to refuse permission or recall an officer from a period of deputation under Rule 6(2)(ii).

26. The above principles may be applied to other services and guidelines prepared for the Central Services.

27. An officer on deputation under Rule 6(2)(11) shall be considered for empanelment on his turn by taking into account the ACRs/PARs written by the borrowing organisations during the period of deputation. In other words, empanelment shall not be postponed on the grounds that an officer is on deputation under Rule 6(2)(ii).

28. Deputation under Rule 6(2)(ii) or intercadre deputation or deputation under the Consolidated Instructions on Foreign Assignment shall not be allowed until an officer has completed 9 years of service in his cadre.

29. The total period of deputation under Rule 6(2)(ii), intercadre deputation and deputation under Consolidated Instructions on Foreign Assignments in the first 30 years of service shall not exceed 10 years.

30. In the first 30 years of service, there shall be a cooling off of three years after a period of deputation under Rule 6(2)(ii), intercadre deputation and deputation under Consolidated Instructions on Foreign Assignments.

31. In the first 30 years of service, absence from the cadre shall not exceed 7 years at a stretch as a result of deputation under Rule 6(2)(ii), intercadre deputation and deputation under Consolidated Instructions on Foreign Assignments.

32. The above (Paras 28-31) shall not apply to the North East cadres for which certain special dispensations have been made.

(1) Letter No. 14017/33/2005-AIS(II)(Pt.I) dated 28-11-2007

Subject : Consolidated Deputation Guidelines for All India Services.

I am directed to refer to the above subject and to state that the guidelines for All India Service officers with respect to Rule 6 of the IAS(Cadre) Rules; 1954 and the analogous provision in the cadre rules for the Indian Police Service and the Indian Forest Service was under consideration. In this regard, the Consolidated Guidelines for All India Service officers, as approved by the Competent Authority, is enclosed for information and necessary action.

2. These guidelines shall come into force with immediate effect.

CONSOLIDATED DEPUTATION GUIDELINES FOR ALL INDIA SERVICE OFFICERS;

The guidelines for the All India Services with respect to Rule 6 of the IAS (cadre) Rules and analogous provisions in the IPS (Cadre) and IFoS (Cadre) Rules are consolidated as follows:-

Rule 6(1)

"A cadre officer may, with the concurrence of the State Governments concerned and the Central Government, be deputed for service under the Central Government or another State Government or under a company, association or body or individuals, whether incorporated or not, which is wholly or substantially owned or controlled by the Central Government or by another State Government ."

1.1 Central Staffing Scheme:-

Posts that are to be covered:

Ministries/Departments of Government of India

Procedure to be followed for appointment;

Civil Services Board (JS and below). with ACC approval for JS and above

Tenure to be applicable:

US level - 3 years

DS level - 4 years

Du- level - 5 years

JS level - 5 years

JS/AS level- 7 years (subject to 3 years in the second post, and subject further to a minimum of 5 years in the Centre)

AS level - 4 years

Secy level - no ceiling.

1.2 Non-Central Staffing Scheme posts:-

1 2.1 Posts that are to be covered:

Autonomous Institutions **wholly** or substantially funded or controlled by the Central Government_

Procedure to be followed for appointment:

Search-cum-Selection Committee process as laid down in DoPT Office Memorandum No. 28/13/2006-E0(SM II) dated 03/07/2006 OR as per approved **RRs OR** as per statutory

provisions for institutions covered by specific status (with ACC approval for Chief Executives carrying pay scale of Rs.18400-22400 or above).

Tenure to be **applicable**: As provided under the Central Staffing Scheme

1.2.2 Posts that are to be covered:

CVOs

Procedure to be followed for appointment:

From DOPT panel with concurrence of CVC and Ministry concerned (with ACC approval for JS and above), i.e. as per current procedure.

Tenure to be applicable:

Maximum of 5 years. (A deputation of 3 years is permissible when an officer moves from one PSU to another).

1.2.3 Posts that are to be covered:

Central PSUs or PSUs of another State or PSUs wholly or substantially owned and controlled by two or more States.

Procedure to be followed for appointment:

Subject to exemption from Immediate Absorption Rule through PESB/Search Committee (with ACC approval for JS and above)

Tenure to be applicable: As provided under the Central Staffing Scheme.

1.2.4 Posts that are to be covered:

Constitutional Bodies or staff officers of Heads of Constitutional Bodies

Procedure to be followed for appointment:

Civil Services Board OR on request by name subject to vigilance clearance and suitability (with ACC approval for JS and above)

Tenure to be applicable: As provided under the Central Staffing Scheme.

1.2.5 Posts that are to be covered:

Statutory Bodies set up by an Act of Parliament or staff officers of Heads of such Statutory Bodies.

Procedure to be followed for appointment:

Civil Services Board OR on request by name, subject to vigilance clearance and suitability (with ACC approval for JS and above)

Tenure to be applicable: As provided under the Central Staffing Scheme.

1.2.6 Posts that are to be covered:

Non-permanent, Non-Statutory Bodies with a specific term set up through executive orders/notification by the Central Government- like Administrative Reforms Commissions, Pay Commission, National Manufacturing Competitiveness Commission, Sachar Committee, Inquiry Commissions, etc.

Procedure to be followed for appointment:

Civil Services Board (with ACC approval for JS and above)

Tenure to be applicable: As provided under the Central Staffing Scheme.

Provided that, if an officer moves from a CSS to a non-CSS post, or vice versa, she/he shall be eligible for an additional tenure of two years subject to at least two years on either post.

I.3 Inter- Cadre Deputation.

Posts that are to be covered:

To another State Government

Procedure to be followed for appointment:

With the concurrence of the State Government on whose cadre the officer is borne and the borrowing State Government, and with the approval of the Central Government, as per the terms laid down in DoPT O.M. No. 13017/16/2003- AIS(1) dated 08/11/2004 and subsequent O.Ms dated 31/10/2005 and 03/10/2007 .

Tenure to be applicable:

Maximum of 5 years, provided that the officer has completed 9 years in his own cadre and has not reached the Super-time Scale.

2. Rule 6(2)(i)

"A Cadre officer may also be deputed for service under a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by a State Government, a Municipal Corporation or a Local Body, by the State Government on whose cadre she/he is borne."

Deputation within the State Government on whose cadre the officer is borne.

Posts that are to be covered:

- i) A Municipal Corporation or a Local Body of the State.
- ii) State Government PSUs
- iii) Training/Research/Educational Institutions wholly or substantially funded or controlled by the State Government.
- iv) Autonomous Institutions wholly or substantially funded or controlled by the State Government.
- v) A registered Trust or Society or Association or Body of Individuals wholly or substantially funded or controlled by the State Government.

Procedure to be followed for appointment:

Appointment by the State Government.

Tenure to be Applicable:

As decided by the State Government.

Note: Service in any of these posts shall count towards Cooling Off provided that posts mentioned in (iv) and (v) shall count towards Cooling Off only if they are located within the State.

Rule 6(2) (ii)

"A Cadre officer may also be deputed for service under an international organization, an autonomous body not controlled by the Government, or a private body, by the Central Government in consultation with the State Government on whose cadre she/he is borne."

3.1 Deputation under Rule 6(2)(ii) to International Organizations.

Posts that are to be covered:

- i) UN Organizations.
- ii) International Financial Institutions like World Bank, IMF, ADB,
- iii) Multilateral organizations of which India is a member, like IAEA, WTO, Commonwealth Organization, International Court of Justice, SAARC etc.
- iv) Bilateral Bodies set up under the Vienna Convention, i.e. Embassies and Bodies set up under them, like USAID, DUD, NORAD, etc.

- v) International NGOs or Funding Organizations from which India receives technical/financial assistance like International -Red Cross Society, Action Aid, Aga Khan Foundation, Ford Foundation, etc.

Procedure to be followed for appointment:

With the approval of the Committee under the chairmanship of the Cabinet Secretary comprising Secretary (P) and Finance Secretary (with PM's approval for JS and above);

Provided that for appointment to posts listed at (iv), the Foreign Secretary or the MEA Secretary concerned shall also be a member of the Committee.

Provided further that for appointments to posts listed at (v), the concurrence of MHA shall be taken.

Tenure to be applicable:

Maximum of 5 years at a stretch.

Note: All other conditions laid down in DoPT Guidelines contained in F No. 14017/33/2005-A1S (II) (Part I) dated 27/12/2006 and PMO ID dated 01/05/2007 shall be applicable.

3.2 Deputation under Rule 6(2) (u) to an autonomous body, trust, society, etc. not controlled by the Government, or a private body.

Posts that are to be covered:

- i) Registered Societies or Trusts or Foundations or non-profit organizations or NGOs or cooperatives;
- ii) Apex bodies of Industries and Commerce;

Provided that such autonomous or private bodies fulfill all four of the following criteria.

- a) they are functionally autonomous of the Central and State Governments;
- b) they are not substantially funded by the Central and State Governments;
- c) the Central or State Governments do not have powers to give them directions; and
- d) they are not companies registered under the Registration of Companies Act.

Procedure to be followed for appointment:

With the approval of the Committee under the chairmanship of the Cabinet Secretary comprising Secretary (P) and Finance Secretary (with PM's approval for JS and above).

Tenure to be applicable:

Maximum of 5 years at a stretch.

Provided that total period of deputation under all categories under Rule 6(2)(ii) shall not exceed a maximum of 7 years in the entire service.

4. Notwithstanding anything contained above regarding deputation tenures,

- i) absence from the cadre shall not exceed more than 7 years at a stretch for officers below the level of Secretary as a result of inter-cadre deputation and deputation under Rule 6(2)(ii); and
- ii) the total period under inter-cadre deputation and deputation under Rule 6(2)(ii) shall not exceed 10 years in the entire career.

5. There shall be a mandatory "Cooling Off" requirement after every period of deputation under Rules 6(1) and 6(2) (ii). The length of such "Cooling Off" shall be as follows.-

- i) For JS-level and below-3 years.
- ii) For AS-level- 1 year.
- iii) For Secretary-level- nil.

6. Officers who are on deputation under Rule 6(2Xii) would run the disqualification of not being considered for empanelment under the Central Staffing Scheme during the currency of their deputations, and also, till they earn ACRs on return to their cadre [instructions dated 27.12.2006, para 27, shall stand superseded in this respect]

7. The Consolidated Deputation Guidelines for All India Service Officers shall come into force with prospective effect.

8. Appointments for which orders have already been issued shall not be affected by these guidelines.

9. Nothing contained in the above guidelines shall affect or override the special dispensations provided for the North-East and deficit cadres, i.e. Chhatisgarh, Uttarakhand, Sikkim, Nagaland and Manipur -.Tripura,

10. Existing detailed orders/rules regarding deputation under Rules 6(1) and 6(2) (ii), tenure and "Cooling Off" requirements, CIFA Rules and empanelment norms may be modified accordingly.

(3) O.M No. AB-14017/2/07-Estt (RR) dated Feb. 29th, 2008

Subject: Consolidated guidelines on deputation / Foreign Service for members of the organized Group A and the Group 13 Services of the Central Government.

The issue regarding deputation/ foreign service to ex-cadre posts has been reviewed and it has been decided that henceforth , **the appointment for the Purpose of deputation / foreign service and provisions regulating tenure & procedure of appointment would be according to guidelines enclosed .**

2. For the time being, the guidelines contained in these instructions will apply only to members of the organized Group 'A and '13' Services of the Central Government. These orders will take effect from the date of issue and past cases will not be reviewed based on these instructions. Hindi version will follow.

GUIDELINES FOR DEPUTATION / FOREIGN SERVICE OF CENTRAL GOVERNMENT OFFICERS

1.1 Central Staffing Scheme (CSS)

Posts that are to be covered:

Ministries/Departments of Government of India

Procedure to be followed for appointment:

Civil Services Board (below JS), with ACC approval for JS and above

Tenure to be applicable:

US level	- 3 years
DS level	- 4 years
Dir level	- 5 years
JS/AS level	- 7 years (subject to 3 years in the second post, and subject further to a minimum of 5 years in the Centre.)
AS level	- 4 years
Secy level	- No ceiling

1.2 Non-Central Staffing Scheme posts:-

1.2.1 **Posts that** are to be covered:

Autonomous Institutions wholly or substantially funded or controlled by the Central Government.

Procedure to be followed for appointment:

Search-cum-Selection Committee process as laid down in DoPT Office Memorandum No. 28/13/2006-E0(SM.11) dated 03/07/2006 & OM NO. AB 14017/11/2001-Estt(RR)dated 3017/07, OR as per approved RRs OR as per statutory provisions for institutions covered by specific statutes (with ACC approval for Chief Executives carrying pay scales of Rs. 18400-22400 or above) .

Tenure to be applicable: As provided under the Central Staffing Scheme

1.2.2 **Posts that are to be covered:**

CVOs

Procedure to be followed for appointment:

From DOPT panel with concurrence of CVC and Ministry concerned (with ACC approval for JS and above), i.e. as per current procedure.

Tenure to be applicable;

Maximum of 5 years. (A deputation of 3 +3 years is permissible when an officer moves from one PSU to another)

1.2.3 **Posts that are to be covered:**

Central PSUs or PSUs of another State or PSUs owned or substantially owned and controlled by two or more States .

Procedure to be followed for appointment:

Subject to exemption from Immediate Absorption Rule through PESB/Search Committee (with ACC approval for IS and above)

Tenure to be applicable: As provided under the Central Staffing Scheme

1.2.4 Posts that are to be covered:

Constitutional Bodies or staff officers of Heads of Constitutional Bodies

Procedure to be followed for appointment:

Civil Services Board OR on request by name, subject to vigilance clearance and suitability (with ACC approval for JS and above)

Tenure to be applicable: As provided under the Central Staff Scheme.

1.2.5 Posts that are to be covered:

Statutory Bodies set up by an Act of Parliament or staff officers of Heads of such Statutory Bodies.

Procedure to be followed for appointment:

For appointments below JS level - through a Committee under the Chairmanship of Secretary (Personnel) with the approval of MOS(PP) for appointments of JS and above level- through CSB with the approval of ACC.

Tenure to be applicable: As provided under the Central Staffing Scheme

1.2.6 Posts that are to be covered:

Non-permanent, Non-Statutory Bodies with a specific term set up through executive orders/notification by the Central Government- like Administrative Reforms Commissions, Pay Commission, National Manufacturing Competitiveness Commission, Sachar Committee ; Inquiry Commissions, etc.

Procedure to be followed for appointment:

Civil Services Board (with ACC approval for JS and above)

Tenure to be applicable: As provided under the Central Staffing Scheme

Provided that, if an officer moves from a CSS to a non-CSS post, or vice versa, she/he shall be eligible for an additional tenure of two years, subject to at least two years on either post

1.3 Ex-Cadre Deputation.

Posts that are to be covered:

To another post in Central Government/ State Government where Recruitment rules /regulations etc. exist and deputation is one of the methods of appointment

Procedure to be followed for appoint

With the concurrence of the cadre controlling authority, born Department and with the approval of the authority competent for filling up the post .

Tenure to be applicable:

According to the provisions of DOPT OM no. 2/2919 I -Estt.(Pay-II) dated the 5th January 1994 as amended from time to time.

International Organizations.**Posts that are to be covered:**

- i) UN Organizations
- ii) International Financial Institutions like World Bank, IMF, ADB etc.
- iii) Multilateral organizations of which India is a member, like
IAEA, WTO,
Commonwealth Organization, International Court of Justice.
SAARC etc,
- iv) Bilateral Bodies set up under the Vienna Convention, i.e. Embassies and Bodies set up under them, like USAID, DFID, NORAD etc
- v) International NGOs or Funding Organizations from which receives technical/financial assistance like International Red Cross Society, Action Aid, Aga Khan Foundation, Ford Foundation, etc.

Procedure to be followed for appointment:

A Committee under the Chairmanship of Cabinet Secretary with Secretary (Personnel), Finance Secretary will screen all proposals for deputation on Foreign Service terms of officers of the level of JS and above, on a case to case basis, after the proposals have been approved by the Cadre Controlling Authority. Such screening in the case of officers below the level of JS will be by a Committee chaired by the Secretary of the Cadre Controlling Ministry/Department with a member each, not below the level of JS from the DOPT and Department of Expenditure. A final decision on the recommendations of the Screening Committee may be taken at the level of Minister-in-charge in the case of officers holding posts below JS-level and with the approval of PM in the case of officers holding IS-level posts or above

Provided that for appointment to posts listed at (iv), the Foreign Secretary or the MEA Secretary concerned shall also be a member of the Committee under the chairmanship of Cabinet Secretary for officers of JS and above level. For officers below JS level, a nominee of Foreign Secretary not below the level of JS would be included in the screening committee.

Provided further that for appointments to posts listed at (v), the concurrence of MHA shall be taken.

Tenure to be applicable:

Maximum of 5 years at a stretch.

2.2 Autonomous body, trust, society, etc. not controlled by the Government, or a private body.

Posts that are to be covered

- i) Registered Societies or Trusts or Foundations or non-profit organizations or NOOs or cooperatives;
- ii) Apex bodies of industries and Commerce:

Provided that such autonomous or private bodies fulfill all four of the following criteria:-

- a) they are functionally autonomous of the Central and State Governments;
- b) they are not substantially funded by the Central and State Government s;
- c) the Central or State Governments do not have powers to give them directions; and
- d) they are not companies registered under the Registration Companies Act.

Procedure to be followed for appointment:

As in Para 2.1

Tenure to be applicable:

Maximum of 5 years at a stretch.

2.3 Terms and conditions for deputation/ foreign service not covered under this OM would be as per DOPT OM No. 2/29/91-Estc(Pay-11) dated the 5th January 1994 as amended from time to time. For the Foreign Service, terms and conditions in Annex I amend the guidelines of 1994 to the extent they are at variance.

2.4 The total period of Foreign Service **under** Para 2.1 and 2.2 above shall not exceed a maximum of 7 years in the entire service.

2.5 There shall be a mandatory - Cooling Off requirement after every period of deputation and Foreign Service. The length of 'Cooling Off' shall be as follows:

- (i) For JS level (Rs. 18400-22400/) and below — 3 years
- (ii) For AS level (Rs. 22400 - 25000 — 1 years
- (iii) For Secretary level- nil

2.6 The Consolidated Deputation/ Foreign Service guidelines for organized Gr. 'A' & 'B' services shall come into force with prospective effect.

2.7 Appointments for which orders have already been issued shall not be affected by these guidelines

Terms and Conditions For Foreign Service

1. The general principle of public interest shall be the overriding factor in deciding Foreign Service under this rule. The competent authority shall also see whether there is any enrichment of the experience of the officer by such deputation.
2. Officers who are on foreign service would run the disqualification of not being considered for empanelment under the Central Staffing Scheme during the currency of their foreign service and also till they earn ACRs on return to their cadre
3. FCRA clearance shall be required for foreign service to an organization receiving foreign donations.
4. All such cases of Foreign Service shall be considered only with the consent of the officer concerned and the approval of the cadre controlling authority.
5. The Foreign Service will not be considered, under any circumstances, as a mandatory posting.
6. A Central Government Officer shall be eligible for Foreign Service only after he has completed 9 years of service.
7. A Central Government Officer shall be eligible for Foreign Service only if he is clear from vigilance angle.
8. For foreign service, the officer could not have dealt with the borrowing organization in the last five years
9. An officer shall not be allowed to proceed on foreign service to organizations in which he or any of his blood relations is connected with the setting up/management of the organization.
10. Mode of selection for the post may be based on advertisement, nomination or direct offer .
11. The limit of 5 years in one stretch and 7 years in the entire career for foreign service to organizations covered under Para 2.1 and 2.2 shall not be extended under any circumstances. The officer shall be deemed to have resigned from service in case he/she fails to join the Government within one month of completion of his/her approved tenure with the concerned organization.
12. While serving in Constitutional /statutory / multilateral or bilateral organization /international financial organizations, the officer shall be eligible to draw pay and allowances as per the scheme of the borrowing organization. In the other organizations, the officer may opt for his grade pay or the pay of the post, whichever is more beneficial to him.
13. While on foreign service, the service conditions of the officer shall continue to be regulated under the relevant Service Rules. Other terms and conditions may be in accordance with standard terms devised from time to time.

14. The provisions of paying to the Govt. i.e. 1/3rd of the amount of fee earned by the officer during short-term assignments with international organizations may also be removed. There will not be any distinction between international organizations and other national organizations in this respect.
15. Participation in the pension scheme - The officers on foreign service, except to Constitutional bodies, which may have their own regular pension schemes, shall not be permitted to join the pension schemes of the organization under any circumstances. A Central Government Officer may join the Pension scheme of the UN bodies in accordance with the relevant rules. On joining the same, the service rendered by the officer during the deputation period shall not be counted as qualifying for pension.
16. The entire expenditure in respect of pension and leave salary contribution for the period of foreign service shall be borne by the borrowing organization, failing which by the officer. However those allowed joining the pension schemes of the organizations mentioned above shall not be required to make pension contributions.
17. Performance appraisal /ACRs during the period of foreign service - The competent authority in the organization accepting the officer shall provide an ACR/Performance appraisal written in such form as prescribed wider rules. The terms and conditions of foreign service shall be finalised by the concerned administrative Ministry/Department, in accordance with the standard terms and conditions prescribed by the DOPT.
19. Notwithstanding anything above, the Government shall have the absolute right to refuse permission or recall an officer from foreign service.
20. An officer on Foreign Service shall be considered for promotion on his turn.

(4) Letter No. F. No. 14017/33/2005-AIS(11)(PLI) Dated 14th March 2008

Subject : Consolidated Deputation Guidelines for All India Services.

I am directed to refer to the above subject and to state that the Consolidated Deputation Guidelines for All India Service officers issued vide this department's letter of even number dated 28/11/2007 has been reviewed by the Competent Authority. In this regard the decision taken is hereby conveyed for information and guidance: -

1. The proposals for extension of deputation under Rule 6(2)(ii) of the IAS (Cadre) Rules, 1954 will be examined as per the conditions of the new Consolidated Deputation Guidelines.

2. Since the requirement of 'cooling off' is to ensure that an officer does not stay away from his cadre for long stretches at a time, there shall be no objection if an officer on central deputation is permitted deputation under Rule 6(2)(ii) to the limit of approved Central Deputation tenure without cooling off.
3. The above is subject to the overall tenure ceilings under the Consolidated Guidelines.

(5) O.M No.AB.14017/2/2007-Estt.(RR) Dated 24th April, 2008

Subject: Consolidated guidelines on deputation/foreign service for members of the organized Group A and the Group B Services of the Central Government

Attention is invited to this Department's OM No. AB.14017/2/2007- Estt.(RR) dated 29.2.08 laying down consolidated guidelines on deputation/foreign service of Members of the Organised Group A and Group B Services of the Central Government. The guidelines contained in this OM have been reviewed and it has been decided that:-

- (i) The proposals for extension of deputation under para 2.1 and 2.2 of OM dated 29.2.08 shall be examined as per the conditions prescribed in OM dated 29.2.08;
- (ii) since the requirement of 'cooling off' is to ensure that an officer does not stay away from his cadre for long stretches at a time, there shall be no objection if an officer on central deputation is permitted deputation under Rule 2.1 subject to the limit of approved Central Deputation tenure, without cooling off; and
- (iii) The above shall be subject to the overall tenure ceilings prescribed under the consolidated guidelines of 29.2.08.

2. Para 1.1. of this Department's OM dated 29.2.08 also stand amended as below:

Central Staffing Scheme (CSS)

Posts that are to be covered:

Ministries/Departments of Government of India

Procedure to be followed for appointment:

Civil Services Board (below JS), with ACC approval for JS and above.

Tenure to be applicable

US level	- 3 years
DS level	- 4 years
Dir level	- 5 years
JS	- 5 years
JS/AS level	- 7 years (subject to 3 years in the second post, and subject further to a minimum of 5 years in the Centre)
AS level	- 4 years
Secy level	- No ceiling

Hindi version follows.

(6) letter No. F.No. 14017 3312005-AIS(UNPLI) Dated 9th February, 2011

Subject : Consolidated Deputation Guidelines for AIS officers dated 28-11-2007.

I am directed to refer to the above subject and to say that a proposal for making certain amendment in the Consolidated Deputation Guidelines' provisions related to deputation under Rule 6(2)(ii) of the AIS (Cadre) Rules has been under consideration of this Department. Accordingly, the provisions contained in paragraph 3.2 of the Consolidated Deputation Guidelines for All India Service officers are hereby substituted by the following provisions:-

“Deputation under Rule 6(2) (ii) to an autonomous body, trust, society, etc. not controlled by the Government, or a private body.

Posts that are to be covered:

- i) Registered Societies or Trusts or Foundations or non-profit organizations or NGOs or cooperatives;
- ii) Apex bodies of Industries and Commerce;

Provided that such autonomous or private bodies fulfill all four of the following criteria.

- a) they are functionally autonomous of the Central and State Governments;
- b) they are not substantially funded by the Central and State Governments;
- c) the Central or State Governments do not have powers to give them directions; and
- d) they are not companies (except Section 25 companies) registered under the Registration of Companies Act.

Provided further that deputation to section 25 companies shall be allowed only on standard government deputation terms.

Procedure to be followed for appointment: With the approval of the Committee under the chairmanship of the Cabinet Secretary comprising Secretary (P) and Finance Secretary (with PM's approval for JS and above).

Tenure to be applicable: Maximum of 5 years at a stretch.

Provided that total period of deputation under all categories under Rule 6(2)(ii) shall not exceed a maximum of 7 years in the entire service”.

(7) Letter No. F. No. 14017/33/2005-AIS(II)(Pt.I) dated 11-01-2012

Subject: Consolidated Deputation Guidelines for AIS officers dated 28.11.2007.

I am directed to refer to the above subject and to say that it has been decided that the posts of Deputy Secretary/Director/Joint Secretary etc. in the Union Public Service Commission, Election Commission of India, Central Vigilance Commission and Central Information Commission will be treated as Central Staffing Scheme posts. Accordingly, para 1.1 of the Consolidated Deputation Guidelines for All India Service officers are hereby substituted by following provisions:-

1.1 Central Staffing Scheme:-

Posts that are to be covered:

Ministries/Departments of Government of India, Union Public Service Commission, Election Commission of India, Central Vigilance Commission and Central Information Commission.

Procedure to be followed for appointment:

Civil Services Board (JS and below), with ACC approval for JS and above

Tenure to be applicable:

US level - 3 years

DS level - 4 years

Dir level - 5 years

JS level - 5 years

JS/AS level - 7 years (subject to 3 years in the second post, and also subject further to a minimum of 5 years in the Centre.)

AS level - 4 years

Secy level - no ceiling.

(8) O.M No. AB.14017/2/2007-Estt.(RR) Dated 28th March, 2012

Subject: Consolidated Deputation Guidelines dated 29.2.08 for members of the organized Group A and the Group B Services of the Central Government.

Attention is invited to this Department's OM No. AB.1401712/2007-Estt.(RR) dated 29.2.08 laying down consolidated guidelines on deputation/foreign service of Members of the Organized Group A and Group B Services of the Central Government. The guidelines

contained in this OM have been reviewed and the provisions contained in paragraphs 1.1 and 2.2 of the said guidelines are hereby substituted by following provisions:-

1.1. Central Staffing Scheme (CSS)

Posts that are to be covered:

Ministries/Departments of Government of India, Union Public Service Commission, Election Commission of India, Central Vigilance Commission and Central Information Commission.

Procedure to be followed for appointment:

Civil Services Board (below JS), with ACC approval for JS and above.

Tenure to be applicable

US level	- 3 years
DS level	- 4 years
Dir level	- 5 years
JS	- 5 years
JS/AS level	- 7 years (Subject to 3 years in the second post, and subject further to a minimum of 5 years in the Centre)
AS level	- 4 years
Secy. level	- No ceiling

2.2 Autonomous body, trust, society, etc. not controlled by the Government or a private body.

Posts that are to be covered:

- (i) Registered Societies or Trusts or Foundations or non-profit organizations or NGOs or cooperatives;
- (ii) Apex bodies of Industries and Commerce;

Provided that such autonomous or private bodies fulfill all four of the following criteria:

- (a) they are functionally autonomous of the Central and State Governments;
- (b) they are not substantially funded by the Central and State Governments;
- (c) the Central or State Governments do not have powers to given them directions; and
- (d) they are not companies (except Section 25 companies) registered under the Registration of Companies Act.

Provided further that deputation to Section 25 Companies shall be allowed only on standard government deputation terms.

Procedure to be followed for appointment:

A Committee under the Chairmanship of Cabinet Secretary with Secretary (Personnel) and Finance Secretary will screen all proposals for deputation on foreign service terms of officers of the level of JS and above, on a case to case basis after the proposals have been approved by the Cadre Controlling Authority. Such screening in the case of officers below the level of JS will be by a Committee chaired by the Secretary of the Cadre Controlling Ministry/Department with a Member each, not below the level of JS from the DOPT and Department of Expenditure. A final decision on the recommendations of the Screening Committee may be taken at the level of Minister-in-charge in the case of officers holding posts below JS-level and with the approval of PM in the case of officers holding JS-level posts or above.

Tenure to be applicable: Maximum of 5 years at a stretch.

Provided that total period of deputation under all categories under 2.1 & 2.2 shall not exceed a maximum of 7 years in the entire service".

2. Hindi version will follow

34.16 Instructions on filling up of Foreign/captive posts of the Government of India.

As per the decision of the Appointments Committee of the Cabinet on the issue of officers posted abroad on Foreign Assignments seeking extension on ground of their 'Children being in the middle of the Academic session', the Government of India, Ministry of Personnel, PG & Pensions, Department of Personnel & Training has issued instruction on filling up of Foreign/Captive posts of the Government of India from time to time, addressed to the Chief Secretaries of all the State Governments/UTs, which are as under:-

1. Letter No. 15/1/2008-E0(MM.11) dated 16.03.2010

Subject: Extension of Foreign Assignment for officers on ground of their Children's Education being in the middle of academic sessions.

The issue of officers posted abroad on Foreign Assignments seeking extension on ground of their 'Children being in the middle of the Academic session' has been engaging the attention of the Government for quite some time. The Appointments Committee of the Cabinet has considered the matter and decided that:

- (a) the tenure of officers on foreign deputation may be linked to the end of the academic session i.e. date of completion of the annual examination.
- (b) the officers going on foreign deputation should be informed at the time of their posting that their tenure will be adjusted to coincide with this event.

- (c) if some adjustment is required [either extension or curtailment], depending on the commencement of the posting, and the timing of the examination, the proposal for approval of the Competent Authority should be sent to this office at least 2 months before the date of completion of the approved tenure. or date of completion of the proposed tenure, whichever is earlier.

2. This may be taken note of for compliance in the future.

2. File No. 12/57/99-FA (UN), dated 05/05/2011

Approval of the competent authority for discontinuing the procedure of culling out of names of officers from the data-base maintained in DOP&T while filling up foreign/captive posts of the GOI.

The competent authority has approved that:-

- (i) The policy of culling out names from the database may be resorted to, only when the response to the vacancy circular is not adequate.
- (ii) The consent of officers may be sought only from the officers recommended by the CSB.

3. File No. 5/2/2011-FA(UN)(pt.), dated 07-06-2011

Approval of the competent authority fixing three years tenure on foreign/captive posts of the GOI by exceeding the limit of seven years outside the cadre.

"The competent authority has approved that an officer appointed to a Captive/Foreign post of the Government of India towards the end of the period of seven years, may be allowed a tenure of three years on the post even by exceeding the limit of seven years outside the cadre.

CHAPTER 35

MISCELLANEOUS MATTERS

This chapter covers the instructions on the following topics/subjects:

- Procedure for change of name by Govt. servants.
- Reconstruction of records – Procedure regarding.
- Procedure for preparing fresh instructions on various topics/matters after intervals.
- Settlement of Pension, Death-cum-Retirement Gratuity, Provident Fund and other claims of retired Govt. servants.
- Return from leave.
- Referring cases to the Deptt. of Personnel - Procedure regarding.
- Instructions regarding Court/Tribunal cases and Procedure for consultation with Personnel Department.
- Permission to Government servants to join Territorial Army.

35.1 Change of name by Govt. servant.

The procedure to be followed in according recognition to the bonafide change of name by Government servants was decided by the Govt. of India, Ministry of Home Affairs in consultation with the Ministry of Law in 1948 and still continues to be applicable. According to this procedure, a Govt. servant wishing to adopt a new name or to effect any modification in his existing name should be asked to adopt the change formally by a deed changing his name. In order that the execution of the document may not in doubt, it is desirable that it should be attested by two witnesses preferable those known to the head of office in which the Govt. servant is serving. A sample deed form is enclosed with the Govt. of India, Ministry of Home Affairs letter dated 3-11-1948 (Annexure-I). The execution of the deed should be followed by publication of the change in a prominent local news paper as well as the Gazette of India (Gazette of H.P for employees of H.P.), publication being by the Government servant at his expenses in both cases. For publication in the Gazette of India, the Govt. servant should approach the Manager of Publications, Govt. of India, Publication Branch, Civil Lines, New Delhi, while in the case of the Gazette of Himachal Pradesh, the Govt. servant should approach the Controller, Printing and Stationery, H.P. Shimla.

It is only after the formalities described above have been complied with and satisfactory evidence of identity and execution of the document adduced by the Government servant that the adopted of the new name or change in the existing name should be recognized officially and entries in official records amended accordingly. True copies of the relevant documents should be retained by the concerned Head of Office.

(Govt of India, Ministry of Home Affairs, O.M. No. 60/274-48-Ests dated 3-11-1948 – Annexure 35.1)

35.2 Reconstruction of service and related Records – Procedure regarding.

The question of reconstruction of records of offices was considered by the Govt. and the following procedure has been prescribed for the re-construction of the records of the Directorates:-

1. Office Records including Acts, Rules and Instructions.
 - (a) Copies of the Acts/Rules/Manuals etc. as applicable in Himachal Pradesh may be purchased from the Sales Depot of H.P. Printing Press. IN the event of the non-availability of such reference books in the H.P. Printing Press the same may be purchased from the open market.
 - (b) Copies of the Acts/Rules/Manuals of available with concerned Departments which deal with those Acts/Rules etc. ,may, in the first instance. Be obtained from those departments. Purchase as suggestion in (a) above may be resorted to only in the event of such reference books being not available with the concerned Departments.
 - (c) Copies of such instructions as have not been codified may be obtained from the Departments dealing with relevant subject. The concerned Departments at Govt. level may get copies of all such instructions as are in force at present typed out/cyclostyled and send the same to the Directorates without their having made specific references.
2. Service Books
 - (a) In the case of such employees who had rendered service in the erstwhile Princely States, service particulars may be obtained from the Record Rooms of the District in which the service records of the employees concerned were deposited at the time of merger. In cases where it is not possible to trace the relevant record or the relevant record is not available, an affidavit supported by the collateral evidence may be obtained from the employee concerned.
 - (b) In the case of the employees inherited from Govt. of India or other State Governments/Departments or those allocated from the composite State of Punjab, the Government/Departments concerned may be requested to supply the service particulars of the concerned employees together with attested copies of relevant orders relating to the appointments, posting, transfer, promotion, leave and other conditions of service etc.
 - (c) For the period of the service under Himachal Pradesh, the service particulars and the other relevant documents may be collected from the office copies of the pay

bills, if available otherwise they may be taken from the Audit and Accounts office for whatever period they may be available there. Assistance may be availed of the Establishment Returns for the earlier period, if available with the Audit and Accounts office/Directorates. Copies of the sanctions, orders of appointment/promotion etc. as had been endorsed to the Audit Office may also be obtained from these offices.

- (d) The officials are likely to keep copies of relevant records relating to their service career. Accordingly all the officials may be asked to submit their service particulars supported with attested copies of documents as may be available with them.
- (e) The records/particulars a may be available in accordance with the above procedure (a) to (d) may be compared and then service books/personal records be completed with reference to the entire material.

3. Confidential reports

- (a) Confidential reports may be completed for the last three years. In all cases where any of the officers/officials whose C.R. dossier has been destroyed is to be considered for promotion/ confirmation etc. the CRs of all other for the last three years.
- (b) The CRs as far as possible, be initiated, reviewed and accepted by the same authorities (i.e. the incumbents) who had written the reports initially, but the CRs shall not be sent to the officers who have since retired. Similarly CRs shall also not be sent to the Ministers/Deputy Ministers/Ministers of State etc. who do not hold any such office at present.
- (c) In case any of the reporting officer/reviewing officer/accepting officer is not available for any of the reasons indicated in (b) above then the CR shall be written/reviewed/accepted by the next authority has since retired/ do not hold office at present then the next higher authority, if any, shall be accepting authority. Alternatively the reviewing authority shall be considered as the accepting authority.

(H.P. Govt. Deptt. of Personnel O.M. No. 8-69/71-DP (Apptt.II) Vol.II dated 18-10-1976 – Annexure -35.2)

35.3 Consolidation of Instructions issued by various Deptts. – Action by all Departments

Instructions issued by the various Departments from time to time on specific subjects tend, over a period to time, to become very bulky and involved and anyone dealing with the

subject necessarily takes a long time to find out the correct or latest position. Sometimes, such instructions, issued at different intervals of time, may even be inconsistent leading to genuine doubts. The absence of clear up-to-date instructions on the topics is one of the causes of delay and also makes an exercise of delegation of power difficult. It is, therefore, necessary that instructions on different subjects should be scrutinized periodically and consolidated instructions issued in the following manner:-

- (1) It should be in supersession of all previous orders so that there will be no need to refer to any of the previous orders.
- (2) It should be fully self-contained and should avoid any reference to previous orders.
- (3) It should be arranged and presented in a logical form with suitable appendices and forms to be used.

Action in this behalf has to be initiated in every department and as a first step it is necessary that each section in a department prepares a list of subject for which compilation/consolidation of the orders issued by them is necessary. This list should then be approved by the Secretary concerned. The Section Officer concerned may thereafter be asked to prepare the draft according to a time-bound programme which could vary from section to section depending upon the nature and quantum of work but the programme for the entire department could be finalized within a period of one month.

(H.P. Govt. Deptt. of Personnel (AR) Chief Secretary' D.O letter No. PER(AR)(A)(3)-1/76 dated 12/14th January, 1976 to the Finance Secretary, H.P. Govt. – **Annexure -35.3**)

35.4 Settlement of Pension, Gratuity, Provident Fund and other claims of retired Government servants.

A large number of complaints from the retired Government employees in regard to the finalisation of their claims for payment of pension, death-cum-retirement gratuity, provident fund and other claims are being received. It is really unfortunate that inspite of considerable improvement and streamlining, the proceeded for finalising the pension, gratuity cases the delay in finalisation of these cases still continues to take place in a large number of cases. This could partly be attributed to lack of seriousness and a sense of urgency on the part of officials handling pension cases at various levels. Petty objections often delay the whole process. As a result the retired employee have to run from pillar to post and at times they get so frustrated that they start writing to higher authorities and sometimes resort to litigation. Some also voice their grievances through the newspapers by writing letters to the editor. There is no reasons why a retiring Government servant should not get his legitimate retirement dues i.e. pension, death-cum-retirement gratuity, leave encashment, commuted value of pension, provident fund etc. on the last date of his

retirement. Similarly he should also be able to get pension like the monthly pay soon after retirement.

Moreover since an officer becomes eligible for full pension on completion of 33 years of service it is unnecessary to wait till actual retirement for issue of pension payment order in such cases. To expedite finalisation of these cases the following measures are suggested:-

- (i) After an officer has completed 33 years of service thus being entitled to full pension, his pension papers may be prepared and pension payment orders issued though the actual payment would start from the month following the month of retirement.
- (ii) Payment order for gratuity, Provident fund dues, leave encashment etc. could be issued in the last quarter of employee's service and actual payment could be made after his retirement.

It has also been decided to hold half-yearly meetings of all the Secretaries and Head of Departments under the Chairmanship of the Chief Secretary to review the pending pension cases department-wise. The Accountant General, Himachal Pradesh, will also be requested to attend the meeting. Administrative Secretaries and all Heads of Departments should review all pending terminal benefits cases personally so that these are expeditiously settled. They should send details of all such cases to Finance Department, the Personnel Department and the Accountant General.

With these procedural rationalisation there should be no scope for delay in payment of pension etc. provided officials dealing with these cases show the required understanding and urgency and also exercise judgement to overrule petty or technical objections.

(H.P. Govt. Deptt. of Personnel letter No. Per(AP.II)B(14)-1/84 dated 2-2-1985 – **Annexure -35.4**)

35.5 Return from leave

It has been noticed by the Government that on many occasions, the officers/employees do not return to the headquarters after the expiry of the sanctioned leave and the non-availability of Railway/Air reservation is some time stated to be the reason. Under these circumstances, besides uncertainty, the distribution of work is also upset. Accordingly a responsible officer/employee should ensure, at the time of proceeding of leave that, as far as possible, be return to his duty after the sanctioned/notified leave. If there be any doubt about the reservation of seats for return, then the officer/employee concerned should, if need be got reservation for return alongwith the reservation for proceeding on leave.

(H.P. Govt. Deptt. of Personnel letter No. Per (AP.II)A(3)-1/89dated17-2-1992 – **Annexure -35.5**)

35.6 Referring of cases to the Department of Personnel for advice – Procedure regarding.

A number of cases are being referred to the Department of Personnel for advice and there seems to be a general tendency in the other sections of Secretariat and the Heads of Departments to refer all cases to this Department for giving advice even where they are fully competent to take decision themselves, and the orders/instructions are in unambiguous terms. This not only generates avoidable work but also leads to delay in the final disposal of the cases. Moreover, the Administrative Departments are of their own referring cases to the Department of Personnel for concurrence without taking up the matter with the Public Service Commission where reference is required to be made to the Commission. It may be clear that once rules on a particular matter are approved, the Secretary of the Department is competent to make a reference to the Public Service Commission for any advice where reference to the Commission is felt appropriate.

It has also come to the notice that direct references are quite often received from the Heads of Departments by-passing the Administrative Secretaries. This procedure is irregular and against all official propriety. This sort of practice needs to be discontinued forthwith.

It has also been noticed that the Department of Personnel is given piece-meal information by the administrative departments whenever any information is sought from them on some important matters. Usually they furnish partial information and for the rest it is stated that the same is being procured. This practice not only delays the matter but also increases the avoidable work load in the Department of Personnel and should be avoided.

(H.P. Govt. Deptt. of Personnel letter No. Per (AP.II)B(19)-5/80 dated 3-4-1981 – **Annexure -35.6**)

35.7 Defending of cases in the High Court of Himachal Pradesh - Filling of affidavits and discussion with the Advocate General etc. - Instructions regarding.

(1) Filling of affidavit in Govt. cases in the Hon'ble High Court and discussion relevant to the cases with the Advocate general is a matter of considerable responsibility and importance. It has been noticed that in some cases affidavits on behalf of State Govt. are not filed sufficiently senior officers. Where files are required to be shown to the Advocate General, the Departments generally depute Clerks/Assistants to take files to the Advocate general for discussion. The Advocate General finds it difficult to discuss important points

concerning the case with such junior officials. It has, therefore, been decided by the Government in future:-

- (i) all affidavits in the Hon'ble High Court on behalf of the Govt. should be sworn in by the officer not below the rank of Deputy Secretary to the Government. In Departments which have no deputy or Joint Secretary, Under Secretaries may continue to file affidavits.
- (ii) where files are required to be show to the Advocate General, the concerned Section Officer/Supdt. Grade-I should discuss such files with the Advocate General.
- (iii) where officers are summoned to the high court in Govt. cases, they should be present there at 10.30 A.M sharp on the date of hearing.

(H.P. Govt. Deptt. of Personnel letter No. Per (AP.II)E(3)-283 dated 13-1-1984 - **Annexure-35.7**)

(2) it is clarified that in cases where the Deputy Commissioners and Heads of Departments as the case may be are impleaded as a party, affidavits, in such cases are required to be filed before the Hon'ble High Court by the concerned Deputy Commissioner/Head of Departments.

(H.P. Govt. Deptt. of Personnel letter No. Per (AP.II)E(3)-283 dated 31-1-1984 - **Annexure-35.8**)

(3) In continuation of instructions at (1) and (2) above, it has brought to the notice of the Government by the Advocate General that the Departments do not pay due care towards the Govt. cases in the court, including writ petitions, in regard to the filing of replies/affidavits within the stipulated time and production of relevant records. As a result the Government's position is rendered awkward in the High Court. Some important procedural requirements as pointed out by the Advocate General are given below:-

(a) Record: where any case including writ petition is posted for admission or hearing the Advocate General intimates the concerned Department to send the relevant record through a responsible officer to the Court. In a majority of cases the record is sent by the concerned department through those officials who are not completely conversant with the facts of the case, as a result of which no valuable of effective assistance is possible. The officials are sent at times are not in a position to show the relevant documents needed during the course of hearing. At time some assurances on certain matters are needed from the department at the spur of moment in the Court. In that event the junior officials deputed by the departments are not in a position to say anything. Apart from this, incomplete record is

sent. It is, therefore, desired that in future, records of the cases complete in all respects should be sent by the Departments through responsible offices to the Advocate General.

(b) Replies: it has often been found that the replies are not filed in the cases of miscellaneous petitions in time, as a result of which disposal of cases is delayed. There may be certain cases where the information is to be collected from different places and record is to be consulted before preparing and filing the reply. As a matter of rule, such matters deserve top priority from officers of the concerned Departments so that timely replies are filed in the Court. In many cases, departments file evasive replies or they prefer to be silent on certain points inspite of the fact that they are advised by the Advocate General to be specific and precise in their replies. Evasive reply or silence on nay point impliedly means admission by the party. Therefore, this tendency must be discontinued forthwith.

(c) Annual Confidential Reports: It has been observed that sometimes adverse remarks in the Annual Confidential Reports are incorporated by the Reporting Officers on the basis of no record. Such Reports are also accepted by the Reviewing and the Accepting Authorities. The legal position in respect of this aspect of matter is a settled one. The Reporting, Reviewing and Accepting Authorities should be made aware of this aspect. In some cases Annual Confidential Reports are not written by the Reporting Authority within the stipulated period and adverse remarks are also not conveyed to the concerned persons. Basically such remarks are not brought to the notice of the officer/official concerned cannot be used against him. The representation of Government servant against such remarks is not decided for a long time. This does not give a health impression to the court about the working of the Government. The Government has prescribed a calendar for writing, reviewing, accepting of ACRs, conveying of adverse remarks and deciding representations against the adverse entries. The instruction of the Government on the subject should be adhered strictly.

(d) Seniority List: The seniority lists are often changed on the representation made by the affected employees without giving an opportunity indicating the reasons against the proposed action to the other affected persons. Therefore, if after receiving and considering the representations against the seniority list, it is found that the same had been prepared erroneously the other employees who are affected by the proposed change must be given an opportunity to show cause against the proposed action. In case such procedure is not followed, the changed seniority lists cannot stand the test of legal scrutiny in the Courts.

(e) Time barred matters: it has often been found that appeals/revisions or other replies which are time-bound matters are at times referred to the Advocate General either when

the limitation is already over or it is about to be over. This practice is not a healthy one. The Departments should take timely action in such matters.

(f) Implementation of Judgements: It has been found that in many cases judgements/orders of the Hon'ble High Court are not implemented properly and promptly. This give rise to many complications. At times contempt petitions are brought against the Government or the matter is otherwise brought to the notice of the Court through civil miscellaneous petitions. When the Court comes to know that the orders thereof have been delayed, they take exception to it. All concerned should ensure that judgements and orders are implemented at once.

(H.P. Govt. Deptt. of Personnel letter No. Per (AP.II)E(3)-283 dated 1-3-1984 - **Annexure-35.9**)

35.8 Implementation of decisions of the Courts - Instructions regarding

(1) As pointed out in sub para (f) of para 35.7 (3) it has been found that in many cases judgments/orders of the Hon'ble High Court are not implemented properly and promptly, giving rise to many complications. At times contempt petitions are brought against the Government or the matter is otherwise brought to the notice of the Court through Civil Miscellaneous Petitions.

The Hon'ble Himachal Pradesh High Court in its judgement dated 17th July, 1984 (Shri Hand Raj Dhir Vs. State of Himachal Pradesh and others- copy enclosed with Annexure 35.10) have made certain observations and given directions for implementation of Court orders which need be noted carefully. As directed in the aforesaid judgement, there is imperative need to implement the decision rendered by the Court of law with utmost expedition, unless, an appeal is preferred against such a decision and an application for stay is moved and granted by the appellate court, or , in the alternative , the court which rendered the decision is moved and grants an interim stay of the decision pending the preferment of an appeal and grant of stay by the appellate court.

(H.P. Govt. Deptt. of Personnel letter No. Per (AP.II)E(3)-2/83 dated 14-11-1984 - **Annexure-35.10**)

(2) Though clear instructions were issued on 14th November, 1984 (Annexure 35.10) yet another instance has been brought to the notice of the Government in which the contempt petition came up for hearing before the Hon'ble Chief Justice of the High Court of Himachal Pradesh on 30-11-1984. In this case the orders of the Hon'ble Court were not implemented within the prescribed time limit by the respondents. The Hon'ble High Court

however, discharged the notice of contempt but reiterated that it is essential to seek extension of time for implementing time bound orders of the Court.

In a case where the authority concerned is unable to implement the orders of the Court within the given time-limit, the concerned Court must be moved for extension of time, giving good and sufficient reasons therefore. The Hon'ble High Court has further observed that this is not a solitary instance of this kind but the Court has repeatedly impressed upon the learned Advocate General the need to follow the correct procedure in such cases, and the Court expects that such a case will not be required to be dealt with by it again.

Instructions have been issued from time to time for defending the Government cases in the Courts in a prescribed manner and also to implement the decisions/orders of the Court promptly. But instances of lapses on the part of the departments are still coming to the notice of the Government. The Government have taken a serious view of the irregularities committed by the authorities concerned. I am, therefore, to request you to again to issue suitable instructions be issued to all concerned to implement orders of the Courts within the prescribed time-limit, failing which strict action would be taken against the concerned officer/official. In case of any difficulty in implementing the orders of the Court, necessary extension of time-limit should invariably be sought from the Court within the prescribed time.

(H.P. Govt. Deptt. of Personnel letter No. Per (AP.II)E(3)-2/83 dated 2-1-1985 - **Annexure-35.11**)

35.9 Procedure for handling petitions relating to personnel matters filed in Courts, Administrative Tribunal - filing of replies by Administrative Departments.

The Department of Personnel is a nodal department responsible for formulating policies and framing rules relating to pre-mature retirement, seniority, promotion, disciplinary proceedings, reservation for scheduled castes, scheduled tribes, ex-servicemen etc. and other aspects of personnel administration. The administrative departments are responsible for considering individual cases of Government Servants and issuing appropriate orders thereon in accordance with the rules and instructions on the subject and in consultation with the Department of Personnel, if considered necessary.

A number of petitions are filed by the Government Servants in the H.P. Administrative tribunal challenging the orders issued by the Administrative Departments in individual cases in which the relevant rules and instructions on the basis of which the impugned orders have been issued are also challenged. In most of these cases the Department of Personnel is also impleaded as one of the respondents for the reasons that the relevant

rules and instructions were issued by the Department of Personnel or that the impugned orders were issued in consultation with Personnel Department.

In all such cases petitions are contested by the Administrative Departments concerned both on its behalf as also on behalf of the Department of Personnel, if necessary, in consultation with the latter. However, in some cases, the Administrative Departments insists on the Department of Personnel defending the Government action on the ground that the rules/instructions challenged in the petitions were issued by the Personnel Department. This is not a correct procedure to follow. Since each case is to be contested on the basis of the specific facts and circumstances relevant to it, the Administrative Department will be in a better position to defend the case. If however, any clarification is required on the interpretation or application of the rules or instructions relevant to the case, the concerned department may consult the Finance Department in matters relating to the subjects assigned to Finance Department including pension and other retirement benefits and in respect of other matters relating to seniority, promotion etc. the Department of Personnel be consulted. Such consultation can include vetting of the relevant paras of the draft replies and such references will be handled with utmost priority in the Departments of Finance and Personnel. However, the primary responsibility for contesting such cases on behalf of the Government will be that of the Administrative Departments concerned.

(H.P. Govt. Deptt. of Personnel letter No. Per (AP.II)E(3)-2/83, dated 28-4-1989 - Annexure-35.12)

Deputation/foreign service - Maximum tenure, extension of tenure, Retention of Lien, Absorption and Reverse Foreign Service.

35.10 Consultation with Himachal Pradesh Public Service Commission for filing of posts by deputation.

It has been brought to the notice of the Govt. by the State Public service Commission that Government Departments do not consult the Commission before filing posts by deputation. All Departments are requested to consult the Commission before filing any post the minimum of which exceeds Rs. 299/- by deputation (Now the limit of Rs. 299/- does not exist in HPPSC (Exemption from Consultation) Regulations, 1974 and as such the Departments should see to the Recruitment and Promotion Rules and the aforesaid Regulations for ascertaining whether Commission's consultation is required or not). The initial period of deputation should not be more than three years, but according to needs it can be less than three years. If the initial period of deputation is to be further extended, then before the expiry of this period, the Public Service Commission should again be

consulted. Similarly if an officer/employee taken on deputation is to be permanently transferred to the department, the Public Service Commission should be consulted before taking such action.

(H.P. Govt. Deptt. of Personnel letter No. 8-17/73-DP (Niykti-II) dated 20-7-1979 - **Annexure-35.16**)

35.11 Maximum period of deputation of Government servants.

It has been noticed by the Government that some of the officers/employees of the State Government are continuing to be on deputation with other Governments or organisations for a long period. Long duration of deputation is not in the interest of the entire cadre management and efficiency of administration. Even otherwise the post/department is deprived of the services of an incumbent recruited for the said post/department. At the same time due to long term deputation, the future of the incumbent recruited or promoted remains uncertain and he cannot be confirmed. This adversely affects the efficiency of the said employee. The utility of the employee on deputation also decreases to the parent department due to long absence from the department. Under the circumstances it is essential that the departments should not violate the maximum prescribed period of deputation.

Keeping in view the above position, the deputation period should under no circumstances be extended beyond 5 years. The officers/employees who have been on deputation for over 5 years period may be recalled to the parent department early. If in any specific case, it is unavoidable to retain an employee on deputation exceeding five years as an exception, then the Department should give full detailed justification so that the Personnel and Finance Departments could give their opinion after thorough consideration. Strict compliance of these instructions be ensured.

(H.P. Govt. Deptt. of Personnel letter No. 8-17/73-DP (Niykti-II) dated 28-3-1979 - **Annexure-35.15**)

Deputation period of employees of H.P. Govt. to S.S.B Organisation.

After reconsideration, the H.P Govt. have decided that the instructions dated 28.3.1979 as above, will not be applicable to the officers/employees on deputation with S.S.B Organisation. The deputation period can be extended beyond 5 years according to need in the case of desirous employees whom the S.S.B Organisation wants to retain and their parent departments want to extend their deputation period.

(H.P. Govt. Deptt. of Personnel letter No. Karmik (Ni-II)B(15)-14/74, dated 25-7-1979 - Annexure-35.17)

35.12 Extension of period of deputation of Government officers/ officials - when Personnel Department need be consulted.

It has been observed that the cases relating to the extension of deputation period beyond three years are being referred to the Department of Personnel for concurrence. According to the existing instructions issued by the Finance Department vide their letter No. Fin(c)A(2)-8/77, dated 7-5-79, the Administrative Department are competent to send their employee on deputation, foreign service, subject to the condition that ordinarily, the period of deputations does not exceed 3 years at a time, and in no case, more than five years. Only such cases where deputation period of 5 years has been completed and deputation period is required to be extended further should be referred to Personnel Department, giving full justification.

(H.P. Govt. Deptt. of Personnel letter No. 8-17/73-DP (Apptt-II), dated 30-5-1986 - Annexure-35.20)

35.13 Deputation of officers/officials to corporation/semi- Govt. organisation – Procedure for reversion.

It has come to the notice of the Govt. that there is a growing tendency on the part of Corporation/Semi-Govt. organisations who take staff on deputation from H.P. Sectt. and from other offices for a specified period to revert such officers/officials to their lending department without prior notice before the expiry of the tenure of deputation. Such instant reversion of staff without any notice and without concurrence of the lending authority dislocates the arrangements made in place of deputationist. This action also adversely affects the working in lending offices and leads to various other administrative inconvenience. This state of affairs does not set a health example as the terms of agreement reached between the borrowing and lending departments in respect of deputationists are binding on both sides and cannot be broken unilaterally by either of them.

In order to meet the situation it has now been decided that the deputationists should not be reverted to the parent offices abruptly before expiry of their deputation. If, at all, it is considered desirable in the exigencies of the public service to revert the deputationists before the expiry of the period of deputation, a notice of at least three months should be given for this to avoid any administrative inconvenience and dislocation of arrangements already made in this behalf.

(H.P. Govt. Deptt. of Personnel O.M No. 8-50/68-Apptt.II Vol.II dated 29-7-1981 - Annexure-35.18)

35.14 Retention of lien of permanent Govt. servants on deputation/Foreign Service to other Government Departments Public Sector Undertakings/Autonomous Bodies etc.

It has been noticed by the Government that some of the Government servants on deputation/foreign service who have completed their prescribed tenure neither tender resignation from their parent post nor revert to their parent post. In this behalf it has been clarified that for the following reasons disciplinary action can be initiated against the said employees for violating the undertaking (assurance) :-

- (i) When any Government servant applied for any post in other Department / substantially financed or wholly owned public sector undertakings/autonomous body, then the undertaking given by him is voluntary. The Government is at liberty to specify any specific condition in forwarding any application. When the Government once forwards the application after obtaining an undertaking, then the undertaking, if need be, can be enforced. The Government servant cannot withdraw the undertaking after the forwarding of the application.
- (ii) The undertaking given by a Government servant is a formal act and it is expected that he will abide by it. If any Government servant wants to withdraw the undertaking, then such a conduct would be unbecoming for him. If he is under the same Government, then he can also be reverted and if he is under some other Government, then a request can be made for his reversion.
- (iii) F.R. 13 applied to the permanent employee and while on foreign service, his lien on the post concerned can be retained till such time the same is not terminated under F.R 14 or 14 (b) (now FR-14-a and 14-B) or is not transferred. The lien of a Government servant who voluntarily applied for an ex-cadre post cannot be terminated, but for violating the undertaking (assurance), Department can initiate disciplinary action against him.

The claim of the concerned employee for confirmation can be considered in his absence, but he can be confirmed only when he returns to the parent Deptt. with regard to the proforma promotion under the next below rule, the guidelines may be seen in Chapter-16.

(H.P. Govt. Deptt. of Personnel letter No. 8-50/68-Niyukti-II-Vol-III dated 18-5-1978 - Annexure-35.13)

35.15 Absorption of staff taken on deputation – clarification regarding date of absorption, seniority etc.

In certain cases Government departments obtain the services of employees/offices working in different Government Departments or autonomous bodies and after having put in some service in the borrowing department, either the borrowing Department intend absorbing the employee/officer concerned in the Department or the employees concerned seek absorption in the borrowing Department.

In this context, a question has been raised about the date from which an employee/officer is to be absorbed in the borrowing Department. All possible alternatives and their effects have been considered. The absorption of a deputationist in the borrowing Department can in fact be made only if it is permissible under the rules or is permitted by relaxing the rules. Absorption of a deputationist can further be made only when an appropriate order is passed by the competent authority after observing necessary procedure/rules including consultation with the Public Service Commission, wherever necessary. Thus the orders can take effect only prospectively. It has accordingly been decided that the absorption of a deputationist in the service of the borrowing department shall have prospective effect in all cases and the service rendered while on deputation will not count for seniority after such absorption in the borrowing department.

An exception to the above decision, can, however, be made by ordering retrospective absorption only if it causes no disadvantage to those recruited otherwise than by absorption after the date from which retrospective absorption is sought to be ordered and the employee concerned agrees to refund the amounts paid by the Government as deputation pay, leave and pension contributions etc. even in such cases retrospective absorption should be ordered only sparingly and that too in consultation with the Finance Department and the Department of Personnel.

The posts to be filled by absorption of deputationists are to be considered as appointment by transfer. It has accordingly been decided that unless the relevant rules provide otherwise, such appointments are not to be taken into account for the purpose of maintaining roster/rotation of vacancies for various purposes.

It is further clarified that the above decisions do not apply to absorption of officers/officials on deputation with organisations other than the Departments of the Government of Himachal Pradesh in their borrowing institutions, these apply only to absorption of officers/officials on deputation from the Central Government or any other State Government or any non-Government or Semi-Government organisation to a Department of the Government of Himachal Pradesh or from one Department to another Department of Government of Himachal Pradesh.

(H.P. Govt. Deptt. of Personnel letter No. Per(AP.II)B(19)-8/78 dated 16-1-1979 - Annexure-35.14)

35.16 Permanent absorption of Government employees in the Autonomous Bodies- Delegation of powers to the Administrative Departments/ Heads of Departments.

The Government of India, Ministry of Personnel, PG and Pensions delegated powers to the administrative Ministries/ Departments to grant pro-rata retirement benefits to the Central Government servant of their absorption in the autonomous bodies on the terms and conditions as had been laid down in Minister of Finance O.M No. 28(18)EV(B)/75 dated 8-4-1976, as amended from time to time. The delegation orders as contained in Govt. of India, Ministry of Personnel, PG & Pensions, Department of Pension and Pensioner's Welfare O.M. No. 4/5/86-P&PW dated 26-5-1986 were circulated to all concerned vide H.P. Govt. Department of Personnel O.M No. 8-17/73-DP (Apptt.II) dated 31-7-1986 and while doing so it was decided by the Govt. that sanction orders for the grant of pro-rata retirement benefits will be issued by the authorities whom the powers had been delegated vide H.P. Govt. Finance Department O.M No. Fin(C)A(2)-8/77 dated 7-5-1979 to send officers/officials on deputation. Govt. of India's aforesaid O.M dated 26-5-1986, together with standard form for issuing sanction and the H.P. Govt. Department of Personnel O.M dated 31-7-1986 are at **Annexure-35.21** .

35.17 Terms of appointment of employees of public sector undertakings on reverse foreign service in H.P .

The Govt. of India, Ministry of Home Affairs, Department of Personnel and Administrative reforms issued detailed instructions to regulate pay and allowances of employees of public sector undertakings on deputation under the Central Govt. vide letter Bo. 1/4/84-Estt. (P-II) dated 26-12-1984. The H.P. Govt. Personnel Department decided vide letter No. 8-17/73-DP(Apptt.-II) dated 27-3-1985 that the instructions contained in the aforesaid letter of the Govt. of India will also be applicable in Himachal Pradesh as well, where an employee of the public sector undertakings in H.P happens to be on reverse foreign service in Govt. Department of this State. Copy of the State Govt.'s letter dated 27-3-1985 and Govt. of India's letter dated 26-12-1984 are given in **Annexure 35.19**.

35.18 Permission to Government servants to join Territorial Army.

Recruitment to the Territorial Army is mainly, confined to the persons who are already gainfully employed in their civil life and as such the main source of recruitment to the Territorial Army is civil Government servants, employees of bid industrial concerns and private business, Territorial Army is a second line of defense of the country. It is the policy of the Govt. of India to encourage civil Government servants to join the Territorial Army. In view of the importance of the Territorial Army in the defense of the country, it is

essential that no impediments should ordinarily be placed in the civil Government servants volunteering to join the Territorial Army. Instructions have accordingly been issued to all Government Departments, Public Sector Undertakings /Corporations to encourage their employees to join the Territorial Army and also for not imposing any restrictions on them.

[H.P. Government Department of Personnel letter No. Per (AP.II)B(19) -6/94-I dated 17-5-1995 with Govt. of India, Minister of Defence communications as under:-

- (1) Letter No. PC-34738/Policy/TA-4/2830/SO/D(GS) dated 29-12-1994
- (2) O.M No. OC to MF 34738/Policy/TA-4/2881SO/D(GS) dated 29-12-1994
- (3) O.M. No. PC 58968/GS/TA-3/779/B/SO-II (GS-III) dated 20-05-1971
- (4) O.M. No. PC 58968/GS/TA-3/2570-A/SO-II (GS-III) dated 25-11-1968.

- **Annexure 35.22]**

35.19 - Regularisation of services of adhoc appointees

With regard to regularisation of services of adhoc appointees working in various Departments, the State Government after through consideration decided that the services of all categories of adhoc employees in Class-I, II, III & IV shall be regularised from the date of issue of instructions i.e. dated 30-11-1996 subject to fulfilling of the following norms/terms & conditions:-

1. Services of all such adhoc employees who have completed 5 years continuous service on or before the date of issue of these instructions, shall be regularised subject to the number of vacancies available;
2. They must possess the essential educational qualifications i.e. both academic and professional and should be within the age limits as prescribed in the Recruitment and Promotion Rules at the time of adhoc appointments;
3. Services of only such adhoc employees shall be regularised who have been recruited/working against regular permanent/temporary posts;
4. The employees shall be regularised against the posts/vacancies of relevant categories. The employees of general category may be regularised in excess of their quota with the clear stipulation that in future recruitments only the candidates from reserved categories will be appointed until the backlog arising out of utilization of reserve category vacancies by general category adhoc employees is cleared;
5. Those adhoc employees who have not completed 5 years service on the date of issue of these instructions will continue to work as such provided they fulfill the requisite qualifications as mentioned above. Their services shall, however, be regularised as and when they complete the minimum requirement of 5 years service.
6. The services of those adhoc employees who have completed 5 years of service but do not fulfill the requisite qualifications as mentioned vide Sr. No. 2 above, will not

terminated and they will be given one year's time to acquire the requisite qualifications from the date of issue of these instructions for the regularisation of their services.

7. The seniority of the adhoc employees as are regularised under this policy vis-à-vis employees appointed on regular basis shall be determined on the date of issue of these policy instructions. The inter-se-seniority of such adhoc employees shall be determined in accordance with the date of joining the post on adhoc basis. If the date of joining the post(s) on adhoc basis by such adhoc employees was the same, then the older employees shall rank senior to an employee younger in age. If the date of joining of the direct recruit and date of regularisation of adhoc employee is the same, the direct recruit shall rank senior.
8. The Department(s) shall be required to make prior consultation with the H.P. Public Service Commission for regularisation of services in case of those posts which fall within the purview of the H.P. Public Service Commission.
9. In pursuance of these instructions the Departments concerned shall be competent to issue formal orders for the regularisation of the services of individual employees at their own level.

(H.P. Govt. Department of Personnel letter No. PER(AP-II)B(2)-5/86-III dated 30th November, 1996 – **Annexure 35.23**)

35.20 - Revision of existing orders regarding casual leave

With regard to admissibility of proportionate entitlement of casual leave to the government servants, the government after due consideration decided to issue the following instructions

- (iii) In regard to persons who join the government service in the middle of the calendar year the authority competent to grant such casual leave shall allow casual leave at the calculated rate of one casual leave for one month only.
- (iv) In regard to the persons who retire from the government service shall be entitled to casual leave proportionate to period he serves the government at the rate of one casual leave for one month.

(H.P. Govt. Department of Personnel letter No. 4-3/72-DP (AP-II) Vol.-III dated 18th Feb., 1997 – **Annexure 35.24**)

35.21 - Initiation of timely action for filling up of vacancies by direct recruitment-Instructions regarding.

(i) It has been observed by the Government that some appointing authorities were not initiating action for the filling up of vacancies by way of direct recruitment well in advance resulting delay in filling up of the functional posts and suffering of the developmental work. As the process of filling up the posts by way of direct recruitment is lengthy and the functional posts cannot be kept vacant for long, therefore, it is obligatory on the part of the

Administrative Departments/Head of Departments to work out the number of vacancies likely to occur during a particular year and to complete all codal formalities required to fill up the vacant posts by direct recruitment, the State Government impressed upon that timely and prompt action should be taken in such cases.

(H.P. Govt. Department of Personnel letter No. Per(AP-II)B(3)-1/94 dated 31st March, 1997 – Annexure 35.25)

(ii) Initiation of timely action for filling up of vacancies by direct recruitment- Instructions regarding - Implementation of decision of the Hon'ble High Court of Himachal Pradesh

Prior to the issuance of instructions dated 31-03-1997, the Departments used to send the requisition for filling up of the vacancies in phased manner which ultimately resulted in clubbing of vacancies for years together. The matter of clubbing of vacancies in respect of HAS/HJS and H.P. Subordinate Treasury, Revenue and Allied Services was agitated before the Hon'ble High Court of H.P. vide CWP No. 264/97 titled Shri Y.R. Pathak Versus State of H.P. and others. The Hon'ble Court while deciding the petition on 27-8-97 observed that the State Government and the Public Service Commission should see that examinations are held every year as contemplated by the Rules and vacancies arising in each year are filled up without delay. The Hon'ble Court also observed that the merit list can be prepared on the basis of written examination and oral interview not only for the existing vacancies but also for the anticipated vacancies arising in the near future but there should be a requisition and an announcement thereof by advertisements or otherwise for such vacancies.

Accordingly, the State Govt. decided that in respect of the vacancies which are required to be filled up annually under the R&P Rules through H.P. Public Service Commission by conducting competitive Examination, the Appointing Authorities shall work out the existing and anticipated vacancies for the calendar year and furnish a requisition to the Commission in the month of January every year after obtaining the approval of Finance Department to filling up the vacancies enabling Commission to make advertisements in the news papers and State Gazetteer well in time and complete the process of selection within the same calendar year. Any requisition received after the last date of receipt of the applications for such vacancies shall not be included for the purpose of selection from that examination. The State Government also decided that these instructions shall also be applicable in respect of the other vacancies required to be filled up by direct recruitment through the H.P. Public Service Commission.

(H.P. Govt. Department of Personnel letter No. Per(AP-II)B(3)-1/94 dated 19th June, 1998 – Annexure 35.26)

35.22 - Consultation/Advice with H.P. Public Service Commission

All cases as mentioned in Article 320 (3) (a) to (c) barring those which have been exempted from consultation under H.P. PSC (Exemption from Consultation) Regulations

1973 framed under proviso to clause (3) of Article 320 of Constitution of India are required to be referred to the Commission for consultation. After observing that the proposals are not being sent by the departments concerned on the prescribed form for consultation even some times they do not refer the cases to the Commission at all. The reasons for such non-consultation inconvincingly are assigned shortage of time. The Commission informed that the cases of recruitments/promotions are directly placed before the Council of Ministers for its approval without consulting the Commission causing appearance of cases of non-consultation/non acceptance of advices in the Annual Administrative Report of the H.P. Public Service Commission for which reasons have to be explained by the Government to the House in every Report. This is not only increasing the unnecessary volume of work but also violate Article 320 Clause (3) of the Constitution of India. The State Government, decided that all cases which are required to be referred to H.P. Public Service Commission under Article 320(3) of the Constitution for consultation may invariably be sent to the Commission for its advice/consultation so as to avoid the occurrence of such situation in future.

(H.P. Govt. Department of Personnel letter No. Per(AP-B)B(2)-3/99 dated 31st July, 1999 – Annexure 35.27)

35.23 – Abolition of Affidavits – Introducing Self certification

(i) In the day to day functioning of the government, It was experienced that submission of affidavits (on Stamp Paper and attested by Magistrates/notaries) by applicants for various purposes is going on for a long time which appears redundant but it is insisted upon by lower level functionaries either due to ignorance of law or simply continued as a practice adopted in the past which, in reality, serves no purpose. After the State Government decided to do away with affidavits in government functioning and introduce self certification of document. All Agencies/departments/ organizations in the Government were directed to immediately dispense with the practice of obtaining affidavits from the public except in those cases where Act/Rules specifically provide for furnishing of an affidavit. Any official asking for an affidavit in the normal transactions of govt. business, unless the affidavit is required under a statutory provision, may invite appropriate action for defiance/violation of government directions. Instead only a self certified declaration on plain paper will be obtained from such applicants. The orders shall not be applicable to Courts or to other bodies discharging functions of judicial or quasi judicial nature e.g. Consumer Commission, Administrative Tribunal, Lokayukta etc. With regard to an apprehension that may arise i.e. “what if any person gives a false or incorrect declaration?”, the reference was invited to Section 199 and 200 of the Indian Penal Code (reproduced), which is sufficient to allay such apprehensions :-

Section 199. False Statement made in declaration which is by Law receivable as evidence.

“Whoever, in any declaration made or subscribed by him, which declaration any court or Justice, or any public servant or other person, is bound or authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object

for which the declaration is made or use, shall be punished in the same manner as if he give false evidence.”

Section 200. Using as true such declaration knowing it to be false.

“Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false Evidence.

(H.P. Govt. Department of Personnel ARO letter No. Per(AR)A(4)-3/2013-Part-I dated 31-01-2015 – **Annexure 35.28**)

(ii) In continuation of O.M dated 31 January, 2015 (Anenxure 35.28) vide which it was clarified that submission of affidavits (on Stamp Paper and attested by Magistrates/notaries) by applicants for various purposes serves no purpose whatsoever because every affidavit to be procured by any citizen subjects to great cost in terms of energy and efforts besides money the cost of which may vary from 20 to 200 rupees for each affidavit and which serve no purpose, the Government reiterated and decided to do away with affidavits in government functioning and introduce self certification of document. All Agencies/department/ organizations in the Government have been directed to immediately dispense with the practice of obtaining affidavits from the public except in those cases where Act/Rule specifically provide for furnishing of an Affidavit. Any official asking for an Affidavit in the normal transactions of government business, unless affidavit is required under a statutory provision, may invite appropriate action for defiance/violation of government directions. Instead only a self certified declaration on plain paper will be obtained from such applicant. It has been made clear that the orders shall not be applicable to Courts or to other bodies discharging functions of judicial or quasi judicial nature e.g. Consumer Commission, Administrative Tribunal, Lokayukta etc.

(H.P. Govt. Department of Personnel ARO letter No. Per(AR)A(4)-3/2013-Part-I dated 11-06-2019 – **Annexure 35.29**)

(iii) After came into notice that the self certified declaration obtained from applicants are not being kept in safe custody by some offices in the Government especially at the cutting edge of public service delivery. The Government re-iterated that safeguarding & maintaining records of self certified declarations as obtained from applicants is the responsibility of the concerned officer/official, as such, documents may be required at any time for spot verification of declarations made.

(H.P. Govt. Department of Personnel ARO letter No. Per(AR)A(4)-3/2013-Part-I dated 18-01-2020 – **Annexure 35.30**)

35.24 - Un-authorized drawal of salaries of employees by the DDOs in various departments in Himachal Pradesh.

(i) The State Government observed that as a result of faulty orders/implementation more than one official joins at a station against a post whereas such posts remain vacant at other places. Further, even most of the departments allow the officials to work at a particular station over & above the sanctioned strength and their salary is drawn from the station where such vacancies are lying vacant. This action on the part of Departments not only creates financial irregularities thereby inviting unnecessary audit objections, but also leads to overstaffing at other stations. Further, this practice also deprived the population of the needy areas of services of the officials who are infact paid from these stations, but are working at other stations. This practice prevailing in the Department was viewed seriously by the State Government and decided to discontinue the same. It was also decided that in future all Drawing and Disbursing Officers shall record a certificate on the salary bill to the effect that the officials have actually worked at the station shown in the bill during the month for which salary is being claimed. A bill without this certificate shall not be passed.

(H.P. Govt. Department of Personnel letter No. Per(AP-B)F(10)-1/99 dated 1st May, 1999 – **Annexure 35.31**)

(ii) Department of Personnel vide instructions dated 1st May, 1999 stressed that the pay of the Government servants may be drawn only from the stations where they have actually worked. Large number of cases from various Departments for drawal of salaries of the surplus staff against vacancies in relaxation of the provisions of aforesaid instructions were received. The Government has considered the matter regarding identification of surplus staff as well as drawal of their salaries and after thorough consideration and in consultation with the Finance Department decided that in future the Administrative Departments shall identify the surplus employees and decide drawal of their salaries at their own level keeping in view the following guidelines:-

1. The employee who has been transferred and posted to another station and joins there as per norms, but the incumbent against whom he has been posted and who evaded such orders shall be treated as surplus. However, in case such employee obtains stay from Court, another person who has been transferred and posted against him shall be treated as surplus. The employees who are going to retire within next six months and are staying there may not be termed as surplus.
2. Salary shall be released only in such cases of surplus employees against vacancies where final adjustment has been made or the employee has retired from service or is due to retire within next six months.

3. In all such cases, the surplus period shall be treated as leave of the kind due.
4. In order to provide adequate opportunity to the concerned employees for adjustment, the period of surplus shall begin after one month from the date of joining of substitute.
5. In case of posting of two employees at one place, the concerned DDO/HOD shall take immediate steps for adjustment and relieving of surplus employees to enable them to join at their new places of posting. Courts cases shall be followed on top priority basis.

(H.P. Govt. Department of Personnel letter No. Per(AP-B)F(10)-1/99 dated 27th July, 2000 – **Annexure 35.32**)

(iii) The State Government observed that the provision as contained at Sl. No. 4 of Para 3 of instruction dated 27-07-2000 (Annexure 35.32) giving rise to Court cases in the eventuality where an employee has got stay orders from the Court/Tribunal. The State Government decided that, in future, if a transferred employee gets the transfer order stayed from the Court/Tribunal against the employee who has joined there in compliance of Government orders, in that case the period of surplus shall begin after three months from the date of joining of substitute. In such cases the salary for this period will be drawn against the vacant post available elsewhere. However, the Department concerned shall take immediate steps for vacation of stay from the Court/Tribunal. If the stay has been granted for valid reasons, the process of adjustment of surplus employee must be initiated at once. The instructions dated 27-07-2000 were modified to the above extent.

(H.P. Govt. Department of Personnel letter No. Per(AP-B)F(10)-1/99 dated 01-12-2005 – **Annexure 35.33**)

(iv) Un-authorized drawal of salaries of employees by the DDOs in various departments in Himachal Pradesh – Non-applicability in the case of teachers in Education Department.

To curb the tendency of permitting two officials to work at a particular station over & above the sanctioned strength and drawing of their salaries un-authorizedly from the station where such posts are lying vacant thereby creating financial irregularities, a uniform guidelines were issued on 1.5.1999, which were further elaborated vide letters dated 27th July, 2000 and 1st December, 2005. It was pressed upon that all Departments may adhere to these instructions/guidelines while deciding the cases for drawl of salaries of employees rendered surplus due to faulty orders or stay granted by the Hon'ble Court. Since these guidelines could not solve the specific situations prevailing in Education Department particularly in the cadre of Teachers, an independent instructions/guidelines were issued by Education Department vide their letter No. Shiksha-II (Kha) 71-2004 Vol-I dated 17th June, 2004 which were further re-iterated vide their letter dated 11-8-2008. The matter as to whether the Education Department may be permitted to regulate the adjustments on transfers if two teachers joins at some station either due to administrative

reasons or stay granted by the Hon'ble Court and drawl of their salaries has been considered in Department of Personnel and after taking into consideration the peculiar conditions prevailing in Education Department particularly in the cadre of teachers, the State Government decided that the instructions/guidelines issued by this Department vide letter referred to above shall not be applicable in the case of teachers in Education Department.

(H.P. Govt. Department of Personnel letter No. Per(AP-B)-F(10)-1/99 dated 2nd June, 2010 – **Annexure 35.34**)

(v) Un-authorized drawal of salaries of employees by the DDOs in various departments in Himachal Pradesh.

Detailed instructions/guidelines have been issued to regulate the drawal of salaries of those employees who are rendered surplus in the event when two employees are allowed to function at a particular post for one reason or the other on 27th July, 2000 and 1st December, 2005.

The Hon'ble High Court in C.M.P 4114 of 2010, C.W.P. 2843/2010 and C.M.P. No. 4112/2010 titled as Leena Sharma V/s State of H.P. & others made the following observations:-

“In many of the cases, two incumbents are working in the same post, only for the reason that an incumbent, who is transferred to a station is permitted to join duty without duly relieving the person already occupying the post. That is a highly unhealthy practice. We make it clear that an incumbent transferred to a station, shall not be permitted to occupy the transferred post without duly relieving the person already occupying the post. If the Controlling Officer does not comply with this procedure, the salary of one of the incumbents will be drawn from the salary of the Controlling Officer.

The above observation of Hon'ble High Court were brought to the notice of all concerned and the instructions dated 27-07-2000 and 01-12-2005 have been modified to the above extent.

(H.P. Govt. Department of Personnel letter No. Per(AP-B)-F(10)-1/99 dated 15th June, 2010 – **Annexure 35.35**)

35.25 - Participation by State Government Servants in sporting events and tournaments of National and International importance – Grant of special increments for achieving excellence in such events.

(i) Department of Personnel vide its letter dated 18-9-1985 circulated the guidelines issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training vide letter No. 6-1/85-(Pay-I), dated 16-7-1985 for

grant of various incentives including special increments to the government employees for achieving excellence in National/International events/tournaments. The matter with regard to fix the quantum of special increments to the distinguished sports persons in order of their Ist, IInd and IIIrd position was under active consideration of the Government for some time past. The State Government decided that the special increments may be granted to the inservice sports persons in order of their position in National/International events in the following manner:-

(ii)

International level	1 st place	3 increments
International level	2 nd place	increments
International level	3 rd place	Increments
National level	1 st place	increments
National level	2 nd place	increments
National level	3 rd place	Nil

It has been made clear that these incentives will be applicable to all categories of employees of State Govt. Depts./Boards/Corporations except such outstanding sports persons recruited against a post reserved for sports persons for achieving excellence in sports events. The increments under this scheme shall be granted by the Head of Department.

(H.P. Govt. Department of Personnel letter No. 4-3/72-DP (AP-II)-Vol-III dated 30th June, 1999 – **Annexure 35.36**)

(ii) Keeping in view instructions dated 30-06-1999 on basic pay as defined in FR 9 (21)(a)(i) which are to be taken into account for pay fixation and other benefits including retirement benefits, the State Government decided that para 4(c) of the instructions dated 30th June, 1999 may be read as under:-

“The increments so granted would continue to be drawn at the same rate till retirement but these increments will not count for pay fixation on promotion, retirement benefits or DA/CCA.”

(H.P. Govt. Department of Personnel letter No. 4-3/72-DP (AP-II)-Vol-III dated 20th December, 2001 – **Annexure 35.37**)

35.26 - Defending the court cases of H.P. Subordinate Services Selection Board, Hamirpur in lower courts.

The H.P. Subordinate Services Selection Board (now Himachal Pradesh Staff Selection Commission) with its headquarter at Hamirpur has been constituted for making recruitment to all Class III posts except some posts exempted from their purview. The Board (now Commission) declare results and make recommendations to the different departments as per their requisitions but some candidates approached the competent court of Law against such recommendations. The cases instituted in Hon'ble High Courts and Ld. HP Administrative Tribunal are being defended by Hon'ble Advocate General, H.P./Additional Advocate General, H.P.

The State Government has now decided in consultation with Law Department that the cases filed in the lower courts against the said Board will be defended by the District Attorney of the District concerned.

(H.P. Govt. Department of Personnel letter No. Per(AP-B)B(1)-2/2000 dated 02-11-2000 - **Annexure 35.38**)

35.27 - E-Governance initiatives of H.P. Government.

Initiatives for furthering information Technology in the State and to give a boost to the information Technology the State Government taken the following decisions:-

1. Knowledge of word-processing will be compulsory for the category of steno-typists after 2001.
2. For the employees already in service, suitable training modules will be prepared and training imparted accordingly.
3. The passing of test in computer proficiency of a specified level will be made mandatory for some selective cadres to begin with, for confirmation and promotion.
4. A column in the Annual Confidential Reports shall be introduced regarding "contribution to IT Utilization" in respect of those Govt. employees for whom computer knowledge is prescribed as a pre-requisite at the entry stage.

The State Government also decided that after having identified the selective cadres as envisaged at Serial No.3 above, training programmes/modules in computer application/efficiency may be chalked-out in consultation with Department of Training and Information Technology and passing of a test of specified level following such training programmes/modules will be pre-requisite for confirmation in the respective cadres and promotion and placement to higher posts/scales. It has also been decided to introduce a provision regarding "Contribution of IT Utilization" in the ACRs in the category for whom computer knowledge of word-processing level has been prescribed as pre-requisite at the entry stage.

(H.P. Govt. Department of Personnel letter No. Per(AP-B)B(15)-1/2000 dated 13th March, 2001- **Annexure 35.39**)

35.28 - Timely action for implementation of the orders/directions of the Courts/Tribunals.

The State Government after noticing that timely action for implementation of the orders/directions of the Courts/Tribunals are not being taken in many cases, and as a result the very objective of providing relief/giving timely justice is defeated, requested to take action for implementation of orders/directions of the Courts and the Tribunals strictly within the time frame so stipulated in such orders/directions. It has been made clear that in case implementation of such orders/directions requires more time than stipulated on account of some unavoidable reasons, request shall be made to the concerned Court/Tribunal for seeking extension of time well in advance before expiry of such dead line prescribed by the Courts/Tribunals.

(H.P. Govt. Department of Personnel letter No. Per(AP-B)E(3)-3/99 dated 28th February, 2001– Annexure 35.40)

35.29 - Use of words 'Wife of late', 'Zauja Mahroom' as well as 'Dharampatni Swargiya' instead of Widow, Vidhvah, Bevah etc. for all official purposes, especially in the official records.

The National Human Rights Commission considered a proposal that the words such as WIDOW, VIDHVAH, BEVAH etc. used in the records of Revenue Department, School, Employment and other spheres of life, be declared as 'DEAD WORDS' for the unfortunate woman who loses her life partner. The State Government decided that in place of the word 'Widow', the expressions 'Wife of late', Zauja Mahroom', as well as 'Dharmpatni Swargiya' will be used by all the Government Departments in Himachal Pradesh for all official purposes, especially in the official records.

(H.P. Govt. Department of Personnel letter No. Per(AP-II)B(11)-1/89 dated 19th July, 2001– Annexure 35.41)

35.30 - Timely action in court cases where blanket stay has been granted by the Court/Tribunal.

The State Government noticed that the Departments are not properly persuading the cases of the Govt./Govt. employees in the Courts/Tribunals resulting the very objective of providing timely justice is defeated. In the cases of HP PWD, in OA No. 59 of 1999 (interim order passed on 6-1-1999) titled Dalip Singh Chauhan Vs. State of H.P. & others and OA No. 60 of 1999 titled Anil Kumar & another Vs. State of H.P. & others, the Hon'ble Administrative Tribunal granted blanket stay and as such promotions of the Assistant Engineers in HPPWD could not be held. Disposing off the CWP 964 of 2001, on 22-11-2001, the Division bench of the Hon'ble High Court consisting of the Hon'ble Mr. Justice C.K. Thakkar, (C.J.) and Hon'ble Mr. Justice M.R. Verma (Judge), held that the "Tribunal ought not to have granted blanket stay against effecting promotions causing inconvenience and adverse effect on public administration". Accordingly, the State Government decided to

ensure an appropriate action on those cases where the Tribunal/Court pass orders which are contrary to the law or the law laid down by the Apex Court.

(H.P. Govt. Department of Personnel letter No. Per(AP-B)E(3)-3/99 dated 27th February, 2002– **Annexure 35.42**)

35.31 – Relief to the visually handicapped person in the recruitment procedure

With regard to relief to the visually handicapped persons in the recruitment procedure, the State Government in consultation with the H.P. Public Service Commission and H.P. Subordinate Services Selection Board (now Himachal Pradesh Staff Selection Commission) decided to provide the facilities of an extra time of 20 minutes, exemption from examination fee and exclusion of Geometry and Maths from curriculum and prescribing of some alternative questions in lieu of Geometry and Math for visually handicapped candidates.

(H.P. Govt. Department of Personnel O.M. No. Per(AP-II)B(16)-1/2002 dated 18th July, 2002– **Annexure 35.43**)

35.32 - Regarding reply/report on the orders issued from office of Chief Minister.

With reference to directions / orders issued from Chief Minister's Office, a number of replies/reports received from the Administrative Departments/ Departments/ Boards/ Corporations and are signed by Addl. Joint, Deputy, Under Secretaries/Deputy, Joint Directors/Registrars/General Managers/Dy. General Managers etc. After due consideration, the Government decided that the reply/report on the orders issued from Office of Chief Minister should be signed at Government level by the Secretary of the Department and not any other officers. Similarly, at Deptts/Boards/Corporations level, the same should be signed by HOD/ MD concerned only and not any other officer.

(H.P. Govt. Department of Personnel O.M. No. Per(AP-B)A(8)-2/2003 dated 15-11-2003– **Annexure 35.44**)

35.33 - Correspondence with Governor's Secretariat

It was noticed that some officials/officers were making direct correspondence with His Excellency, the Governor, Himachal Pradesh either in official or private capacity. Recently one field officer has directly addressed His Excellency the Governor, Himachal Pradesh to send a message for souvenir on which displeasure has been conveyed to the officer concerned separately. The above practice is not only irregular but against all official propriety which needs to be curbed forthwith. Therefore, the State Government decided that all correspondence which is to be made with His Excellency should be made through Governor's Secretariat.

(H.P. Govt. Department of Personnel letter No. Per(AP-B)B(19)-6/2004 dated 3rd June, 2004– **Annexure 35.45**)

35.34 - Maintaining lists of the names of the officers/officials whose general reputation is not good.

The State Govt. in the Department of Home (Vig.) issued instructions from time to time with regard to maintenance of lists of officers/officials whose integrity is doubtful. This issue discussed in the meeting of State Vigilance Committee held on 10-12-2004 under the Chairmanship of Hon'ble Chief Minister wherein it was decided that all the Departments shall also maintain the lists which should include the names of the officers/officials whose general reputation is not good. Accordingly, the State government requested that the requisite lists be prepared forthwith accordingly and action taken in this regard be intimated to the Department of Home (Vig) under intimation to Department of Personnel.

(H.P. Govt. Department of Personnel letter No. Per(AP-II)A(5)-1/2005 dated 25th February, 2005– **Annexure 35.46**)

35.35 - Referring of cases to the Department of Personnel for advice

Department of Personnel while re-iterating the instructions dated 3rd January, 1987 made clear that only those cases be referred to Department of Personnel for advice where rules/instructions are not clear and that too with the prior approval of Administrative Secretary. It was noticed that the departments are referring cases to Department of Personnel for advice/opinion without making any specific point and the approval of competent authority i.e. Administrative Secretary. It was noticed that the Heads of Departments, Corporations, Boards and the Deputy Commissioners make direct references to Department of Personnel. In the interest of fair appraisal of the cases, it has been made clear that only the cases received through the Administrative Secretaries will be entertained in the Department of Personnel, in future.

(H.P. Govt. Department of Personnel letter No. Per(AP-B)A(6)-2/2006 dated 26th October, 2006– **Annexure 35.47**)

35.36 – जन-जातीय क्षेत्रों एवं कठिन क्षेत्रों में अवकाश पर जाने की अवस्था में अतिरिक्त यात्रा दिवसों की सुविधा देने बारे।

(i) जनजातीय क्षेत्र एवं दुर्गम क्षेत्र में तैनात अधिकारियों/कर्मचारियों को अवकाश आदि पर अपने मूल निवास स्थान पर जाने हेतु अतिरिक्त ज्वाइनिंग टाईम दिये जाने का मामला सरकार के विचाराधीन था। सरकार ने पूर्ण विचार उपरान्त एवं वित्त विभाग की सलाह से यह निर्णय लिया है कि जनजातीय क्षेत्रों/दुर्गम क्षेत्रों में तैनात अधिकारियों/कर्मचारियों को अतिरिक्त ज्वाइनिंग टाईम की सुविधा निम्न प्रकार से देय होगी:-

1. अतिरिक्त ज्वाइनिंग टाईम की सुविधा केवल अर्जित अवकाश, अर्ध वेतन अवकाश तथा असाधारण अवकाश पर ही देय होगी। यह सुविधा आकस्मिक अवकाश पर देय न होगी तथा स्थानांतरण पर ज्वाइनिंग टाईम सम्बन्धित नियमों के अन्तर्गत दिया जाएगा।

2. अतिरिक्त यात्रा दिवसों की सुविधा वर्ष में केवल एक बार ही दी जायेगी। अधिकतम देय यात्रा दिवसों की संख्या समान रूप से सभी अधिकारियों/कर्मचारियों को विभिन्न क्षेत्रों में निम्न प्रकार से उपलब्ध होगी:-

1. पांगी- पूरे वर्ष में 8 दिन।
2. भरमौर- 15 दिसम्बर से 31 मार्च तक 4 दिन।
3. लाहौल- 15 दिसम्बर से 15 जून तक 3 दिन।
4. स्पिति- 15 दिसम्बर से 30 अप्रैल तक 4 दिन।
अन्यथा केवल 3 दिन।
5. डोडरा क्वार- पूरे वर्ष में पांच दिन।
6. किन्नौर- कोई नहीं।

3. अवकाश स्वीकृति के आदेश जारी करते समय उनमें यात्रा दिवसों का उल्लेख किया जाना आवश्यक है।

उपरोक्त सुविधा उन अधिकारियों/कर्मचारियों को भी उपलब्ध होगी जो जनजातीय क्षेत्र या कठिन क्षेत्र के निवासी हैं तथा जनजातीय क्षेत्र या कठिन क्षेत्र से बाहर तैनात है।

(H.P. Govt. Department of Personnel letter No: Karmik (Ni-II)F(4)-12/87- Bha, dated 7-7-1993 - **Annexure 35.48**)

(ii) कार्यालय आदेश सं० कार्मिक (नि-॥)एफ(4)-12/87-भा० दिनांक 7-7-93 के अन्तर्गत जनजातीय क्षेत्रों एवं दुर्गम क्षेत्रों में तैनात अधिकारियों/कर्मचारियों को अतिरिक्त यात्रा दिवसों की सुविधा वर्ष में एक बार केवल अर्जित अवकाश, अर्ध-वेतन अवकाश तथा असाधारण अवकाश के साथ ही देय थी। अतिरिक्त यात्रा दिवसों की सुविधा आकस्मिक अवकाश के साथ भी देने के सम्बन्ध में सरकार ने अब यह निर्णय लिया है कि जनजातीय क्षेत्रों/दुर्गम क्षेत्रों में तैनात अधिकारियों/कर्मचारियों को अतिरिक्त यात्रा दिवसों को सुविधा उक्त दर्शाए गए अवकाश के अतिरिक्त अब आकस्मिक अवकाश के साथ भी देय होंगी। इस प्रकार अब यह सुविधा वर्ष में एक बार अर्जित अवकाश, अर्ध-वेतन अवकाश, असाधारण अवकाश तथा आकस्मिक अवकाश के साथ देय होंगी।

(H.P. Govt. Department of Personnel letter No. Karmik (Ni-II)F(4)-12/87- Bha-III dated 15-09-95 - **Annexure 35.49**)

(iii) कार्यालय आदेश सं० कार्मिक (नि-॥) एफ (4)-12/87-भा० दिनांक 7-7-1993 व 15-9-1995 के अन्तर्गत जन-जातीय एवं दुर्गम क्षेत्रों में तैनात अधिकारियों/कर्मचारियों को अतिरिक्त यात्रा दिवसों की सुविधा वर्ष में केवल एक बार अर्जित अवकाश, अर्ध-वेतन अवकाश, असाधारण अवकाश तथा आकस्मिक अवकाश के साथ देय है परन्तु उक्त आदेशों के अनुरूप हैलीकॉप्टर में यात्रा करने वाले अधिकारियों/कर्मचारियों के लिए, इस सुविधा का कोई जिक्र नहीं था। सरकार ने पूर्ण विचार उपरान्त एवं जन-जातीय विकास व वित्त विभाग की सलाह से यह निर्णय लिया है कि जन-जातीय/दुर्गम/कठिन

क्षेत्रों में कार्यरत अधिकारियों/कर्मचारियों को अवकाश के दौरान हेलीकॉप्टर से यात्रा करने पर भी अतिरिक्त ज्वानिंग टाइम की सुविधा देय होगी।

(H.P. Govt. Department of Personnel letter No. Per(AP-II)F(4)-12/87-VI dated 7th December, 2006- **Annexure 35.50**)

35.37 – Disposal of complaints against Government officers/officials

The State Government noticed that complaints about misconduct of government servants, particularly relating to corrupt practices, harassment of people, partiality to one group of people to the detriment of other weaker groups like Harijans are not being looked into in a proper manner by the officers receiving such complaints. In most cases, it was found that the complaints are sent down to lower officials for necessary action or disposal and ultimately, these are sent for comments to the officials complained against leading to a situation where the truth does not come out and the official not only tries to cover his lapses while giving his comments but also tries to be revengeful against the complainant who suffers twice in this manner. The State Government requested for ensuring proper action on these complaints, keeping in view the following principles:-

- (1) All complaints should be entered in a register by the officer to whom it is addressed. It should be monitored properly and should not be struck off the register till the officer is satisfied about its proper disposal;
- (2) Before asking for the comments of the official complained against, an officer of an appropriate level, which you may determine for your Department/Office, should call the complainant and examine arguments and evidence which he can give in support of his complaint to arrive at a tentative conclusion about the truth or otherwise of the complaint;
- (3) If the officer is satisfied prima-facie about the fact that there is some substance in the complaint as a result of the aforesaid enquiry from the complainant, he should convey the allegations contained in the complaint to the officer complained against for comments without disclosing the name of the complainant, if it is found necessary to get the comments of the officer complained against. In many cases, however, where complaints are from one individual about a specific act of misconduct by the officer complained against, the question of obtaining comments of the officer complained against should not arise and an officer of the higher rank should hold a proper enquiry himself and call for the explanation of the defaulting officer/official and take action for the final disposal of the complaint at his own level.
- (4) In cases in which after dealing with the complaint in the manner stated above the Inquiring Officer comes to the conclusion that the allegations stand proved, he should send his findings and recommendations to the authority competent to take disciplinary action against the delinquent officer/official with intimation to the office to whom the complaint was sent originally;

- (5) The authority competent to take disciplinary action should on receipt of the recommendations of the Inquiring officer initiate proceedings as prescribed in the Rules under intimation to the officer to whom the complaint was originally addressed.

(H.P. Govt. Department of Personnel letter No. Per(AP-II)A(3)-1/80 dated 26-05-2008 - **Annexure 35.51**)

35.38 – एक ही नाम-अधिमान के पदों के लिए वर्ष में एक ही बार परीक्षा आयोजित करने बारे।

(i) मंत्रीमण्डल की बैठक दिनांक 19-6-2009 में यह निर्णय लिया गया कि एक ही नाम-अधिमान के पद जैसे लिपिक, कनिष्ठ आशुलिपिक, कनिष्ठ अभियन्ता सिविल/इलेक्ट्रीकल/मकैनिकल तथा सहायक अभियन्ता सिविल/इलेक्ट्रीकल/ मकैनिकल आदि के पदों पर संस्तुति के लिए समस्त संबंधित विभागों द्वारा प्रत्येक वर्ष की समाप्ति से पूर्व संबंधित भर्ती संस्था अर्थात् हिमाचल प्रदेश अधीनस्थ सेवाएं चयन बोर्ड तथा हि० प्र० लोक सेवा आयोग को माँगपत्र प्रेषित किये जायेंगे तथा उन द्वारा उन पदों के लिए वर्ष में एक ही बार परीक्षा आयोजित की जाएगी। इसके अतिरिक्त यह भी निर्णय लिया गया कि प्रत्याशी किसी भी पद के लिए केवल एक सादे कागज़ पर आवेदन करेगा तथा उसमें दिये गये तथ्यों को स्वयं सत्यापित कर हस्ताक्षरित करेगा जिसमें किसी भी प्रमाण पत्र को संलग्न करने की आवश्यकता नहीं होगी। प्रमाण पत्र एवं पात्रता की जांच केवल साक्षात्कार के समय की जाएगी।

(H.P. Govt. Department of Personnel letter No: Per(AP-B)B(1)-1/98 Part, dated 23-06-2009 - **Annexure 35.52**)

(ii) Conducting of examination once in the year for the posts having same nomenclature-fixation of time schedule thereof.

With regard to conducting of examination for the posts having same nomenclature like Clerk, Junior Office Assistant (IT), Steno-typists, Junior Scale Stenographers etc., TGTs (Arts, Medical & Non-Medical), C&V categories of Education Department, Junior Engineers (Civil, Electrical, Mechanical, IT etc.) and Para Medical Staff of Health/Ayurveda / Animal Husbandry etc. the Government decided that the Himachal Pradesh Staff Selection commission, Hamirpur will conduct recruitment for the posts in the following time frame twice a year:

A) Time Schedule for Recruitment process
(First Advertisement)

- i) The requisitions from different Government departments to reach Himachal Pradesh Staff selection commission, Hamirpur by 28th of February every year.
- ii) The screening test will be conducted during the month of April of the calendar year.

iii) Final selection process will be completed by the end of June of the calendar year.

B) Time Schedule for Recruitment process
(Second Advertisement)

i) The requisitions from different Government departments to reach Himachal Pradesh staff selection commission, Hamirpur by 30th of June.

ii) The screening test will be conducted during the month of August of the calendar year..

iii) Final selection process will be completed by the end of October of the calendar year.

Further, it has been decided that Himachal Pradesh Staff Selection Commission, Hamirpur will prepare panel(s) for the above said posts and the recommendations will be made immediately after receipt of requisition(s) from the concerned Department.

(H.P. Govt. Department of Personnel letter No: Per(AP-B)B(15)7/2015, dated 22-08-2016 - **Annexure 35.53**)

(iii) The State Government in Department of Personnel re-iterated instructions dated 22-08-2016 and decided that vacancies be advertised once/twice in a year by all Departments and the Department of Personnel will be asked to bring a proposal in this regard before the Cabinet.

(H.P. Govt. Department of Personnel letter No: Per(AP-B)B(15)7/2015, dated 29-08-2019 - **Annexure 35.54**)

(iv) Hon'ble High Court of HP in CWPIl Mo. 157 of 2017 on 03-11-2020 has directed/ordered that the recruitment process may be completed strictly in terms of the time schedule prescribed in the instructions issued by Department of Personnel (Appointment-II) (Appointment-II) vide letter dated 22-08-2016 (Annexure 35.53). Accordingly it has been reiterated that the above said instructions may be adhered to strictly.

(H.P. Govt. Department of Personnel letter No: Per(AP-B)B(15)7/2015, dated 26-03-2021 - **Annexure 35.94**)

35.39 - Filing of cases in the Hon'ble High Court application for condonation of delay

Hon'ble High Court while disposing of an application for condonation of delay in Cr. A. No. 436/2009 titled State of Himachal Pradesh Versus Pawan Kumar on 16.12.2009 observed as follows :

“We order that in future every application for condonation of delay sought by the State shall be accompanied by the affidavit of the Pr. Secretary of the concerned Department, so that, at least it comes to the notice of the Pr. Secretary of that Department how his Department functions”.

It has been requested to ensure the above orders.

(H.P. Govt. Department of Personnel letter No: Per(AP-B)E(2)-1/2006 Part, dated 02-01-2010 - **Annexure 35.55**)

35.40 - Age limit for disengagement of a daily wager.

Consequent upon amendment in Rule-56 of the Fundamental Rules and after issuance of Government of Himachal Pradesh, Finance (Regulations) Department Notification No. Fin(C)A(3)-3/98 dated 10th May, 2001, the Government decided that the people who are engaged on daily wages will also be governed by the same set of age restriction of disengagement as is applicable to regular Government employees. As such, the Class-IV daily wager engaged prior to 2001 i.e. when said notification of limiting the age of Class-IV Employees was reduced from 60 to 58 years will cease to be in the employment at the age of 60 years and no daily wager deployed after the reduction of the age limit in 2001 will be retained after attaining the age of 58 years. Similarly, all Class-III and above employees if working on daily wage will cease to be employed at the age of 58 years.

(H.P. Govt. Department of Personnel letter No: Per(AP)-C-B(2)-1/2006- Vol.-VIII, dated 22-02-2010 - **Annexure 35.56**)

35.41 - Requisitions for filling up vacancies through direct recruitment.

It came to the notice of the Government that where recruitment to certain posts could not be made for years together for one reason or the other notwithstanding the fact that approval of the Finance Deptt./CMM is obtained stating that filling up of the post is absolutely necessary in the interest of the Deptt. and public as well. The State Government decided that in future it will be mandatory for all the Departments to get the recruitment process completed within a period of two years from the date of approval of Finance Department/CMM failing which such approval will become invalid and they will have to seek the same afresh. Further, the Secretary, HPPSC and Secretary\Himachal Pradesh Subordinate Services Selection Board, Hamirpur (now Himachal Pradesh Staff Selection Commission) were requested to examine such proposals/requisitions which are pending with them for the last two years or more and return the same to the department concerned for obtaining fresh requisitions in the light of the above decision.

(H.P. Govt. Department of Personnel letter No: Per(AP-II)-B(2)-2/94, dated 12th April, 2010 - **Annexure 35.57**)

35.42 – Indicating full name in T.R. 1 forms and endorsing of copies of sanction of earned leave/joining reports etc. to Controller (F&A) Department of Personnel.

DOP issued instructions regarding copies of sanctions relating to earned leave/charge assumption & relinquishing reports etc. may also be sent to the Controller (F&A) Department of Personnel (Accounts) H.P. Secretariat and in the charge assumption/relinquishing reports, full names of concerned officers should invariably be indicated so that these can be put in appropriate files.

(H.P. Govt. Department of Personnel letter No: Per(A-IV)-B(15)-3/2009, dated 12th May, 2010 - **Annexure 35.58**)

35.43 - Self-certification of documents by the applicant/stakeholders.

The 2nd Administrative Reforms Commission in its 12th Report titled "Citizen Centric Administration - The Heart of Governance" recommended adoption of self-certification provision for simplifying procedures. The State Government decided to adopt the provision for self-certification of documents viz. Caste/ Tribes/ Income/ Domicile/ Character/ Educational Qualification certificates/self-photograph etc. by the applicants/stakeholders, as recommended by 2nd Administrative Reforms Commission in its 12th Report and made specific that the documents self attested by the applicants/stake holders would be entertained instead of asking for an attested copy of the documents by a Gazetted Officer or filing of affidavits. The original documents would be required to be produced at the time of viva-voce and final stage for verification. If any candidate gives false information/ declaration, he/she will be debarred from employment in State Govt./ Board/ Corporation/ Autonomous Bodies for a period of three years and also consider him/her liable for criminal proceedings.

(H.P. Govt. Department of Personnel letter No: Per(AP-B)-E(5)-2/2012, dated 1st November, 2013 - **Annexure 35.59**)

35.44 - Utilization of services of regular/daily wage/contractual/part-time official by deputing in the houses of officer/officials to do work.

In view of Hon'ble High Court of HP's order dated 30-06-2014 in CWP No. 4504/2014, the State Government requested Revenue and all other Departments to issue necessary orders to all their attached/subordinate offices to ensure that the above orders of the Hon'ble High Court are obeyed/implemented in letter and spirit. The Hon'ble High Court order is as under:

"3. The Chief Secretary to the Government of Himachal Pradesh is directed to issue necessary directions within 48 hours to ensure that no official regular or daily wage or part time is directed to work in the houses of revenue officers/officials throughout the State of Himachal Pradesh. He is also directed to issue similar directions qua all the departments in

the State of Himachal Pradesh. In case any official/workman is engaged even after the orders passed by this Court, disciplinary proceedings be initiated against the defaulting officer/official. He shall also be liable to be punished under the contempt jurisdiction of this Court. It is made clear that no displeasure in any manner shall be shown towards the persons, who were earlier deputed in the houses of the officers/officials to do the work.”

(H.P. Govt. Department of Personnel letter No: Per(AP-II)A(3)10/73, dated 3rd July, 2014 - Annexure 35.60)

35.45 - Preceding on earned leave without sanction of competent authority

As per instructions of the Government, earned leave application is to be submitted to the respective cadre controlling departments for its sanction at least 15 days prior to commencement of leave, so that leave could be sanctioned timely and alternative arrangements for entrusting the charge hold be made, so as to avoid inconvenience to general public. But instances were come to the notice of the Government that even senior officers are not adhering to these instructions and proceeding to avail earned leave without recommendations and sanction of the competent authority. Taking all the relevant factors into account, it is re-iterated that all the officers must submit their earned leave applications, duly recommended, to the competent leave sanctioning authority timely and shall not proceed to avail the leave, until the same is sanctioned by the respective department.

(H.P. Govt. Department of Personnel letter No. Per(A-IV)-B(15)-3/2009 dated 06-01-2016 - Annexure 35.61)

35.46 - Regarding issuing of directions for the compliance of Section 39 of Himachal Pradesh Lokayukta Act, 2014 (No. 23 of 2015)

The word “public servant” denotes a person falling under any of the descriptions under the Section 21 of Indian Penal Code. Further, all persons, who are covered under Chapter-VI, Section 13 of the above said Act have been defined as ‘public servants’ for the purpose of attracting the provisions of Prevention of Corruption Act, 1988 or the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983. The Section 39 of Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015) mandates that every public servant holding office as such, at the time of commencement of the said Act, shall make declaration of his assets and liabilities to the competent authority within 30 days of the coming into force of the Act. The competent authority defined under Section 2(a) of the Act *ibid*, in respect of each Department has to ensure that all such statements are published on the website for the Department by 31st August of that year. It has been requested to ensure the compliance of the mandatory provision of the Section 39 of the Act.

(H.P. Govt. Department of Personnel letter No. Per(AP-B)-A(3)-6/2012 dated 19-05-2016 - Annexure 35.62)

35.47 - Exemption from passing the typewriting test on Computer in respect of Physically Handicapped selected for the post of Clerks

There no provisions exists in the prevailing common or departmental recruitment rules, as the case may be, for the post of Clerks to allow any sort of exemption to physically handicapped persons from passing of typing test on computers. This matter was engaging the attention of the State Government from the sometime past to frame own guidelines only for those 'physically handicapped person' does not cover those who are visually handicapped or who are hearing handicapped but cover only those whose physical disability/deformity permanently prevents them from typing. The above criteria for grant of exemption from passing the typing test would also be applicable to the Skill Norms on Computers. The relevant recruitment rules are framed under Article 309 of Constitution of India and any executive instructions cannot supersede the provisions of statutory rules, therefore, State Government emphasized that necessary amendment may be made in the concerned common recruitment rules and separate recruitment rules for the post of Clerk, if framed, for own Department/Board/Corporation etc. Further, it has also been impressed upon all the administrative authorities to bring the above decision of the Government for its implementation in a real spirit.

(H.P. Govt. Department of Personnel letter No. Per(AP-B)B(11)-2/2012 dated 26-08-2016 - Annexure 35.63)

35.48 - Directions of the Hon'ble High Court of H.P. regarding ensuring presence of officers in the contempt petitions/court cases.

The Hon'ble High Court of H.P. vide order dated 04-10-2016 in COPC No. 188/2016 titled as Pratibha Kaushik Vs Shri R.D. Dhiman directed the Govt. of Himachal Pradesh to ensure that all those officers who have been arrayed as party-respondents in the contempt petitions or who have to remain present before the Court in the case(s) on the date(s) fixed, have to seek exemption/permission from the Court before leaving for Delhi or outside the State.

(H.P. Govt. Department of Personnel :

1. letter No.Per(AP)AB(12)-3/12 dated 27-10-2016- **Annexure 35.64)**
2. letter No.Per(AP-B)A(3)-10/73 dated 02-11-2016-**Annexure 35.65)**

35.49 - Regarding sanctioning of leave and LTC and assignment of charge in favour of IAS/HPAS/HPSS officers and Heads of Departments- instructions thereof.

Instances have come to the notice of the State Government that some officers are sanctioning leave for more than 30 days and LTC in favour of officers who working under

their control. Taking all the relevant factors into account, the Govt. re-iterated that Deputy Commissioners/Heads of Departments are competent to sanction earned leave, half pay leave, commuted leave to the IAS/HPAS officers working under their control, upto a maximum period of 30 days at a stretch. The leave sanctioning authority is also competent to hand over the additional charge during the leave period of the concerned officer to the other officer working under his control. However, where the charge is required to be given to an officer posted in another office/department, such proposal needs to be sent to the Government in the Department of Personnel. Instances have also come to the notice of the Government that apart from sanctioning earned leave/casual leave, Heads of Departments are sanctioning Home Town Leave Travel Concession/Leave Travel Concession (Bharat Darshan) in favour of IAS/HPAS officers working under their control. It has been clarified that powers for sanctioning of Home Town LTC/LTC in favour of IAS/HPAS officers/Heads of Departments have not been delegated. Therefore, such cases for sanctioning of Home Town LTC/LTC working under their control be forwarded to the Department of Personnel for necessary sanction.

(H.P. Govt. Department of Personnel letter No. Per(A-IV)B(15)-3/2009 dated 9-12-2016 - **Annexure 35.66**)

35.50 - Appointment of a contract employee and maintenance of service record

Service conditions of contractual employees are regulated in accordance with the provisions of Column 15-A of the respective Recruitment & Promotion Rules of the post and agreement executed between employer and the employee. The issue whether "Service Book" of a contract appointee is to be maintained or not was engaging attention of the Government. The Himachal Pradesh Financial Rules and Supplementary Rules mandate for maintaining "Service Book" of an employee and these Rules are not applicable in the case of contract appointees. It has been considered desirable to maintain the service book of a contract appointee by the Appointing/Controlling Authority which may facilitate upkeep of his/her service record.

(H.P. Govt. Department of Personnel letter No. PER(AP)-C-B(2)-2/2015-L dated 9-03-2017 - **Annexure 35.67**)

35.51 - Providing of reservation to the disabled persons in respect of Class-I to IV posts/services to be filled in by direct recruitment – Exemption from passing of type test by 100% visually impaired persons

The State Government in consultation with Social Justice and Empowerment Department has decided that instead of granting exemption of typing test, visually impaired persons recruited under reserved quota of 1% may be imparted necessary basic training including computer training through Composite Regional Centre (CRC) Sundernagar set up by the Ministry of Social Justice and Empowerment, Government of India. Training module with the aid of Job Access With Speech (JAWS) software has already

been devised by the State Social Justice and Empowerment Department at CRC, Sundernagar. The State Government directed all the Departments to sponsor candidates recruited under 1% quota of blind for the said training after verification of availability of seats, settlement of fee etc in prior consultation with Social Justice and Empowerment Department, H.P.

(H.P. Govt. Department of Personnel:

1. letter No. Per(AP-B)-B(19)-2/2012, dated 10th March, 2017- **Annexure 35.68)**
2. letter No. Per(AP-B)-B(19)-31/2007, dated 10th May, 2013 - **Annexure 35.69)**

35.52 – Forwarding the charge relinquishment and joining report on the TR-I

The State Government has issued instructions from time to time that copies of sanctions relating to earned leave/charge assumption & relinquishment reports etc. may be sent to the Controller (Finance & Accounts), Department of Personnel, H.P. Secretaries and in the charge assumption/relinquishment reports full names and designation may invariably be written in block letters, so that these can be put in appropriate files. But despite these instructions, it has come to the notice that the officers are not writing their full name & designation on T.R-I forms and simply putting their signatures. The State Government, therefore, once again emphasized that in future copies of earned leave sanctions and charge assumption/relinquishment reports may be submitted to the Department of Personnel as well as to the Controller (Finance & Accounts), Department of Personnel, on the TR-1 form, indicating therein, full name & designation in block letters, so that these charge reports can be placed in the appropriate files.

The submission of charge assumption/relinquishment on a simple paper should be avoided and should invariably be submitted on TR-I form.

(H.P. Govt. Department of Personnel:

1. letter No. Per(AI)B(3)-16/1988 dated 18-04-2017 - **Annexure 35.70)**
2. letter No. Per(A-IV)B(15)-3/2009 dated 03-08-2016 - **Annexure 35.71)**

35.53 - Regarding publication of Notification/Orders in official Gazette

The State Government vide O.M. No: Per(AP-B)D(7)-1/2017 dated 6th July, 2017 reiterated that all the departments will ensure that statutory rules/orders/regulations are invariably published in the Government Gazette strictly as per the prescribed law without any mistakes and delay. It will also be ensured by the departments that the short title, commencement and year of publication of every Rule should be the same. Before the issuance of aforesaid Office Memorandum on the subject, O.M. No. Per(AP-B)D(8)-1/2005 dated 15-02-2006 and No. Per(AP-B)B(2)-3/2001 dated 29-05-2006, 19-04-2007, 16-04-2008, 17-03-2010, 09-03-2011, 01-06-2011 and 16-04-2014 have been issued.

(H.P. Govt. Department of Personnel letter No. Per(AP-B))D(7)-1/2017 dated 6-07-2017 - Annexure 35. 72)

35.54 - Prescription of dress code to attend Hon'ble Court and office (CWP No. 1043/2017 – Om Parkash V/S State of H.P. & Ors.).

Hon'ble High Court of Himachal Pradesh, while expressing its displeasure over the attire of a female Junior Engineer who appeared before the Hon'ble Court in a case wearing multi-coloured check shirt and jeans, has directed to issue necessary instructions to all the concerned to follow a dress code while attending court or office. An advice has been issued that while attending Hon'ble Courts specifically and office in general, all Government servant should be attired in appropriate, formal, clean, modest and decent cloths in sober colours, which should not look gaudy. Casual and party attire should be strictly avoided during appearance in Court and while attending office. The mannerism, conduct and dress of a Government servant should reflect a sense of decorum, decency, professionalism and seriousness of purpose at the work place as well as during appearance in Hon'ble Courts.

(H.P. Govt. Department of Personnel letter No. Per(AP.II)B(3)-10-75-III dated 3rd August, 2017 - Annexure 35. 73)

35.55 - Grant of relaxation in recruitment rules in favour of the Visually Impaired Persons.

The State Government has decided that relaxation in educational qualification as prescribed in the concerned recruitment rules for appointment on the Class-IV posts/services against direct recruitment quota posts in favour of Visually Impaired Persons who have crossed the age of 35 (thirty five) years may be provided and similarly relaxation in other qualification prescribed for direct recruit(s) for the post of Junior Office Assistant (IT) i.e. Diploma in Computer Science/Computer Application/IT for direct recruitment quota posts in favour of Visually Impaired Persons may also be provided. The selected Visually Impaired Persons after appointment may not be insisted upon to complete the Diploma as required in the light of recruitment rules and may be imparted basic training including computer training course by the concerned department. The relevant recruitment rules are framed under Article 309 of Constitution of India and any executive instructions cannot supersede the provisions of statutory rules, therefore, State Government emphasized that necessary amendment may be made in the concerned common recruitment rules and separate recruitment rules for Class-IV posts/services, if framed, for own Department/Board/ Corporation etc.

(H.P. Govt. Department of Personnel letter Per(AP.II)B(2)-5/2017 dated 18th August, 2017 - Annexure 35. 74)

35.56 - To sensitize/educate the officers/authorities with regard to procedure/approach required to be followed and adopted in the tender matters (CWP No. 91012017-RSR Private Limited Versus State of HP & ors.)

Hon'ble High Court of Himachal Pradesh, while expressing its displeasure over the practice adopted by the respondents Authorities while dealing with the tender in the question, has directed to issue necessary instructions to all the concerned to follow and adopt the procedure/approach in the tender matters. The State Government has advised that all the officers/authorities dealing with the tender matters may be sensitized/educated at the appropriate level with regard to the procedure/approach required to be followed and adopted in such matters keeping in view the guidelines/instructions issued by the Government from time to time.

(H.P. Govt. Department of Personnel letter No. Per(AP.B)B(19)-6/2010-Vol. I dated 26th October, 2017 – **Annexure 35.75**)

35.57 - Filling up of vacant posts on merit - Implementation of Vision Document 2017.

The State Government has decided that the Vision Document of Bhartiya Janta Party i.e. स्वर्णिम हिमाचल दृष्टिपत्र 2017 be adopted as Policy Document and the items/points appearing therein has to be implemented in letter & spirit by all concerned. One of the priorities of the State Government is to make recruitments against vacancies in Government purely on merit basis. There shall be no interview for selection to all Class-III and Class-IV posts. It has been emphasized that the process for selection to Class-III and Class-IV posts prescribed in this Department notification No. per(AP.B)B(15)-5 /2014 dated 17-04-2017 may be followed in letter and spirit.

(H.P. Govt. Department of Personnel letter No. Per(AP-B)B(15)-5/2014- dated 21st February, 2018 – **Annexure 35.76**)

35.58 - Special recruitment drive for clearance of backlog and shortfall of Scheduled Castes, Scheduled Tribes, Persons with Disabilities and Other Backward Classes in direct recruitments.

Instructions have been issued by State Government vide letter No. PER(AP)-C-B(12)-2/2013-I, dated 21.11.2015 and letter No. PER(AP)-C-F(4)-6/2016, dated 09.09.2016 regarding Special Recruitment Drive to fill-up the backlog/shortfall of reserved vacancies of Scheduled Castes, Scheduled Tribes, Persons with Disabilities and Other Backward Classes. Further, vide letter No. PER(AP)-C-B(12)-2/2013-1, dated 06.04.2017 whereby the process of referring cases to the Finance Department for filling-up the shortfall/backlog of above-mentioned reserved categories in direct recruitment was dispensed with, with the approval of the competent authority for filling up such posts expeditiously and it was

emphasized to complete the drive by 30.06.2017. However, number of backlog vacancies of above categories in various departments are yet to be filled-up which is resulting in negation of the spirit of the decision of the Government for launching a Special Recruitment Drive to wipe out the shortfall/backlog in a time bound matter. The State Government once again emphasised to make sincere efforts to ensure that all backlog reserved vacancies of above mentioned categories in various departments are filled 'up expeditiously. The advertisements for filling-up the backlog/shortfall posts can be published under the caption, "Special Recruitment Drive', and may be given wide publicity. The HP Public Service Commission, HP Staff Selection Commission and other recruiting agencies are also expected to expedite the process for selection of the eligible candidates against the requisitions placed with them.

(H.P. Govt. Department of Personnel letter No. Per(AP-B)-C-B(12)-2/2013-III dated 12th March, 2018 – **Annexure 35.77**)

35.59 - Official dealings between the Administration and Members of Parliament and State legislatures - Observance of proper procedure.

State Government has forwarded O.M. F.No. 11013/4/2018-Estt.A-III dated 11th October, 2018 alongwith its enclosures received from the Under Secretary to the Govt. of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training and has emphasised that the instructions be followed by all Officers/Officials concerned.

(H.P. Govt. Department of Personnel letter No. Per(AP.B)A(9)-2/2018 dated 13th November, 2018 – **Annexure 35.78**)

35.60 – Response to Press Report.

The State Government has noticed that some reports are being published in various news papers, which adversely reflect on the working of the H.P. Subordinate Services Selection Board/Commission and Tribunal. It has been observed that maximum number of published news items amount to misreporting or are based on lack of correct information with the Reporting Agencies. The reports appearing in the news papers are required to be contradicted/clarified immediately. The State Government has emphasised to issue clarification on such adverse Press Reports to the Director, Inf. & Public Relations, concerned District Public Relation Officer and a copy to the Press Correspondent, if identifiable, who has originated the report as well as to the Editor of the Newspaper for publication. Further, a copy of the departmental version/clarification be also faxed to Chief Secretary's office for consolidation, Private Secretary to Chief Minister and to Department of Personnel.

(H.P. Govt. Department of Personnel letter No. Per(AP.B)B(19)-16/2000 dated 26th September, 2002 – **Annexure 35.79**)

35.61 – Appointment on the basis of false/fake caste certificate

The instructions issued vide letter dated 15-05-2007 regarding appointment on the basis of fake caste certificate lays down that whenever it is found that a Government servant, who was not qualified or eligible in terms of the recruitment, rules etc., for initial recruitment in service or had furnished false information or produced a false certificate in order to secure appointment, he should not be retained in service. If, he is probationer or a temporary Government servant, he should be discharged or his services should be terminated. If he has become a permanent Government servant, an inquiry as prescribed in Rule 14 of CCS(CCA) Rules, 1965 may be held and if the charges are proved, the Government servant should be removed or dismissed from service. In no circumstances should any penalty be imposed. After observing that disciplinary proceedings in the cases involving appointments on the basis of false/fake caste certificates take considerable time and the persons who have secured employment on the basis of false caste certificates enjoy the benefits of Government service whereas such Government servants should be removed/dismissed from the service at the earliest, the State Government issued direction that disciplinary enquiries involving the matter of securing jobs on the basis of false/fake certificates should be completed in a time bound manner and unscrupulous persons who have got appointment on the basis of the fake/false caste certificates should not be retained in service and should be dismissed/removed henceforth.

(H.P. Govt. Department of Personnel letter No. Per(AP)-C-F(10)-4/2010 dated 23-10-2013 – **Annexure 35.80**)

35.62 – Online Portal for Nomination of Participants for HIPA courses

HP Institute of Public Administration is an apex training institute of the State engaged in imparting training to the Officers/Officials. HIPA, in collaboration with NIC, recently developed Software for Online Nomination/Registration of Officers/officials for attending the various training programmes being organized by the Institute. This portal is linked with the “Manav Sampada E-Service Book Software”, which is already in use by most of the Government offices in Himachal Pradesh. The State Government has emphasised to make use of this portal and ensure that all the nominations for training from all establishments in future, are made only through this portal (<http://genpmis.hp.nic.in/>).

(H.P. Govt. Department of Personnel letter No. Per(Trg)-B(12)-5/2017 dated 13th November, 2019 – **Annexure 35.81**)

35.63 - Instructions regarding distribution of urgent Dak in Government offices.

Hon’ble High Court in its judgement dated 19-08-2019 passed in CWP No. 2173 of 2015 has issued directions that the Chief Secretary to the Govt. of Himachal Pradesh to

consider putting to an end the practice of the Government Offices in sending communications by post at least to those offices which are situated in the same building and premises or in the nearby vicinity, which can conveniently be sent through Peon-Book or by scanning, e-mail/other option, which would not only save time, but would also be cost effective. Accordingly, a meeting under the Chairmanship of the Chief Secretary to the Government of Himachal Pradesh was convened on 27-11-2019 and it was decided that all type of dak/letters regarding urgent matters, i.e. court matters/RTI matters/Notice for meetings etc will be distributed within the offices in the same building/premises through Peon Book/special messenger on the same day rather than by post to avoid unnecessary delays as has been observed in the above said case by the Hon'ble High Court of H.P.

(H.P. Govt. Administrative Reforms Organisation letter NO. Per(AR)F(10)-9/2019 dated 27-11-2019 – **Annexure 35.82**)

35.64 - Exemption in Examination fee for the female candidates in the examinations conducted by the HP Public Service Commission and HP Staff Selection Commission Hamirpur.

The State Government after considering the issue regarding exemption in fee in respect of female candidates in the examinations being conducted by the HP Public Service Commission and HP Staff Selection Commission, Hamirpur, has decided that female candidates shall be exempted from the examination fee for the examinations to be conducted by the HPPSC and HPSSC. It has further been decided that the relevant rules wherein provisions of such fee in respect of female candidates exists e.g. HP Administrative Service Combined Competitive Examinations, Judicial Service Examinations, Rules of Business of Himachal Pradesh Public Service Commission/HPSSC shall also be amended to this extent by the concerned Department/authority at their own level.

(H.P. Govt. Department of Personnel letter No. PER(AP-B)B(15)-13/2019 dated 01-01-2020 – **Annexure 35.83**)

35.65(1) Instructions relating to fair and transparent conduct of recruitment process.

The State Government received numerous complaints from different quarters regarding irregularities/illegalities being committed by the candidates during the recruitment process of various posts in Government Sectors/Autonomous bodies. Some mischievous candidates in connivance with some outsiders/touts are using unfair means such as electronic gadgets etc. for manipulating their selection to the posts. These malpractices not only adversely affect the morale of the aspiring candidates but also very often lead to adversely affecting the credibility and purity of the recruitment examination. In order to avoid such malpractices and for fair and transparent selection of candidates on merit, the Govt. in Department of Personnel issued instructions relating to 1) Access

Control, 2) Strengthening institutional mechanism for Public recruitment and 3) Usage of Electronic Gadgets to the recruitment agencies and all the concerned functionaries of the State Government.

(H.P. Govt., Department of Personnel (AP-II) O.M. No. Per(AP. B)B(19)-1/2017 dated 4th February, 2020 – **Annexure 35.84**)

35.65(2) Instructions regarding conduct of screening test for various posts in Government/Private educational institutions of the State.

The Govt. in Department of Personnel vide O.M dated 04-02-2020 (Annexure 35.84) issued instructions relating to 1) Access Control, 2) Strengthening institutional mechanism for Public recruitment and 3) Usage of Electronic Gadgets to the recruitment agencies and all the concerned functionaries of the State Government to avoid such malpractices and for fair and transparent selection of candidates on merit. The Himachal Pradesh Staff Selection Commission is conducting screening tests for various posts in Government and private educational institutions of the State with the assistance of the respective District Administration has circulated a copy of instructions booklet to all concerned Centre Superintendents for strict implementation and also for compliance by all the staff deployed for the conduct of examinations. It has come to the notice that the lackadaisical and irresponsible attitude of some of the personnel deployed for conduct of examinations often resulted in tarnishing the image of the Commission as also the State Government with respect to the sensitive issue of recruitment. It has also come to the notice of the Commission that the employees deputed for examination duties in the Government/private educational are not well conversant with and not serious about their duties and have been committing numerous mistakes. Errors commonly committed are improper checking of the candidates entering the examination centers, improper handling of examination materials, improper identification of the candidates, carrying of not permissible electronics gadgets by the candidates inside the examination centre, submission of incomplete/improper written record of the examination after its conclusion etc. affecting the fair and transparent working of the said Commission but also maligning the image of the Government in the eyes of the general public. The Government by taking a serious view in the incidents of gross negligence and carelessness of the concerned Centre Superintendents and invigilation staff requested that the Education Department will ensure to issue necessary directions to all the Heads of the educational (Government/private) institutions to pay proper attention to the instructions regarding conduct of examinations issued by the Government/Commission from time to time and ensure its strict implementation while undertaking the duties regarding conduct of written screening tests for recruitment of various posts conducted by the Commission to avoid such incidents of gross negligence and carelessness, in future, failing which disciplinary proceedings be initiated against the erring officers/officials concerned as per rules.

(H.P. Govt. Department of Personnel letter No. Per(AP.B)B(2)-5/2020 dated 1ST February, 2021 – Annexure 35.93)

35.66 Requirement of taking prior permission by Government servants for leaving station/headquarters during leave or otherwise, especially for visits abroad.

Instances came to the notice of the Government regarding taking prior permission for leaving station/ headquarters during leave or otherwise, especially for visits abroad. The State Government while citing the provisions FR-II which lays down that unless in any case it be otherwise distinctly provided, the whole time of a Government servant is at the disposal of the Government which pays him, and he may be employed in any manner required by proper authority etc. meaning thereby no officer is entitled to pay and allowances for any time he may spend beyond the limits of his charge without authority, made it clear that in view of above provision, a Government servant is required to take permission for leaving station/ headquarters and more so when he proposes to go abroad during such absence, as such visit may have wider implications. The Government also clarified that in case leave applied for the purpose of visiting foreign country is sanctioned, it would imply that permission for going abroad is also granted and, therefore, leave sanctioning authority should keep this aspect in mind while granting the leave applied for. While granting leave, the leave sanctioning Authority have to take prior approval of the Appointing Authority or any subordinate authority to whom the powers have been delegated to accord such permission to visit abroad, as the case may be. It has also emphasized that the leave applications in such cases invariably mention the purpose of going abroad. Besides, when such permission to visit abroad is sought, the Government servant is required to furnish information relating to the proposed and previous private visits as per the Proforma. Notwithstanding the power of the authority to accord permission to visit abroad as enunciated in the preceding para, the authority competent while considering the request of the Government servant shall also take care of the pending criminal cases in the Court of Law, if any. In case, the Government servant is facing departmental disciplinary proceedings, then NOC or report from the Enquiring Authority may be obtained to the effect that visit of such Government servant may not hinder the departmental proceedings.

(H.P. Govt. Department of Personnel O.M No. Per(AP.B)B(3)-4/2017 dated 12th February, 2020 – Annexure 35.85)

35.67 Noting and drafting-instructions thereof.

The detailed procedure for dealing the various types of receipts, noting and drafting has been laid down in Chapter-XI of the Office Manual (Third Edition - April, 2011)

published by the Government of H.P. Administrative Reforms. It is imperative that the detailed process is followed meticulously so that the issues involved are addressed, related correspondence/noting portion are referred to, IT tools are utilized to the optimum and appropriate decision by the competent authority is facilitated. The Government observed that the instructions contained in the Office Manual are not being followed in letter and spirit and an instance came to the notice of the Hon'ble High Court of H.P. wherein, the noting sheet had been pasted over. The directions have been issued that in case old notes require amendment/modification, addition/deletion/ substitution because of factual errors or any other reason or there is some printing deficiency, then instead of pasting it over, it should be cancelled by putting a cross mark and fresh notes be generated. In no case, such methods of over writing or pasting over of the noting sheets should be resorted to, which might indicate tampering of record of handwritten or computer-typed notes/comments/proposal.

(Government of Himachal Pradesh, Department of Personnel letter No. Per(AP-B)B(15)-26/2020 dated 18th June, 2020 - **Annexure 35.86**)

35.68 Issuance of Photo Identity Cards to the Government employees.

Para 13.1.9 of the Office Manual contains the provision regarding issuance of Identity Cards to the Government employees. It come to the notice of the Government that the Departments/Boards/ Corporations and Govt. Universities are not issuing the Identity Cards to the employees working under their control. The Government emphasized that henceforth all the departments/ Boards/ Corporations and Government Universities will issue photo Identity Cards to every employee working under their control subject to adhering to the following conditions:-

- i. The photo Identity Cards shall be valid for a period of five years or the date of superannuation whichever is earlier. It shall be renewed after every five years in respect of in-service Government servant. The validity and expiry date shall be invariably mentioned on the Cards by the issuing Authority.
- ii. On the Photo Identity Card, it shall be clearly indicated that if the card is lost by a Government Servant, a complaint, to this effect, shall be lodged to the Police as well as the Issuing Authority. The Government servant shall have to surrender the Photo Identity Cards to the Issuing Authority on its expiry/superannuation or quitting the job. The concerned authority shall ensure that the final dues in respect of a Government servant who superannuates, quits the job or is otherwise removed/disengaged from government service are settled only after the Identity Card issued to him is surrendered to the Issuing Authority.

- iii. The Issuing Authority will issue Photo Identity Cards to all the regular/contract employees. In the case of daily waged and outsourced workers, the Photo Identity Cards of different colour and design may be issued, which shall remain valid for a period not exceeding twelve months.

(Government of Himachal Pradesh, Department of Personnel, Administrative Reforms letter No. Per(AR)D(1)-1/2020 dated 25-06-2020 - **Annexure 35.87**)

35.69 - Disposal of Assembly Questions- Instructions thereof.

It come to the notice of the Government that most of the Administrative Departments are not supplying the requisite consolidated information/reply to postponed Starred/Unstarred Assembly Questions sought by the Department of Personnel within prescribed period to enable the replies in the Legislative Assembly, due to which the position of the State Government become embarrassing in the Assembly. It has also been found that some Heads of Departments, Boards/Corporations/ Autonomous Bodies, Universities etc. are supplying the replies of Assembly Questions directly to Department of Personnel, which reply do not tally with the reply supplied by their Administrative Department creating confusion for preparing replies. Hon'ble Chief Minister taken a serious view for ordinate delay in replies to the pending Assembly Questions and directed to develop a mechanism for speeding up the preparation of replies to Assembly Questions in a time bound manner. This matter was also discussed in the meeting of Secretaries of Committee held on 15-2-2020 and it has been decided that henceforth all Administrative Departments shall designate a Nodal Officer (at Secretariat level from amongst the Branch Officers/Section Officers of the concerned Administrative Department) as prescribed in Chapter IV of Office Manual (Third Edition) April, 2011 to collect the information relating to Assembly Questions from the Departments/Boards Corporations/ Autonomous Bodies etc. under their control as well as from other Branches/Sections where there are two or more Branches/Sections at Secretariat level. It shall be the duty of the Nodal Officer to have the information so received get compiled at Administrative level and after compilation of the information/replies, a consolidated reply be supplied to Department of Personnel within prescribed time limit. Further, all are to ensure that the requisite information/data relating to Assembly Questions is got supplied by them to their concerned Administrative Department well in time and the Department of Personnel will not entertain any direct communication from them.

(H.P. Govt., Department of Personnel O.M No. Per (AP.B)A(4)-1/2020 dated 20-02-2020 - **Annexure 35.88**)

35.70 - Question Bank in accordance with the law for examination - Orders of Hon'ble High Court of Himachal Pradesh.

Hon'ble High Court, Himachal Pradesh vide Orders passed in CWP NO. 3796/2020-Pankaj Sharma and Anr. V/s State of H.P on 03-06-2020 has directed the Director, Land Records, HP (Respondent No. 2) to prepare its own Questions Bank in accordance with syllabus prescribed in the Recruitment & Promotion Rules for the post of Patwari in accordance with law for conducting the 'Patwar Examination' in future. It has further been directed that the Question Bank so prepared in accordance with may also be regularly updated with the passage of time and also directed to bring this direction to the notice of all such Departments/Agencies for compliance which conduct such like examination on their own without preparing/possessing a Question Bank of their own. The State Government ion Department of Personnel directed the all to ensure compliance of the said orders of Hon'ble High Court by the Recruiting Agency(s) under their administrative control.

(H.P. Govt., Department of Personnel letter No. Per (AP.B)C(1)-1/2010-Part dated 18-09-2020 - Annexure 35.89)

35.71 - Requirement of taking prior permission by government servants for leaving station/ headquarters during leave or otherwise.

Instances came to the notice of the Government from time to time on the issues related to taking prior permission for leaving station/headquarters during leave or otherwise. FR-11 provides that unless in any case it be otherwise distinctly provided, the whole time of a Government servant is at the disposal of the Government which pays him, and he may be employed in any manner required by proper authority etc .. Besides, Article 56 of the Civil Service Regulations also provides that no officer is entitled to pay and allowance for any time he may spend beyond the limits of his charge without authority. It is implicit in these provisions that a Government servant is required to take permission for leaving station/headquarters. However, separate permission may not be necessary where a Government servant has indicated his intention of leaving headquarters/station alongwith leave address while applying for leave. Also as per provisions prescribed in Rule-161 of Himachal Pradesh Treasury Rules, the pay of a Government employee can be drawn only from the station/institution/ office where he/she is actually posted, and in no case the pay of a Government servant shall be drawn from a station/ institution/ office other than his place of posting. Further, it also comes to the notice of the Government that employees often leave the station/headquarters without seeking prior permission of the competent authority. The Government has taken this aspect very seriously, particularly in respect of those employees who leave station everyday without proper permission of the competent authority. Although the Government is aware of the facts that due to

improvement in the transport facilities and the living standards of the employees of the State with the passage of time, they use their own conveyance or pool vehicles to reach their place of posting. But it does not imply that they may leave their headquarters without prior permission, which is violation of the rules / instructions and can attract disciplinary proceedings too. Hon'ble High Court in its judgement delivered on 26.06.2020 in CWP No. 1737/2020 titled as Pradeep Kumar V Is State of Himachal Pradesh & Others has directed the State Government to lay down guidelines ensuring attendance of the government servant with maximum output in his job for which he is paid out of State Exchequer.

6. The State Government has allowed various allowances to its employees such as Dearness Allowance. House Rent Allowance, Compensatory Allowance, Capital Allowance etc. in order to meet the price escalation. House Rent Allowance has been allowed to Government employees for rented/ own accommodation at the place of posting. This allowance has been allowed in different slab rates i.e. (i) Shimla (including suburbs), (ii) District Headquarters and (iii) other parts of the State. Compensatory Allowance has been allowed at different rates for different groups whereas the Capital Allowance is admissible only to the employees posted in Shimla. As per provisions of rules these allowances have been allowed/ determined with reference to the place of postings. Hence, in case. employees who are not residing at their place of posting for one reason or other and are travelling from their place of posting to the place of residence i.e. other than the place of posting and beyond the permissible limits, and are getting allowances with reference to their place of posting, and is against the basic principles / intention for granting such allowances to its employees which is a burden on the state Exchequer. The State Government decided that henceforth. a Government servant who does not stay at the place of his/her office can only be allowed to stay at other place subject to the following conditions:-

- (i) The to and fro Journey time should not exceed two hours every day;
- (ii) He/she shall be required to disclose this to the competent authority and obtain general permission, which can be revoked based on periodic review of the performance and output of the employee;
- (iii) This permission does not prohibit/ preclude the competent authority to suspend this permission whenever the competent authority wants the concerned government servant to stay back on any particular day(s) in order to dispose of urgent official business;
- (iv) Such permission will not government servants connection with "Essential be granted to employed in Public Services" and in no situation where the competent authority is of the view that services of an official are required at the headquarters regularly due to administrative exigencies;
- (v) Once such permission is granted in favour of a Government servant. the admissible allowance will be regulated as under :-

House Rent Allowance- The Government servant will be permitted to draw allowance only at the minimum rate prescribed in other parts of the State by the Finance Department vide OM No. Fin (c)-B(7)-1/2012 dated 28.02.2012. as amended from time to time.

Compensatory Allowance - The Government servant will be permitted to draw allowance at the rate admissible to the lowest Group i.e. Group-VIII as prescribed by the Finance Department vide OM No. Fin(C)-B(7)-16/98. dated 11th June. 1999. as amended from time to time.

Capital Allowance- This allowance is admissible only to the Government servants who are posted in Shimla. Hence. in case. such permission is granted, the Government servant will not be permitted to draw this Allowance in case permission is granted to reside outside Shimla and commute daily.

Instances of leaving station without permission will attract disciplinary action.

(H.P. Government Department of Personnel O.M. No. Per(AP.B)A(3)-7/2020 dated 26-10-2020 - Annexure 35.90)

35.72- Regarding appointments to various posts in Government departments.

It is imperative that all recruitments are done in accordance with the R&P Rules framed under Constitutional/ statutory provisions. The provisions pertaining to eligibility criteria/qualifications, pay structure/ emoluments, mode and method of recruitment etc. ought to be followed strictly. Even in case of newly created posts, recruitment must be done only after notifying the R&P Rules so that it stands the tests of administrative propriety, financial feasibility and judicial scrutiny. However, instances of deviation and departure from the established norms/infringement of one or more provisions of the respective R&P Rules and instructions issued by the Government have been noticed and viewed very seriously. Accordingly, the State Government decided that henceforth no recruitment should be done to any post(s) in the absence of the Recruitment and Promotion Rules and through any other mode and method of recruitment as notified/prescribed/approved by the Government.

(H.P. Government Department of Personnel O.M. No. Per(AP)C-A(3)-1/2020 dated 02-11-2020 - Annexure 35.91)

35.73 - Regarding passing of speaking orders while dealing with the matter in quasi-judicial capacity.

In a case CMPMO No. 403 of 2020 titled Sheela Devi Versus Sarmina Devi and others decided on 05.11.2020, the Hon'ble High Court of H.P. has held that the reasoning is the

essence and soul of any order. In the absence of there being any reasoning in the order as to why the conclusion, as has been arrived at by the Authority, stands arrived at, the same is not sustainable in law. The Authority is expected to adhere to the basic principles and ensure that the order should reflect the respective contentions of the parties and reasons for agreement/concurrence with the submissions of either party be elaborated.

(H.P. Government Department of Personnel O.M. No. Per(AP)C-A(3)-1/2020 dated 02-11-2020 - **Annexure 35.92**)

35.74 - Regarding Manav Sampada implementation in all Departments of H.P. Government for keeping up-to-date record of all employees for online updation of e-Service books, required for MIS purposes.

The Manav Sampada software was rolled out by the State Government and instructions for full roll out using all the functionalities available under the Manav Sampada were issued from time to time by the Government. The Government observed that barring one or two Departments have not completed digitization of the service record on the Manav Sampada even in Departments where digitization was done initially, Treasury, Accounts & Lotteries Department had also issued instructions for completion of record so that pension papers of all prospective pensioners are generated through Manav Sampada system. The Government noticed that the progress was quite discouraging, therefore, requested all to ensure complete rollout of Manav Sampada in the State and decided that:-

- (1) All the Departments will complete service record of all the employees under them on Manav Sampada by 31st May, 2021.
- (2) Thereafter, Transfer, Relieving, Joining, Increment, LPC shall be generated through Manav Sampada software.
- (3) The pay revision and pension papers shall also be generated through Manav Sampada application.

The NIC HP shall provide necessary training at State/ District Headquarter for effective rollout of Manav Sampada application.

(H.P. Government Department of Personnel O.M. No. Per(AP.B)B(15)-12/2015-Vol-I dated 23rd April, 2021 - **Annexure 35.95**)

Annexures to Chapter 35
MISCELLANEOUS MATTERS

<u>Annexure No.</u>	<u>Details of communications</u>	<u>Page No.</u>
	Procedure for change of name by Govt. servants.	555
35.1	Govt. of India, Ministry of Home Affairs O.M. No. 60/274-48 Ests. dated 3-11-1948.	557
	Reconstruction of Record- Procedure Regarding.	559
35.2	H.P. Govt. Deptt. of Personnel, O.M. No. 8-69/71-DP (Apptt.II) Vol.II dated the 18-10- 1976	
	Procedure for preparation of fresh instructions in various topics/matters after intervals.	
35.3	H.P. Govt. Deptt. of Personnel, Chief Secretary's D.O. letter No. Per (AR) A(3)-1/76 dated 12/14-1-1976	559
	Settlement of Pension, death-cum-gratuity, Provident Fund and other claims of retired Govt. servants.	
35.4	H.P. Govt. Deptt. of Personnel letter No. PER (AP.II)B(14)1/84 dated 2-2-1985.	564
	Return from Leave.	
35.5	H.P. Govt. Deptt. of Personnel letter No. PER (AP.II)A(3)-1/79 dated 17-12-1992.	566
	Referring cases to Personnel Deptt. - Procedure regarding.	
35.6	H.P. Govt. Deptt. of Personnel letter No. Per (AP.II)B(19)-5/80 dated 3-4-1981.	566
	Instructions regarding Court/Tribunal cases, Procedure for consultation with Department of Personnel.	
35.7	H.P. Govt. Deptt. of Personnel letter No. PER (AP.II)E(3)-2/83 dated 13-1-1984.	567
35.8	H.P. Govt. Deptt. of Personnel letter No. PER (AP.II)E(3)-2/83 dated 31-1-1984.	568
35.9	H.P. Govt. Deptt. of Personnel letter No. PER (AP.II)E(3)-2/83 dated 1-3-1984.	569
35.10	H.P. Govt. Deptt. of Personnel letter No. PER (AP.II)E(3)-2/83 dated 14-11-1984.	572
35.11	H.P. Govt. Deptt. of Personnel letter No. PER (AP.II)E(3)-2/83 dated 2-1-1985.	581
35.12	H.P. Govt. Deptt. of Personnel letter No. PER (AP.II)E(3)-2/83 dated 28-4-1989.	582

	Deputation/Foreign service - Maximum tenure, extension of tenure, Retention of lien; Absorption and Reverse Foreign Service.	
35.13	H.P. Govt. Deptt. of Personnel letter No.8-50/68-Niyukti-II-Bhag-II dated 18-5-1978.	584
35.14	H.P. Govt. Deptt. of Personnel letter No. PER (AP-II)(19)-8/78 dated 16-1-1979.	585
35.15	H.P. Govt. Deptt. of Personnel letter No. 8-17/73-DP-DP (Niyukti-II) dated 28-03-1979.	587
35.16	H.P. Govt. Deptt. of Personnel letter No. 8-17/73-DP (Niyukti-II) dated 20-7-1979.	588
35.17	H.P. Govt. Deptt. of Personnel letter No. Karmik (Ni-II)B(15)14/74 dated 25-7-1979	589
35.18	H.P. Govt. Deptt. of Personnel O.M. No. 8-50/68-Apptt.II Vol. II dated 29-7-1981.	590
35.19	H.P. Govt. Deptt. of Personnel letter No. 8-17/73-DP (Apptt-II) dated 27-3-1985 with Govt. of India, M.H.A., Deptt. of Personnel and A.R. letter No. 1/4/84-Estt. (P-II) dated 26-12-1984.	591
35.20	H.P. Govt. Deptt. of Personnel letter No. 8-17/73-DP (Apptt-II) dated 30-5-1986.	595
35.21	H.P. Govt. Deptt. of Personnel O.M. No. 8-17/75-DP (Apptt-II) dated 31-7-1986 with Govt. of India Ministry of Personnel & PG & Pensions O.M. No. 4/5/86- P&PW dated 26-5-1986.	595
35.22	H.P. Govt. Deptt. of Personnel letter No. Per (AP-II) B(19)-6/94-I dated 17-5-1995 with Govt. of India, Ministry of Defence letter No. PC-34738/ Policy/TA-4/2830/SO/D (GS) dated 29.12.1994 and Memo. No. PC to MF 34738/ Policy/ TA-4/ 2681/SO/D (GS.I) dated 29-12-1994 etc.	604
35.23	H.P. Govt. Department of Personnel letter No. PER(AP-II)B(2)-5/86-III dated 30-11-1996 .	609
35.24	H.P. Govt. Department of Personnel letter No. 4-3/72-DP (AP-II) Vol.-III dated 18-02-1997.	610
35.25	H.P. Govt. Department of Personnel letter No. Per(AP-II)B(3)-1/94 dated 31-03-1997.	611
35.26	H.P. Govt. Department of Personnel letter No. Per(AP-II)B(3)-1/94 dated 19-06- 1998.	612
35.27	H.P. Govt. Department of Personnel letter No. Per(AP-B)B(2)-3/99 dated 31-07-1999/	613
35.28	H.P. Govt. Department of Personnel ARO letter No. Per(AR)A(4)-3/2013-Part-I dated 31-01-2015	614
35.29	H.P. Govt. Department of Personnel ARO letter No.	615

	Per(AR)A(4)-3/2013-Part-I dated 11-06-2019	
35.30	H.P. Govt. Department of Personnel letter No. Per (AP-II)A(3)-1/79 dated 18-01-2020.	616
35.31	H.P. Govt. Department of Personnel letter No. Per (AP-B)F(10)-1/99 dated 01-05-1999.	617
35.32	H.P. Govt. Department of Personnel letter No. Per (AP-B)F(10)-1/99 dated 27-07-2000.	618
35.33	H.P. Govt. Department of Personnel letter No. Per (AP-B)F(10)-1/99 dated 01-12-2005.	619
35.34	H.P. Govt. Department of Personnel letter No. Per(AP-B)-F(10)-1/99 dated 02-06- 2010.	620
35.35	H.P. Govt. Department of Personnel letter No. Per(AP-B)-F(10)-1/99 dated 15-06-2010.	621
35.36	H.P. Govt. Department of Personnel letter No. 4-3/72-DP (AP-II)-Vol-III dated 30-06-1999.	621
35.37	H.P. Govt. Department of Personnel letter No. 4-3/72-DP (AP-II)-Vol-III dated 29-12-2001.	623
35.38	H.P. Govt. Department of Personnel letter No. Per(AP-B)B(1)-2/2000 dated 02-11-2000.	623
35.39	H.P. Govt. Department of Personnel letter No. Per(AP-B)B(15)1/2000 dated 13-03-2001.	624
35.40	H.P. Govt. Department of Personnel letter No. Per(AP-B)E(3)-3/99 dated 28-02-2001.	625
35.41	H.P. Govt. Department of Personnel letter No. Per(AP-II)B(11)-1/89 dated 19-07- 2001.	625
35.42	H.P. Govt. Department of Personnel letter No. Per(AP-B)E(3)-3/99 dated 27-02-2002.	626
35.43	H.P. Govt. Department of Personnel O.M. No. Per(AP-II)B(16)-1/2002 dated 18-07-2002.	626
35.44	H.P. Govt. Department of Personnel O.M. No. Per(AP-B)A(8)-2/2003 dated 15-11-2003.	627
35.45	H.P. Govt. Department of Personnel letter No. Per(AP-B)B(19)-6/2004 dated 03-06-2004.	628
35.46	H.P. Govt. Department of Personnel letter No. Per(AP-II)A(5)-1/2005 dated 25-02-2005.	628
35.47	H.P. Govt. Department of Personnel letter No. Per(AP-B)A(6)-2/2006 dated 26-10-2006.	629
35.48	H.P. Govt. Department of Personnel letter No: Karmik (Ni-II)F(4)-12/87- Bha, dated 07-07-1993.	630
35.49	H.P. Govt. Department of Personnel letter No. Karmik (Ni-II)F(4)-12/87- Bha-III dated 15-09-95.	631

35.50	H.P. Govt. Department of Personnel letter No. Per(AP-II)F(4)-12/87-VI dated 07-12-2006.	632
35.51	H.P. Govt. Department of Personnel letter No. Per(AP-II)A(3)-1/80 dated 26-05-2008.	632
35.52	H.P. Govt. Department of Personnel letter No: Per(AP-B)B(1)-1/98 Part, dated 23-06-2009	634
35.53	H.P. Govt. Department of Personnel letter No: Per(AP-B)B(15)-7/2015, dated 22-08-2016.	635
35.54	H.P. Govt. Department of Personnel letter No: Per(AP-B)B(15)-7/2015, dated 29-08-2019.	636
35.55	H.P. Govt. Department of Personnel letter No: Per(AP-B)E(2)-1/2006 Part dated 02-01-2010.	637
35.56	H.P. Govt. Department of Personnel letter No: Per(AP)-C-B(2)-1/2006- Vol.-VIII dated 22-02-2010.	637
35.57	H.P. Govt. Department of Personnel letter No: Per(AP-II)-B(2)-2/94 dated 12-04 2010.	638
35.58	H.P. Govt. Department of Personnel letter No: Per(A-IV)-B(15)-3/2009 dated 12-05-2010.	639
35.59	H.P. Govt. Department of Personnel letter No: Per(AP-B)E(5)-2/2012 dated 01-11-2013.	640
35.60	H.P. Govt. Department of Personnel letter No: Per(AP-II)A(3)10/73, dated 03-07-2014.	640
35.61	H.P. Govt. Department of Personnel letter No. Per(A-IV)-B(15)-3/2009 dated 06-01-2016.	641
35.62	H.P. Govt. Department of Personnel letter No. Per(AP-B)A(3)-6/2012 dated 19-05-2016	642
35.63	H.P. Govt. Department of Personnel letter No. Per(AP-B)B(11)-2/2012 dated 26-08-2016.	642
35.64	H.P. Govt. Department of Personnel letter No. Per(AP)AB(12)-3/12 dated 27-10-2016.	643
35.65	H.P. Govt. Department of Personnel letter No. Per(AP-B)A(3)-10/73 dated 02-11-2016.	643
35.66	H.P. Govt. Department of Personnel letter No. Per(A-IV)B(15)-3/2009 dated 9-12-2016.	644
35.67	H.P. Govt. Department of Personnel letter No. PER(AP)-C-B(2)-2/2015-L dated 9-03-2017.	645
35.68	H.P. Govt. Department of Personnel letter No. Per(AP-B)-B(19)-2/2012, dated 10-03-2017.	645
35.69	H.P. Govt. Department of Personnel letter No. Per(AP-B)-B(19)-31/2007, dated 10-05-2013.	646
35.70	H.P. Govt. Department of Personnel letter No. Per(AI)B(3)-16/1988 dated 18-04-2017.	647

35.71	H.P. Govt. Department of Personnel letter No. Per(A-IV)B(15)-3/2009 dated 03-08-2016	647
35.72	H.P. Govt. Department of Personnel letter No. Per(AP-B))D(7)-1/2017 dated 6-07-2017.	648
35.73	H.P. Govt. Department of Personnel letter No. Per(AP.II)B(3)-10-75-III dated 03-08-2017.	651
35.74	H.P. Govt. Department of Personnel letter Per(AP.II)B(2)-5/2017 dated 18-08- 2017.	654
35.75	H.P. Govt. Department of Personnel letter No. Per(AP.B)B(19)-6/2010-Vol.I dated 26 th October, 2017.	655
35.76	H.P. Govt. Department of Personnel letter No. Per(AP-B)B(15)-5/2014- dated 21-02- 2018.	671
35.77	H.P. Govt. Department of Personnel letter No. Per(AP)-C-B(12)-2/2013-III dated 12-03-2018.	671
35.78	H.P. Govt. Department of Personnel letter No. Per(AP.B)A(9)-2/2018 dated 13-11-2018.	672
35.79	H.P. Govt. Department of Personnel letter No. Per(AP.B)B(19)-16/2000 dated 26-09- 2002.	681
35.80	H.P. Govt. Department of Personnel letter No. Per(AP)-C-F(10)-4/2010 dated 23-10-2013.	681
35.81	H.P. Govt. Department of Personnel letter No. Per(Trg)-B(12)-5/2017 dated 13-11-2019.	682
35.82	H.P. Govt. Administrative Reforms Organisation letter No. Per(AR)F(10)-9/2019 dated 27-11-2019.	683
35.83	H.P. Govt. Department of Personnel letter No. Per (AP-B)B(15)-13/2019 dated 01-01-2020	683
35.84	H.P. Govt. Department of Personnel O.M. No. Per(AP-B)B(19)-1/2017 dated 04-02-2020	684
35.85	H.P. Govt. Department of Personnel O.M. No. Per(AP-B)B(3)-4/2017 dated 12-02-2020	685
35.86	H.P. Govt. Department of Personnel O.M. No.Per(AP-B)B(15)-26/2020 dated 18-06-2020	688
35.87	H.P. Govt. Department of Personnel O.M. No.Per(AR)D(1)-1/2020 dated 25-06-2020	689
35.88	H.P. Govt. Department of Personnel O.M. No.Per(AP.B)A(4)-1/2020 dated 20-02-2020	690
35.89	H.P. Govt. Department of Personnel letter No.Per(AP.B)C(1)-1/2010-Part dated 18-09-2020	691
35.90	H.P. Govt. Department of Personnel O.M. No.Per(AP.B)A(3)-7/2020 dated 26-10-2020	691
35.91	H.P. Govt. Department of Personnel O.M. No. Per(AP)-C-A(3)-1/2020 dated 02-11-2020	694

35.92	H.P. Govt. Department of Personnel O.M. No. Per(AP.B) B(15)-26/2020 dated 16 th December, 2020	694
35.93	H.P. Govt. Department of Personnel letter No. Per (AP.B)B(2)-5/2020 dated 1 ST February, 2021	695
35.94	H.P. Govt. Department of Personnel letter No. Per (AP.B)B(15)-7/2015 dated 26 th March, 2021	696
35.95	H.P. Govt. Department of Personnel letter No. Per (AP.B)B(15)-12/2015-Vol.I dated 23-04-2021	697

Copy of Government of India, Ministry of Home Affairs Office Memorandum No. 60/274-48-Ests dated the 3rd November, 1948.

{Referred to in Para 35.1}

Subject: Procedure for a change of name by Government Servants.

The undersigned is directed to say that the Ministry of Home Affairs receives from time to time references from other Ministries and Offices asking for advice as to the procedure to be followed in according recognition to a bonafide change of name by Government Servants. As the position in this respect is none too clear at present, the following procedure for the purpose has been decided upon consultation with the Minister of Law and may be noted for future guidance.

2. A Govt. servant wishing to adopt a new name or to effect any modification in his existing name should be asked to adopt the change formally by a deed changing his name. In order that the execution of the document may not in doubt, it is desirable that it should be attested by two witnesses preferable those known to the head of office in which the Govt. servant is serving. A sample deed form is enclosed with the Govt. of India, Ministry of Home Affairs letter dated 3-11-1948 (Annexure-I). The execution of the deed should be followed by publication of the change in a prominent local news paper as well as the Gazette of India (Gazette of H.P for employees of H.P.), publication being by the Government servant at his expenses in both cases. For publication in the Gazette of India, the Govt. servant should approach the Manager of Publications, Govt. of India, Publication Branch, Civil Lines, New Delhi.

3. It is only after the formalities described above have been complied with and satisfactory evidence of identity and execution of the document adduced by the Government servant that the adopted of the new name or change in the existing name should be recognized officially and entries in official records amended accordingly. True

copies of the relevant documents should be retained by the concerned Head of Office concerned.

Enclosure to Annexure 35.1

DEED CHANGING SURNAME

BY THIS DEED I the undersigned A.B.C, (New name) of etc. now lately called A.C (old name) employed as(designation of the post held at the time by the Government servant concerned) at Ministry/Department of the India (as amended by Office Memorandum No No. 87/52-Ests. Dated the 24th March, 1952) do hereby:-

1. For and on behalf of myself and my wife and children and remeter issue wholly renounce relinquish and abandon the use of my former surname of C (only) and in place thereof do assume from the date hereof the surname of B.C and so that I and my wife and children and remeter issue may hereafter be called known and distinguished not by my former surname of C (only) but by my assumed surname of B.C.
2. For the purpose of evidencing such my determination declare that I shall at all times hereafter in all records deeds and writings and in all proceedings dealings and transactions as well private as public and upon all occasions whatsoever use and sign the name of B.C as may surname in place of and in substitution for may former surname of C (only).
3. Expressly authorize and request all persons at all times hereafter to designate and address me and my wife and children and remeter issue by such assumed surname of B.C. accordingly.

In WITNESS WHEREOF I have hereunto subscribed my former and adopted names of A. C and A.B.C. and affixed may seal this..... day of

Signed sealed and delivered !
by the above named ABC formerly ! A.C
A.C. in the presence of (b) ! A.B.C.

.....

Copy of H.P. Govt. Department of Personnel, Office Memorandum No. 8-69/71-DP (Apptt.II) Vol.II dated the 18th October, 1976, addressed to all Secretaries, Heads of Departments etc.

{Referred to in Para 35.2}

Subject: Reconstruction of Records of Directorates of Himachal Pradesh.

The undersigned is directed to say that the question of reconstruction of records of offices was considered by the Govt. and the following procedure has been prescribed for the re-construction of the records of the Directorates:-

1. Office Records including Acts, Rules and Instructions.

- (a) Copies of the Acts/Rules/Manuals etc. as applicable in Himachal Pradesh may be purchased from the Sales Depot of H.P. Printing Press. IN the event of the non-availability of such reference books in the H.P. Printing Press the same may be purchased from the open market.
- (b) Copies of the Acts/Rules/Manuals of available with concerned Departments which deal with those Acts/Rules etc., may, in the first instance. Be obtained from those departments. Purchase as suggestion in (a) above may be resorted to only in the event of such reference books being not available with the concerned Departments.
- (c) Copies of such instructions as have not been codified may be obtained from the Departments dealing with relevant subject. The concerned Departments at Govt. level may get copies of all such instructions as are in force at present typed out/cyclostyled and send the same to the Directorates without their having made specific references.

2. Service Books

- (a) In the case of such employees who had rendered service in the erstwhile Princely States, service particulars may be obtained from the Record Rooms of the District in which the service records of the employees concerned were deposited at the time of

merger. In cases where it is not possible to trace the relevant record or the relevant record is not available, an affidavit supported by the collateral evidence may be obtained from the employee concerned.

- (b) In the case of the employees inherited from Govt. of India or other State Governments/Departments or those allocated from the composite State of Punjab, the Government/Departments concerned may be requested to supply the service particulars of the concerned employees together with attested copies of relevant orders relating to the appointments, posting, transfer, promotion, leave and other conditions of service etc.
- (c) For the period of the service under Himachal Pradesh, the service particulars and the other relevant documents may be collected from the office copies of the pay bills, if available otherwise they may be taken from the Audit and Accounts office for whatever period they may be available there. Assistance may be availed of the Establishment Returns for the earlier period, if available with the Audit and Accounts office/Directorates. Copies of the sanctions, orders of appointment/promotion etc. as had been endorsed to the Audit Office may also be had from the said office.
- (d) The officials are likely to keep copies of relevant records relating to their service career. Accordingly, all the officials may be asked to submit their service particulars supported with attested copies of documents as may be available with them.
- (e) The records/particulars as may be available in accordance with the above procedure (a) to (d) may be compared and then service books/personal records be completed with reference to the entire material.

3. Confidential Reports.

- (a) Confidential Reports may be completed for the last three years. In all cases where any of the officers/officials whose C.R. dossier has been destroyed is to be considered for promotion/ confirmation etc. the CRs of all other for the last three years.
- (b) The CRs shall, as far as possible, be initiated, reviewed and accepted by the same Authorities (i.e. the incumbents) who had written the reports initially, but the CRs shall not be sent to the Officers who have since retired. Similarly CRs shall also not be

sent to the Ministers/Deputy Ministers/Ministers of State etc. who do not hold any such office at present.

- (c) In case any of the Reporting Officer/Reviewing Officer/Accepting Officer is not available for any of the reasons indicated in (b) above then the CR shall be written/reviewed/accepted by the next authority has since retired/ do not hold office at present then the next higher authority, if any, shall be accepting authority. Alternatively the reviewing authority shall be considered as the accepting authority.

2. The above procedure may kindly be followed and the records completed immediately.

Annexure 35.3

Copy of D.O. No. PER (AP.II)A(3)-1/76 dated 12/14th January, 1976 from Chief Secretary to the Government of Himachal Pradesh addressed to the Secretary to the Government of Himachal Pradesh, Finance Department, Shimla-171002.

{Referred to in Para 35.3}

Instruction issued by the various Departments from time to time in regard to specific subjects tend, over a period of time, to become very bulky and involved so that any one dealing with the subjects necessarily takes a long time to find out the correct position. Sometimes, such instructions, issued at different intervals of time, may even be inconsistent leading to genuine doubts. The absence of clear up-to-date instructions on the topics is one of the cases of delay and also makes an exercise of delegated powers difficult. It is, therefore, necessary that instructions on different subjects should be scrutinized periodically and consolidated into consolidated order so that:-

- (i) It should be in supersession of all previous orders so that there will be no need to refer, to any of the previous order.
- (ii) It should be fully self-contained and should avoid any reference to previous order.

- (iii) It should be arranged and presented in a logical form with suitable appendices and forms to be used.

Action in this behalf has to be initiated in every department and as a first step it is necessary that each section in a department is called upon to prepare within a month at the latest, a list of subjects for which compilation/consolidation of the orders issued by them is necessary. This list should then be approved by the Secretary concerned. The Section Officer concerned may thereafter be asked to prepare the draft according to a time bound programme which could vary from section to section depending upon the nature and quantum of work but the programme for the entire department could be finalized within a period of one month. An idea about the type of work that is involved in this process can be had from the enclosed list of subjects framed by the Department of Personnel and Administrative Reforms, Government of India, for the Ministries/Departments at the Centre. I request you to kindly initiate similar action in this behalf and prepare a list of such subjects and the programme in respect of your Department. A copy of the same alongwith the consolidated instructions issued by you from time to time be sent also to the Department of Personnel (Administrative Reforms) for information.

Kindly acknowledge receipt.

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Enclosure to Annexure 35.3

Statement showing the subject for which sample drafts of consolidated orders/instructions issued by certain Ministries were prepared by the Department of Personnel and Administrative Reforms (Administrative Reforms).

Sl. No.	Subject	Ministry/Department concerned
1	2	3
1.	(i) Procedure for processing projects for financial assistance from World Bank.	Department of Agriculture

-do.....
- (ii) Procedure for internal processing of cases of Department/delegation abroad.
- (iii) Policies and Procedure for import of tractors.do.....
2. (i) Issue of licenses to establish, maintain and work wireless stations Ministry of Communication
- (ii) Registration of news-papers under Indian Post Office Act, 1898 (DGP &T)do..... (DGP & T)
3. (i) Recovery of arrears of rent from released/retired officers Ministry of Defencedo.....
- (ii) Recovery of arrears of rent from private agencies including contractors, clubs, messes, institutes, etc.
4. Codification of rules and procedures for award of foreign government scholarship. Ministry of Education.
5. Transfer of Central Government employees to other government departments, Companies etc. deputation (duty) allowance. Ministry of External Affairs.
6. Purchase and construction of properties in foreign counties Ministry of External Affairs.
7. (i) Organisation at the State level Deptt. of Family Planning.
- (ii) Organisation at district level ----do----

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|-----|---|------------------------------------|
| 8. | Procedure to be followed in sending replies to audit office on draft paras, audit objections etc. | Deptt. of Food |
| 9. | Instructions relating to C.G.H.S. Scheme. | Deptt. of Health |
| 10. | (i) Consolidation of Administrative order and instructions in the Ministry of Home Affairs | Ministry of Home Affairs. |
| | (ii) Delegation of administrative powers to Union Territories. | |
| 11. | Codification of order relating to procedure for industrial licensing. | Deptt. of Industrial Development. |
| 12. | Production of Documentary Files. | Ministry of Inf. And Broadcasting. |
| 13. | Efficient and economic execution of Irrigation and Power projects by States. | Ministry of Irrigation and Power. |
| 14. | (i) Codification of order etc. on selected subjects of Department of Labour and Employment. | Ministry of Labour |
| | |do..... |
| | (ii) Constitution of Labour Welfare Fund in Central Industrial Undertakings. | |

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|-----|--|--|
| 15. | Procedure for seeking legal advice from the Deptt. of Legal Affairs | Deptt. of Legal Affairs |
| 16. | Codification of rules etc. relating to Mines and Minerals (Development and Regulation) Act. | Deptt. of Mines and Metals. |
| 17. | (i) Preparation and maintenance of confidential reports. | DP & AR (Personnel Wing). |
| | |do..... |
| | (ii) Grant of extension of service/re-employment to Central Govt. Servants beyond the age of superannuation. | |
| 18. | Grant of business loans to Burma repatriates. | Deptt. of Rehabilitation |
| 19. | Ministry of Finance (Deptt. of Revenue & Insurance) Drawback rates. | Deptt. of Revenue and insurance. |
| 20. | (i) Shipping arrangement for Govt. cargoes. | Ministry of Shipping & Transport
.....do..... |
| | (ii) Shipping Development Fund. Its constitution and utilisation | |

- | | | |
|-----|---|---|
| 21. | Award of post-matric scholarship to Scheduled Castes and Tribes candidates. | Deptt. of Social Welfare |
| 22. | Inspection of stores by ISM London/Washington (D.G. S & D) | Ministry of Supply (D.G.S &D) |
| 23. | Booking of air passages for journey abroad. | Ministry of Tourism and Civil Aviation. |

Annexure 35.4

Copy of H.P. Govt. Department of Personnel, letter No. Per (AP.II)B(4) -1/84, dated the 2nd February, 1985, addressed to all Secretaries to the Government of Himachal Pradesh.

{Referred to in Para 35.4}

Subject: Settlement of pension, death-cum-retirement gratuity, provident fund and other claims of retired Government Servants.

I am to point out that I have been receiving a large number of complaints from the retired Government employees in regard to the finalization of their claims for payment of pension, death-cum-retirement gratuity, provident fund and other claims. It is really unfortunate that inspite of considerable improvement and streamlining the procedure for finalizing the pension, gratuity cases the delay in finalization of these cases still continue to take place in a large number of cases. This could partly be attributed to lack of seriousness and a sense of urgency on the part of officials handling pension cases at various levels. Petty objections often delay the whole process. As a result the retired employees have to run from pillar to post and at times they get so frustrated that they start writing to higher Authorities and sometimes resort to litigation. Some also voice their grievances through the newspapers by writing letters to the editor. There is no reason why a retiring Government servant should not get his legitimate retirement dues i.e. pension, death-cum-retirement gratuity, leave encashment, commuted value of pension, provident fund etc. on

the last date of his retirement. Similarly he should also be able to get pension like the monthly pay soon after retirement.

Moreover since an officer becomes eligible for full pension on completion of 33 years of service it is unnecessary to wait till his actual retirement for issue of pension payment order. To expedite finalization of these cases the following remedial measures are suggested.

- (i) After an officer has completed 33 years of service thus being entitled to full pension, his pension papers may be prepared and pension payment orders issued though the actual payment would start from the month following the month of retirement.
- (ii) Payment order for gratuity, Provident Fund dues, leave encashment etc. could be issued in the last quarter of employee's service and actual payment could be made after his retirement.

It has also been decided to hold half-yearly meetings of all the Secretaries and Heads of Departments under the chairmanship of the Chief Secretary to review the pending pension cases department wise. The Accountant General, Himachal Pradesh, will also be requested to attend the meeting. Administrative Secretaries and all Heads of Departments should review all pending terminal benefit cases personally so that these are expeditiously settled. They should send details of all such cases to Finance Department, the Personnel Department and the Accountant General.

4. I hope with these procedural rationalizations there should be no scope for delay in payment of pension etc. provided officials dealing with these cases show the required understanding and urgency and also exercise judgement to overrule petty or technical objections.

Kindly acknowledge the receipt of this letter.

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हिमाचल प्रदेश सरकार कार्मिक विभाग के पत्र संख्या पर (एपी-।।) ए(3)-1/79 दिनांक 17-2-1992, जोकि सभी वित्तायुक्तों, आयुक्तों, सचिवों, विभागाध्यक्षों आदि को सम्बोधित है की प्रतिलिपि ।

(पैरा 35.5 में उल्लेखित)

विषय: कर्मचारियों द्वारा स्वीकृत अवकाश के उपरान्त वापसी बारे अनुदेश ।

उपर्युक्त विषय पर मुझे यह कहने का निदेश हुआ है कि सरकार के ध्यान में यह बात आई है कि कई अवसरों पर कई अधिकारी/कर्मचारी प्रारम्भ में स्वीकृत अवकाश की समाप्ति पर मुख्यालय पर वापस नहीं आते जिसके लिये कारण यह बतलाया जाता है कि वापसी पर रेलवे/हवाई सीटों का आरक्षण उपलब्ध नहीं हो सका। ऐसी अवस्था में अनिश्चितता उत्पन्न होने के अतिरिक्त कार्य आबंटन व्यवस्था भी छिन्न भिन्न हो जाती है। इसलिये एक जिम्मेदार अधिकारी/कर्मचारी को चाहिये कि वह जहां तक संभव हो, अवकाश पर प्रस्थान करते समय यह सुनिश्चित करें कि वे प्रारम्भ में स्वीकृत/अधिसूचित अवकाश समाप्त होने पर अपने कार्य पर वापस आ जायें। यदि वापसी के लिये सीटों के आरक्षण की आशंका हो तो अधिकारी/कर्मचारी को चाहिये कि अवकाश पर प्रस्थान करने के लिये आरक्षण करवाते समय, यदि आवश्यक हो तो वापसी के आरक्षण का भी प्रयत्न किया जाये।

2. ये अनुदेश सभी अधिकारियों/कर्मचारियों के ध्यान में आवश्यक कार्यवाही हेतु लाये जायें।

.....

Annexure 35.6

Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP.II)B(19) 5/80 dated April 3, 1981, addressed to all the Administrative Secretaries to the Government of Himachal Pradesh, all Head of Departments in Himachal Pradesh.

{Referred to in Para 37.6}

Subject: Referring of cases to the Department of Personnel for advice - Instructions regarding.

I am directed to say that of late quite a number of cases are being referred to the Department of Personnel for advice and there seems to be a general tendency in the other

sections of Secretariat and the Head of Departments to refer all cases to this Department for giving advice even where they are fully competent to take decision themselves, and the orders/instructions are in unambiguous terms. This does not only generates avoidable work but also leads to delay in the final disposal of the cases. Besides this, the Administrative Sections are of their own referring cases to the Department of Personnel for concurrence without taking up the matter with the Public Service Commission where reference is required to be made to the Commission. It may be made clear that once rules on a particular matter are approved, the Secretary of the Department is competent to make a reference to the Public Service Commission for selection or any advice that is considered necessary by the Department.

2. It has also come to the notice that direct references are quite often received from the Head of Departments for obtaining the advice of Department of Personnel by-passing the administrative Secretaries.

The procedure is not only irregular but against all official propriety. This sort of practice needs to be discontinued forthwith. In addition to this the Department of Personnel continue to receive piece-meal information from the Administrative Departments whenever any information is sought from them on some important matters. Usually they furnish partial information and for the rest it is stated that the same is being procured. This practice not only delays the matter but also increases the avoidable work load in the Department of Personnel.

4. The above instructions may kindly be brought to the notice of all concerned for strict compliance.

Annexure 35.7

Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP.II)E(3)-2/83 dated the 13th January, 1984, addressed to all Secretaries to the Government of Himachal Pradesh, all Heads of Departments in H.P., all Deputy Commissioners in H.P.

{Referred to in Para 37.7(1)}

Subject: Defending of cases in the High Court of Himachal Pradesh - Filling of affidavits and discussion with the Advocate General etc. - Instructions regarding.

I am directed to say that filling of affidavit in Govt. cases in the Hon'ble High Court and discussion relevant to the cases with the Advocate general is a matter of considerable responsibility and importance. It has been noticed that in some cases affidavits on behalf of State Govt. are not filed sufficiently senior officers. Where files are required to be shown to the Advocate General, the Departments generally depute Clerks/Assistants to take files to the Advocate General for discussion. The Advocate General finds it difficult to discuss important points concerning the case with such junior officials. It has, therefore, been decided by the Government in future:-

- (i) all affidavits in the Hon'ble High Court on behalf of the Govt. should be sworn in by the officer not below the rank of Deputy Secretary to the Government. In Departments which have no Deputy or Joint Secretary, Under Secretaries may continue to file affidavits.
- (ii) where files are required to be show to the Advocate General, the concerned Section Officer/Supdt. Grade-I should discuss such files with the Advocate General.
- (iii) where officers are summoned to the high court in Govt. cases, they should be present there at 10.30 A.M sharp on the date of hearing.

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

Annexure 35.8

Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP.II)E(3)-2/83 dated the 31st January, 1984, addressed to all Secretaries to the Government of Himachal Pradesh, all Heads of Departments in H.P., all Deputy Commissioners in H.P.

Subject: Defending of cases in the High Court of Himachal Pradesh - Filling of affidavits and discussion with the Advocate General etc. - Instructions regarding.

{Referred to in Para 37.7(2)}

In continuation of this Department circular letter of even number, dated the 31st January, 1984 on the subject noted above, I am directed to clarify that:-

It is clarified that in cases where the Deputy Commissioners and Heads of Departments as the case may be are impleaded as a party, affidavits, in such cases are required to be filed before the Hon'ble High Court by the concerned Deputy Commissioner/Head of Department.

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

Annexure 35.9

Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP.II)E(3)-2/83 dated the 1st March, 1984, addressed to all Secretaries to the Government of Himachal Pradesh, all Heads of Departments in H.P., all Deputy Commissioners in H.P.

Subject: Defending of cases in the High Court of Himachal Pradesh - Filing of affidavits etc.
- Instructions regarding.

{Referred to in Para 37.7(3)}

In continuation of this Department circular letters of even number, dated the 13th and 31st January, 1984 on the subject noted above, I am directed to say that it has been brought to the notice of the Government by the Advocate General that the Departments do not pay due care towards the Govt. cases in the court, including writ petitions, I regard to the filing of replies/affidavits within the stipulated time and production of relevant records. As a result, the Government's position is rendered awkward in the High Court. Some important procedural requirements as pointed out by the Advocate General are given below:-

1. Record.

Whenever any case including writ petition is posted for admission or hearing the Advocate General intimates the concerned Department to send the relevant record through a responsible officer to the Court. In a majority of cases the record is sent by the concerned department through those officials who are not completely conversant with the facts of the case, as a result of which no valuable of effective assistance is possible. The officials are

sent at times are not in a position to show the relevant documents needed during the course of hearing. At time some assurances on certain matters are needed from the department at the spur of moment in the Court. In that event the junior officials deputed by the departments are not in a position to say anything. Apart from this, incomplete record is sent. It is, therefore, desired that in future, records of the cases complete in all respects should be sent by the Departments through responsible offices to the Advocate General.

2. Replies.

It has often been found that the replies are not filed in the cases of miscellaneous petitions in time, as a result of which disposal of cases is delayed. There may be certain cases where the information is to be collected from different places and record is to be consulted before preparing and filing the reply. As a matter of rule, such matters deserve top priority from officers of the concerned Departments so that timely replies are filed in the Court. In many cases, departments file evasive replies or they prefer to be silent on certain points inspite of the fact that they are advised by the Advocate General to be specific and precise in their replies. Evasive raptly or silence on any point impliedly means admission by the party. Therefore, this tendency must be discontinued forthwith.

3. Annual Confidential Reports.

It has been observed that sometimes adverse remarks in the Annual Confidential Reports are incorporated by the Reporting Officers on the basis of no record. Such Reports are also accepted by the Reviewing and the Accepting Authorities. The legal position in respect of this aspect of matter is a settled one. The Reporting, Reviewing and Accepting Authorities should be made aware of this aspect. In some cases Annual Confidential Reports are not written by the Reporting Authority within the stipulated period and adverse remarks are also not conveyed to the concerned persons. Basically such remarks are not brought to the notice of the officer/official concerned cannot be used against him. The representation of Government servant against such remarks is not decided for a long time. This does not give a health impression to the court about the working of the Government. The Government has prescribed a calendar for writing, reviewing , accepting of ACRs, conveying of adverse remarks and deciding representations against the adverse entries. The instruction of the Government on the subject should be adhered strictly.

4. Seniority List.

It has been observed that the seniority lists are often changed on the representation made by the affected employees without giving an opportunity indicating the reasons against the proposed action to the other affected persons. Therefore, if after receiving and considering the representations against the seniority list, it is found that the same had been prepared erroneously the other employees who are affected by the proposed change must be given an opportunity to show cause against the proposed action. In case such procedure is not followed, the changed seniority lists cannot stand the test of legal scrutiny in the Courts.

5. Time barred matters.

It has often been found that appeals/revisions or other replies which are time-bound matters are at times referred to the Advocate General either when the limitation is already over or it is about to be over. This practice is not a healthy one. The Departments should take timely action in such matters.

6. Implementation of Judgement.

It has been found that in many cases judgement/orders of the Hon'ble High Court are not implemented properly and promptly. This give rise to many complications. At times contempt petitions are brought against the Government or the matter is otherwise brought to the notice of the Court through civil miscellaneous petitions. When the Court comes to know that the orders thereof have been delayed, they take exception to it. All concerned should ensure that judgements and orders are implemented at once.

2. The Government has taken a serious view of the lapses ordinarily committed by the Department in the matter of defending and pursuing Government cases in the Court. In case any repetition of the above mentioned irregularities comes to your notice strict action should be taken against the defaulting officer/officials.

3. The above instructions may please be brought to the notice of all concerned for strict compliance in future.

Annexure 35.10

Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP.II)E(3)-2/83 dated the 14th November, 1984, addressed to all Secretaries to the Government of Himachal Pradesh, all Head of Departments in H.P., all Deputy Commissioners in H.P.

Subject: Defending of cases in the High Court of Himachal Pradesh - Filling of affidavits etc.
- Instructions regarding.

{Referred to in Para 37.8}

I am directed to invite your attention to this Deptt. letter of even number dated the 1st March, 1984 on the above subject and to stat that as pointed out therein, it has been found that in many cases judgement/order of the Hon'ble High Court are not implemented properly and promptly, giving rise to many complications. At times contempt petitions are brought against the Government or the matter is otherwise brought to the notice of the Court through Civil Miscellaneous Petitions.

2. Copy of the Judgement delivered by the Hon'ble Himachal Pradesh High Court in its judgement dated 17th July, 1984 (Shri Hand Raj Dhir Vs. State of Himachal Pradesh and others- copy enclosed with Annexure 35.10) have made certain observations and given directions for implementation of Court orders which need be noted carefully. As directed in the aforesaid Judgement, there is imperative need to implement the decision rendered by the Court of law with utmost expedition, unless, an appeal is preferred against such a decision and an application for stay is moved and granted by the appellate court, or , in the alternative , the court which rendered the decision is moved and grants an interim stay of the decision pending the preferment of an appeal and grant of stay by the appellate court. These instructions may please be brought to the notice of all concerned for strict compliance.

Please acknowledge receipt.

Enclosure to Annexure 35.10

Copy of Judgement delivered on July 17, 1984 by a Division Bench consisting of Hon'ble Mr. Justice P.D. Desai, (C.J.) and Hon'ble Mr. Justice H.S. Thakur, Judge, in C.W.P. No. 114 of 1984, titled.

Civil Writ Petition No. 114 of 1984.

Date of decision July 17, 1984.

Hans Raj Dhir

..... Petitioner

Versus

State of Himachal Pradesh and others

Coram

.....Respondents.

The Hon'ble Mr. Justice
P.D. Desai, C.J.

The Hon'ble Mr. Justice
H.S. Thakur, J

Whether approved for reporting? Yes.

For the Petitioner Shri K.D. Sood, Advocate,
Amicus curiae.

For the Respondent (s) Shri P.N. Nag,
Advocate General.

P.D. Desai, C.J. (Oral).

An application received by one of us (Chief Justice) was registered as writ petition. The application was made by a retired employee of the State Government who was at the time of his retirement working in the office of Settlement Officer, Consolidation, and Hamirpur in the capacity of a Clerk.

On April 28, 1969, the petitioner was placed under suspension. The services of the petitioner were terminated on February 3, 1971. The order of terminating was challenged in Civil Writ petition No. 61 of 1971, which was decided in favour of the petitioner on March 15, 1974 by a learned Single Judge of the Court by quashing the termination order and giving a further direction to the effect that the petitioner shall be deemed to have continued in service right from the date the impugned order was passed” and that “he shall also be entitled to all consequential benefits arising as a result of the quashing of the order”.

The decision of the learned single Judge in Civil Writ Petition No. 61 of 1971 was made the subject-matter of Letters Patent Appeal No. 15 of 1974, which, was preferred on April 25, 1974. An application for stay of the decision of the learned single Judge, being C.M.P No. 519 of 1974, was instituted on June 6, 1974. It is the petitioner's case that meanwhile he submitted his joining report on May 16, 1974 in the office of Settlement Officer, Consolidation, Hamirpur, but he was not permitted to join duty. At an earlier stage in the course of this proceeding this fact appears to have been in dispute. It is, however, conceded now that the petitioner had furnished the joining report on May 16, 1974, as alleged by him, and that it was forwarded to the second respondent (Director of Consolidation, Himachal Pradesh, Shimla). It is the case of the petitioner that he was thus prevented from joining duty, although, as a result of the decision in Civil Writ Petition No. 61 of 1971, he was entitled to join duty and the operation and implementation of the said decision was not stayed at the relevant time. On the stay application preferred in the Letters Patent Appeal (C.M.P No. 519 of 1974) an order was made on Oct. 11, 1974. The material portion of the said order reads as under:—

“... would, therefore, consider that the balance of convenience requires that Shri Hans Raj Dhir (Petitioner) may be paid his salary for the ensuing period until the decision of the L.P.A, subject to his furnishing a security to the satisfaction of the Registrar of this Court”.

It is not in dispute that the security furnished by the petitioner was not accepted and the question, therefore, of making payment of the salary for the ensuing period did not

arise during the pendency of the Letters Patent Appeal. The Letters Patent Appeal was heard and dismissed on May 16, 1980. As a result of the dismissal of the appeal, the petitioner was permitted to resume duty on and with effect from Aug. 4, 1980. On Sept. 22, 1981, the petitioner was confirmed as a Clerk. On Oct. 31, 1981, the petitioner retired on his having attained the age of superannuation. The petitioner was paid the arrears of salary in the month of June/July, 1981.

In the present petition, the petitioner has claimed: (i) that he is entitled to the payment of interest at the rate of 12% per annum on the delayed payment of arrears of salary, (ii) that he is entitled to be considered for confirmation as a clerk on and with effect from the date his juniors were confirmed as such, (iii) that he is entitled to be considered for promotion to the post of Assistant when his juniors were considered for promotion as Assistant and (iv) that he is entitled to the payment of certain T.A Bills which have still not been cleared. We shall deal with these claims seriatim.

By virtue of the writ issued by the learned single Judge in the Civil Writ Petition on Mar. 15, 1974, the petitioner was entitled to be actually reinstated in service forthwith and also to the payment of arrears of salary. The petitioner actually presented himself for duty on May 16, 1974 but was not permitted to join duty nor was he paid the arrears of salary. Although the Letters Patent Appeal was preferred on April 25, 1974, an application for stay of the decision of the learned single Judge was not moved till June 6, 1974 and no order on such application was made till Oct 11, 1974. Even the order made on the stay application, on its true and proper interpretation, was operative prospectively since it directed the payment of salary for the ensuing period (till the decision of the Letters Patent Appeal) subject to fulfillment of certain conditions. There was no stay as regards the payment of arrears of salary up to the date of the stay order and the petitioner was, therefore, entitled to be paid the arrears of salary up to such date without attachment of any condition. However, no payment of arrears covering such period was made till the month of June/July, 1981. Besides, the Letters Patent Appeal was dismissed on May 16, 1980 and the petitioner resumed duty on August 4, 1980. The payment of arrears of salary for the intervening period to which the petitioner became entitled upon the dismissal of the

Letters Patent Appeal was also not made till the month of June/July, 1981. Indeed, once the Letters Patent Appeal was dismissed, the entire arrears of salary including that for the period during which the Letters Patent Appeal remained pending ought to have been paid to the petitioner with the utmost expedition. However, the payment, in fact, was delayed till the month of June/July, 1981, as earlier pointed out. No valid justification is shown to exist for the delayed payment. Under the circumstances, the petitioner is entitled to the award of interest on account of the delayed payment of arrears of salary as specified herein below:-

1. On the sum due and payable as arrears of salary up to Oct. 10, 1974 that is, till the day previous to the date of the stay order, interest will be paid at the rate of 12% per annum from the date the salary became due and payable from month to month till the date of actual payment, that is, June/July, 1981.
2. On the sum due and payable as arrears of salary from Oct. 11, 1974 till Aug. 3, 1980, that is, from the date of the conditional stay order till the resumption of duty by the petitioner pursuant to the dismissal of the Letters Patent Appeal, interest will be paid at the rate of 12% per annum, from May 17, 1980 till the date of actual payment, that is, June/July, 1981.

The payment of interest as ordered herein above will be made within a period of six weeks from today. The time limit is both, peremptory and mandatory.

As regards the claims relating to confirmation and promotion, the Departmental Promotion Committee, which held its meeting on Sept. 22, 1981 and considered the question of confirmation, decided and recommended that the petitioner be confirmed on and with effect from the same day, that is, Sept. 22, 1981 and the petitioner has been accordingly confirmed. The Departmental Promotion Committee, at its meeting held on May 14, 1984, considered the question of promotion and found that on the basis of the record available, the petitioner was not fit for promotion. We have perused the reports of the Departmental Promotion Committee as well as the relevant records which were available to the said Committee and are satisfied that there is no legal ground on the basis

of which the decision of the Committee as regards the petitioner's confirmation as well as promotion could be assailed. The petitioner is, therefore, not entitled to any relief on that score in the present petition.

As regards the petitioner's claim for T.A Bills, the learned Advocate General states that it is under process and that the necessary payment, if any, will be made within a period of one month from today.

In view of the above directions, the writ petition does not survive and it stands disposed of accordingly subject to such directions. The Court wishes to place on record its appreciation for the valuable assistance rendered by Mr. K.D Sood, who was appointed *amicus curiae*.

Before parting with the matter, we regard it to be expedient to observe that an impression has been left on our minds that the concerned authorities failed to reinstate and to pay arrears of salary to the petitioner soon after the decision of the Learned Single Judge, even though at the material time no stay order was operative; as they appeared to be entertaining the belief that since a Letters Patent Appeal was preferred, the matter had once again become subjudice and that, therefore, there was no legal obligation to grant the benefits accruing due to the petitioner pursuant to the decision of the learned single Judge. This belief, which appears to have been entertained by the concerned authorities, is wholly unwarranted. Once a case is decided, it is the bounden duty of the State and its subordinates to implement, with the utmost expedition, the said decision. In a Government which is ruled by law, there must be complete awareness to carry out faithfully and honestly the decisions rendered by courts of law after effective adjudication. Then only will Private Individuals, Organisations and Institutions learn to respect the decisions of court. In absence of such attitude on the part of all concerned, chaotic conditions might arise and the functions assigned to the courts of law under the Constitution might be rendered a futile exercise. It requires to be emphasised, in this connection, that mere preferment of an appeal does not automatically operate as a stay of the decision under appeal and that till an application for stay is moved and granted by the appellate court, or, in the alternative, the

court which rendered the decision is moved and grants an interim stay of the decision pending the preferment of an appeal and grant of stay by the appellate court, the decision continues to be operative. Indeed, non-compliance with the decision on the mere ground that an appeal is contemplated to be preferred or is actually preferred, and that, therefore, the matter is subjudice, may amount to contempt of court punishable under the Contempt of Courts Act, 1971. The decision of the Supreme Court in Baradakanta Mishra Ex-Commissioner Of Endowments v. Shri Bhimsen Dixit. AIR 1972 SC 2466 , places the matter beyond dispute, doubt or debate as regards this aspect.

In Baradakanta Mishra's case the Additional Assistant Commissioner of Hindu Religious Endowments had taken an action under S. 27 of the Orissa Hindu Religious Endowments Act, 1952 (hereinafter referred to as "the Act") and appointed an interim Trustee of the deities. The person affected lodged objections under S. 41 of the Act but the objections were rejected without holding any inquiry. Against the said decision, the objector filed a Revision before the Commissioner of Hindu Religious Endowments, who was a member of the Superior Judicial Service of the State and was at one time an officiating District Judge. While the Revision application was pending before the Commissioner, the High Court of Orissa, in a different case which was pending before it, held that the Assistant Commissioner had no power to appoint an interim Trustee under S. 27 of the Act until he had held an inquiry under S. 41 and found that there was no hereditary Trustee of the Religious Institution. At the hearing of the Revision before the Commissioner, the aforesaid decision of the Orissa High Court was cited by the objector in support of his case. The Commissioner made the following observations in the said context:

".....The decision in the High Court on Bantala case (AIR 1970 Orissa 141) would not be applicable to this instance. Further against the order, we have moved the Supreme Court and as such, the matter can be safely deemed to be subjudice."

The decision of the Commissioner was challenged in a writ petition before the Orissa High Court. The High Court issued a notice to the Commissioner taking exception to the observations made in his order that since the decision of the High Court was under

challenge, before the Supreme Court, the matter could be regarded as subjudice. The plea taken up by the Commissioner, who appeared before the High Court in response to the notice, was that under the Constitution the decision of the Supreme Court was the law of the land. He, therefore, bona fide entertained the opinion that when the matter was under appeal or otherwise before the Supreme Court, the point of law became subjudice and only the decision of the Supreme Court in the matter would be binding on the subordinate authorities. The Commissioner further pleaded that the proceedings before him were of administrative nature and that the act of not following the decision of the High Court in such a proceeding would not amount to contempt of court. The High Court rejected the plea and held that the conduct of the Commissioner, far from being bona fide, was clearly mala fide and that he intentionally avoided to follow that decision of the High Court by advancing grounds which were most inappropriate. The High Court, therefore, found the Commissioner guilty of contempt of court and admonished him in open court and directed him to pay Rs. 300/- as costs of the proceedings. The Commissioner preferred an appeal against the said decision to the Supreme Court. The Supreme Court, in the course of its decision, observed that the Commissioner has had 23 years judicial experience and that he could not have legitimately entertained the belief that as soon as a petition for a certificate to appeal to the Supreme Court was filed in the High Court against its decision the binding character of the decision disappeared. The Supreme Court, while upholding the finding of the High Court that the appellant had deliberately avoided to follow the decision by giving wrong and illegitimate reasons and that his conduct was clearly mala fide, made the following pertinent observations:

“Under Art. 227 of the Constitution, the High Court is vested with the power of superintendence over the courts and tribunals in the State. Acting as a quasi judicial authority under the Orissa Hindu Religious Endowment Act, the appellant was subject to the superintendence of the High Court.

Accordingly the decisions of the High Court were binding on him. He could not get away from them by adducing factually wrong and illegitimate reasons.....

The conduct of the appellant in not following the previous decision of the High Court is calculated to create confusion in the administration of law. It will undermine respect for law laid down by the High Court and impair the constitutional authority of the High Court. His conduct is therefore comprehended by the principles underlying the law of contempt. The analogy of the inferior Court's disobedience to the specific order of a superior court also suggests that his conduct falls within the purview of the law of contempt. Just as the disobedience to a specific order of the Court undermines the authority and dignity of the court in a particular case, similarly any deliberate and mala fide conduct of not following the law laid down in the previous decision undermines the constitutional authority and respect of the High Court. Indeed, while the former conduct has repercussions on an individual case and on a limited number of persons, the latter conduct has a much wider and more disastrous impact. It is calculated not only to undermine the constitutional authority and respect of the High Court generally, but is also likely to subvert the Rule of Law and engender harassing uncertainty and confusion in the administration of law."

On this view of the matter, the Supreme Court dismissed the appeal preferred by the Commissioner.

It will be noticed that the decision in *Baradakanta Mishra's case* (1973 Cri LJ 19) (SC) wholly endorses the view earlier expressed by us. Be it stated that in that case, even though the Commissioner had declined to follow the decision of the High Court rendered in a different case on the ground that an appeal having been preferred against the said decision its binding character had disappeared, the contempt jurisdiction was invoked and exercised. When there is disobedience to a specific order of the court whether on account of sheer neglect or refusal to implement the order on the ground that an appeal is preferred or intended to be preferred, the contempt would take still a more aggravated form and will be liable to be visited with a higher penalty.

In the present case, the conduct of not permitting the petitioner to join duty when he submitted his joining report soon after the decision of the leaned single Judge could have been regarded as falling within the ambit of the law of contempt and, if the petitioner had

taken timely action, the concerned officers could have been proceeded against in contempt the action of non payment of arrears of salary to the petitioner for such a long period could also have been similarly viewed.

In view of the foregoing, it appears to be expedient in the interest of justice to direct the State Government to bring the aforesaid legal position to the notice of all subordinates and to impress upon them the imperative need to implement the decisions rendered by the courts of law with the utmost expedition, unless, an appeal is preferred against such a decision and an application for stay is moved and granted by the appellate court or in the alternative, the court which rendered the decision is moved and grants an interim stay of decision pending the preferment of an appeal and grant of stay by the appellate court.

Let a copy of this judgment be forwarded to the Chief Secretary of the State Government under the signature of the Registrar and seal of this Court for appropriate action.

Annexure 35.11

Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP.II)E(3)-2/83 dated the 2nd January, 1985, addressed to all Secretaries to the Government of Himachal Pradesh, all Heads of Departments in H.P., all Deputy Commissioners in H.P.

Subject: Defending of cases in the High Court of Himachal Pradesh - Filling of affidavits etc.
- Instructions regarding.

{Referred to in Para 37.8 (2)}

In continuation of this Department circular letters of even number, dated the 14th November, 1984 on the subject noted above, I am directed to say that another instance has been brought to the notice of the Government in which the contempt petition came up for hearing before the Hon'ble Chief Justice of the High Court of Himachal Pradesh on 30-11-1984. In this case the orders of the Hon'ble Court were not implemented within the prescribed time limit by the respondents. The Hon'ble High Court however, discharged the

notice of contempt but reiterated that it is essential to seek extension of time for implementing time bound orders of the Court.

In a case where the authority concerned is unable to implement the orders of the Court within the given time-limit, the concerned Court must be moved for extension of time, giving good and sufficient reasons therefore. The Hon'ble High Court has further observed that this is not a solitary instance of this kind but the Court has repeatedly impressed upon the learned Advocate General the need to follow the correct procedure in such cases, and the Court expects that such a case will not be required to be dealt with by it again.

Instructions have been issued from time to time for defending the Government cases in the Courts in a prescribed manner and also to implement the decisions/orders of the Court promptly. But instances of lapses on the part of the departments are still coming to the notice of the Government. The Government have taken a serious view of the irregularities committed by the authorities concerned. Suitable instructions be issued to all concerned to implement orders of the Courts within the prescribed time-limit, failing which strict action would be taken against the concerned officer/official. In case of any difficulty in implementing the orders of the Court, necessary extension of time-limit should invariably be sought from the Court within the prescribed time.

Annexure 35.12

Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP.II)E(3)-2/83 dated the 2nd January, 1985, addressed to all Secretaries to the Government of Himachal Pradesh, all Heads of Departments in H.P., all Deputy Commissioners in H.P.

Subject: Petitions relating to personnel matters filed in Courts, Administrative Tribunal etc. - handling of.

{Referred to in Para 37.9}

The undersigned is directed to say that while the Department of Personnel is a nodal department responsible for formulating policies and framing rules relating to pre-mature retirement, seniority, promotion, disciplinary proceedings, reservation for Scheduled Castes, Scheduled Tribes, Ex-Servicemen etc. and other aspects of personnel

administration. The administrative departments are responsible for considering individual cases of Government Servants and issuing appropriate orders thereon in accordance with the rules and instructions on the subject and in consultation with the Department of Personnel, if considered necessary.

2. A number of petitions are filed by the Government Servants in the H.P. Administrative tribunal challenging the orders issued by the Administrative Departments in individual cases in which the relevant rules and instructions on the basis of which the impugned orders have been issued are also challenged. In most of these cases the Department of Personnel is also impleaded as one of the respondents for the reasons that the relevant rules and instructions were issued by the Department of Personnel or that the impugned orders were issued in consultation with Personnel Department.

3. The existing practice is that in all such cases the petitions are contested by the Administrative Departments concerned both on its behalf as also on behalf of the Department of Personnel, if necessary, in consultation with the latter. However, in some cases, the Administrative Departments insisted on the Department of Personnel for defending the Government action on the ground that the rules/instructions challenged in the petitions were issued by the Personnel Department. This is not a correct procedure to follow. Since each case is to be contested on the basis of the specific facts and circumstances relevant to it, the administrative department will be in a better position to defend the case. If however, any clarification is required on the interpretation or application of the rules or instructions relevant to the case, the concerned department may consult the Finance Department in matters relating to the subjects assigned to F.D including pension and other retirement benefits and in respect of other matters relating to seniority, promotion etc. the Department of Personnel be consulted. Such consultation can include vetting of the relevant paras of the draft replies and such references will be handled with utmost priority in the Departments of Finance and Personnel. However, the primary responsibility for contesting such cases on behalf of the Government will be that of the Administrative Departments concerned.

4. The above instructions may be brought to the notice of all concerned for compliance.

हिमाचल प्रदेश सरकार कार्मिक विभाग के पत्र संख्या 8-50:65 नियुक्ति-॥ भाग-॥॥ दिनांक 18-5-1978, की प्रति, जोकि हिमाचल प्रदेश के सभी प्रशासकीय सचिव/संयुक्त सचिव/उप-सचिव/अवर-सचिव, सभी विभागाध्यक्षों व सभी जिलाधीशों को सम्बोधित है ।

(पैरा 35.14 में उल्लेखित)

विषय: जब स्थाई सरकारी कर्मचारी अन्य सरकारी विभागों में अथवा सार्वजनिक क्षेत्र के उपक्रमों/स्वायत्त निकायों आदि में प्रतिनियुक्ति/बाह्य सेवा पर हो तो मूल विभागों में उनका लियन का रखा जाना ।

उपरोक्त विषय पर मुझे कुछ स्पष्टीकरण देने का आदेश हुआ है। प्रदेश सरकार के नोटिस में कुछ ऐसे मामले आये हैं जिनमें सरकारी कर्मचारी जो बाह्य सेवा/प्रतिनियुक्ति पर हैं और अपना निर्धारित समय पुरा कर चुके हैं। ये कर्मचारी न अपने मूल पद से त्याग पत्र देते हैं और न ही वापस आने को तैयार हैं। इस विषय पर यह स्पष्टीकरण लिया गया है कि उक्त सरकारी कर्मचारियों के विरुद्ध आश्वासन का उल्लंघन किये जाने पर निम्नलिखित कारणों से अनुशासनिक कार्यवाही शुरू की जा सकती है।

1. जब कोई सरकारी कर्मचारी किसी पद के लिए अन्य विभाग/अधिकांशतः सरकार द्वारा पूंजी लगाये गये अथवा सरकार के पूर्णतः स्वामित्व में सार्वजनिक क्षेत्र के उपक्रम/स्वायत्त निकाय में आवेदन करता है तो उसके द्वारा दिया गया आश्वासन स्वैच्छिक है। किसी आवेदन पत्र के अग्रेषित करने के लिए कोई विशेष शर्तें रखने को सरकार को छूट है। जब सरकारी कर्मचारी से आश्वासन लेकर सरकार एक बार आवेदन पत्र अग्रेषित कर देती है तो यदि आवश्यक हो तो उसे लागू किया जा सकता है। सरकारी कर्मचारी दिये गये आश्वासन को आवेदन के अग्रेषित होने के बाद वापिस भी नहीं ले सकता है।

2. सरकारी कर्मचारी द्वारा दिया गया आश्वासन एक औपचारिक कार्य है और यह आशा की जाती है कि वह इस पर आचरण करे। यदि कोई सरकारी कर्मचारी आश्वासन वापिस लेना

चाहता है तो ऐसा आचरण उसके लिये अशोभनीय होगा। अगर वह उसी सरकार के अधीन है तो उस का प्रत्यवर्तन भी किया जा सकता है और यदि वह किसी अन्य सरकार के अधीन है तो प्रत्यवर्तन की मांग की जा सकती है।

3. एफ0 आर0 13 स्थाई कर्मचारी पर लागू है और बाह्य पद के लिये स्वेच्छा से आवेदन पत्र देता है, यदि उसे लोक हित में प्रतिनियुक्ति के मामले की तरह बाह्य सेवा पर भी मान लिया जाता है तो यह सही है कि उसका लियन समाप्त नहीं किया जा सकता। किन्तु आश्वासन के उल्लंघन करने के लिये विभाग उसके विरुद्ध अनुशासनिक कार्यवाही शुरू कर सकता है।

स्थाईकरण के लिये उक्त अधिकारी के दावे पर अनुपस्थिति में भी विचार किया जा सकता है किन्तु उन्हें स्थाई तभी किया जा सकता है जब वह मूल विभाग को वापिस लौट आता है। जहां तक कनिष्ठ नियम के अधीन नियम के अधीन प्रोफार्मा पदोन्नति का संबंध है, मार्गदर्शन निर्देशन नियमों को कार्मिक अधिकारी पुस्तिका (हैंडबुक फार परसोनल आफिर्सज) (1975 संस्करण) के पृष्ठ 226–227 पर देखा जा सकता है।

Annexure 35.14

Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP.II)B(19) -8/78, dated 16th January, 1979, addressed to all Secretaries/Joint Secretaries/ Deputy Secretaries/Under Secretaries to the Government of Himachal Pradesh, all Head of Departments, all Deputy Commissioners in Himachal Pradesh.

Subject: Absorption of staff taken on deputation - Clarification regarding.

{Referred to in Para 35.15}

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I am directed to say that in certain cases Government Departments obtain the services of employees/offices working in different Government Departments or Autonomous Bodies and after having put in some service in the borrowing department,

either the borrowing Department intend absorbing the employee/officer concerned in the Department or the employees concerned seek absorption in the borrowing Departments.

2. In this context, a question has been raised about the date from which an employee/officer is to be absorbed in the borrowing Department. All possible alternatives and their effects have been considered. The absorption of a deputationist in the borrowing Department can in fact be made only if it is permissible under the rules or is permitted by relaxing the rules. Absorption of a deputationist can further be made only when an appropriate order is passed by the competent authority after observing necessary procedure/rules including consultation with the Public Service Commission, wherever necessary. Thus the orders can take effect only prospectively. It has accordingly been decided that the absorption of a deputationist in the service of the borrowing department shall have prospective effect in all cases and the service rendered while on deputation will not count for seniority after such absorption in the borrowing department.

3. An exception to the above decision, can, however, be made by ordering retrospective absorption only if it causes no disadvantage to those recruited otherwise than by absorption after the date from which retrospective absorption is sought to be ordered and the employee concerned agrees to refund the amounts paid by the Government as deputation pay, leave and pension contributions etc. even in such cases retrospective absorption should be ordered only sparingly and that too in consultation with the Finance Department and the Department of Personnel.

4. The posts to be filled by absorption of deputationists are to be considered as appointment by transfer. It has accordingly been decided that unless the relevant rules provide otherwise, such appointments are not to be taken into account for the purpose of maintaining roster/rotation of vacancies for various purposes.

5. It is further clarified that the above decisions do not apply to absorption of officers/officials on deputation with organisations other than the Departments of the Government of Himachal Pradesh in their borrowing institutions, these apply only to absorption of officers/officials on deputation from the Central Government or any other State Government or any non-Government or Semi-Government organisation to a

Department of the Government of Himachal Pradesh or from one Department to another
Department of Government of Himachal Pradesh.

Annexure I 35.15

हिमाचल प्रदेश सरकार कार्मिक विभाग के पत्र संख्या 8-17/73-डी.पी. (नियुक्ति-11)
दिनांक 28 मार्च, 1979, जो समस्त प्रशासकीय सचिव/संयुक्त
सचिव/उप-सचिव/अवर-सचिव, हिमाचल प्रदेश सरकार, समस्त विभागाध्यक्ष, जिलाधीश
हिमाचल प्रदेश को प्रेषित है,की प्रतिलिपि ।

(पैरा 35.10 में उल्लेखित)

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विषय : सरकारी कर्मचारियों की प्रतिनियुक्ति की अवधि ।

उपर्युक्त विषय पर मुझे यह कहने का निदेश हुआ है कि सरकार को ज्ञात हुआ है कि प्रदेश सरकार के कुछ अधिकारी/कर्मचारी बड़े लम्बे समय से अन्य सरकारों या संस्थाओं में प्रतिनियुक्ति पर चले आ रहे हैं ।

एक कर्मचारी तो 14 वर्ष से प्रतिनियुक्ति पर है जो कि इस विषय में जारी किये गये आदेशों/अनुदेशों के सरासर खिलाफ है ।

अधिक लम्बा प्रतिनियुक्ति काल सम्यक संवर्ग व्यवस्था तथा प्रशासन की कार्य कुशलता के हित में नहीं है । इससे कई उलझनें पैदा होती हैं तथा संवर्ग का आकार प्रकार विकृत हो जाता है । वैसे भी जो व्यक्ति जिस पद पर या विभाग में नियुक्त हुआ हो वह पद या विभाग उस व्यक्ति की सेवाओं से वंचित रह जाता है । उधर दीर्घ प्रतिनियुक्ति काल के कारण विभाग में भर्ती या पदोन्नति द्वारा नियुक्त व्यक्ति का भविष्य अनिश्चय की स्थिति में रहता है तथा उसे स्थाई नहीं किया जा सकता है । इससे उक्त कर्मचारी की कार्यक्षमता पर कुप्रभाव पड़ता है । साथ ही विभाग में न रहने के कारण प्रतिनियुक्ति पर गये कर्मचारी को अपने स्थाई विभाग के लिये उपादेयता भी घट जाती है । इस स्थिति में यह आवश्यक है कि विभाग प्रतिनियुक्ति के लिए निर्धारित अधिकतम अवधि की अवहेलना न करें ।

ऊपरलिखित तथ्यों को ध्यान में रखते हुये पुनः मुझे यह निवेदन करने का निर्देश हुआ है कि किसी दशा में भी प्रतिनियुक्ति की अवधि को 5 वर्ष से अधिक न बढ़ाया जाये। जो अधिकारी/कर्मचारी पहले ही 5 वर्ष की अवधि से अधिक प्रतिनियुक्ति पर हैं उन्हें शीघ्र उनके मूल विभाग में वापिस बुलाया जाये। यदि किसी विशेष मामले में उपवाद स्वरूप इस अवधि से अधिक किसी कर्मचारी को प्रतिनियुक्ति पर रखना अनिवार्य हो, तो विभाग उसके लिये पूर्ण औचित्य विस्तारपूर्वक दिया करें ताकि कार्मिक तथा वित्त विभाग सम्बन्धित मामले पर समग्रता में विचार करने के बाद अपनी राय दे सकें। कृपया इन अनुदेशों का सख्ती से पालन सुनिश्चित करें।

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Annexure 35.16

हिमाचल प्रदेश सरकार कार्मिक विभाग के पत्र संख्या 8-17/73-डी.पी. (नियुक्ति-।।) दिनांक 20 जुलाई, 1979, जो समस्त प्रशासकीय सचिव/संयुक्त सचिव/उप-सचिव/अवर-सचिव, हिमाचल प्रदेश सरकार, समस्त विभागाध्यक्ष, जिलाधीश हिमाचल प्रदेश को प्रेषित है,की प्रतिलिपि ।

(पैरा 35.10 में उल्लेखित)

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विषय: पदों का प्रतिनियुक्ति द्वारा भरा जाना ।

उपर्युक्त विषय पद मुझे आपका ध्यान लोक सेवा आयोग (परामर्श में छूट) अधिनियम, 1973 की ओर दिलाने का निर्देश हुआ है। हिमाचल प्रदेश लोक सेवा आयोग ने सरकार के ध्यान में लाया है कि सरकारी विभाग कोई भी पद प्रतिनियुक्ति से भरने से पहले लोक सेवा आयोग की स्वीकृति नहीं लेते। इसलिए आपसे अनुरोध है कि जिस पद का प्रारम्भिक वेतन रूपये 299 से अधिक हो उसको प्रतिनियुक्ति द्वारा भरने से पहले हिमाचल प्रदेश लोक सेवा आयोग से परामर्श किया जाये। प्रतिनियुक्ति की प्रारम्भिक अवधि तीन वर्ष से अधिक निर्धारित नहीं होनी चाहिये तरन्तु आवश्यकतानुसार इस से कम हो सकती है। इस संबन्ध में यह भी

निर्णय लिया गया है कि यदि प्रतिनियुक्ति की प्रारम्भिक अवधि और अधिक बढ़ाई जानी हो तो इस अवधि के समाप्त होने से पहले लोक सेवा आयोग से पुनः परामर्श किया जाये तथा इसी प्रकार प्रतिनियुक्ति पर लिये गये किसी अधिकारी/कर्मचारी को विभाग में स्थाई रूप से विभागान्तरित (ट्रांसफर) करना हो तो ऐसी कार्यवाही करने से पहले भी लोक सेवा आयोग की सहमति ली जाये। इन अनुदेशों को सभी सम्बन्धित अधिकारियों के ध्यान में लाया जाये।

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Annexure 35.17

हिमाचल प्रदेश सरकार कार्मिक विभाग के पत्र संख्या कार्मिक (नि-।।)वी(15)14/74 दिनांक 25 जुलाई 1979 जो डिवीजनल आरगेनाईजर, एस.एस.बी., पंजाब, हिमाचल प्रदेश, जम्मू तथा लद्दाख मंडल, रौबर्ट ब्लाक, ग्रांड होटल शिमला-। को सम्बोधित है की प्रतिलिपि।

(पैरा 35.11 में उल्लेखित)

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विषय: हिमाचल प्रदेश सरकार के कर्मचारियों की एस.एस.बी. संगठन में प्रतिनियुक्ति की अवधि।

उपर्युक्त विषय पर आपके पत्र संख्या ए 25/26/76-डी ओ.-।।-31443 दिनांक 12 जुलाई, 1979 के सम्बन्ध में मुझे यह कहने का निदेश हुआ है कि प्रदेश सरकार ने मामले पर पुनः विचार करने के उपरान्त यह निर्णय लिया है कि पत्र संख्या 8-17/73 डी.पी.(नि.।।) दिनांक 28 मार्च 1979 द्वारा जारी किये गये अनुदेश एस.एस.बी. संगठन में प्रतिनियुक्ति पर गये अधिकारियों/कर्मचारियों पर लागू नहीं होंगे। जिन इच्छुक कर्मचारियों को एस.एस.बी. संगठन रखना चाहता है और जिनके मूल विभाग भी उनका प्रतिनियुक्ति काल बढ़ाना चाहते हों, उनकी यह अवधि 5 वर्ष से अधिक आवश्यकतानुसार बढ़ाई जा सकती है।

अतः आपसे प्रार्थना है कि प्रत्तेक अधिकार/कर्मचारी के मामले में पुनः विचार करके सम्बन्धित विभाग को लिखने की कृपा करें। सभी कर्मचारियों को पिछले परिपत्र के आधार पर वापिस न भेजा जाये।

Annexure 35.18

Copy of H.P. Govt. Deptt. of Personnel Office Memorandum No. 8-50/68-Apptt.II (Vol.II), dated 29th July, 1981 addressed to all the Administrative Secretaries, Head of Department, Deputy Commissioners etc.

{Referred to in Para 35.13}

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Subject: Deputation of officers/officials to Corporation/ Semi-Govt. organisations etc.

I am directed to say that of late it has come to the notice of the Govt. that there is a growing tendency on the part of Corporation/Semi-Govt. Organisations who take staff on deputation from H.P. Sectt. and from other offices for a specified period to revert such officers/officials to their lending department without prior notice before the expiry of the tenure of deputation. Such instant reversion of staff without any notice and without concurrence of the lending authority dislocates the arrangements made in place of deputationist. This action also adversely affects the working in lending offices and leads to various other administrative in-convenience. This state of affairs does not set a health example as the terms of agreement reached between the borrowing and lending departments in respect of deputationists are binding on both sides and cannot be broken unilaterally by either of them.

2. In order to meet the situation it has now been decided that the deputationists should not be reverted to the parent offices abruptly before expiry of their deputation. A notice of at least three months should be given for this to avoid any administrative inconvenience and dislocation of arrangements already made in this behalf.

3. These instructions may kindly be brought to the notice of all concerned for strict compliance, in future.

Annexure 35.19

Copy of H.P. Govt. Department of Personnel letter No. 8-17/73-DP (Apptt.-II) dated 27th March 85 addressed to all Secretaries to the Govt. of Himachal Pradesh.

(Referred to in para 35.17)

.....

Subject: Terms of appointment of employees of public sector undertakings on reverse Foreign Service in the Govt. of India.

I am directed to forward herewith a copy of letter No. 1/4/84-Estt. (P-II), dated 26th December, 1984, from the Director, Government of India, Ministry of Home Affairs, Department of Personnel and A.R., New Delhi and to say that the Governor, Himachal Pradesh is pleased to order that the instructions contained therein will also be applicable in H.P. as well where an employee of public sector undertaking in H.P. happens to be on reverse foreign service in Govt. department of this state.

.....

Enclosure to Annexure 35.19

Copy to letter No. 1/4/84-Estt (P.II), dated 26th December, 1984 from the Govt. of India, Ministry of Home Affairs, Department of Personnel and Administrative Reforms New Delhi addressed to all Ministries/Departments of Govt. of India etc. with copy thereof to the Comptroller and Auditor General of India, and others.

.....

Subject: Terms of appointment of employees of public sector undertakings on reverse of Foreign Service in the Govt. of India.

The undersigned is directed to say that at present individual cases of employees of Public Sector Undertakings on reverse Foreign Service, the terms of appointments are regulated on the analogy of the provisions contained in the Ministry of Finance O.M. No. F. 1611 E. III(B)/75 dated 7-11-1975 which governs the terms to be allowed to Central Government employees appointed on foreign service in Public Sector Undertakings etc.

One of the provisions of the O.M. mentioned above is that in a case where the employees on foreign service opts to receive during the period of foreign service his grade pay plus deputation (duty) allowance, the total of grade pay and deputation allowance should not exceed the maximum of the pay scale of the deputation post. Consequent on the revision of the pay scales of the employees of the public sector undertakings practical difficulties, are being experienced in the application of the above mentioned condition. With a view to get over these difficulties, the President is please to decide that the employees of public sector undertakings, who are in receipt of industrial rates of Dearness Allowance and who are appointed on the deputation under the Central Govt. may be offered the following terms in respect of their pay and allowance, etc.

(i) Pay:-

The employee will have an option to draw either (a) pay in the scale of the post held by him on reverse foreign service under the Central Government or (b) undertaking plus deputation (duty) allowance at 10% of the grade pay subject to a ceiling of Rs. 250/- per month, without restriction with reference to the maximum of the scale of pay of his post.

Where the employee has opted for the alternative at (a) above, his initial pay will be fixed by raising his grade pay in the Public Sector Undertaking by one increment in his pay scale and equating the pay so raised plus appropriate dearness allowance, additional dearness allowance and interim relief, if any, admissible in the Public Sector Undertaking, to the pay plus the dearness allowance, additional dearness allowance, ad-hoc dearness allowance and interim relief admissible under the Government and fixing the pay at the appropriate stage in the pay scale of the post in the Government. If there is no stage equal to that pay in the pay scale of the post under the Government, his pay will be fixed at the next stage in the scale. The pay so fixed, will, however, be restricted to the maximum of the pay scale under the Government.

A few illustrative cases of pay fixation under the Office Memorandum are given in the enclosed Annexure (Not added)

(ii) Allowances:

Where the option is in favour of the alternative at (a) above, the allowance and perquisites will be regulated in accordance with those applicable to the post under the Central Government. In respect of those who opt for the alternative at (b) above, the allowances and perquisites at rates admissible in the parent public sector undertaking may be allowed, provided allowances and perquisites of the same character are available to officers of comparable status in the Government, subject to the fulfillment of the conditions, if any, prescribed by the Public Sector Undertaking for drawal of such allowances etc. In respect of perquisites and allowances of a character which are not available to officers of corresponding status in the Government, the clearance of the Department of Personnel and Administrative Reforms shall be obtained before settling the terms. The facility of limited use of Government vehicle for private purposes on payment of normal charges will not, however, be available during the period of reverse Foreign Service even if similar facility is admissible to the employee in the Public Sector Undertakings.

(iii) Encashment of leave:-

During the period of reverse foreign service, the employees will, unless otherwise specified, be governed by the leave rules of the Public Sector Undertaking concerned as leave salary contributions are payable to the Public Sector Undertaking. Hence encashment of leave will be regulated as per the rules of the public sector undertaking and the liability in this regard will be that of the lending organisation.

2. Employees of public sector undertaking who are in receipt of DA at Central Government rates.

The cases of employees of public sector undertakings, who are in receipt of Central Government rates of DA and who are appointed on deputation under the Central Government may be referred to the Department of Personnel and Administrative Reforms before finalizing their terms.

3. State Government employees on deputation to the Government of India.

According to para 4.3 of the Ministry of Finance O.M. dated 7-11-1975 referred to above, the terms laid down therein as modified by the Department of Personnel and A.R. vide O.M. No. 2(23) Estt. (Pay-II)/81, dated 29-9-1981 are at present applicable to the employees of the State Governments appointed on deputation in the Government of India. Since many State Government have revised the pay scales of their employees after 1-1-1973, it has been decided that the terms as contained in paragraph 1 of this Office Memorandum in respect of pay and allowances as admissible to the employees of Public Sector Undertakings on reverse foreign service may also be extended to the State Government employees during their deputation to the Government of India.

4. Date of effect & option:

These orders will take effect from the 1st of the month in which these are issued. Employees of Public Sector Undertakings already on reverse Foreign Service and State Government employees already on deputation to the Government of India will have the option either to continue to be governed by their existing terms and conditions during the present terms of their deputation or to come over to the terms and conditions mentioned in this Office Memorandum. For the extended period of their tenure, they will be governed only by the provisions of this Office Memorandum. In the case of others the option for pay fixation under para 1(i) supra will have to be exercised within one month of the officers coming on deputation and that option will be effective from the date of coming on deputation. Option once exercised will be final except when:

- (a) Such an officer receives promotion in his parent office under the next below rule or is reverted to a lower grade in the parent office or is appointed in another grade in the Government, and
- (b) When the scale of the deputation post or that on the post held by a deputationist in his parent office is revised either with retrospective or prospective effect.

5. In so far as the persons serving in the Indian Audit and Accounts Department are concerned, these orders are being issued after consultation with the Comptroller and Auditor General of India.

.....

Annexure 35.20

Copy of H.P. Govt. Deptt. of Personnel letter No. 8-17/73-DP(Apptt.II) dated 30-05-1986 (Vol.II), addressed to all Secretaries, Heads of Departments etc.

{Referred to in Para 35.12}

Subject: Period of deputation of Government officers/officials.

I am directed to say that it has been observed that the cases relating to the extension of deputation period beyond three years are being referred to the Department of Personnel for concurrence. According to the existing instructions issued by the Finance Department vide their letter No. Fin(c)A(2)-8/77, dated 7-5-79, the Administrative Department are competent to send their employee on deputation, foreign service, subject to the condition that ordinarily, the period of deputations does not exceed 3 years at a time, and in no case, more than five years. In this connection your attention is further invited to letter No. 8-17/73-DP (Ni-II) dated 28th March, 1979 from this department addressed to all Administrative Secretaries, Joint Secretaries, Deputy Secretaries, Under Secretaries, Head of Departments and Deputy Commissioners in Himachal Pradesh and I am to state that only such cases where deputation period of 5 years has been completed and deputation period is required to be extended further should be referred to Personnel Department. At that time full justification should be given.

Annexure 35.21

Copy of H.P. Govt. Deptt. of Personnel O.M No. 8-17/73-DP(Apptt.II) dated 31-07-1986 , addressed to all Secretaries, Heads of Departments etc.

{Referred to in Para 35.16}

Subject: Permanent absorption of Central Government employees in the Autonomous Bodies - delegation of powers to the Ministries/Departments.

The undersigned is directed to forward herewith a copy of Govt. of India, Ministry of Personnel, PG & Pensions O.M No. 4/5/86-P&PW dated 26.5.86 alongwith its enclosure for guidance. It has been decided by the Govt. that the sanction orders for the grant of proper retirement benefits will be issued by the authorities to whom the powers had been delegated vide Finance Department O.M. No. Fin(C) A(2)-8/77 dated 7-5-1979 to send officers/officials on deputation.

Enclosures to Annexure 35.21

Copy of O.M No. 4/5/86-P & PW dated 26th May, 1986 Govt. of India, Ministry of Personnel, Public Grievances & Pensions, Department of Pension and Pensioner's Welfare, New Delhi.

Subject: Permanent absorption of Central Government employees in the Autonomous Bodies - delegation of powers to the Ministries/Departments.

The undersigned is directed to refer to the Ministry of Finance (Department of Expenditure) O.M. No. F.4(8)-EV-(B)/76 dated the 18th April, 1977 under which the administrative Ministries/Departments were delegated powers on the following lines:-

That the administrative Ministries/Departments shall consider the cases of grant of pro-rata retirement benefits to the permanent Central Government employees permanently absorbed in the Central autonomous bodies themselves without reference to the Ministry of Finance if:-(a) a case is covered by the provisions of Ministry of Finance O.M. dated 8-4-1976 and (b) there is already a case in that Ministry/Department in which government servant has been permanently absorbed in the same autonomous body and pro-rata retirement benefits had been sanctioned in consultation with the Ministry of Finance.

2. Proposals for absorption not covered by the above delegation continued to be referred to the Ministry of Finance. (now Department of Pension & Pensioner's Welfare).
3. The position has been reviewed and it has now been decided that with a view to expediting the settlement of cases of grant of pro-rata retirement benefits to the Central

Government servants on their absorption in autonomous bodies, all such cases be decided by the Administrative Ministries/Departments and Comptroller and Auditor General of India themselves in accordance with the provisions of Ministry of Finance O.M. No: dated 8-4-1976 as amended from time to time even if there has been no case in that Ministry/Department earlier in which a Government servant has been permanently absorbed in the same autonomous body and prorata retirement benefits had been sanctioned in consultation with Ministry of Finance or this Department.

4. "An autonomous body" means body which is controlled by Govt. or financed wholly or substantially from cess or Govt. grants. 'Substantially' means that more than 50% of the expenditure of the autonomous body is met through cess or Govt. grants.

5. The sanction for pro-rata retirement benefits to permanent Govt. servants absorbed in autonomous bodies shall be issued by the Administrative Ministry/Department in the enclosed format which contains the terms and conditions for permanent absorption.

6. However, all those cases which are not covered under the provisions of the O.M. dated 8-4-1976 as amended from time to time, or which require relaxation of any provisions should continue to be referred to this Deptt. with necessary absorption.

7. These orders take effect from the date of issue.

8. So far as the officers serving in the Indian Audit & Accounts Deptt. are concerned these orders are being issued after consulting the Comptroller and Auditor General of India.

Format containing terms and conditions of Permanent absorption of Govt. employee in autonomous bodies.

No.
Government of India
Ministry of
Department of
Dated New Delhi, the.....

Subject:

Permanent absorption of Shri/
Smt.....
in.....

Sir

I am directed to refer to your letter No..... dated....., on the above subject and to convey the sanction of the President to the permanent absorption of (Name & Designation),.....holding permanent post ofin(Name of Organisation..... On his/her violation/ in the public interest * on the terms and conditions envisaged in the Ministry of Finance (Department of Expenditure) O.M. No: 26(18)/EV (B)/75 dated the 8th April, 1976, as amended from time to time, with effect from the date and on the principle terms and conditions as indicated hereafter:

*Strike out (i) Date of the effect.

whichever is

not applicable The permanent absorption shall have effect from (date) forenoon/afternoon.

(ii) Pension/Gratuity

On his/her permanent absorption in (Name of the orgn.) Shri/Smt..... shall be eligible for pro-rata pension and death-cum-retirement gratuity based on the length of his/her qualifying service under the Government of India till the date of his/her permanent absorption in (Name of Organisation) as admissible under the rules applicable to officers of the Central Civil Services in force on the above mentioned date.

(iii) Calculation of pro-rata retirement benefits

The pro-rata death-cum-retirement gratuity and pension will

be calculated respectively on the basis of 'emoluments' 'average-emoluments' as defined in rules 33 and 34 of the Central Civil Services (Pension) Rules, 1972.

(iv) Date of payment of pro-rata Retirement benefits

The amounts of pro-rata pension and death-cum-retirement gratuity which will be worked out and intimated to Shri/Smt..... As well as to Organisation would be disbursable to the officer from the earliest date from which he/she could have become eligible for voluntary retirement had he/she continued under Government of India or from the date of his/her permanent absorption in the (Name of the Organisation)..... whichever is later.

(Note) The benefits of the scheme of voluntary retirement issued vide Deptt. of Personnel & AR O.M. No. 25013/7/77 Rules (A) dated the 26th August, 1977 as embodied in Rule 48-A of the C.C.S (Pension) Rules, 1972 is not admissible in this case.

(v) Option

The officer will exercise an option, within six months of the date of issue of this letter, for either of the alternatives indicated below:-

(a) Receiving the pro-rata monthly pension and Death cum-retirement gratuity as admissible under clauses (ii) (iii) and (iv) above under the Government of India Rules.

OR

(b) Receiving the pro-rata Gratuity and a lump sum amount in lieu of pension worked out with reference to the commutation Tables obtaining on the data from which pension will be admissible and the commuted value becomes payable.

Where no option is exercised within the prescribed period the officer will automatically be governed by alternative (b) above. Option once exercised shall be final. The option shall be exercised in writing.

(vi) Commutation

In case Shri/Smt..... opts to receive pension as in para (v) (a) above but wishes to commute a portion of his/her pension, such commutation will be regulated in accordance with the Government of India Rules in force at the time of his/her permanent absorption in (Name of Organisation).....

(vii) Limitation as to the total amount of gratuity.

The total gratuity admissible in respect of the service rendered under the Government of India and that under the (Name of Orgn.).....shall not exceed the amount that would have been admissible had Shri/Smt..... continued in Government service and retired on the same pay

which he/she drew on retirement from(Orgn.)

(viii) Family pension/Admissibility from one source only.

(1) On his/her permanent absorption in(Orgn.) Shri/Smt.....& family will be eligible for family pension as admissible under the Central Govt. if there is no family pension scheme in the (Orgn.) or if the officer does not become eligible to join family pension scheme for in (Orgn.).....

(2) Family pension will be admissible only from one source i.e. either from the Central Government or from the autonomous body in case such an organisation has a scheme for payment of family pension.

(ix) Effect of Liberalisation of Pension/Gratuity Rules after absorption.

Any further liberalization of pension/gratuity Rules decided upon by Government in respect of Officers of the Central Civil Services, after the permanent absorption of Shri/Smt..... in.....(Orgn.)will not be extended to him/her.

(x) Fixation of Pay on absorption.

The pay of Shri/Smt..... Will be fixed on absorption as for a re-employed pensioner with effect from the date he/she becomes entitled to draw the pro-rata retirement

benefits.

(xi) Effect of Resignation

If Shri/Smt.....resigns from, (Orgn.)
.....his/her resignation for purpose of these orders
will be treated as resignation from Government service
entailing forfeiture of earlier service under Government and
loss of pensionary benefits including gratuity under these
orders.

(xii) Leave

The carry forward of leave on average pay/earned leave in
the case of Shri/Smt.....on his/her permanent
absorption in(Orgn) will be regulated in
accordance with the provisions of paragraph 7 of the Ministry
of Finance (Department of Expenditure) O.M. No: 26(18)-EV
(B)/75 dated 8-4-1976 quoted above. Accordingly the benefit
is available only if the Officer is absorbed in public interest. *
Since in this case the absorption is in the public interest the
earned leave/leave on average pay to the credit of the officer
as on the date of his/her permanent absorption will be
communicated separately.

OR

Since in this case the absorption is not in the public interest
Shri/Smt..... will not be eligible for the benefit of

*strike out carry-forward of leave.

whichever is

not applicable (xiii) Benefits after permanent absorption

For the period of service rendered by Shri/Smt.....in (Orgn)..... from the date of permanent absorption, he/she will be entitled to all the benefits admissible to the corresponding employees of the said organization and continue to be governed by its rules in all respects.

(xiv) Provident Fund

The amount of subscription together with interest thereon standing to credit of Shri/Smt..... In the Provident Fund Account will be transferred to his/her new Provident fund Account under the (Orgn)..... with its account. Once such a transfer of Provident Fund balance has taken place Shri/Smt..... will be subject to the Provident fund Rules of (Orgn) and not to the Provident Fund Rules of the Government of India.

(xv) Interpretation

In case any doubt or difference of opinion arises regarding interpretation of the terms and conditions set up in this order, the matter shall be referred to the Department of Pension and Pensioner's Welfare whose decision shall be final.

Yours faithfully,

Officer Competent to Issue
the sanction from the Ministry/
Department

A copy is forwarded for information and necessary action to:

The Pay & Accounts Officer.....

Officer Competent to Issue
the sanction from the Ministry
Department

.....

Annexure 35.22

Copy of H.P. Govt. Deptt. of Personnel letter No. Per (AP.II)B(19)-6/91-I dated 17-5-1995 addressed to all Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioners, Chairman/Managing Directors of Public Sector Undertakings, Corporations, Boards, Universities etc.

{Referred to in Para 35.18}

Subject: Grant of permission to Civil Government Servants to join the Territorial Army.

I am directed to forward herewith a copy of Government of India's letter No. PC-34738/Policy/TA-4/2830/SO/D(GS) dated 29-12-1994 alongwith its enclosures for your information and necessary action.

Enclosure (1) to Annexure 35.22

Copy of Govt. of India, Ministry of Defence letter No. PC-34738/Policy/TA-4/2830/SO/D(GS) dated 29-12-1994 addressed to Chief Secretaries of all State Governments.

Subject:- Grant of permission to civil Government servants to join the Territorial Army.

I am directed to refer to this Ministry's letter No. 58968/GS/TA-3/2570/SO, II/D(GS.III) dated 25 November, 1968 (Copy enclosed for ready reference) on the subject mentioned above and to request that the State Government may kindly issue suitable

instructions to their departments/Public Undertakings/Corporations in regard to the importance of encouraging the employees to join the Territorial Army.

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Enclosure (2) to Annexure 35.22

Copy of Govt. of India, Minister of Defence O.M. No. PC to MF 34738/Policy/TA-4/2681/SO/D (GS.I) dated 29-12-1994 to all Ministries/Departments Govt. of India.

Subject:- Recruitment to the Territorial Army-Measures to induce Government employees to join the Territorial Army.

The undersigned is directed to refer to this Ministry's O.M. No. 58968/GS/TA-3/2570-A/SO. II/D(GS. III) dated 25 Nov., 1968 and O.M. No. PC. 58968/GS/TA-3/779/B/SO.II/D (GS. III) dated 20th May, 1971 (Copies enclosed for ready reference and to say that it has been reported that certain Government owned financial institutions, namely, State Bank of India (SBI) and Life Insurance Corporation (LIC) have imposed restrictions on their employees to volunteer for enrolment/commission in the Territorial Army. Ministers/departments of the Government of India are aware that the recruitment to the Territorial Army is mainly confined to the persons who are already gainfully employed in their civil life and as such the main source of recruitment to the Territorial Army is civil Government servants, employees of Public Sector Undertakings/Corporations and also employees of big industrial concerns and private business Houses. In view of the importance of the Territorial Army in the defence of the country. It is essential that no impediments should ordinarily be placed in the way of civil Government Servants volunteering to join the Territorial Army. It is, therefore, requested that suitable instructions may please be issued to all the attached and subordinate officers and also to Public Sector Undertakings/Corporations employees to join the Territorial Army and not to impose any restriction on them and withdraw these restrictions, if already imposed.

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Enclosure(3) to Annexure 35.22

Copy of Government of India, Ministry of Defence O.M. No. PC 58968/GS/TA-3/779/B/SO-II/ D(GS-III) dated 20-5-1971 addressed to all Ministries/Departments of Govt. of India.

Subject:- Recruitment to the Territorial Army-Measures to induce Government employees to join the Territorial Army.

The undersigned is directed to say that the Ministry of Defence recently appointed a Committee (a) to review and reassess the existing terms and conditions of service in the Territorial Army more attractive, and (b) to suggest suitable measures for improving recruitment in the Territorial Army and also ways and means for making the Territorial Army more useful. The Committee was headed by the Lt. Gen. Yadavindra Singh, the Maharaja of Patiala and had, among others, some MPs as its non-official members. The committee has, in its report, pointed out that although the Territorial Army has been in existence for over two decades, the response for recruitment to this citizen's force is poor. The Committee has suggested various measures to induce citizens and Government employees to join the Territorial Army in large numbers. One of the remedial measures suggested is that hardships brought to the notice of the committee by TA personnel who are Government servants, should be removed. These hardships are detailed below:-

- a) Territorial Army personnel on dis-embodiment from training or service are posted back to their old place of work from where they had proceeded. Thereby, they are uprooted from the places of their previous posting.
- b) The employers adjust the absence of the individuals from the civil vocation against the individuals normal leave entitlement. As a result, the individuals are left with no leave to attend to their domestic requirements.
- c) Territorial Army personnel working as casual employees are not accepted back on reversion to civil jobs after completion of training or embodiment for service and as a consequence they lose their livelihood.
- d) In some cases Government Departments have treated the period of training in TA of their casual employees as bread in service, thus depriving them of the benefits of

becoming permanent, quasi-permanent inspite of their serving the department for years.

2. As the ministries, etc. are aware, the Territorial Army is a second line of defence of the country. It is the policy of the Government of India to encourage civil Government servants to join the Territorial Army. It would be in the larger national interest that everything possible is done to remove all hardships caused to Government servants on their becoming members of the Territorial Army. It is requested that suitable instructions may be issued in the matter for the guidance of all the offices concerned, including Public Undertakings, and other Semi-Government Organizations. Besides, an appeal may please be issued to young officers to join the Territorial Army in large numbers to give a lead and set an example for the subordinate staff and other citizens.

3. Legal provisions already exist for protection of the civil employment of persons required to perform military service in the Territorial Army and for preservation of certain rights of such persons, vide, Sections 7-A and 7-B of the Territorial Army Act, 1948, read with rules 35-36 and 37 of the Territorial Army Act rules, 1948, respectively (Copy enclosed). These provisions may please be brought to the notice of all concerned to ensure that they are strictly implemented.

4. Receipt of this letter may please be acknowledged.

.....

Enclosure (4) to Annexure 35.22

Copy of Govt. of India, Ministry of Defence letter No. 58968/GS/TA-3/2570-A/SO-II/D (GS.III) dated 25-11-1968 addressed to all Ministries of the Govt. of India, all Union Territories.

SUBJECT:- Grant of Permission to Civil Government Servnts to Join the Territorial Army.

The undersigned is directed to refer to Ministry of Home Affairs O.M. No. 36/2/63-1st(b), dated 12th December, 1963 and to state that it has been brought to the notice of this Ministry by Army Headquarters that response from civil Government servants to join the Territorial Army has not been very encouraging. Further, in many cases Government

servants who are already members of Territorial-Army are not relieved by the employing Civil Departments, for periodical, training on the pleas of their holding 'key appointment' without any regard to the actual nature of the appointment held by them in their Civil Departments. It will be appreciated that the periodical Training aims at making the members of this force battle worthy. Their absence from participation in the periodical training will, defeat the very purpose of making T.A. a good second line of defence. It is, therefore in national interests that all Civil Government servants who are members of Territorial Army are relieved invariably for periodical training except when a particular individual is actually holding a key post. For this purpose, a 'key post' may be defined as one directly concerned with the prosecution of the war effort in an emergency or one which is concerned with ensuring the continuance of vital services of the community, the dislocation of which by the absence of the incumbent would result in an adverse effect on the war effort. It is requested that cases of exemption from periodical training may be examined only in this context.

2. Recruitment to the Territorial Army is mainly confined to the persons who are already gainfully employed in their civil life. Hence, the main source of recruitment to the Territorial Army is Civil Government servants, employees of Public undertakings and Corporations and, also employees of big industrial concerns and Private Business Houses. Response from private employees depends to a large extent, upon the response which the Territorial Army gets from Government departments and Public Undertaking/Corporations. It is, therefore, necessary that the concessions available to Civil Government servants for joining Territorial Army are extended to employees of Public Undertakings and Corporations under them as already requested by the Ministry of Home Affairs in their O.M. No. 47/21/63.Ests (A) dated 13th May, 1963.

3. In short, it is requested that Civil Government servants employed in Ministries and attached/subordinate offices and employees of public Undertakings under their control may be given every encouragement to join the Territorial Army in large numbers and relieved for periodical training in the Territorial Army regularly.

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Annexure 35.23

Copy of Government of Himachal Pradesh Department of Personnel letter No. PER(AP-II)B(2)-5/86-III dated 30th November, 1996 addressed to all the Financial Commissioners-cum-Secretaries, Commissioners-cum-Secretaries, Divisional Commissioners, Deputy Commissioners and Heads of Departments in H.P.

(Referred to in Para 35.19)

Subject: Regularisation of services of adhoc appointees- Instructions thereof.

I am directed to say that the matter regarding regularisation of services of adhoc appointees working in various Departments had been under active consideration of the Government and it has, now been decided by the Government that the services of all categories of adhoc employees in Class-I, II, III & IV shall be regularised from the date of issue of these instructions subject to the fulfilling of following norms/terms and conditions:-

1. Services of all such adhoc employees who have completed 5 years continuous service on or before the date of issue of these instructions, shall be regularised subject to the number of vacancies available;
2. They must possess the essential educational qualifications i.e. both academic and professional and should be within the age limits as prescribed in the Recruitment and Promotion Rules at the time of adhoc appointments;
3. Services of only such adhoc employees shall be regularised who have been recruited/working against regular permanent/temporary posts;
4. The employees shall be regularised against the posts/vacancies of relevant categories. The employees of general category may be regularised in excess of their quota with the clear stipulation that in future recruitments only the candidates from reserved categories will be appointed until the backlog arising out of utilisation of reserve category vacancies by general category adhoc employees is cleared;
5. Those adhoc employees who have not completed 5 years service on the date of issue of these instructions will continue to work as such provided they fulfill the requisite qualifications as mentioned above. Their services shall, however, be regularised as and when they complete the minimum requirement of 5 years service.
6. The services of those adhoc employees who have completed 5 years of service but do not fulfill the requisite qualifications as mentioned vide Sr. No. 2 above, will not be terminated and they will be given one year's time to acquire the requisite qualifications from the date of issue of these instructions for the regularisation of their services.

7. The seniority of the adhoc employees as are regularised under this policy vis-à-vis employees appointed on regular basis shall be determined on the date of issue of these policy instructions. The inter-se-seniority of such adhoc employees shall be determined in accordance with the date of joining the post on adhoc basis. If the date of joining the post(s) on adhoc basis by such adhoc employees was the same, then the older employees shall rank senior to an employee younger in age. If the date of joining of the direct recruit and date of regularisation of adhoc employee is the same, the direct recruit shall rank senior.
8. The Department(s) shall be required to make prior consultation with the H.P. Public Service Commission for regularisation of services in case of those posts which fall within the purview of the H.P. Public Service Commission.
9. In pursuance of these instructions the Departments concerned shall be competent to issue formal orders for the regularisation of the services of individual employees at their own level.
It is requested that these instructions may be brought to the notice of all concerned under you, for strict compliance.
Receipt of the letter may kindly be acknowledged.

.....

Annexure 35. 24

Copy of Government of Himachal Pradesh Department of Personnel letter No. 4-3/72-DP(AP-II) Vol-III dated 18-2-1997 addressed to all the Administrative Secretaries, Heads of Department, Deputy Commissioners and Managing Directors of Boards/Corporations in H.P.

(Referred to in Para 35. 20)

Subject: Revision of existing orders regarding casual leave.

I am directed to invite your attention to the Government of Himachal Pradesh, Secretariat Administration letter No. SAD-1-643/57 dated 08-01-1960 circulating the instructions of the Government of India, Ministry of Home Affairs (copy enclosed) with regard to admissibility of casual leave to the government servants and to say that the question of proportionate entitlement of casual leave was under consideration of the government for some time past.

Now, after consideration it has been decided to issue the instructions as under:

- (i) In regard to persons who join the government service in the middle of the calendar year the authority competent to grant such casual leave shall allow casual leave at the calculated rate of one casual leave for one month only.
- (ii) In regard to the persons who retire from the government service shall be entitled to casual leave proportionate to period he serves the government at the rate of one casual leave for one month.

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

Please acknowledge receipt.

.....

Enclosure to Annexure 35.24

Copy of Office Memo. No 6/3/59-Ests(A), dated 23rd December, 1959 from the Government of India, Ministry of Home Affairs for all Administrations in Union Territories.

Subject: Revision of existing orders regarding casual leave.

With effect from 1st January, 1960, the maximum amount of casual leave admissible to the staff serving in the Civil Offices of the Government of India shall be 12 days in a calendar year subject to the condition that not more than 8 days' casual leave may be allowed at any one time. The Head of the Office may, however, waive this condition in individual cases if he considers that there are exceptional circumstances justifying a relaxation in this regard. Sundays or closed holidays which precede a period of casual leave or come at the end may be prefixed or suffixed to such leave; but those falling within a period of casual leave will continue to be included in such leave as at present.

2. In regard to persons who join Government service in the middle of a calendar year, the authority competent to grant such leave will have the discretion to grant either the full period of 12 days or only a proportion thereof, after taking into account all the circumstances of the case.

3. This is in supersession of all previous orders on the subjects.

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Annexure 35. 25

Copy of Government of Himachal Pradesh Department of Personnel letter No. Per(AP-II)B(3)-1/94 dated 31st March, 1997 addressed to all the Administrative Secretaries, Heads of Department, Divisional Commissioner, Shimla/Kangra/Mandi and Deputy Commissioners in H.P.

[Referred to in Para 35. 21(i)]

Subject: Initiation of timely action for filling up of vacancies by direct recruitment-Instructions regarding.

Sir,

I am directed to say that it has been observed that the appointing authorities do not initiate action, for the filling up of vacancies by way of direct recruitment well in advance with the result that delay occurs in filling up of the functional posts and the developmental work suffers. As the appointing authorities are fully aware that the process of filling up the posts by way of direct recruitment is some what lengthy and the functional posts cannot be kept vacant for long. It is obligatory on the part of the Administrative Departments/Head of

Departments that the number of vacancies likely to occur during a particular year should be worked out and all codal formalities which are required to fill up the vacant posts by direct recruitment like concurrence of Finance Department, approval of the competent authority to fill up vacant posts and sending requisitions to H.P. Public Service Commission/Employment Exchanges are completed well in advance so that the posts are filled in as soon as they become available. It is, therefore, requested that timely and prompt action should be taken in such cases.

These instructions may kindly be adhered to strictly.

Please acknowledge receipt.

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Annexure 35.26

Copy of Government of Himachal Pradesh Department of Personnel letter No. Per(AP-II)B(3)-1/94 dated 19th June, 1998 addressed to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners in H.P.

[Referred to in Para 35.21(ii)]

Subject: Initiation of timely action for filling up of vacancies by direct recruitment-
Implementation of decision of the Hon'ble High Court of Himachal Pradesh thereof.

Jai Hind.

I am directed to say that the instructions to initiate timely action for filling up vacancies falling within the purview of Commission were issued vide this Department letter of even number dated 31st March, 1997 for compliance. Prior to the issuance of these instructions, the Departments used to send the requisition for filling up of the vacancies in phased manner which ultimately resulted in clubbing of vacancies for years together.

The matter in regard to clubbing of vacancies in respect of HAS/HJS and H.P. Subordinate Treasury, Revenue and Allied Services was agitated before the Hon'ble High Court of H.P. vide CWP No. 264/97 titled Shri Y.R. Pathak Versus State of H.P. and others. The Hon'ble Court while deciding the petition on 27-8-97 has pointed out that the State Government and the Public Service Commission should see that examinations are held every year as contemplated by the Rules and vacancies arising in each year are filled up without delay. The Hon'ble Court also observed that the merit list can be prepared on the basis of written examination and oral interview not only for the existing vacancies but also for the anticipated vacancies arising in the near future but there should be a requisition and an announcement thereof by advertisements or otherwise for such vacancies.

In consideration of the aforesaid judgement, now, it has been decided by the Government that in respect of the vacancies which are required to be filled up annually under the R&P Rules through H.P. Public Service Commission by conducting competitive Examination, the Appointing Authorities shall work out the existing and anticipated vacancies for the calendar year and furnish a requisition to the Commission in the month of

January every year after obtaining the approval of Finance Department to filling up the vacancies enabling Commission to make advertisements in the news papers and State Gazetter well in time and complete the process of selection within the same calendar year. Any requisition received after the last date of receipt of the applications for such vacancies shall not be included for the purpose of selection from that examination.

It has further been decided that these instructions shall also be applicable in respect of the other vacancies required to be filled up by direct recruitment through the H.P. Public Service Commission.

These instructions may be brought to the notice of all concerned for strict compliance in future.

.....

Annexure 35.27

Copy of Government of Himachal Pradesh Department of Personnel letter No. Per(AP-b)B(2)-3/99 dated 31-7-1999 addressed to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

(Referred to in Para 35. 22)

Subject: Consultation/Advice with H.P. Public Service Commission-Instructions regarding.

Jai Hind.

I am directed to say that all cases as mentioned in Article 320 (3) (a) to (c) barring those which have been exempted from consultation under H.P. PSC (Exemption from Consultation) regulations 1973 framed under proviso to clause (3) of Article 320 of Constitution of India are required to be referred to the Commission for consultation. But it has been brought to the notice of Government by the Commission that the proposals are not being sent by the departments concerned on the prescribed form for consultation even some times they do not refer the cases to the Commission at all. The reasons for such non-consultation inconvincingly are assigned shortage of time. While citing examples of some of the Departments, the Commission has informed that the cases of recruitments/promotions are directly placed before the Council of Ministers for its approval without consulting the Commission causing appearance of cases of non-consultation/non acceptance of advices in the Annual Administrative Report of the H.P. Public Service Commission for which reasons have to be explained by the Government to the House in every Report. This is not only increasing the unnecessary volume of work but also violate Article 320 Clause (3) of the Constitution of India.

In view of the position explained above, you are, therefore, requested that all cases which are required to be referred to H.P. Public Service Commission under Article 320(3) of the Constitution for consultation may invariably be sent to the Commission for its advice/consultation so as to avoid the occurrence of such situation in future.

These instructions may be adhered to strictly and brought to the notice of all concerned.

.....

Annexure 35.28

Copy of Government of Himachal Pradesh Department of Personnel Administrative Reforms Organisation O.M. No. Per(AR)A(4)3/2013 Part-I dated 31st January, 2015 forwarded to all Administrative Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioners, Registrar General, High Court, MD's/Secretaries/Registrars of all the Boards/Corporations/Autonomous Bodies etc., in H.P.

[Referred to in Para 35.23(i)]

Subject: Abolition of Affidavits- Introducing Self Certifications.

It has been the experience that in the day to day functioning of the government, submission of affidavits (on Stamp Paper and attested by Magistrates/notaries) by applicants for various purposes has been going on for a long time. Most of this in fact appears redundant and is insisted upon by lower level functionaries either due to ignorance of Law or simply continued as a practice adopted in the past which, in reality, serves no purpose whatsoever.

2. Needless to say that every affidavit to be procured by any citizen subjects her to great cost in terms of energy and effort besides money the cost of which may vary from 20 to 200 rupees for each affidavit. And all of this for a document which seems to serve no purpose whatsoever.

3. This matter has been examined and it has been decided by the Government to do away with affidavits in government functioning and introduce self certification of document. All Agencies/departments/organizations in the Government are directed to immediately dispense with the practice of obtaining affidavits from the public except in those cases where Act/Rules specifically provide for furnishing of an affidavit. Any official asking for an affidavit in the normal transactions of govt. business, unless the affidavit is required under a statutory provision, may invite appropriate action for defiance/violation of government directions. Instead only a self certified declaration on plain paper will be obtained from such applicants.

4. The orders shall not be applicable to Courts or to other bodies discharging functions of judicial or quasi judicial nature e.g. Consumer Commission, Administrative Tribunal, Lokayukta etc.

An apprehension that may arise in this matter is "what if any person gives a false or incorrect declaration?" In this regard reference is invited to Section 199 and 200 of the

Indian Penal Code which is sufficient to allay such apprehensions. For ready reference the same are reproduced below:-

Section 199. False Statement made in declaration which is by Law receivable as evidence.

“Whoever, in any declaration made or subscribed by him, which declaration any court or Justice, or any public servant or other person, is bound or authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or use, shall be punished in the same manner as if he give false evidence.”

Section 200. Using as true such declaration knowing it to be false.

“whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false Evidence.

This decision of the Government may please be brought to the notice of all the officers Concerned for strict compliance.

.....

Annexure 35.29

Copy of Government of Himachal Pradesh Department of Personnel Administrative Reforms Organisation O.M. No. Per(AR)A(4)3/2013 Part-I dated 11th June, 2019 forwarded to all Administrative Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioners, Registrar General, High Court, MD's/Secretaries/Registrars of all the Boards/Corporations/Autonomous Bodies etc., in H.P.

[Referred to in Para 35.23(ii)]

Subject: Abolition of Affidavits- Introducing Self Certifications.

In continuation to this department Office Memorandum of even number dated: 31 January, 2015 on the subject cited above vide which it was clarified that submission of affidavits (on Stamp Paper and attested by Magistrates/notaries) by applicants for various purposes serves no purpose whatsoever because every affidavit to be procured by any citizen subjects to great cost in terms of energy and efforts besides money the cost of which may vary from 20 to 200 rupees for each affidavit and which seems to serve no purpose whatsoever. Most of this in fact appears redundant and still is being insisted upon by lower

level functionaries either due to ignorance of Law or simply continued as a practice adopted in the past.

2. It is further re-iterated that Government has decided to do away with affidavits in government functioning and introduce self certification of document. All Agencies/department/organizations in the Government are directed to immediately dispense with the practice of obtaining affidavits from the public except in those cases where Act/Rule specifically provide for furnishing of an Affidavit. Any official asking for an Affidavit in the normal transactions of government business, unless affidavit is required under a statutory provision, may invite appropriate action for defiance/violation of government directions. Instead only a self certified declaration on plain paper will be obtained from such applicant.

3. The orders shall not be applicable to Courts or to other bodies discharging functions of judicial or quasi judicial nature e.g. Consumer Commission, Administrative Tribunal, Lokayukta etc.

4. An apprehension that may arise in this matter is **"what if any person give a false or incorrect declaration/"**. In this regard reference is invited to Section 199 and 200 of the Indian Penal Code which is sufficient to allay such apprehensions, which has already been conveyed vide this department orders mentioned as above (abstract enclosed).

5. The decision of the Government may please be brought to the notice of all the officers/officials concerned for strict compliance.

.....

Annexure 35.30

Copy of Government of Himachal Pradesh Department of Personnel Administrative Reforms Organisation O.M. No. Per(AR)A(4)3/2013 Part-I dated 18th January, 2020 forwarded to all Administrative Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioners, Registrar General, High Court, MD's/Secretaries/Registrars of all the Boards/Corporations/Autonomous Bodies etc., in H.P.

[Referred to in Para 35.23(iii)]

Subject: Abolition of Affidavits- Introducing Self Certifications, clarification thereof.

On the subject cited above in continuation to this department Office Memorandum of even number dated 31st January, 2015 reiterated on 11th June, 2019 it was clarified that submission of affidavits (on Stamp Paper and attested by Magistrates/notaries) by applicants for various purposes as demanded by lower level functionaries due to ignorance of law or continued as a routine practice serving no purpose has been abolished to prevent imposing undue cost and energy on applicant/citizens and replaced by self certification

w.e. from 31-01-2015 except in those cases where Act/Rules specifically provide for furnishing of an Affidavit.

2. However, it has come to notice that the self certified declaration obtained from applicants are not being kept in safe custody by some offices in the Government especially at the cutting edge of public service delivery. Therefore, it is re-iterated that safeguarding & maintaining records of self certified declarations as obtained from applicants is the responsibility of the concerned officer/official, as such, documents may be required at any time for spot verification of declarations made.

3. The decision of the Government may please be brought to the notice of all the officers/officials concerned for strict compliance.

.....

Annexure 35.31

Copy of H.P. Govt., Department of Personnel letter No: Per(AP-B)-F(10)-1/99 dated 1-05-1999 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

[Referred to in Para 35. 24 (i)]

.....

Subject: Un-authorized drawal of salaries of employees by the DDOs in various departments in Himachal Pradesh.

I am directed to say that some time past it has been observed that as a result of faulty orders/implementation more than one official joins at a station against a post whereas such posts remain vacant at other places. Further it has also come to the notice of the Government that even most of the departments allow the officials to work at a particular station over & above the sanctioned strength and their salary is drawn from the station where such vacancies are lying vacant.

This action on the part of Departments not only creates financial irregularities thereby inviting unnecessary audit objections, but also leads to overstaffing at other stations. Further, this practice is also depriving the population of the needy areas of services of the officials who are infact paid from these stations, but are working at other stations.

This practice prevailing in the Department has been viewed seriously by the Government and it has been decided to discontinue this practice. In order to ensure the implementation of the decision of the Government, It has also been decided that in future all Drawing and Disbursing Officers shall record a certificate on the salary bill to the effect that the officials have actually worked at the station shown in the bill during the month for

which salary is being claimed. A bill without this certificate shall not be passed. Any deviation from these instructions shall render the concerned Drawing and Disbursing Officer and Treasury Officers liable for disciplinary action. These instructions may please be brought to the notice of all Drawing and Disbursing Officers and District Treasury/Treasury and Sub Treasury officers working under your control.

It is also requested that a detailed report in this regard be sent to this Department within a week for consideration of the Government.

.....

Annexure 35.32

Copy of H.P. Govt., Department of Personnel letter No: Per(AP-B)-F(10)-1/99 dated 27-07-2000 addressed to all Administrative Secretaries, Heads of Departments, Deputy Commissioners and Managing Directors, Boards/Corporation and Registrars of Universities, in H.P.

[Referred to in Para 35.24(ii)]

.....

Subject: Un-authorized drawal of salaries of employees by the DDOs in various departments in Himachal Pradesh.

Jai Hind.

I am directed to say that necessary instructions on the above subject were issued vide this Department letter of even No. Dated 1st May, 1999 wherein it was stressed that the pay of the Government servants may be drawn only from the stations where they have actually worked. It has been brought to the notice of this Department by the Finance Department that large number of cases are being received by them from various Departments for drawal of salaries of the surplus staff against vacancies in relaxation of the provisions of aforesaid instructions.

The matter regarding identification of surplus staff as well as drawal of their salaries was under consideration of the Government for some time past.

Now, after due consideration and in consultation with the Finance Department, it has been decided that in future the Administrative Departments shall identify the surplus employees and decide drawal of their salaries at their own level keeping in view the following guidelines:-

1. The employee who has been transferred and posted to another station and joins there as per norms, but the incumbent against whom he has been posted and who evaded such orders shall be treated as surplus. However, in case such employee obtains stay from Court, another person who has been transferred and posted against him shall be treated as surplus. The employees who are going to retire within next six months and are staying there may not be termed as surplus.

2. Salary shall be released only in such cases of surplus employees against vacancies where final adjustment has been made or the employee has retired from service or is due to retire within next six months.
3. In all such cases, the surplus period shall be treated as leave of the kind due.
4. In order to provide adequate opportunity to the concerned employees for adjustment, the period of surplus shall begin after one month from the date of joining of substitute.
5. In case of posting of two employees at one place, the concerned DDO/HOD shall take immediate steps for adjustment and relieving of surplus employees to enable them to join at their new places of posting. Courts cases shall be followed on top priority basis.

You are, therefore, requested that these instructions may be brought to the notice of all concerned for strict compliance.

Please acknowledge receipt.

.....

Annexure 35.33

Copy of H.P. Govt., Department of Personnel letter No: Per(AP-B)-F(10)-1/99 Loose dated 1st December, 2005 addressed to all Administrative Secretaries, Heads of Departments, Deputy Commissioners and Managing Directors, Boards/Corporation and Registrars of Universities, in H.P.

.....

[Referred to in Para 35. 24 (iii)]

.....

Subject: Un-authorized drawal of salaries of employees by the DDOs in various departments in Himachal Pradesh.

I am directed to invite a reference to this department letter of even number dated 27th July, 2000 on the subject cited above and to say that the Sr. No. 4 of Para-3 of the above instructions provide that the period of surplus will begin after one month from the date of joining of substitute. It has been brought to the notice of the Government that this provision has been giving rise to Court cases in the eventuality where an employee has got stay orders from the Court/Tribunal. The matter has been examined and it has been decided that, in future, if a transferred employee gets the transfer order stayed from the Court/Tribunal against the employee who has joined there in compliance of Government orders, in that case the period of surplus shall begin after three months from the date of joining of substitute. In such cases the salary for this period will be drawn against the vacant post available elsewhere. However, the Department concerned shall take immediate steps for vacation of stay from the Court/Tribunal. If the stay has been granted for valid reasons, the process of adjustment of surplus employee must be initiated at once.

The instructions referred to above may be deemed to have been modified to this extent.

You are, accordingly requested to bring these instructions to the notice of all concerned for compliance in letter and spirit.

Please acknowledge receipt.

.....

Annexure 35.34

Copy of H.P. Govt., Department of Personnel letter No: Per(AP-B)-F(10)-1/99 Loose dated 2nd June, 2010 addressed to the Pr. Secretary (Education to the Govt. of H.P. and endorsed to all Administrative Secretaries, Heads of Departments, Deputy Commissioners, Divisional Commissioners and all the Chief Executive Officer/Managing Directors, Boards/Corporation/Autonomous Bodies and Registrars of Universities, in H.P.

[Referred to in Para 35. 24(iv)]

.....

Subject: Un-authorized drawal of salaries of employees by the DDOs in various departments in Himachal Pradesh.

I am directed to refer to the subject cited above and to say that with a view to curb the tendency of permitting two officials to work at a particular station over & above the sanctioned strength and drawing of their salaries un-authorizedly from the station where such posts are lying vacant thereby creating financial irregularities, a uniform guidelines were issued vide this Department letter of even No. Dated 1.5.1999 to all Administrative Secretaries, all Divisional Commissioners, HODs and all DCs for compliance. These guidelines were further elaborated vide this Department letter of even No. Dated 27th July, 2000 and 1st December, 2005 and it was pressed upon that all Departments may adhere to these instructions/guidelines while deciding the cases for drawl of salaries of employees rendered surplus due to faulty orders or stay granted by the Hon'ble Court. Since these guidelines could not solve the specific situations prevailing in Education Department particularly in the cadre of Teachers, an independent instructions/guidelines were issued by them vide their letter No. Shiksha-II (Kha) 71-2004 Vol-I dated 17th June, 2004 which were further re-iterated vide their letter dated 11-8-2008.

The matter as to whether the Education Department may be permitted to regulate the adjustments on transfers if two teachers joins at some station either due to administrative reasons or stay granted by the Hon'ble Court and drawal of their salaries has been considered in this Department and after taking into consideration the peculiar conditions prevailing in Education Department particularly in the cadre of teachers it has been decided that the instructions/guidelines issued by this Department vide letter referred to above shall not be applicable in the case of teachers in Education Department.

Accordingly the instructions issued by the Department of Personnel vide letter referred to above shall not be applicable in the case of teachers in Education Department henceforth. However, their cases shall be decided and regulated under the policy/instructions already issued by the Education Department.

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Annexure 35.35

Copy of H.P. Govt., Department of Personnel letter No: Per(AP-B)-F(10)-1/99 Loose dated 15th June, 2010 addressed to all Administrative Secretaries, Heads of Departments, Deputy Commissioners, Divisional Commissioners and all the Chief Executive Officer/Managing Directors of Boards/Corporation/Autonomous Bodies and Registrars of Universities, in H.P.

.....
[Referred to in para 35.24(v)]

.....
Subject: Un-authorized drawal of salaries of employees by the DDOs in various departments in Himachal Pradesh.

I am directed to invite a reference to this department letter of even number dated 27th July, 2000 and 1st December, 2005 on the subject cited above vide which detailed instructions/guidelines have been issued to regulate the drawal of salaries of those employees who are rendered surplus in the event when two employees are allowed to function at a particular post for one reason or the other.

The Hon'ble High Court has made the following observations in C.M.P 4114 of 2010, C.W.P. 2843/2010 and C.M.P. No. 4112/2010 titled as Leena Sharma V/s State of H.P. & others.

“in many of the cases, two incumbents are working in the same post, only for the reason that an incumbent, who is transferred to a station is permitted to join duty without duly relieving the person already occupying the post. That is a highly unhealthy practice. We make it clear that an incumbent transferred to a station, shall not be permitted to occupy the transferred post without duly relieving the person already occupying the post. If the Controlling Officer does not comply with this procedure, the salary of one of the incumbents will be drawn from the salary of the Controlling Officer.

It is, therefore, requested that the above observation of the Hon'ble High Court, may please be brought to the notice of all concerned for strict compliance.

The instructions referred to above may be deemed to have been modified to this extent.

Please acknowledge receipt.

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Annexure 35. 36

Copy of H.P. Govt. Department of Personnel letter No. 4-3/72-DP (AP-II)-VOL-III dated 30-06-1999 addressed to all Administrative Secretaries, Divisional Commissioners, Heads of Departments and Deputy Commissioners in H.P.

[Referred to in Para 35. 25(i)]

Subject: Participation by State Government Servants in sporting events and tournaments of National and International importance – Grant of special increments for achieving excellence in such events.

I am directed to refer to this Department letter of even number dated 18-9-1985 circulating therewith the guidelines issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training vide their letter No. 6-1/85-(Pay-I), dated 16-7-1985 for grant of various incentives including special increments to the government employees for achieving excellence in National/International events/Tournaments. Though, the total number of increments to be awarded under this scheme to an individual for distinguished performance shall not exceed five in his/her service career, but the scheme does not provide that as to how many increments should be awarded for getting particular position in such events by an individual.

2. The matter with regard to fix the quantum of special increments to the distinguished sports persons in order of their Ist, IInd and IIIrd position was under active consideration of the Government for some time past. Now after due consideration, in the fairness, it has been decided that the special increments may be granted to the inservice sports persons in order of their position in National/International events in the following manner:-

International level	1 st place	3 increments
International level	2 nd place	increments
International level	3 rd place	increments
National level	1 st place	increments
National level	2 nd place	increments
National level	3 rd place	Nil

3. These incentives will be applicable to all categories of employees of State Govt. Deptts./Boards/Corporations except such outstanding sports persons recruited against a post reserved for sports persons for achieving excellence in sports events.

4. The increments under this scheme shall be granted by the Head of Department. The Para IV (a) of the letter No. 6-1/85-(Pay-I), dated 16-7-1985 from the Government of India, Ministry of Personnel, PG and Pensions mentioned in the preceding para may be treated as modified to the extent referred to above. However, the conditions governing the grant of special increments as envisaged in Para IV (b) and (c) of the Govt. of India's letter referred to above will remain unchanged, an extract of which are as under:

- (b) The total number of increments to be awarded to an individual should not exceed five in his/her entire career.
- (c) The increments so granted would continue to be drawn at the same rate till retirement and would count for the purpose of retirement benefits but not for pay fixation on promotion on the analogy of incentive increments awarded for promotion for small family norms.

These instructions shall be applicable with immediate effect and the past cases already decided will not be reopened for the grant of special increments.

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Annexure 35. 37

Copy of H.P. Govt. Department of Personnel letter No. 4-3/72-DP (AP-II)-VOL-III dated 29th December, 2001 addressed to all Administrative Secretaries, Heads of Departments and Deputy Commissioners in H.P.

[Referred to in Para 35.25(ii)]

Subject: Participation by State Government Servants in sporting events and tournaments of National and International importance – Grant of special International importance – Grant of special increments for achieving excellence in such events.

I am directed to refer to this Department letter of even number dated 30-6-1999 on the subject cited above and to say that as per extant instructions basic pay as defined in terms of FR 9 (21)(a)(i) is to be taken into account for pay fixation and other benefits including retirement benefits. It has, therefore, been decided that para 4(c) of the above instructions may be read as under:-

“The increments so granted would continue to be drawn at the same rate till retirement but these increments will not count for pay fixation on promotion, retirement benefits or DA/CCA.”

.....

Annexure 35. 38

Copy of Himachal Pradesh Government Department of Personnel letter No. Per(AP-B)B(1)-2/2000 dated 02-11-2000 addressed to all the District Attorneys in H.P.

(Referred to in Para 35.26)

Subject: Defending the court cases of H.P. Subordinate Services Selection Board, Hamirpur in lower courts.

Jai Hind.

I am directed to say that the H.P. Subordinate Services Selection Board with its headquarter at Hamirpur has been constituted for making recruitment to all Class III posts except some posts exempted from their purview. The Board is declaring results and making recommendations to the different departments as per their requisitions but some candidates have filed court cases against such recommendations. The cases instituted in Hon'ble High Courts and Ld. HP Administrative Tribunal are being defended by Hon'ble Advocate General, H.P./Additional Advocate General, H.P.

Now, it has been decided in consultation with Law Department that the cases filed in the lower courts against the said Board will be defended by the District Attorney of the District concerned.

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Annexure 35.39

Copy of H.P. Government Department of Personnel letter No. Per(AP-B)B(15)1/2000 dated 13th March, 2001 addressed to all Administrative Secretaries, Heads of Departments, Deputy Commissioners and MD's/Registrars/Member Secretaries of Boards, Corporation, PSUs & Autonomous Bodies in H.P.

(Referred to in Para 35.27)

.....

Subject: E-Governance initiatives of H.P. Government.

I am directed to say that the matter regarding initiatives for furthering information Technology in the State has been under consideration of the Government for some time past. In order to give a boost to the Information Technology the Govt. has taken the following decisions:-

1. Knowledge of word-processing will be compulsory for the category of steno-typists after 2001.
2. For the employees already in service, suitable training modules will be prepared and training imparted accordingly.
3. The passing of test in computer proficiency of a specified level will be made mandatory for some selective cadres to begin with, for confirmation and promotion.
4. A column in the Annual Confidential Reports shall be introduced regarding "contribution to IT Utilization" in respect of those Govt. employees for whom computer knowledge is prescribed as a pre-requisite at the entry stage.

In view of the above decisions it has been decided by the Govt. that after having identified the selective cadres as envisaged at Serial No.3 above, training programmes/modules in computer application/efficiency may be chalked-out in consultation with Department of Training and Information Technology and passing of a test of specified level following such training programmes/modules will be pre-requisite for confirmation in the respective cadres and promotion and placement to higher posts/scales. It has also been decided to introduce a provision regarding "Contribution of IT Utilization" in the ACRs in the category for whom computer knowledge of word-processing level has been prescribed as pre-requisite at the entry stage.

Kindly acknowledge the receipt.

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Annexure 35.40

Copy of Government of Himachal Pradesh Department of Personnel letter No. Per(AP-B)E(3)-3/99 dated 28th February, 2001 addressed to all the Administrative Secretaries, Heads of Departments, MD's/Chief Executive Officers of Corporations/Boards and Registrars in the Universities in H.P.

(Referred to in Para 35. 28)

.....

Subject: Timely action for implementation of the orders/direction of the Courts/Tribunals.

I am directed to say that it has come to the notice of the State Government that timely action for implementation of the orders/directions of the Courts/Tribunals are not being taken in many cases, and as a result the very objective of providing relief/giving timely justice is defeated. You are requested to take action for implementation of orders/directions of the Courts and the Tribunals strictly within the time frame so stipulated in such orders/directions. In case implementation of such orders/directions requires more time than stipulated on account of some unavoidable reasons, request shall be made to the concerned Court/Tribunal for seeking extension of time well in advance before expiry of such dead line prescribed by the Courts/Tribunals. It will be the responsibility of concerned Administrative Secretary/Heads of Departments/Chief Executives of the Boards/Corporations to ensure implementation of the above directions of the State Government.

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Annexure 35. 41

Copy of Government of Himachal Pradesh Department of Personnel OM No. Per(AP-II)B(11)-1/89 dated 19th July, 2001 forwarded to all the Administrative Secretaries, Heads of Departments, in H.P.

(Referred to in Para 35. 29)

Subject: Regarding use of words 'Wife of late', 'Zauja Mahroom' as well as 'Dharampatni Swargiya' instead of Widow, Vidhvah, Bevah etc. for all official purposes, especially in the official records.

The undersigned is directed to invite a reference to the subject cited above and to say that the National Human Rights Commission considered a proposal that the words such as WIDOW, VIDHVAH, BEVAH etc. used in the records of Revenue Department, School, Employment and other spheres of life, be declared as 'DEAD WORDS' for the unfortunate woman who loses her life partner. At a time when she is already grief-stricken, referring to her with such unpleasant usage of words adds further to her depression and creates a psychological crisis in her. It has, therefore, been decided by the Government that in place

of the word 'Widow', the expressions 'Wife of late', Zauja Mahroom', as well as 'Dharmpatni Swargiya' will be used by all the Government Departments in Himachal Pradesh for all official purposes, especially in the official records.

These instructions may please be brought to the knowledge of all concerned working under your control especially field level functionaries for strict compliance.

Please acknowledge the receipt.

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Annexure 35.42

Copy of Government of Himachal Pradesh Department of Personnel letter No. Per(AP-B)E(3)-3/99 dated 27th February, 2002 addressed to all the Administrative Secretaries, Heads of Departments, MD's/Chief Executive Officers of Corporations/Boards and Registrars in the Universities, in H.P.

(Referred to in Para 35.30)

Subject: Regarding timely action in court cases where blanket stay has been granted by the Court/Tribunal.

I am directed to say that it has been noticed that the Departments are not properly persuading the cases of the Govt./Govt. employees in the Courts/Tribunals and as a result the very objective of providing timely justice is defeated. In the cases of HP PWD, in OA No. 59 of 1999 (interim order passed on 6-1-1999) titled Dalip Singh Chauhan Vs. State of H.P. & others and OA No. 60 of 1999 titled Anil Kumar & another Vs. State of H.P. & others, the Hon'ble Administrative Tribunal granted blanket stay and as such promotions of the Assistant Engineers in HPPWD could not be held.

Disposing off the CWP 964 of 2001, on 22-11-2001, the Division bench of the Hon'ble High Court consisting of the Hon'ble Mr. Justice C.K. Thakkar, (C.J.) and Hon'ble Mr. Justice M.R. Verma (Judge), held that the "Tribunal ought not to have granted blanket stay against effecting promotions causing inconvenience and adverse effect on public administration". The Hon'ble High Court re-iterated the law laid down by the Supreme Court in the Rana Randhir Singh and others Versus State of U.P. (AIR 1989 SC 218).

In view of the importance of the law laid down in the judgement *ibid*, the copy is being supplied to you for information and to ensure an appropriate action on those cases where the Tribunal/Court pass orders which are contrary to the law or the law laid down by the Apex Court.

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Annexure 35.43

Copy of Government of Himachal Pradesh Department of Personnel Office Memorandum No. Per(AP-II)B(16)-1/2002 dated 18th July, 2002 forwarded to all the Administrative Secretaries, Heads of Departments, Commissioner (Revenue), Registrar General, H.P. High

Court, Deputy Commissioners, MD's of Corporations/Boards and Secretary, HPPSC and HPSSSB, Hamirpur.

(Referred to in Para 35.31)

The undersigned is directed to say that the matter regarding giving some relief to the visually handicapped persons in the recruitment procedure was under consideration of the Government. After due consideration and in consultation with the H.P. Public Service Commission and H.P. Subordinate Services Selection Board it has now been decided to provide the facilities of an extra time of 20 minutes, exemption from examination fee and exclusion of Geometry and Maths from curriculum and prescribing of some alternative questions in lieu of Geometry and Math for visually handicapped candidates.

The above decision of the Government may please be brought to the notice of the all concerned.

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Annexure 35. 44

Copy of H.P. Govt. Department of Personnel letter No. Per(AP-B)A(8)-2/2003 dated 15 November, 2003 addressed to all Administrative Secretaries, Heads of Departments and MD's of the Boards/Corporations and Autonomous Bodies, in H.P.

(Referred to in Para 35. 32)

Subject: Regarding reply/report on the orders issued from office of Chief Minister.

I am directed to refer to the subject cited above and to say that it has been observed that with reference to directions/orders issued from Chief Minister's Office, a number of replies/reports are being received from the Administrative Departments/Departments/Boards/Corporations which are being signed by Addl. Joint, Deputy, Under Secretaries/Deputy, Joint Directors/Registrars/General Managers/Dy. General Managers etc.

After due consideration it has now been decided by the Government that henceforth the reply/report on the orders issued from Office of Chief Minister should be signed at Government level by the Secretary of the Department and not any other officers. Similarly, at Deptts/Boards/Corporations level, the same should be signed by HOD/MD concerned only and not any other officer.

These instructions be adhered in letter and spirit and should also be brought to the notice of all concerned under your control for strict compliance.

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Annexure 35. 45

Copy of H.P. Govt. Department of Personnel letter No. Per(AP.B)B(19)-6/2004 dated 3rd June, 2004 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioner and Deputy Commissioners, in H.P.

(Referred to in Para 35.33)

Subject: Correspondence with Governor's Secretariat-instructions regarding.

I am directed to refer to the subject cited above and to say that it has come to the notice of the State Government that some officials/officers are making direct correspondence with His Excellency the Governor, Himachal Pradesh either in official or private capacity. Recently one field officer has directly addressed His Excellency the Governor, Himachal Pradesh to send a message for souvenir on which displeasure has been conveyed to the officer concerned separately. This practice is not only irregular but against all official propriety which needs to be curbed forthwith. It is once again re-iterated that all correspondence which is to be made with His Excellency should be made through Governor's Secretariat.

These instructions may please be adhered to in future strictly and should also be brought to the notice of all concerned under your control for strict compliance.

Please acknowledge receipt.

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Annexure 35. 46

Copy of H.P. Govt. Department of Personnel letter No. Per(AP.II)A(5)-1/2005 dated 25th February, 2005 addressed to all Administrative Secretaries, Heads of Departments and Deputy Commissioners in H.P.

(Referred to in Para 35.34)

Subject: Regarding maintaining lists of the names of the officers/officials whose general reputation is not good.

I am directed to refer to the subject cited above and to say that instructions have been issued by the Govt. in the Department of Home (Vig.) from time to time with regard to maintenance of lists of officers/officials whose integrity is doubtful. This issue has been discussed in the meeting of State Vigilance Committee held on 10-12-2004 under the chairmanship of Hon'ble Chief Minister wherein it has been decided that all the Departments shall also maintain the lists which should include the names of the officers/officials whose general reputation is not good. It is, therefore, requested that the requisite lists may please be prepared forthwith accordingly and action taken in this regard may be intimated to the Department of Home (Vig) under intimation to this Department.

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Annexure 35.47

Copy of H.P. Govt. Department of Personnel letter No: Per(AP-B)A(6)-2/2006 dated 26th October, 2006 addressed to all the Administrative Secretaries, Divisional Commissioners, Heads of Departments and Deputy Commissioners, in H.P.

(Referred to in Para 35.35)

Subject: Referring of cases to the Department of Personnel for advice-instructions regarding.

I am directed to refer to the subject cited above and to send herewith a copy of letter No. Per (AP-II)A(3)-2/80, dated 3rd January, 1987 (copy enclosed) addressed to all the Administrative Secretaries and Heads of Departments etc. regarding referring of cases to the Department of Personnel seeking advice on various issues relating to service matters. The aforesaid instructions provide that only those cases be referred to Department of Personnel for advice where Rules/Instructions are not clear and that too with the prior approval of Administrative Secretary. It has been noticed that the departments are referring cases to Department of Personnel for advice/opinion without making any specific point and the approval of competent authority i.e. Administrative Secretary. The procedure is not only irregular but against all official propriety. This sort of practice needs to be discontinued forthwith.

It is also been noticed that the Heads of Departments, Corporations, Boards and the Deputy Commissioners make direct references to Department of Personnel. Therefore, in the interest of fair appraisal of the cases it is made clear that only the cases received through the Administrative Secretaries will be entertained in the Department of Personnel, in future.

These instructions may please be brought to the notice of all concerned for strict compliance in future.

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COPY OF LETTER NO. PER(AP-II)A(3)-2/80 DATED 3rd JANUARY, 1987 FROM THE CHIEF SECRETARY TO THE GOVERNMENT OF HIMACHAL PRADESH ADDRESSED TO ALL THE ADMINISTRATIVE SECRETARIES AND HEADS OF DEPARTMENTS IN H.P.

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Subject:- Referring to cases to Department of Personnel for advice-instructions regarding.

This is in continuation of this Department letter No. PER(AP-II)B(19)-5/80, dated 3rd January, 1981 on the above subject and to say that despite clear instructions issued on the subject, the Department of Personnel is continuing to receive cases for advice which can be disposed of by the Administrative Departments and Heads of Departments at their own end. This delays the decision taking process resulting in avoidable criticism at various levels. Even the case on which instructions rules are clear unambiguous are sometimes

referred to the Department of Personnel for advice. Similarly, cases with incomplete facts and records are referred with the result their back references have to be made which considerably delay finalization of the cases. Obviously this also reflects adversely on the functioning of the Govt. as a whole. It is, therefore, once again impressed upon all concerned that the matters on which the instructions/rules of the Govt. are clear and no further clarifications are required should not be referred to the Department of Personnel to the Department of Personnel. However, in case where the advice/opinion is considered necessary, the specific point on which advice is ought, should be precisely and pointedly made clear along with all relevant information while referring cases to this Department. In all cases where concurrence of this Department is sought the proposal should be clearly and distinctly made out on the file after the case has been processed in the concerned Department. It would not only avoid delay but also facilitate clear and precise advice about the action proposed.

Moreover, it has also been noticed that the Heads of Departments, Corporations, Boards and the Deputy Commissioners make direct references to this Department. This is against the official propriety. In the interest of fair appraisal of the cases it is made clear that only the cases received through the Administrative Departments will be entertained in the Department of Personnel, in future.

These instructions may be brought to the notice of all concerned for strict compliance in future.

Annexure 35.48

Copy of H.P. Govt., Department of Personnel Office Order No: Karmik (Ni-II)F(4)-12/87-Bha, dated 7-7-1993

[Referred to in para 35.36 (i)]

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विषय: जन-जातीय क्षेत्रों एवं कठिन क्षेत्रों में अवकाश पर जाने की अवस्था में अतिरिक्त यात्रा दिवसों की सुविधा देने बारे।

उपरोक्त विषय पर मुझे यह कहने का निर्देश हुआ है कि जनजातीय क्षेत्र एवं दुर्गम क्षेत्र में तैनात अधिकारियों/कर्मचारियों को अवकाश आदि पर अपने मूल निवास स्थान पर जाने हेतु अतिरिक्त ज्वाइनिंग टाइम दिये जाने का मामला सरकार के विचाराधीन था। अब सरकार ने पूर्ण विचार उपरान्त एवं वित्त विभाग की सलाह से यह निर्णय लिया है कि जनजातीय क्षेत्रों/दुर्गम क्षेत्रों में तैनात अधिकारियों/कर्मचारियों को अतिरिक्त ज्वाइनिंग टाइम की सुविधा निम्न प्रकार से देय होगी:-

1. अतिरिक्त ज्वाइनिंग टाइम की सुविधा केवल अर्जित अवकाश, अर्ध वेतन अवकाश तथा असाधारण अवकाश पर ही देय होगी। यह सुविधा आकस्मिक अवकाश पर देय न होगी तथा स्थानांतरण पर ज्वाइनिंग टाइम सम्बन्धित नियमों के अन्तर्गत दिया जाएगा।

2. अतिरिक्त यात्रा दिवसों की सुविधा वर्ष में केवल एक बार ही दी जायेगी। अधिकतम देय यात्रा दिवसों की संख्या समान रूप से सभी अधिकारियों/कर्मचारियों को विभिन्न क्षेत्रों में निम्न प्रकार से उपलब्ध होगी:-

1. पांगी- पूरे वर्ष में 8 दिन।
2. भरमौर- 15 दिसम्बर से 31 मार्च तक 4 दिन।
3. लाहौल- 15 दिसम्बर से 15 जून तक 3 दिन।
4. स्पिति- 15 दिसम्बर से 30 अप्रैल तक 4 दिन।
अन्यथा केवल 3 दिन।
5. डोडरा क्वार- पूरे वर्ष में पांच दिन।
6. किन्नौर- कोई नहीं।

3. अवकाश स्वीकृति के आदेश जारी करते समय उनमें यात्रा दिवसों का उल्लेख किया जाना आवश्यक है।

2. उपरोक्त सुविधा उन अधिकारियों/कर्मचारियों को भी उपलब्ध होगी जो जनजातीय क्षेत्र या कठिन क्षेत्र के निवासी हैं तथा जनजातीय क्षेत्र या कठिन क्षेत्र से बाहर तैनात हैं।

3. उपरोक्त आदेश इस ज्ञापन के जारी होने की तिथि से लागू होंगे। इससे पहले इस विषय पर सरकार द्वारा किसी भी विभाग के माध्यम से जारी किये गये सभी आदेश रद्द समझे जायेंगे।

यह निर्णय सभी सम्बन्धित के ध्यान में लाया जाये तथा इसका पालन किया जाये।

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Annexure 35. 49

Copy of H.P. Govt., Department of Personnel Office Order No: Karmik (Ni-II)F(4)-12/87-Bha-III dated 15-09-95 forwarded to all Administrative Secretaries, Heads of Departments and Divisional Commissioners, Deputy commissioners and Chairmen / MDs / Secretaries / Registrar of Boards / Corporations/ Universities etc.

[Referred to in Para 35.36(ii)]

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विषय: जन-जातीय क्षेत्रों एवं कठिन क्षेत्रों में अवकाश पर जाने की अवस्था में अतिरिक्त यात्रा दिवसों की सुविधा देने बारे।

उपरोक्त विषय पर इस विभाग के कार्यालय आदेश सं० कार्मिक (नि०-॥)एफ(४)-१२/८७-भा० दिनांक ७-७-९३ का क्रम जारी रखते हुए मुझे यह कहने का निदेश हुआ है कि उपरोक्त कार्यालय आदेश के अन्तर्गत जनजातीय क्षेत्रों एवं दुर्गम क्षेत्रों में तैनात अधिकारियों/कर्मचारियों को अतिरिक्त यात्रा दिवसों की सुविधा वर्ष में एक बार केवल अर्जित अवकाश, अर्ध-वेतन अवकाश तथा असाधारण अवकाश के साथ ही देय थी। अतिरिक्त यात्रा दिवसों की सुविधा आकस्मिक अवकाश के साथ भी देने का मामला सरकार के विचाराधीन था। इस सम्बन्ध में सरकार ने यह निर्णय लिया है कि जनजातीय क्षेत्रों/दुर्गम क्षेत्रों में तैनात अधिकारियों/कर्मचारियों को अतिरिक्त यात्रा दिवसों को सुविधा उक्त दर्शाए गए अवकाश के अतिरिक्त अब

आकस्मिक अवकाश के साथ भी देय होंगी। इस प्रकार अब यह सुविधा वर्ष में एक बार अर्जित अवकाश, अर्ध-वेतन अवकाश, असाधारण अवकाश तथा आकस्मिक अवकाश के साथ देय होंगी।

2. उक्त पत्र में दर्शाई गई बाकी शर्तें समान रहेंगी।
3. उपरोक्त आदेश इस पत्र के जारी होने की तिथि से लागू होंगे।
4. यह निर्णय सम्बन्धित के ध्यान में लाया जाये तथा इसका पालन किया जाये।

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Annexure 35.50

Copy of H.P.Govt., Department of Personnel Office Order No: Per(AP-II)F(4)-12/87-VI dated 07-12-2006 forwarded to all Secretaries, Heads of Departments and Divisional Commissioners, Deputy commissioners and Chairmen / MDs / Secretaries / Registrar of Boards / Corporations/ Universities etc.

[Referred to in Para 35.36(iii)]

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विषय: जन-जातीय क्षेत्रों एवं कठिन क्षेत्रों में अवकाश में अतिरिक्त यात्रा दिवसों की सुविधा देने बारे।

उपरोक्त विषय पर इस विभाग के कार्यालय आदेश सं० कार्मिक (नि-।।) एफ (4)-12/87-भा० दिनांक 7-7-1993 व 15-9-1995 का क्रम जारी रखते हुए मुझे यह कहने का निदेश हुआ है कि उपरोक्त कार्यालय आदेशों के अन्तर्गत जन-जातीय एवं दुर्गम क्षेत्रों में तैनात अधिकारियों/कर्मचारियों को अतिरिक्त यात्रा दिवसों की सुविधा वर्ष में केवल एक बार अर्जित अवकाश, अर्ध-वेतन अवकाश, असाधारण अवकाश तथा आकस्मिक अवकाश देय है परन्तु उक्त आदेशों के अनुरूप हैलीकाप्टर में यात्रा करने वाले अधिकारियों/कर्मचारियों के लिए, इस सुविधा का कोई जिक्र नहीं था। अब सरकार ने पूर्ण विचार उपरान्त एवं जन-जातीय विकास व वित्त विभाग की सलाह से यह निर्णय लिया है कि जन-जातीय/दुर्गम/कठिन क्षेत्रों में कार्यरत अधिकारियों/कर्मचारियों को अवकाश के दौरान हैलीकॉप्टर से यात्रा करने पर भी अतिरिक्त ज्वॉइनिंग टाइम की सुविधा देय होगी।

2. उक्त पत्रों में दर्शाई गई बाकी शर्तें समान रहेंगी।
3. उपरोक्त आदेश इस पत्र के जारी होने की तिथि से लागू होंगे।
4. यह निर्णय सम्बन्धित के ध्यान में लाया जाये तथा इसका पालन किया जाये।

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Annexure 35.51

Copy of H.P. Govt. Department of Personnel letter No. Per(AP-II)A(3)-1/80 dated 26th May, 2008 addressed to all Administrative Secretaries, Heads of Departments and Deputy Commissioners in H.P.

(Referred to in Para 35.37)

Subject: Disposal of complaints against Government officers/officials.

I am directed to invite your attention to this Department letter of even number dated 4th June, 1980 (copy enclosed) on the subject cited above and to say that it has come to the

notice of the Government that the instructions contained therein are not being complied with strictly, for which Govt. has taken a serious view.

It is, therefore, again emphasized that these instructions may strictly be adhered to and brought to the notice of all concerned for strict compliance. Any deviation to these instructions will be viewed seriously and stern action may be initiated against defaulting officers/officials.

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Enclosure to Annexure 35.51

Copy of letter No. Per (AP-II)A(3)-1/80 dated 4th June, 1980 addressed to all Financial Commissioners, all Administrative Secretaries, all HODs and all DCs in Himachal Pradesh.

Subject: Disposal of complaints against Government officers/officials.

It has come to the notice of the Government that complaints about misconduct of government servants, particularly relating to corrupt practices, harassment of people, partiality to one group of people to the detriment of other weaker groups like Harijans are not being looked into in a proper manner by the officers receiving such complaints. In most cases, it has been found that the complaints are sent down to lower officials for necessary action or disposal and ultimately, these are sent for comments to the officials complained against. This leads to a situation where the truth does not come out and the official not only tries to cover his lapses while giving his comments but also tries to be revengeful against the complainant who suffers twice in this manner.

I am therefore, directed to request you to ensure personally that all complaints are dealt with properly. You may evolve your own method of ensuring proper action on these complaints, keeping in view the following principles:-

- (1) All complaints should be entered in a register by the officer to whom it is addressed. It should be monitored properly and should not be struck off the register till the officer is satisfied about its proper disposal;
- (2) Before asking for the comments of the official complained against, an officer of an appropriate level, which you may determine for your Department/Office, should call the complainant and examine arguments and evidence which he can give in support of his complaint to arrive at a tentative conclusion about the truth or otherwise of the complaint;
- (3) If the officer is satisfied prima-facie about the fact that there is some substance in the complaint as a result of the aforesaid enquiry from the complainant, he should convey the allegations contained in the complaint to the officer complained against for comments without disclosing the name of the complainant, if it is found necessary to get the comments of the officer complained against. In many cases, however, where complaints are from one individual about a specific act of misconduct by the officer complained against, the question of obtaining comments of the officer complained against should not arise and an officer of the higher rank should hold a proper enquiry himself and call for the explanation of the defaulting officer/official and take action for the final disposal of the complaint at his own level.

(4) In cases in which after dealing with the complaint in the manner stated above the Inquiring Officer comes to the conclusion that the allegations stand proved, he should send his findings and recommendations to the authority competent to take disciplinary action against the delinquent officer/official with intimation to the office to whom the complaint was sent originally;

(5) The authority competent to take disciplinary action should on receipt of the recommendations of the Inquiring officer initiate proceedings as prescribed in the Rules under intimation to the officer to whom the complaint was originally addressed.

Strict compliance of these instructions may please be ensured.
Please acknowledge receipt of this letter.

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Annexure 35.52

Copy of H.P. Government Department of Personnel letter No: Per(AP-B)B(1)-1/98 Part dated 23-06-2009 addressed to all Secretaries, Heads of Departments and Divisional Commissioners etc.

[Referred to in Para 35.38(i)]

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विषय: एक ही नाम-अधिमान के पदों के लिए वर्ष में एक ही बार परीक्षा आयोजित करने बारे।

उपरोक्त विषय पर मुझे यह कहने का निर्देश हुआ है कि मंत्रीमण्डल की बैठक दिनांक 19-6-2009 में यह निर्णय लिया गया है कि एक ही नाम-अधिमान के पद जैसे लिपिक, कनिष्ठ आशुलिपिक, कनिष्ठ अभियन्ता सिविल/इलेक्ट्रीकल/मकैनिकल तथा सहायक अभियन्ता सिविल/इलेक्ट्रीकल/ मकैनिकल आदि के पदों पर संस्तुति के लिए समस्त संबंधित विभागों द्वारा प्रत्येक वर्ष की समाप्ति से पूर्व संबंधित भर्ती संस्था अर्थात् हिमाचल प्रदेश अधीनस्थ सेवाएं चयन बोर्ड तथा हि0 प्र0 लोक सेवा आयोग को मांगपत्र प्रेषित किये जायेंगे तथा उन द्वारा उन पदों के लिए वर्ष में एक ही बार परीक्षा आयोजित की जाएगी। इसके अतिरिक्त यह भी निर्णय लिया गया है कि प्रत्याशी किसी भी पद के लिए केवल एक सादे कागज़ पर आवेदन करेगा तथा उसमें दिये गये तथ्यों को स्वयं सत्यापित कर हस्ताक्षरित करेगा जिसमें किसी भी प्रमाण पत्र को संलग्न करने की आवश्यकता नहीं होगी। प्रमाण पत्र एवं पात्रता की जांच केवल साक्षात्कार के समय की जाएगी। कृपया इन अनुदेशों का अक्षरशः पालन किया जाए।

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Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP.B)B(15)-7/2015 dated 22nd August, 2016 addressed to all Administrative Secretaries to the Govt. of HP, all HODs, Divisional Commissioners, Deputy Commissioners and Managing Directors, Registrars, Secretaries of the Boards/Corporations/ Universities/Autonomous Bodies etc. in HP.

[Referred to in Para 35.38(ii)]

.....

Subject: Regarding conducting of examination once in the year for the posts having same nomenclature- fixation of time schedule thereof.

I am directed to invite your attention to this subject Department letter No. Per(AP.B)B(1)-1/98-Part dated 23rd June, 2009 (copy enclosed for ready reference) on the subject cited above vide which the decision of the state Government to the effect that concerned Departments will send requisition for posts having same nomenclature like clerk, Junior scale stenographer, steno-typist, Junior Engineer Civil/Electricals/Mechanical and Assistant Engineer civil/Electricals/Mechanical etc. before the close of the year and examination for such posts will be held once in year. It has brought to the notice of the State Government that requisitions to fill up various posts including posts having same nomenclature are being received in the recruitment agencies at different intervals of time throughout the year even to fill up one or two posts only. The Himachal Pradesh staff selection commission, Hamirpur is compelled to wait for reasonable number of requisitions to pile up to make it practical to hold examinations, which is resulting in undue delay in filling up of posts, causing adverse effect in delivering better services and implementing the policies/programmes in time.

2. The matter has again been examined in the light of average worked out and after keeping in view all the facts involved, it has been decided by the Government that the Himachal Pradesh staff Selection commission, Hamirpur will conduct recruitment for the posts clerk, Junior office Assistant (IT), steno-typists, Junior Scale Stenographers etc., TGTs (Arts, Medical & Non-Medical), c&v categories of Education Department, Junior Engineers (civil, Electrical, Mechanical, IT etc.) and para Medical Staff of Health/Ayurveda / Animal Husbandry etc. in the following time frame twice a year:

A) Time Schedule for Recruitment process
(First Advertisement)

- i) The requisitions from different Government departments to reach Himachal Pradesh Staff selection commission, Hamirpur by 28th of February every year.
- ii) The screening test will be conducted during the month of April of the calendar year.

- iii) Final selection process will be completed by the end of June of the calendar year.

B) Time Schedule for Recruitment process
(Second Advertisement)

- i) The requisitions from different Government departments to reach Himachal Pradesh staff selection commission, Hamirpur by 30th of June.
- ii) The screening test will be conducted during the month of August of the calendar year..
- iii) Final selection process will be completed by the end of October of the calendar year.

3. It has also been decided that the Himachal Pradesh Staff selection commission, Hamirpur will prepare panel(s) for the above said posts and the recommendations will be made immediately after receipt of requisition(s) from the concerned Department.

4. It is, therefore, requested to work out the anticipated vacancy position of various posts well in time and to place the requisitions with the Himachal Pradesh Staff Selection Commission, Hamirpur by 28th February and 30th June, every year, heretofore, after completing codal formalities prescribed for filling up of posts by way of direct recruitment so that the recruitment process to be conducted under First and Second advertisement by the said commission. The implementation of these instructions may be ensured in letter and spirit without fail.

Please acknowledge the receipt.

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Annexure 35.54

Copy of H.P. Government Department of Personnel letter No: Per(AP-B)B(15)-7/2015 dated 29-08-2019 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioners and MD's, Registrar, Secretaries of Boards/Corporations/Universities/Autonomous Bodies etc. in H.P.

[Referred to in para 35.38 (iii)]

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Subject: Regarding conduction of examination – Fixation of time scheduled thereof.

I am directed to invite your attention to the instructions issued by this Department vide letter of even No. dated 22-08-2016 regarding conducting of examination for various posts twice in a year. The Cabinet in its meeting held on 03-07-2019 has decided that vacancies be advertised once/twice in a year by all Departments and the Department of Personnel has been asked to bring a proposal in this regard before the Cabinet.

Annexure 35.55

Copy of H.P. Govt. Department of Personnel letter No: Per(AP-B)E(2)-1/2006 dated 2nd January 2010 addressed to all the Administrative Secretaries.

(Referred to in Para 35. 39)

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Subject: Regarding filing of cases in the Hon'ble High Court application for condonation of delay-instructions thereof.

I am to invite a reference to the subject noted above and to say that the Hon'ble High Court while disposing of an application for condonation of delay in Cr. A. No. 436/2009 titled State of Himachal Pradesh Versus Pawan Kumar on 16.12.2009 has observed/directed as under:-

"We order that in future every application for condonation of delay sought by the State shall be accompanied by the affidavit of the Pr. Secretary of the concerned Department, so that, at least it comes to the notice of the Pr. Secretary of that Department how his Department functions".

Accordingly, you are requested to ensure that the orders passed by the Hon'ble High court in Cr. Appeal No. 436/09 on 16-12-2009 are complied with both in letter and spirit. A copy of this order has already been supplied by the Advocate General, H.P., to all the Pr. Secretaries/Secretaries to the Government of Himachal Pradesh.

These instructions may please be brought to the notice of all concerned for strict compliance in future.

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Annexure 35.56

Copy of H.P. Govt., Department of Personnel letter No: Per(AP)-C-B(2)-1/2006-Vol.-VIII dated 22-02-2010 addressed to all the F.Cs and Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

(Referred to in Para 35. 40)

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Subject: Age limit for disengagement of a daily wager.

I am directed to say that consequent upon amendment in Rule-56 of the Fundamental Rules vide Government of Himachal Pradesh, Finance (Regulations) Department Notification No. Fin(C)A(3)-3/98 dated 10th May, 2001, the issue of fixing the age of disengagement of a daily wager in all the Departments has also been engaging the attention of the Government for sometime past. After careful consideration, the Government has now decided that the people who are engaged on daily wages they will also be governed by the same set of age restriction of disengagement as is applicable to regular Government

employees. As such, the Class-IV daily wager engaged prior to 2001 i.e. when said notification of limiting the age of Class-IV Employees was reduced from 60 to 58 years will cease to be in the employment at the age of 60 years and no daily wager deployed after the reduction of the age limit in 2001 will be retained after attaining the age of 58 years. Similarly, all Class-III and above employees if working on daily wage will cease to be employed at the age of 58 years. There should be no ambiguity in this matter and all departments are to follow this age restriction.

2. The policy regarding regularization of daily waged persons remain as circulated vide this office letter No. PER(AP)-C-B(2)-1/2006-Vol.- VII (Loose-2), dated 28-8-2009.

3. The above instructions may kindly be brought to the notice of all concerned for strict compliance.

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Annexure 35.57

Copy of H.P. Govt. Department of Personnel letter No. PER(AP-II)B(2)-2/94 dated 12th April, 2010 addressed to all Administrative Secretaries, Heads of Departments , Divisional Commissioners, Deputy Commissioners and Secretary, HPPSC & HPSSSB, in H.P.

(Referred to in Para 35. 41)

Subject: Regarding requisitions for filling up vacancies through direct recruitment.

I am directed to refer to the subject noted above and to say that instances have come to the notice of the Government where recruitment to certain posts could not be made for years together for one reason or the other notwithstanding the fact that approval of the Finance Deptt./CMM is obtained stating that filling up of the post is absolutely necessary in the interest of the Deptt. and public as well. As a result of this the very purpose for which approval is granted is defeated.

2. This matter has been considered by the Government and it has been decided that in future it will be mandatory for all the Departments to get the recruitment process completed within a period of two years from the date of approval of Finance Department/CMM failing which such approval will become invalid and they will have to seek the same afresh.

3. The Secretary, HPPSC and Secretary, HPSSSB are requested to examine such proposals/requisitions which are pending with them for the last two years or more and return the same to the department concerned for obtaining fresh requisitions in the light of the above decision. However, this will not apply in cases where recruitment process has been started (examinations held/interviews being held) etc.

4. These instructions may please be adhered to strictly and any deviation from the same will be viewed seriously by the Govt. The receipt of these instructions may please be acknowledged.

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Copy of H.P. Govt. Department of Personnel letter No: Per(A-IV)B(15)-3/2009 Loose dated 12th May, 2010 addressed to all Divisional Commissioners, Heads of Departments, Deputy Commissioners, in H.P.

(Referred to in Para 35.42)

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SUBJECT: REGARDING INDICATING FULL NAME IN T.R.1 FORMS AND ENDORSING OF COPIES OF SANCTION OF EARNED LEAVE/ JOINING REPORTS ETC. TO CONTROLLER (F&A) DEPARTMENT OF PERSONNEL.

I am directed to invite a reference to the subject mentioned above and to say that from time to time, DOP has issued instructions that copies of sanctions relating to earned leave/charge assumption & relinquishing reports etc. maybe also sent to the Controller (F&A) Department of Personnel (Accounts) H.P. Secretariat and in the charge assumption/relinquishing reports, full names of concerned officers should invariably be indicated so that these can be put in appropriate files. It has, however been noticed that:

- a) Most of sanctions relating to earned leave I Half Pay leave etc. and Charge relinquishing I assumption reports are not endorsed to the Controller (F&A) Department of Personnel (Accounts). As the service record of HPAS Officers/ HPSS Officers is maintained in that Section, a copy of such sanctions of Earned / Half Pay leave etc. should invariably be endorsed to the Controller (F&A) Department of Personnel (Accounts) so that requisite entries in service book can be made. Similarly, the copies of all Charge relinquishing/assumption reports should also be endorsed to the Controller (F&A) Department of Personnel (Accounts).
- b) Consequent upon transfer of officers/proceeding and return from leave full name of concerned Officer is not indicated in the charge assumption/ relinquishing reports (T.R.-I Forms), in most of cases. it is, therefore re-iterated that full name of concerned officers should also invariably be indicated in the T.R.-I Forms (Charge relinquishing/assumption reports). All departure/joining reports in respect of HPAS/ HPSS Officers should be submitted only on the T.R.-I forms.

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Annexure 35.59

Copy of H.P. Govt. Department of Personnel O.M. No: Per(AP-B)E(5)-2/2012 dated 1st November, 2013 forwarded to all the Administrative Secretaries and endorsed to all Divisional Commissioners, Heads of Departments and Deputy Commissioners, and MDs/Secretaries/Registrar of Boards/Corporations/Universities etc., in H.P. alongwith others.

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(Referred to in Para 35.43)

Subject: Self-certification of documents by the applicant/stakeholders.

The 2nd Administrative Reforms Commission in its 12th Report titled "Citizen Centric Administration - The Heart of Governance" has recommended adoption of self-certification provision for simplifying procedures.

2. This matter has been examined and the method of self-certification has been considered citizen friendly and fruitful for general public as well as government officers. Therefore, it has been decided by the State Government to adopt the provision for self-certification of documents viz. Caste/ Tribes/ Income/ Domicile/ Character/ Educational Qualification certificates/self-photograph etc. by the applicants/stakeholders, as recommended by 2nd Administrative Reforms Commission in its 12th Report and henceforth the documents self attested by the applicants/stake holders would be entertained instead of asking for an attested copy of the documents by a Gazetted Officer or filing of affidavits. The original documents would be required to be produced at the time of viva-voce and final stage for verification. If any candidate gives false information/ declaration, he/she will be debarred from employment in State Govt./ Board/ Corporation/ Autonomous Bodies for a period of three years and also consider him/her liable for criminal proceedings.

3. This decision of the Government may please be brought to the notice of the all concerned.

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Annexure 35. 60

Copy of H.P. Govt. Department of Personnel letter No. Per(AP-II)A(3)10/73 dated 3rd July, 2014 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioners, and Deputy Commissioners, in H.P.

(Referred to in Para 35.44)

Subject: Utilization of services of regular/daily wage/contractual/part-time official by deputing in the houses of officer/officials to do work.

I am directed to draw your attention to Hon'ble High Court of HP's order dated 30-06-2014 in CWP No. 4504/2014, which is as under:

“3. The Chief Secretary to the Government of Himachal Pradesh is directed to issue necessary directions within 48 hours to ensure that no official regular or daily wage or part time is directed to work in the houses of revenue officers/officials throughout the State of Himachal Pradesh. He is also directed to issue similar directions qua all the departments in the State of Himachal Pradesh. In case any official/workman is engaged even after the orders passed by this Court, disciplinary proceedings be initiated against the defaulting officer/official. He shall also be liable to be punished under the contempt jurisdiction of this Court. It is made clear that no displeasure in any manner shall be shown towards the persons, who were earlier deputed in the houses of the officers/officials to do the work.”

2. In view of the above, the Revenue and all other Departments are requested to issue necessary orders to all their attached/subordinate offices to ensure that the above quoted orders of the Hon'ble High Court are obeyed/implemented in letter and spirit.

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Annexure 35.61

Copy of H.P. Govt., Department of Personnel letter No: Per(A-IV)-B(15)-3/2009 dated 6th January, 2016 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioners and Managing Directors of Boards/Corporations in H.P.

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(Referred to in para 35.45)

Subject: Regarding proceeding on earned leave without sanction of competent authority-instructions thereof.

I am directed to invite a reference to the subject mentioned above and to say that as per instructions of the Government, earned leave application must be submitted to the respective cadre controlling departments for its sanction at least 15 days prior to commencement of leave, so that leave could be sanctioned timely and alternative arrangements for entrusting the charge could be made, so as to avoid inconvenience to general public. But instances have come to the notice of this department that even senior officers are not adhering to these instructions and proceeding to avail earned leave without recommendations and sanction of the competent authority.

This matter has been viewed seriously by the Government, because in the absence of senior officers in the office, the work of the concerned department(s) is hampered and it also causes inconvenience to general public. Taking all the relevant factors into account, it is re-iterated that all the officers must submit their earned leave applications, duly recommended, to the competent leave sanctioning authority timely and shall not proceed to avail the leave, until the same is sanctioned by the respective department.

These instructions may be adhered to strictly and personal attention also be given.

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Annexure 35. 62

Copy of H.P. Government Department of Personnel letter No. Per(AP-B)A(3)-6/2012 dated 19th May, 2016 forwarded to all the Administrative Secretaries, Heads of Departments, Divisional Commissioner, Deputy Commissioners, MD/Registrars/Secretaries of Boards/Corporations/ Universities/ Autonomous Bodies, in H.P.

(Referred to in Para 35.46)

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Subject: Regarding issuing of directions for the compliance of Section 39 of Himachal Pradesh Lokayukta Act, 2014 (No. 23 of 2015)

I am directed to invite your attention to the subject cited above and to say that the words “public servant” denote a person falling under any of the descriptions under the Section 21 of Indian Penal Code. Further, all persons, who are covered under Chapter-VI, Section 13 of the above said Act have been defined as ‘public servants’ for the purpose of attracting the provisions of Prevention of Corruption Act, 1988 or the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983. The Section 39 of Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015) mandates that every public servant holding office as such, at the time of commencement of the said Act, shall make declaration of his assets and liabilities to the competent authority within 30 days of the coming into force of the Act. The competent authority defined under Section 2(a) of the Act *ibid*, in respect of each Department has to ensure that all such statements are published on the website for the Department by 31st August of that year.

It is, therefore, requested that the compliance of the mandatory provision of Section 39 of the Act in letter and spirit may please be ensured without fail.

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Annexure 35. 63

Copy of H.P. Govt. Department of Personnel letter No. Per(AP-B)B(11)-2/2012 dated 26-08-2016 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioners and MD’s/Directors/Secretaries/Registrars of the Boards/Corporations/ Govt. universities etc. in H.P.

(Referred to in Para 35. 47)

Subject: Instructions on exemption from passing the typewriting test on Computer in respect of Physically Handicapped selected for the post of Clerks, regarding.

I am directed to invite your attention to the subject cited above and to say that there no provisions exists in the prevailing common or departmental recruitment rules, as the

case may be, for the post of Clerks to allow any sort of exemption to physically handicapped persons from passing of typing test on computers. This matter was engaging the attention of the State Government from the sometime past to frame own guidelines only for those 'physically handicapped person' does not cover those who are visually handicapped or who are hearing handicapped but cover only those whose physical disability/deformity permanently prevents them from typing. The above criteria for grant of exemption from passing the typing test would also be applicable to the Skill Norms on Computers.

The relevant recruitment rules are framed under Article 309 of Constitution of India and any executive instructions cannot supersede the provisions of statutory rules, therefore, it is emphasized that necessary amendment may be made in the concerned common recruitment rules and separate recruitment rules for the post of Clerk, if framed, for own Department/Board/Corporation etc. Further, it is also impressed upon all the administrative authorities to bring the above decision of the Government for its implementation in a real spirit.

Please acknowledge the receipt.

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Annexure 35.64

Copy of H.P. Government Department of Personnel letter No. Per(AP)AB(12)-3/2012 dated 27-10-2016 addressed to all Administrative Secretaries and Heads of Departments, in H.P.

(Referred to in Para 35.48)

Subject: Directions of the Hon'ble High Court of H.P. regarding ensuring presence of officers in the contempt petitions/court cases.

I am directed to refer on the subject cited above and to say that the Hon'ble High Court of H.P. while hearing the COPC No. 188/2016 titled as Pratibha Kaushik Vs Shri R.D. Dhiman has directed to ensure that all those officers who have been arrayed as party-respondents in the contempt petitions or who have to remain present before the Court in the case(s) on the date(s) fixed, have to seek exemption/permission from the Court before leaving for Delhi or outside the State. Any deviation shall be seriously viewed by the Hon'ble High Court.

You are, therefore, requested to comply with the directions of the Hon'ble High Court of H.P. in letter and spirit. These directions may also be brought to the notice of all the organizations under your control for strict compliance.

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Annexure 35.65

Copy of H.P. Govt. Department of Personnel letter No. Per(AP-B)A(3)-10/73 dated 2nd Nov., 2016 addressed to all Administrative Secretaries, Heads of Departments, Divisional

Commissioners, Deputy Commissioners and MD's/Directors/Secretaries/Registrars of the Boards/Corporations/ Govt. universities/PSUs etc. in H.P.

(Referred to in Para 35.48)

Subject: Presence of officers before the Hon'ble Court in the case(s) on the date fixed.

I am directed to invite your attention to the subject cited above and to say that it has brought to the notice of the Government by the Registry of the Hon'ble High Court of Himachal Pradesh that the officers, who are either on tour to Delhi or are going abroad for tour/training and are not ensuring presence before the Court on the date fixed. The State Government considers that the above practice is quite irregular and contrary to the official propriety. The Hon'ble Court vide order date 04-10-2016 in COPC No. 188 of 2016 has directed the Government of Himachal Pradesh to ensure that all those officers, who have been arrayed as party-respondents in the contempt petitions or who have to remain present before the Court in the case(s) on the date(s) fixed, have to seek exemption/permission from the Court before leaving for Delhi or outside the State. Accordingly, it is impressed upon all the officers of State Government to ensure that the above quoted orders of the Hon'ble High Court are obeyed/implemented in letter and spirit. Any deviation of the above shall be seriously viewed and render liable for disciplinary action.

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Annexure 35.66

Copy of H.P. Government Department of Personnel letter No. Per(A-IV)B(15)-3/2009 dated 9th December, 2016 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioners and MD's/Directors/Secretaries/Registrars of the Boards/Corporations/ Govt. universities etc. in H.P.

(Referred to in Para 35.49)

Subject: Regarding sanctioning of leave and LTC and assignment of charge in favour of IAS/HPAS/HPSS officers and Heads of Departments- instructions thereof.

I am directed to invite a reference to the subject mentioned above and to say that this department has issued instructions regarding sanctioning of leave and LTC in respect of IAS/HPAS officers and Heads of Departments time and again, but instances have come to the notice of this department that some officers are sanctioning leave for more than 30 days and LTC in favour of officers who working under their control.

Taking all the relevant factors into account, it is re-iterated that Deputy Commissioners/Heads of Departments are competent to sanction earned leave, half pay leave, commuted leave to the IAS/HPAS officers working under their control, upto a maximum period of 30 days at a stretch. It is further re-iterated that the leave sanctioning

authority is also competent to hand over the additional charge during the leave period of the concerned officer to the other officer working under his control. However, where the charge is required to be given to an officer posted in another office/department, such proposal is required to be sent to the Government in the Department of Personnel.

Instances have also come to the notice of this department that apart from sanctioning earned leave/casual leave, Heads of Departments are sanctioning Home Town Leave Travel Concession/Leave Travel Concession (Bharat Darshan) in favour of IAS/HPAS officers working under their control. In this regard, it is also clarified that powers for sanctioning of Home Town LTC/LTC in favour of IAS/HPAS officers/Heads of Departments have not been delegated. Therefore, such cases for sanctioning of Home Town LTC/LTC working under your control be forwarded to the Department of Personnel for necessary sanction.

These instructions may be adhered to strictly.

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Annexure 35.67

Copy of H.P. Govt. Deptt. of Personnel letter No. PER(AP)-C-B(2)-2/2015-L dated 9th March, 2017 addressed to all Administrative Secretaries to the Govt. of HP, all HODs, Divisional Commissioners, and Deputy Commissioner, in HP.

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(Referred to in para 35.50)

Subject: Appointment of a contract employee and maintenance of service record thereof.

I am directed to refer to the subject cited above and to say that the service conditions of contractual employees are regulated in accordance with the provisions of Column 15-A of the respective Recruitment & Promotion Rules of the post and agreement executed between employer and the employee. The issue whether "Service Book" of a contract appointee is to be maintained or not was engaging attention of the Government.

2. The Himachal Pradesh Financial Rules and Supplementary Rules mandate for maintaining "Service Book" of an employee and these Rules are not applicable in the case of contract appointees. However, it has been considered desirable to maintain the service book of a contract appointee by the Appointing/Controlling Authority which may facilitate upkeep of his/her service record.

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

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Annexure 35.68

Copy of H.P. Government Department of Personnel letter No. Per(AP-B)B(19)-2/2012 dated 10th March, 2017 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioners and MD's/Directors/Secretaries/Registrars of the Boards/Corporations/ Govt. universities/PSUs etc. in H.P.

(Referred to in Para 35.51)

Subject: Regarding providing of reservation to the disabled persons in respect of Class-I to IV posts/services to be filled in by direct recruitment-Exemption from passing of type test by 100% visually impaired persons.

I am directed to say that this department vide letter No. Per(AP-B)B(19)-31/2007 dated 10-05-2013 has circulated the instructions regarding imparting necessary basic training including computer training through Composite Regional Centre (CRC) Sundernagar set up by the Ministry of Social Justice and Empowerment, Government of India. It has now been decided that in addition to CRC, Sundernagar, such visually impaired persons may be allowed to undertake the requisite training from NIVH, Dehradun and CTC, Ludhiana. Amendments required in the Common R&P Rules in this regard will be made by the Department of Personnel separately.

It is also clarified that such visually impaired persons need not to appear in typing test as required at the time of initial appointment to the post.

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Annexure 35. 69

Copy of H.P. Govt. Department of Personnel letter No. Per(AP-B)B(19)-31/2007 dated 10-05-2013 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioners and Chairmen/MD's/Secretaries/Registrars of all the Public Sector Undertakings/Corporations/Boards/universities etc. in H.P.

(Referred to in Para 35. 51)

Subject: Regarding providing of reservation to the disabled persons in respect of Class-I to IV posts/services to be filled in by direct recruitment - Exemption from passing of type test by 100% visually impaired persons

I am directed to say that this department vide letter No. Per(AP-B)B(19)-31/2007 dated 26-02-2009 has circulated instructions regarding exemption to visually impaired persons from passing typing test and similar insertion of necessary provision in the R&P Rules. However, necessary amendments in Common R&P Rules have not so far been made by the Department of Personnel.

2. This matter was under consideration of the Government for some time past. After re-consideration and in consultation with Social Justice and Empowerment Department, it has now been decided that instead of granting exemption of typing test, visually impaired persons recruited under reserved quota of 1% may be imparted necessary basic training including computer training through Composite Regional Centre (CRC) Sundernagar set up by the Ministry of Social Justice and Empowerment, Government of India. Training module with the aid of Job Access With Speech (JAWS) software has already been devised by the State Social Justice and Empowerment Department at CRC, Sundernagar.

3. Instructions contained in letter No. Per(AP-B)B(19)-31/2007, dated 26-02-2009 as referred to in para 1 of this letter are, therefore, withdrawn with immediate effect.

4. All Departments are directed to sponsor candidates recruited under 1% quota of blind for the said training after verification of availability of seats, settlement of fee etc in prior consultation with Social Justice and Empowerment Department, H.P. Necessary amendments in the Common R&P Rules will be made by the Department of Personnel.

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Annexure 35.70

Copy of H.P. Government Department of Personnel letter No. Per(AI)B(3)-16/88 dated 18-04-2017 addressed to all Administrative Secretaries and Heads of Departments, in H.P.

(Referred to in Para 35.52)

Subject: Regarding forwarding the charge relinquishment and joining report on the TR-I.

I am directed to refer to the subject cited above and to say that it has been observed that the charge relinquishment as well as charge assumption reports is being forwarded on a simple letter which should be avoided. Such reports should invariably be submitted by the concerned officer on the prescribed TR-I form. In this context, it is also requested that these reports on TR Form-I may be forwarded to all concerned as the same are required to be placed on record by them for future reference.

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Annexure 35.71

Copy of H.P. Government Department of Personnel Office Order No. Per(A-IV)B(15)-3/2009 dated 3rd August, 2016 forwarded to all the Administrative Secretaries, Heads of Departments, Divisional Commissioner, Deputy Commissioners, MDs, in H.P. alongwith other.

(Referred to in Para 35.52)

.....

The Department of Personnel (Appointment-IV) has issued instructions from time to time that copies of sanctions relating to earned leave/charge assumption & relinquishment reports etc. may be sent to the Controller (Finance & Accounts), Department of Personnel, H.P. Secretaries and in the charge assumption/relinquishment reports full names and designation may invariably be written in block letters, so that these can be put in appropriate files. But despite these instructions, it has been come to the notice that the officers are not writing their full name & designation on T.R.-I forms and simply putting their signatures.

It is therefore, once again emphasized that in future copies of earned leave sanctions and charge assumption/relinquishment reports may be submitted to the Department of

Personnel as well as to the Controller (Finance & Accounts), Department of Personnel, on the TR-1 form, indicating therein, full name & designation in block letters, so that these charge reports can be placed in the appropriate files.

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Annexure 35.72

Copy of H.P. Govt. Department of Personnel O.M. No: Per(AP-B)D(7)-1/2017 dated 6th July, 2017 addressed to all the Administrative Secretaries and endorsed to all Divisional Commissioners, Heads of Departments and Deputy Commissioners, and MDs/Secretaries/Registrar of Boards/Corporations/Universities etc., in H.P.

.....

(Referred to in Para 35.53)

Subject: Regarding publication of Notification/Orders in official Gazette.

In continuation of this department O.M. No. Per(AP-B)D(8)-1/2005 dated 15-02-2006 and No. Per(AP-B)B(2)-3/2001 dated 29-05-2006, 19-04-2007, 16-04-2008, 17-03-2010, 09-03-2011, 01-06-2011 and 16-04-2014 on the subject cited above, the undersigned is directed to re-iterate that all the departments will ensure that statutory rules/orders/regulations are invariably published in the Government Gazette strictly as per the prescribed law without any mistakes and delay. It will also be ensured by the departments that the short title, commencement and year of publication of every Rule should be the same. Any lapse in this regard will be viewed seriously.

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Enclosures 1 to Annexure 35.72

Copy of H.P. Govt. Department of Personnel O.M. No: Per(AP-B)D(5)-1/2012 dated 30 June, 2012 addressed to all the Administrative Secretaries and endorsed to all Divisional Commissioners, Heads of Departments and Deputy Commissioners, and MDs/Secretaries/Registrar of Boards/Corporations/Universities etc., in H.P.

.....

Subject: Regarding publication of Notification/Orders in official Gazette.

In continuation of this department O.M. No. Per(AP-B)D(8)1/2005 dated 15-02-2006, No. Per(AP-B)B(2)3/2001 dated 29-05-2006, 19-04-2007, 16-04-2008 & 17-03-2010, No. Per(AP-B)B(8)1/2011 dated 09-03-2011 and 01-06-2011, on the subject cited above, the undersigned is directed to re-iterate that all the departments will ensure that statutory rules/orders/regulations are invariably published in the Government Gazette strictly as per the prescribed law without any mistakes and delay. It will also be ensured by the departments that the short title, commencement and year of publication of every Rule should be the same. Any lapse in this regard will be viewed seriously.

.....

Enclosure 2 to Annexure 35.72

Copy of H.P. Govt. Department of Personnel letter No: Per(AP-B)D(8)-1/2005 Dated 15-02-2006 addressed to all the Administrative Secretaries to the Government of Himachal Pradesh and endorsed to all Divisional Commissioners/Heads of Departments/Deputy Commissioners., in H.P.

Subject: Regarding publication of Notification/Orders in official Gazette.

The undersigned is directed to refer to the subject noted above and to say that of late it has been seen that the Departments send the copies of notifications of statutory rules and orders especially matters involving public importance/interest to the Controller, Printing and Stationery, Himachal Pradesh, for publication in the Government Gazette but they do not ensure publication. Consequently certain notification/order are either not published in the Gazette or are published at a belated stage. Such lapse on the part of Departments may lead to administrative/legal complications.

It is, therefore, emphasized that all the departments will ensure that such statutory rules/orders are invariably published in the Government Gazette without any delay. Any lapse on this score will be viewed seriously by the Government.

.....

Enclosure 3 to Annexure 35.72

Copy of H.P. Govt. Department of Personnel letter No: Per(AP-B)B(2)-3/2001 Dated 29-05-2006 addressed to all Administrative Secretaries to the Government of Himachal Pradesh and endorsed to all Divisional Commissioners/Heads of Departments/Deputy Commissioners., in H.P.

Subject: Regarding publication of Notification/Orders in official Gazette.

In continuation of this department O.M. No. Per(AP-B)D(8)1/2005 dated 15-02-2006 (copy enclosed), on the subject cited above, the undersigned is directed to say that in future, all the departments will ensure that statutory rules/orders/regulations are invariably published in the Government Gazette strictly as per the prescribed law without any mistakes and delay. It will also be ensured by the departments that the short title, commencement and year of publication of every Rule should be the same. The Government will view any lapse on this score seriously.

.....

Enclosure 4 to Annexure 35.72

Copy of letter No. Per(AP-B)B(2)-3/2001 Dated 19-04-2007

Subject: Regarding publication of Notification/Orders in official Gazette.

In continuation of this department O.M. No. Per(AP-B)D(8)1/2005 dated 15-02-2006 and even number dated 29-05-2006 (copies enclosed), on the subject cited above, the undersigned is directed to say that in future, all the departments will ensure that statutory rules/orders/regulations are invariably published in the Government Gazette strictly as per the prescribed law without any mistakes and delay. It will also be ensured by the departments that the short title, commencement and year of publication of every Rule should be the same. The Government will view any lapse on this score seriously.

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Enclosure 5 to Annexure 35.72

Copy of H.P. Government, Department of Personnel letter No: Per(AP-B)B(2)-3/2001 Dated 16-04-2008 addressed to all Administrative Secretaries to the Government of Himachal Pradesh and endorsed to all Divisional Commissioners/Heads of Departments/Deputy Commissioners., in H.P.

Subject: Regarding publication of Notification/Orders in official Gazette.

In continuation of this department O.M. No. Per(AP-B)D(8)1/2005 dated 15-02-2006 and even number dated 29-05-2006 and 19-04-2007 (copies enclosed), on the subject cited above, the undersigned is directed to re-iterate that all the departments will ensure that statutory rules/orders/regulations are invariably published in the Government Gazette strictly as per the prescribed law without any mistakes and delay. It will also be ensured by the departments that the short title, commencement and year of publication of every Rule should be the same. The Government will view any lapse on this score seriously.

.....

Enclosure 6 to Annexure 35.72

Copy of H.P. Government, Department of Personnel letter No: Per(AP-B)D(8)-1/2011 Dated 09-03-2011 addressed to all Administrative Secretaries to the Government of Himachal Pradesh and endorsed to all Divisional Commissioners/Heads of Departments/Deputy Commissioners., in H.P.

Subject: Regarding publication of Notification/Orders in official Gazette.

In continuation of this department O.M. No. Per(AP-B)D(8)-1/2005 dated 15-02-2006 and No. Per(AP-B)B(2)-3/2001 dated 29-05-2006, 19-04-2007, 16-04-2008 (copies enclosed), on the subject cited above, the undersigned is directed to re-iterate that all the departments will ensure that statutory rules/orders/regulations are invariably published in the Government Gazette strictly as per the prescribed law without any mistakes and delay. It will also be ensured by the departments that the short title, commencement and year of publication of every Rule should be the same. The Government will view any lapse on this score seriously.

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Enclosure 7 to Annexure 35.72

Copy of H.P. Government, Department of Personnel letter No: Per(AP-B)D(8)-1/2011 Dated 1-06-2011 addressed to all Administrative Secretaries to the Government of Himachal Pradesh and endorsed to all Divisional Commissioners/Heads of Departments/Deputy Commissioners., in H.P.

Subject: Regarding publication of Notification/Orders in official Gazette.

In continuation of this department O.M. No. Per(AP-B)D(8)-1/2005 dated 15-02-2006 and No. Per(AP-B)B(2)-3/2001 dated 29-05-2006, 19-04-2007, 16-04-2008 & 17-03-2010 and No. Per(AP-B)B(8)-1/2011 dated 09-03-2011, on the subject cited above, the undersigned is directed to re-iterate that all the departments will ensure that statutory rules/orders/regulations are invariably published in the Government Gazette strictly as per the prescribed law without any mistakes and delay. It will also be ensured by the departments that the short title, commencement and year of publication of every Rule should be the same. Any lapse on this regard will be viewed seriously.

.....

Annexure 35.73

Copy of H.P. Government Department of Personnel letter No. Per(AP.II)B(3)-10-75-III dated 3rd August, 2017 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners , in H.P.

(Referred to in Para 35.54)

Subject: Prescription of dress code to attend Hon'ble Court and office (CWP No. 1043/2017 – Om Parkash V/S State of H.P. & Ors.).

In addressing you on the subject cited above, I am directed to say that Hon'ble High Court of Himachal Pradesh, while expressing its displeasure over the attire of a female Junior Engineer who appeared before the Hon'ble Court in a case wearing multi-coloured check shirt and jeans, has directed to issue necessary instructions to all the concerned to follow a dress code while attending court or office. A copy of the Order of Hon'ble High Court dated 17-07-2017 is annexed herewith for ready reference (Enclosure 1 to Annexure 35.73).

2. It is accordingly advised that while attending Hon'ble Courts specifically and office in general, all Government servant should be attired in appropriate, formal, clean, modest and decent cloths in sober colours, which should not look gaudy. Casual and party attire should be strictly avoided during appearance in Court and while attending office. The mannerism, conduct and dress of a Government servant should reflect a sense of decorum, decency,

professionalism and seriousness of purpose at the work place as well as during appearance in Hon'ble Courts.

3. The above advisory instructions of the Government may be brought to the notice of every employee and should also scrupulously be followed in letter and spirit by all. In case any deviation is noticed or brought to the notice of the concerned Department/Government, an appropriate disciplinary action in the light of conduct rules or terms and conditions of the government employee, as the case may be, shall follow against the defaulter(s).

4. These instructions can also be seen on the departmental website i.e. www.himachal.nic.in/personnel.

5. Please acknowledge the receipt.

.....

A copy of the Order of Hon'ble High Court dated 17th July, 2017 passed in CWP No. 1043/2017 – Om Parkash V/S State of H.P. & Ors.

CWP No. 1043 of 2017

17.7.2017: Present: Ms. Shreya Chauhan, Advocate proxy counsel for the petitioner.

Mr. Shrawan Dorga, A.G. with Mr. Anup Rattan and Romesh Verma, Addl. A.Gs and Mr. J.K. Verma, Dy. A.G. for respondents No.1 to 5.

Mr. C.N. Singh, Advocate alongwith Respondent No.6 Ms. Poonam Kumari.

Mr. C.N. Singh, Advocate has put in appearance on behalf of respondent No.6. He prays for and is granted one week's time to file reply. Rejoinder within two weeks thereafter. List for admission on 8.8.2017.

2. We notice that respondent No.6, who has appeared in person and is a Junior Engineer is not appropriately dressed. She is wearing a multi-coloured check shirt and jeans. What is more appalling is when she informed the Court that she even discharges her official duties wearing only these kinds of dresses.

3. Dispensation of justice is inevitable feature in any civilized society. Judiciary is the backbone of democracy. In a democratic polity, the role of the judiciary is to maintain and stabilize the rule of law, which is essential in successful functioning of the democracy. The Judges and Magistrates play a pivotal role in the administration of justice and that is why they wear specific dress prescribed by the Rules framed by the High Court.

This dress is worn compulsorily in order to maintain the dignity and decorum of the Court and, therefore, we see no reason why any litigant, more particularly, Government officers and officials should be improperly or inappropriately dressed while appearing before the Court. After all being appropriately dressed only induces a seriousness of purpose and a sense of decorum which is highly conducive for the dispensation of justice.

4. Shakespeare said "the apparel oft proclaims the man".

5. Every litigant appearing before the Court is expected to be dressed in a modest manner so as to maintain decorum.
6. However, of late there has been lamentable slackness in matters of litigants attire, more particularly, Government officers and officials appearing before this Court and this only (to borrow the words of Allahabad High Court in Prayag Das vs Civil Judge, Bulandshahr AIR 1974 Allahabad 133) precipitates sartorial inelegance and judicial indecorum and undermines the majesty of law.
7. Therefore, it is high time we reiterate that litigants appearing before this Court, more particularly, Government officers and officials should be dressed, if not formally atleast appropriately or else they may start dressing more indiscreetly.
8. The apprehension may be well cited by a dialogue, which is alleged to have transpired between the Australian squatter and his friend, who visited him on his estate far away in the wilds of the interior of the estate and was aptly taken note of by the Allahabad High Court in Prayag Das's (supra) AIR 1974 Allahabad 133. The friend asked him why, in so remote a place he made it a practice to 'dress' for dinner. "I do it," said the squatter, to avoid losing myself respect. If I did not dress for dinner I should end by coming in to dinner in my shirt-sleeves. I should end by not troubling to wash. I should sink down to the level of the cattle. I dress for dinner, not to make myself pretty, but as a spiritual renovation.
9. The State of Jharkhand, through its Personnel Administrative Reforms and Rajbhasha Department, has already issued instructions on 30.5.2017 asking all its officers and other staff not to appear before the Court in casual dresses. This decision was taken in response to scathing comments made by the Jharkhand High Court recently when the Chief Secretary appeared before the Court draped in colourful printed Saree. The Court not only pulled up the officers but also asked the Advocate General to communicate the observations to the Government for necessary action so that officers maintain proper dress code while they are in Court. The instructions read thus:

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झारखण्ड सरकार

कार्मिक प्रशासनिक सुधार तथा राजभाषा विभाग

प्रेषक

ओम प्रकाश साह
सरकार के उपसचिव

सेवा में

सभी अपर मुख्य सचिव / प्रधान सचिव / सचिव / विभागाध्यक्ष
सभी विभाग झारखण्ड
रॉची दिनांक 30.05.2017

विषय: ekuuh; U; k; ky; dh xfjek dks /; ku ea j [krs gq >kj [k.M mPp U; k; ky; ea mfpr
i fj/kku ea mi fLFkr gkus ds l Ecu/k ea

महाशय,

निदेशानुसार उपर्युक्त विषय के सम्बन्ध में कहना है कि महाधिवक्ता कार्यालय के पत्रांक -4600 दिनांक -18.04.2017 के द्वारा माननीय उच्च न्यायालय की गरिमा को दृष्टिपथ में रखते हुए झारखण्ड उच्च

न्यायालय में उचित परिधान में ही उपस्थित होने का निदेश संसूचित किया गया है जिसमें यह भी उल्लेखित है कि किसी भी परिस्थिति में कोई पदाधिकारी/कर्मचारी माननीय न्यायालय में कैजुअल ड्रेस यथा जींस फैंसी शर्ट टी शर्ट रंगीन चश्में रंग बिरंगों कपड़े पहनकर उपस्थित नहीं हो।

साथ ही उक्त पत्र के द्वारा यह भी निदेशित किया गया है कि कोर्ट रूम में उपस्थिति के दौरान क्रॉस लैंग में नहीं बैठा जाए।

अनुरोध है कि उक्त दिशा निदेशों का अनुपालन हेतु आवश्यक कार्यवाई करने की कृपा की जाए।

विश्वासभाजन

हस्ता

ओम प्रकाश साह

सरकार के उपसचिव

ज्ञापांक -15/नीति नि0-07-01/2017 का0 6629 रॉची दिनांक 30.5.2017

प्रतिलिपि - महाधिवक्ता झारखण्ड उच्च न्यायालय रॉची को उनके पत्रांक -4600 दिनांक 18.04.2017 के प्रसंग में सूचनार्थ एवं आवश्यक कार्यार्थ प्रेषित।

हस्ता

सरकार के उपसचिव

10. Needless to say that the issuance of such kinds of order is only a reminder to all the concerned to follow the appropriate dress code while they attend Court or office as the officers are already aware of the dress code as they have been trained on this aspect.

11. Let a copy of this order be sent to the Chief Secretary, Government of Himachal Pradesh for issuing necessary instructions /directions to all the concerned. Compliance report be submitted on or before the next date of hearing.

List on 8.8.2017.

(Tarlok Singh Chauhan),

Judge.

(Ajay Mohan Goel),

Judge.

.....

Annexure 35. 74

Copy of H.P. Government Department of Personnel letter No. Per(AP.II)B(2)-5/ 2017 dated 18th August, 2017 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners, and MD's/Directors/Registrars/Secretaries of the Boards /Corporation/Govt. Universities/ PSUs, in H.P.

(Referred to in Para 35.55)

Subject: Regarding grant of relaxation in recruitment rules in favour of the Visually Impaired Persons.

I am directed to invite your attention to the subject cited above and to say that the matter for allowing relaxation in favour of 'Visually Impaired Persons' for recruitment

against the Class-IV posts/services and Juniors Office Assistant (IT) (Class-III) in the recruitment rules was engaging the attention of the State Government.

2. The matter has been examined and it has been decided by the State Government that relaxation in educational qualification as prescribed in the concerned recruitment rules for appointment on the Class-IV posts/services against direct recruitment quota posts in favour of Visually Impaired Persons who have crossed the age of 35 (thirty five) years may be provided and similarly relaxation in other qualification prescribed for direct recruit(s) for the post of Junior Office Assistant (IT) i.e. Diploma in Computer Science/Computer Application/IT for direct recruitment quota posts in favour of Visually Impaired Persons may also be provided. The selected Visually Impaired Persons after appointment may not be insisted upon to complete the Diploma as required in the light of recruitment rules and may be imparted basic training including computer training course by the concerned department.

3. The relevant recruitment rules are framed under Article 309 of Constitution of India and any executive instructions cannot supersede the provisions of statutory rules, therefore, it is emphasized that necessary amendment may be made in the concerned common recruitment rules and separate recruitment rules for Class-IV posts/services, if framed, for own Department/Board/Corporation etc. Further, it is also impressed upon all the Administrative Authorities to bring the above decision of the Government for its implementation in a real spirit.

4. These instructions can also be seen on the departmental website i.e. www.himachal.nic.in/personnel.

5. Please acknowledge the receipt.

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Annexure 35.75

Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP.B)B(19)-6/2010-Vol. I dated 26th October, 2017 addressed to all Administrative Secretaries to the Government of Himachal Pradesh, all Divisional Commissioners, HODs, Deputy Commissioners and all Managing Directors/Directors/Secretaries/Registrars of Boards/Corporations/ Autonomous Bodies/Government Universities, in H.P.

(Referred to in para 35.56)

Subject: To sensitize/educate the officers/authorities with regard to procedure/approach required to be followed and adopted in the tender matters (CWP No. 91012017-RSR Private Limited versus State of HP & ors.)

In addressing you on the subject cited above, I am directed to say that Hon'ble High Court of Himachal Pradesh, while expressing its displeasure over the practice adopted by the Respondents Authorities while dealing with the tender in the question, has directed to issue necessary instructions to all the concerned to follow and adopt the procedure/approach in the tender matters (copy of judgment dated 13-09- 2017 delivered by the Hon'ble High court is enclosed).

2. It is accordingly advised that all the officers/authorities dealing with the tender matters may be sensitized/educated at the appropriate level with regard to the procedure/approach required to be followed and adopted in such matters keeping in view the guidelines/instructions issued by the Government from time to time.

3. The above advisory instructions of the Government may be brought to the notice of all concerned and should also scrupulously be followed in letter and spirit by all. In case any deviation is noticed or brought to the notice of the concerned Department/Government, an appropriate disciplinary action shall follow against the defaulter(s).

4. These instructions can also be seen on the departmental website i.e. www.himachal.nic.in/personnel.

5. Please acknowledge the receipt.

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Copy of Judgment dated 13-09-2017 delivered by Hon'ble High Court of H.P. in CWP No. 910 of 2017 titled RSR Private Limited versus State of H.P. and others.

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Enclosure to Annexure 35.75

Facts, as emerged from the record, are that the Himachal Pradesh Agro Industries Limited, invited tenders for the purchase of Plant Protection Equipments (A) (Foot, Hand Compression & Knapsack, Sprayer etc.) for the Department of Horticulture, Agriculture etc., Himachal Pradesh for the year 2017-2018 by advertising Notice Inviting Tender (for short 'NIT') in Hindustan Times (Delhi Edition) on 2nd February, 2017. Pursuant to aforesaid NIT, petitioner, who claimed itself to be authorized manufacturer of the Plant Protection Equipments, qua which tenders were issued/invited, submitted tender document (Annexure P-2). As per terms and conditions contained in tender form (Annexure P-3), tender was to be opened on 23rd February, 2017 at 3.30 P.M.

2. As per averments contained in the petition as well as record perused by this Court, tenders submitted by the petitioner as well as other tenderers were opened on the same day and thereafter rates were read-over and announced loudly by one of the Member of the Tenders Opening Committee (for short 'TOC'). As per petitioner, its tender was found to be lowest amongst other nine bidders and as such he was legitimately expecting that rate contract in terms of Tender Notice would be awarded to it on or before 31st March, 2017, since, till that date, there was already rate contract in operation. As per petitioner, on 23rd February, 2017, simultaneously other tenders pertaining to altogether different works were also processed and opened by the same 'TOC', who after opening the same out rightly rejected one tender for want of earnest money, whereas, in the case of present tender, all tenders were found in order and proper and as such after conclusion of meeting, 'TOC' apprised the petitioner that he would be awarded tender/rate contract with respect to the present tender on or before expiry of previous tenders i.e. 31st March, 2017. Petitioner has further alleged that respondents despite awarding work to it, being lowest

tenderer, decided to convene a meeting of Technical Scrutiny Sub Committee (for short 'TSSC'), having four members including one person, who was also a Member of TOC' i.e. respondent No.3. As per petitioner, 'TSSC' was otherwise required to call the present petitioner for negotiation and thereafter award the rate contract, but, Committee, referred above, without associating the petitioner, who was the lowest tenderer, convened the meeting. However, fact remains that the Committee, as referred above, did not take any decision with regard to awarding of work to the petitioner-firm, as a result of which it was compelled to file various representations, vide Annexures P-4 to P8. Since no action, if any, was taken by the Authorities concerned, pursuant to aforesaid representations sent by the petitioner, petitioner vide Annexure P-9 got legal notice served upon the respondents calling upon them to award work to it being the lowest bidder. In the aforesaid background, petitioner alleging malafide or inaction on the part of respondents in not awarding it work despite its being lowest bidder, approached this Court by way of instant petition on 2nd May, 2017.

3. At this stage, it may be noticed that during the pendency of petition, referred above, communication dated 29th April, 2017 (Annexure P-10) came to be issued by respondent, cancelling therein tenders in question (Annexure R-2/C annexed with application filed under Order 6 Rule 17 of the Code of Civil Procedure for amendment filed by the writ petitioner). Pursuant to aforesaid development, petitioner sought permission of this Court to amend writ petition, which was allowed and by way of amended petition, petitioner, apart from other reliefs, also prayed for quashing communication dated 29th April, 2017 (Annexure P-10).

4. Mr. Sanjeev Bhushan, Learned Senior Counsel representing the petitioner-firm, while inviting the attention of this Court to the document dated 29th April, 2017, whereby tender in question came to be cancelled, strenuously argued that after opening of tenders by 'TOC' on 23rd February, 2017, there was no scope left for 'TSSC' to reject the tender submitted by the petitioner on the grounds mentioned in the communication referred above. While alleging malafide and biasness on the part of Member of 'TOC', Mr. Bhushan, strenuously argued that respondent No.3, who happened to be a Member of 'TOC', was hell bent in ousting the petitioner from tendering process to favour another firm, which was at number two. Learned Senior Counsel further contended that since petitioner-firm highlighted irregularities committed by the office of Corporation while rejecting the valid tender of the petitioner, respondents without there being valid and just reason decided to cancel the tender.

5. At this stage, it may be taken note of that perusal of communication dated 29th April, 2017 issued by Managing Director, Himachal Agro Industries Corporation Limited, suggests that after opening of tender on 23rd February, 2017, cuttings/overwriting were noticed by the 'TOC' in one of tenders of 'Sprayers' and as such matter was decided to be placed before 'TSSC' consisting of Officers of the Department of Agriculture, Horticulture and Controller of Stores, Himachal Pradesh, who after having examined the tender submitted by the petitioner-firm, wherein certain cuttings were made, decided to refer the matter to the management of the Corporation for appropriate decision. It also emerge from the communication referred above that one of Member of Committee; namely; Shri J.S. Dhiman, SSPO, Horticulture gave the noting in the proceedings that petitioner M/s RSR

Retail Pvt.Ltd. has made cuttings in its tender and attested the same and as such there is no illegality in the same. However, fact remains that Authority concerned decided to cancel all tenders for Plant Protection Equipments in the light of condition No.9 of the terms and conditions mentioned in the tender form.

6. Mr. Sanjeev Bhushan, Learned Senior Counsel, while inviting the attention of this Court to condition No.4, as contained in tender form (Annexure P-3), contended that all cuttings/corrections, if any, in tender document were required to be signed by the tenderers and as such it cannot be said that if there were cuttings and corrections in the tender document, it was to be out rightly rejected. Learned Senior Counsel also made this Court to travel through tender filled up by the petitioner to demonstrate that cuttings made in the tender document were duly initialed and signed by the representative of the petitioner-firm and as such there was no occasion for 'TSSC' to reject its tender. While referring to the noting given by one of the Member of the 'TSSC' as stands mentioned in communication dated 29th April, 2017 (Annexure P-10), Learned Senior Counsel contended that it stands duly proved on record that the cuttings made in the tender were duly attested by the authorized representative of the petitioner-firm. Learned Senior Counsel further contended that Authorities before proceeding to place matter before 'TSSC' invited another bidders/tenderers for negotiation, whose rates were definitely higher than the petitioner, which action of respondents itself smacks of extraneous consideration. Learned Senior Counsel, while referring to documents available on record, further stated that it is quite apparent from the conduct of the officers of respondent-Corporation i.e. respondents No.4 and 5, that they left no stone unturned to oust the petitioner-firm that too with a view to accommodate another firm and tried their best to impress upon the authorities that there was illegality in the tender submitted by the petitioner-firm. Respondents No.4 and 5, solely with a view to ensure ouster of petitioner, presented altogether false story before the management, who ultimately decided to cancel the tender.

7. Mr. Onkar Jairath, learned counsel representing respondents No.2 & 3, while inviting the attention of this Court to the reply having been filed on behalf of respondents No.2 and 3, seriously disputed the contents contained in the petition as well as arguments advanced by Learned Senior Counsel representing the petitioner. Mr. Jairath contended that the petitioner has not approached this Court with clean hands; rather an attempt has been made to conceal the material facts. Mr. Jairath contended that since there were major cuttings and over-writings in the tender form, submitted by the petitioner, he could not be awarded contract for supply of Plant Protection Equipment (Sprayer) in question. While referring to conditions No.4 and 9 of the tender document, which are reproduced herein below, Mr. Jairath contended that rates and units were not required to be over written and as per terms and conditions, it was not permissible that rates and units are over-written.

- "4. All the columns of the quotations (Schedule-A) form shall be duly properly and exhaustively filled in. The rates and units shall not be over written. Quotations shall always be both in figures and words. The words "No quotation" should be written across the item(s) in the schedule for which a tenderer does not wish to tender. All cuttings /corrections must be signed by the tenderers. Any omission in

filling the columns of units and rates may debar a quotation, the tender opening committee is empowered to out rightly reject such quotation/tender.

9. The HP Agro Industries Corporation Ltd. reserves the right of rejection/approval of all or any of the tender(s) without assigning any reasons thereto and reserves that right to negotiate with any of the tenderer(s) where deemed necessary and to award parallel rate contract to any or all of the participating tenderer(s).”

8. While referring to tender submitted by the petitioner firm, learned counsel contended that perusal of the same suggests that neither petitioner-firm nor its authorized representative ever properly signed the cuttings/corrections in the tender form. There is no infirmity and illegality in the decision of the Committee to reject the tender submitted by the petitioner. Learned counsel also disputed that tender submitted by the petitioner was finally accepted and he was declared to be the lowest bidder. As per Mr. Jairath, ‘TOC’, after having opened the tender on 23rd February, 2017, only announced/read-over the rates quoted by the parties in front of all the bidders and their representatives, but at no point of time, work was ordered to be awarded in favour of present petitioner. Learned counsel further contended that ‘TOC’ after having noticed major cuttings and over-writings on rates and units quoted in the tender document of the petitioner submitted the tender to ‘TSSC’ for further examination. Lastly, Mr. Jairath contended that during the pendency of present petition, Authorities concerned have decided to cancel the tender so that transparency is maintained while awarding the rate contract and as such the present petition deserves to be dismissed having rendered infructuous.

9. We have heard learned counsel for the parties and gone through the record.

10. Before ascertaining merits/demerits of the claims and counter-claims made by the respective parties, it may be noticed that this Court, taking note of allegations/counter-allegations made by the parties in their pleadings, deemed it fit to summon the record pertaining to tender in question, which was made available by learned counsel representing the respondents. Perusal of pleadings vis-à-vis record clearly suggests that the petitioner amongst other bidders submitted its tender for the purchase of Plant Protection Equipments for the Department of Horticulture and Agriculture etc. on annual rate contract basis for the year 2017-18. It is also not in dispute that tenders submitted by various parties including the petitioner-firm came to be opened as per the terms and conditions contained in the tender form on 23rd February, 2017, where-after rates offered by respective bidders were read-over to all the bidders/their representatives.

11. This Court, solely with a view to ascertain the correctness of submission made by the learned Senior Counsel representing the petitioner that rates submitted by the petitioner firm were found to be lowest and they were declared eligible being lowest, carefully perused the record including notings, perusal whereof suggests that tenders were opened by the ‘TOC’ on 22nd February, 2017, where-after comparative statement was prepared and decision was taken to call the meeting of ‘TSSC’ on 16th and 17th March, 2017 for evaluation of statement/tenders. There is no mention, as such, in the record with regard to petitioner-firm having found lowest bidder.

12. Proceedings of the meeting of 'TOC' held on 22nd and 23rd February, 2017 for opening tenders invited for rate contract of Pesticides, Plant Protection Equipment, Bio-Fertilizers and Organic Fertilizer, suggests that Committee, after having opened all nine tenders received for 'Sprayers' announced the rate in front of parties/their representatives. However, while preparing comparative statement, it was noticed that M/s. RSR Retail Pvt. Ltd. Nodia (UP), petitioner herein, has made cuttings in the rates quoted by them for item code Nos.10017, 10018, 10019, 10020 and 10020A and accordingly Committee, taking note of condition No.4 of the tender document, submitted all tenders alongwith the proceedings to the 'TSSC' for examination for further recommendations.

13. Record further reveals that meeting of 'TSSC' held on 16th/17th March, 2017, wherein Committee, apart from approving selected items for negotiation qua other tenders, observed that while scrutinizing the tender documents, it was observed that M/s.RSR Retail Pvt.Ltd. Noida (UP), petitioner herein, has made cuttings in the rates quoted by them for item code Nos.10017, 10018, 10019, 10020 and 10020A and cuttings have been initialed and signed by the representative of the tenderer, as such, the Committee decided not to call all the parties of Plant Protection Equipment (Sprayers) and to place the matter before management for appropriate decision. Further perusal of noting placed on record by the Department, as have been taken note above, suggests that one of the member Shri J.S. Dhiman, SSPO, Department of Horticulture opined that "M/s.RSR Retail Pvt.Ltd.Noida (UP) has made the cutting and signed by himself on tender documents for code 10017, 10018, 10019, 10020, 10020A as per the provisions of tendered document No.4".

14. Perusal of decision, as taken by 'TSSC' in its meeting held on 16th/17th March, 2017 suggests that Committee, after having noticed cuttings/over-writing made in the tender documents submitted by petitioner decided not to call the parties as far as tender for Plant Protection Equipment (Sprayers) is concerned and as such decision was taken to place the matter before the management for appropriate decision. Noting, as referred at N-43-44 in the record of the Department, are contrary to minutes/recommendations of 'TSSC' held on 16th/17th March, 2017. Minutes of meeting of 'TSSC' as have been taken note above nowhere suggest that decision was taken by 'TSSC' to cancel the tender of petitioner-firm, rather Committee, taking note of cuttings in the rates quoted by the petitioner qua certain items decided not to call all the parties of Plant Protection Equipment (Sprayers) and resolved to place the matter before management for appropriate decision. Whereas, noting at N-47-48 on the record suggests that 'TSSC' in its meeting after having noticed cuttings/overwriting in the tender submitted by the petitioner decided to reject the tender of petitioner and to maintain transparency called L-II i.e. M/s.Hymark Agritech Pvt.Ltd., Noida, (UP) for negotiations. Though there is mention in the record, as noticed above, that decision was taken by the Committee to call L-II for negotiations, but noting given at N-44 to N-53 clearly suggests that none was called for negotiations, as claimed by the petitioner, rather matter was placed before the Competent Authority, who further advised to seek legal opinion from the standing counsel of the Corporation vide order dated 7th April, 2017. It also emerge from the record that on 11th April, 2017, standing counsel of respondent Corporation opined as under:-

“There are few cuttings which have been made by the tenderer. The amount which have been shown in figures have rightly been shown in the words. Moreover, as per the requirement of the condition No.4 of the tender form the cuttings made in the tender form should be duly signed by the tenderer. In the present tender form the cuttings have been duly signed by the tenderer. In my opinion the cuttings made there in the tender are not material. These are duly signed as required by the terms and conditions of the tender.”

15. It also emerge from the record that on 22nd April, 2017, Managing Director of Himachal Pradesh Agro Industries Corporation, after having taken note of legal opinion rendered by standing counsel, proceeded to pass following orders:-

“After going through the tender notice, tender documents, proceedings of the Tender Opening Committee, Technical Scrutiny Sub Committee and Legal Opinion, it has been observed that there are different opinion with regard to the tender of M/s RSR Retain Pvt.Ltd., Noida due to which it is difficult to come to any conclusion at this stage. In the absence of any clear and specific recommendations by the Sub Committee, the under signed is left with no option but to cancel all the tenders of Plant Protection Equipment (Item Code No.AIC-0021(A))”.

16. Pursuant to aforesaid decision taken by Managing Director of the Corporation, fresh proposal was initiated to retender the left out items. Accordingly, fresh notice inviting tender came to be published in newspapers i.e. in “The Hindustan Times” (Delhi Edition) and in “Amar Ujala” (Chandigarh Edition), on 28th May, 2017, wherein rate contract for supply of Pesticides, Plant Protection Equipments and Micronutrients for Annual Rate Contract for the year 2017-18, were again invited.

17. Though this Court, after having carefully perused record, finds that there are/were cuttings/over writings qua certain items in the tender document submitted by the petitioner-firm, but those appeared to have been initialed and signed by the representative of the petitioner-firm. Otherwise also, condition No.4, as contained in tender document, which has been taken note above, clearly suggests that all cuttings/corrections must be signed by tenderers. Any omission in filling the columns of units and rates may debar a quotation; meaning thereby that cuttings/corrections, if any, in the tender document, if are signed by tenderers, the tender cannot be rejected on the ground of cuttings/corrections. Though perusal of condition No.4, as contained in tender document, suggests that the ‘TOC’ is/was empowered to out rightly reject such quotation/tender submitted by the bidder, but, needless to say such power cannot be exercised arbitrarily, rather power, if any, in this regard is expected to be exercised judiciously. It also emerge from the record that one of the Member of ‘TSSC’ and standing counsel of respondent-Corporation categorically opined that cuttings/over writing, as allegedly made in tender document submitted by petitioner, are not material as same have been signed/initialed by the representative of petitioner-firm.

18. At this stage, it may be noticed that it also emerge from the record that there are contradictions in the notings prepared by concerned officers/officials for the perusal of

competent Authority vis-à-vis actual proceedings/ recommendations of 'TSSC', who held its meeting on 16th /17th March, 2017 for finalizing the rate contract of Pesticides, Micronutrients, Plant Protection Equipment, Bio-Fertilizers and Organic Fertilizer. This Court was unable to lay its hand to any document suggestive of the fact that after decision of 'TSSC', second lowest firm was ever called for negotiations as far as rate contract/tender for purchase of Plant Protection Equipment is concerned. No doubt, officials of respondent-Corporation had recorded that since tender of petitioner-firm has been rejected, Committee has decided to call M/s. Hymark Agritech Pvt.Ltd., Noida, (UP) to maintain transparency.

19. Definitely, aforesaid noting in the record is contrary to the actual recommendations/minutes of meeting of the Committee held on 16th 17th March, 2017, wherein decision was taken not to call any of tenderer as far as tender for purchase of Plant Protection Equipment is concerned.

20. Similarly, it is not understood that how the competent Authority, while taking decision to cancel the tender, proceeded to record that there are different opinions with regard to tender of M/s.RSR Retail Pvt. Ltd. Noida (UP) due to which it is difficult for it to come to any conclusion, at this stage. Aforesaid conclusion drawn by competent Authority appears to be based upon wrong presumption because un-doubtedly one of the Member of Committee and standing counsel of Corporation, after having perused cuttings/over-writings allegedly made in tender by the petitioner-firm, categorically opined that these are not material, since cuttings/over writings have been initialed and signed by the representative of the petitioner-firm.

21. Leaving everything aside, this Court, after having taken note of condition No.4, as contained in tender document, has no hesitation to conclude that authorities responsible for scrutiny of tender document wrongly arrived at conclusion that in view of over-writings and cuttings made in tender document, which were duly initialed and signed by the representative of petitioner-firm, tender submitted by the petitioner deserves to be rejected. This is none of the case of respondents that cuttings/over writings were not initialed and signed by the representative of the petitioner-firm and as such there appears to be considerable force in the contention of Learned Senior Counsel representing the petitioner-firm that frivolous objections were raised by the Members of Committee to oust the petitioner-firm, whose rates were admittedly lowest. There is no denial, as such, on the part of respondents that rates offered by the petitioner-firm were not lowest as compared to the other tenderers.

22. No doubt, after having carefully gone through the record as well as conditions contained in tender document, it can safely be inferred that decision taken by the respondent in cancelling the tender was taken in hot haste manner because admittedly there is no plausible/reasonable explanation available on record with regard to rejection of tender submitted by the petitioner-firm. Though there appears to be an attempt on the part of officials of respondent-Corporation to persuade competent Authority/concerned quarters to reject the tender submitted by the petitioner and thereafter offer the tender to second lowest bidder, but that may not be sufficient for this Court to conclude that there was malafide against the petitioner-firm. The competent Authority, who ultimately decided to cancel the tender in question, has nowhere assigned reason, if any, on record to differ

with opinion rendered by one of the Member of the 'TSSC' as well as standing counsel of Corporation, who after having taken note of term No.4 of tender document, categorically opined that there is no material defect in the tender submitted by the petitioner-firm. After having carefully perused notings given at N/60-61, this Court is compelled to conclude that Authority, who ultimately decided to cancel the tender, had no valid reason to cancel the tender of petitioner-firm,

23. After having carefully perused record vis-à-vis tender submitted by the petitioner, we are unable to accept aforesaid conclusion drawn by the competent authority as far as his observation that there are different opinion with regard to tender of M/s.RSR Pvt. Ltd. As has been taken note above, there are two opinions available on file, one is given by standing counsel of the Corporation and one by the Members of the Committee, where they have unequivocally stated that there is no defect in the tender of the petitioner.

24. Apart from aforesaid two opinions, this Court could not lay its hand to opinion, if any, rendered by any Authority, be it 'TOC' and 'TSSC' with regard to validity of tender document submitted by the petitioner-firm. As has been observed above, decision taken by the respondent-Corporation though appears to be taken in hot haste manner, but definitely there is no material which can persuade this Court to accept the contention of petitioner that entire exercise was done to help/accommodate second lowest bidder.

25. It is well settled by now that the Courts would normally not interfere in the tender/contractual matters while exercising powers of judicial review. Power of Judicial Review can only be exercised by constitutional Courts, if it is proved on record that process adopted or decision so made by the Authorities is intended to favour someone or the Authority has acted with malafide or decision made is so arbitrary and irrational that no responsible authority acting reasonably could have reached. Needless to say that Court can also exercise power of judicial review in case it is shown that public interest is affected. In this regard, reliance is placed upon judgment rendered by Hon'ble Apex Court in *Tata Cellular versus Union of India*, reported in (1994) 6 SCC 651.

26. Hon'ble Apex Court in *Air India Ltd. versus Cochin International Airport Ltd.* reported in (2000) 2 SCC 617 held that even when some defect is found in the decision-making process, the Court must exercise its discretionary power under Article 226 with great caution and should exercise it only in furtherance of public interest and not merely on the making out of a legal point. The Court should always keep the larger public interest in mind in order to decide whether its intervention is called for or not. Only when it comes to a conclusion that overwhelming public interest requires interference, the Court should intervene.

27. Hon'ble Apex Court, in *Michigan Rubber (India) Limited versus State of Karnataka and others*, reported in (2012) 8 SCC 216, while discussing power of an authority in setting up terms and conditions of a tender, has specifically held that the Government undertakings should have a free hand while framing terms and conditions and Courts should only interfere in case there is material on record to demonstrate that same are arbitrary, discriminatory, malafide or actuated by bias. The Hon'ble Apex Court has held as under:

“35.....As noted in various decisions, the Government and their undertakings must have a free hand in setting terms of the tender and only if it is arbitrary, discriminatory, mala fide or actuated by bias, the courts would interfere. The courts cannot interfere with the terms of the tender prescribed by the Government because it feels that some other terms in the tender would have been fair, wiser or logical.....”

28. Recently, Hon'ble Apex Court in *Reliance Telecom Ltd. & Anr. v Union of India & Anr*, reported in 2017 SCC OnLine 36 has specifically held that the condition to put a cap and make a classification not allowing certain entities to bid is not an arbitrary one as it is based on the acceptable rationale of serving the cause of public interest. Hon'ble Apex Court has further held that aforesaid exercises allows new entrants and enable the existing entities to increase their cap to make the service more efficient. Moreover, the Court cannot get and dwell as an appellate authority into complex economic issues on the foundation of competitors advancing the contention that they were not allowed to bid in certain spheres. Hon'ble Apex Court, in the aforesaid case has further approved the action of the authorities concerned, who put stringent conditions to ensure competition in the market by preventing large/big operators from acquiring large amount of spectrum. The Hon'ble Apex Court held as under:

“33. The objective behind Spectrum capping is to ensure competition in the market by preventing large/big operators from acquiring large amount of spectrum, which they may not require but only hoard to prevent the small operators from effectively competing in the market, and that is why, TRAI has recommended on 02.07.2015 that the basic objective of prescribing a spectrum cap is to prevent a TSP from acquiring large holdings of spectrum through auction, M&A or trading, as it may lead to non-level playing field thereby disturbing the competition in the market. It cannot be left to the market forces alone to decide the maximum spectrum holding as a TSP and, hence, the provision of cap should continue on the spectrum holding that a TSP may acquire or otherwise. The argument that the respondent should have notionally included the spectrum surrendered by BSNL/MTNL would result in creating a situation where though the spectrum put to auction remains the same (i.e., limited), yet a large/big player will be able to bid for the entire spectrum (which it otherwise could not have done due to Clause 5.3.1.) thereby effectively giving a tool to the large/big operators to deprive/starve small operators, who quite avowedly, cannot match the buying power of larger operators of spectrum.

78. We have already discussed that the condition to put a cap and make a classification not allowing certain entities to bid is not an arbitrary one as it is based on the acceptable rationale of serving the cause of public interest. It allowed new entrants and enabled the existing entities to increase their cap to make the service more efficient. The Court cannot get and dwell as an appellate authority into complex economic issues on the foundation of competitors advancing the contention that they were not allowed to bid in certain spheres. As the stipulation in the tender was reasonable and not based on any extraneous considerations, the Court cannot interfere in the NIA in exercise of

the power of judicial review. The contention is that the State cannot hoard the spectrum as per the 2G case. We are disposed to think that in the case at hand, it cannot be said that there has been hoarding. The directions given in the 2G case had been complied with and the auctions have been held thereafter from the year to year. The feasibility of communication, generation of revenue and its maximization and subserving of public interest are to be kept in view. The explanation given by the Union of India for not putting the entire spectrum to auction is a reasonable one and it is put forth that an endeavour would be made to put it to auction when it becomes available in sufficient quantum. The Court cannot interfere with the tender conditions only on the ground that certain amount of spectrum has not been put to auction. The submission is that whatever has been put to auction and is available should have been notionally added so that the entities which have certain quantum of spectrum in praesenti could have participated in the auction and put forth their bids for a higher quantum. This argument may look attractive on a first blush but pales into insignificance on a studied scrutiny. As is evincible, one of the petitioners had earlier more than 65 MHz in a band and because of the limited auction and non-addition of available spectrum on notional basis, it has obtained less quantum. With this submission, the contention of legitimate expectation has been associated. We have already repelled the submission pertaining to legitimate expectation. If there has been a reduction for a particular entity because of the terms and conditions of the tender, it has to accept it, for he cannot agitate a grievance that he could have obtained more had everything been added notionally. Notionally adding up or not adding up, we think, is a matter of policy and that too a commercial policy and in a commercial transaction, a decision has to be taken as prudence would command. In this regard, reference to the decision in *Asia Foundation & Construction Ltd. v. Trafalgar House Construction (I) Ltd.* would be apt. In the said case, the Court referred to the authority in *Tata Cellular (supra)* and thereafter opined that though the principle of judicial review cannot be denied so far as exercise of contractual powers of government bodies are concerned, but it is intended to prevent arbitrariness or favouritism and it is exercised in the larger public interest or if it is brought to the notice of the court that in the matter of award of a contract power has been exercised for any collateral purpose. In the instant case, we are unable to perceive any arbitrariness or favouritism or exercise of power for any collateral purpose in the NIA. In the absence of the same, to exercise the power of judicial review is not warranted. In the case at hand, we think, it is a prudent decision once there is increase of revenue and expansion of the range of service.”

29. The Apex Court in *State of Jharkhand v. M/s. CWE-SOMA Consortium* reported in AIR 2016 SCW 3366, has held that the State derives its power to enter into a contract under Article 298 of the Constitution of India and has the right to decide whether to enter into a contract with a person or not subject only to the requirement of reasonableness under Article 14 of the Constitution of India. Apex Court held as under:

“13. The appellant-state was well within its rights to reject the bid without assigning any reason thereof. This is apparent from clause 24 of NIT and clause 32.1 of SBD which reads as under:-

“Clause 24 of NIT: “Authority reserves the right to reject any or all of the tender(s) received without assigning any reason thereof.” Clause 32.1 of SBD: “...the Employer reserves the right to accept or reject any Bid to cancel the bidding process and reject all bids, at any time prior to award of Contract, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected Bidder or Bidders of the grounds for the Employer’s action.” In terms of the above clause 24 of NIT and clause 32.1 of SBD, though Government has the right to cancel the tender without assigning any reason, appellant-state did assign a cogent and acceptable reason of lack of adequate competition to cancel the tender and invite a fresh tender. The High Court, in our view, did not keep in view the above clauses and right of the government to cancel the tender.

14. The State derives its power to enter into a contract under Article 298 of the Constitution of India and has the right to decide whether to enter into a contract with a person or not subject only to the requirement of reasonableness under Article 14 of the Constitution of India. In the case in hand, in view of lack of real competition, the state found it advisable not to proceed with the tender with only one responsive bid available before it. When there was only one tenderer, in order to make the tender more competitive, the tender committee decided to cancel the tender and invited a fresh tender and the decision of the appellant did not suffer from any arbitrariness or unreasonableness.”

30. The Apex Court in *Central Coalfields Limited v. SLL-SML (Joint Venture Consortium)* reported in AIR 2016 SCW 3814, has further held that Court can go into the question of malafides raised by a litigant, but in order to succeed, much more than a mere allegation is required. Bald and unfounded allegations of malafides are not sustainable and that malafides must be specifically pleaded and proved. Hon'ble Apex Court has held as under:

“44. On asking these questions in the present appeals, it is more than apparent that the decision taken by CCL to adhere to the terms and conditions of the NIT and the GTC was certainly not irrational in any manner whatsoever or intended to favour anyone. The decision was lawful and not unsound.

55. On the basis of the available case law, we are of the view that since CCL had not relaxed or deviated from the requirement of furnishing a bank guarantee in the prescribed format, in so far as the present appeals are concerned every bidder was obliged to adhere to the prescribed format of the bank guarantee. Consequently, the failure of JVC to furnish the bank guarantee in the prescribed format was sufficient reason for CCL to reject its bid.

56. There is nothing to indicate that the process by which the decision was taken by CCL that the bank guarantee furnished by JVC ought to be rejected was flawed in any manner whatsoever. Similarly, there is nothing to indicate that the decision taken by

CCL to reject the bank guarantee furnished by JVC and to adhere to the requirements of the NIT and the GTC was arbitrary or unreasonable or perverse in any manner whatsoever.”

31. By now it is settled law that burden of proving malafides is on the person making allegations and burden is very heavy as has been held by the Hon'ble Apex Court in *E.P. Royappa v. State of Tamil Nadu* (1974) 4 SCC 3.

32. In *Gulam Mustafa Vs. State of Maharashtra* (1976) 1 SCC 800 Hon'ble Apex Court has held, “It (malafides) is the last refuge of a losing litigant.”

33. In the judgments referred herein above, Hon'ble Apex Court has held that there is every presumption in favour of the administration that the power has been exercised bona fide and in good faith. It is to be remembered that the allegations of malafides are often more easily made than proved and proof of high degree is required to prove the same.

34. In the instant case, it would be profitable to have a look at judgment passed by Hon'ble Apex Court in case *Union of India v. Ashok Kumar*, reported in (2005) 8 SCC 760, wherein it has been held that seriousness of allegations of malafides demands proof of high order of credibility and the Courts should be slow to draw dubious inferences from incomplete facts placed before them by a party, particularly when the imputations are grave and they are made against the holder of an office having high responsibility. It was held:

“21. Doubtless, he who seeks to invalidate or nullify any act or order must establish the charge of bad faith, an abuse or a misuse by the authority of its powers. While the indirect motive or purpose, or bad faith or personal ill will is not to be held established except on clear proof thereof, it is obviously difficult to establish the state of a man's mind, for that is what the employee has to establish in this case, though this may sometimes be done. The difficulty is not lessened when one has to establish that a person apparently acting on the legitimate exercise of power has, in fact, been acting mala fide in the sense of pursuing an illegitimate aim. It is not the law that mala fide in the sense of improper motive should be established only by direct evidence. But it must be discernible from the order impugned or must be shown from the established surrounding factors which preceded the order. If bad faith would vitiate the order, the same can, in our opinion, be deduced as a reasonable and inescapable inference from proved facts. (*S. Pratap Singh v. State of Punjab* AIR 1964 SC 72). It cannot be overlooked that burden of establishing mala fides is very heavy on the person who alleges it. The allegations of mala fides are often more easily made than proved, and the very seriousness of such allegations demand proof of a high order of credibility. As noted by this Court in *E. P. Royappa v. State of Tamil Nadu* and *Another* (AIR 1974 SC 555), Courts would be slow to draw dubious inferences from incomplete facts placed before it by a party, particularly when the imputations are grave and they are made against the holder of an office which has a high responsibility in the administration. (*See Indian Railway Construction Co. Ltd. v. Ajay Kumar* (2003) 4 SCC 579).”

35. Careful perusal of expositions of law, as discussed herein above, certainly suggests that Courts should normally not interfere in the contractual matters in exercise of powers of judicial review and it can only be exercised in case it is satisfied that process adopted was mala fide or made to favour someone or process adopted or decision made is so arbitrary that no man of ordinary prudence could have reached.

36. It is well settled by now that every action of the executive/government must be informed with reasons and should be free from arbitrariness. That is very essence of the rationale and its bare minimal requirement and, to the application of this principle, it make no difference whether exercise of the powers involved an affectation of some right or denial of some privilege. In *Tata Cellular versus Union of India*, reported in (1994) 6 SCC 651 (supra), it has been specifically held that if an administrative decision, such as a deviation in the terms of the NIT is not arbitrary, irrational, unreasonable, mala fide or biased, the Courts will not judicially review the decision taken. Similarly, the Courts will not countenance interference with the decision at the behest of an unsuccessful bidder in respect of a technical or procedural violation. Recently, the Hon'ble Apex Court in *Central Coalfields Limited v. SLL-SML (Joint Venture Consortium)*(Supra), taking note of the aforesaid principles laid down in *Tata Cellular versus Union of India*(Supra) reiterated that Court, while exercising its power under Article 226 in tender/contractual matters, should pose to itself following questions:

- “(i) Whether the process adopted or decision made by the authority is mala fide or intended to favour someone or process adopted or decision made is so arbitrary and irrational that the court can say: “the decision is such that no responsible authority acting reasonable and in accordance with relevant law could have reached”;
- (ii) Whether public interest is affected.”

37. Hon'ble Apex Court, while framing aforesaid questions, categorically held that if answers to aforesaid questions are in negative, in that eventuality, Court should not be inclined to interfere in the contractual matters, while exercising powers under Article 226 of the Constitution of India. In this regard, reliance is placed on the judgment of Hon'ble Apex Court in *Central Coalfields Limited and another vs. SLL-SML*(Joint Venture Consortium) and others, (2016) 8 SCC 622, wherein the Hon'ble Apex Court has held as under:-

36. It was further held that if others (such as the appellant in that case) were aware that non fulfillment of the eligibility condition of being a registered II Class hotelier would not be a bar for consideration, they too would have submitted a tender, but were prevented from doing so due to the eligibility condition, which was relaxed in the case of respondents 4. This resulted in unequal treatment in favour of respondents 4 â “ treatment that was constitutionally impermissible. Expounding on this, it was held: â œIt is indeed unthinkable that in a democracy governed by the rule of law the executive Government or any of its officers should possess arbitrary power over the interests of the individual. Every action of the executive Government must be informed with reason and should be free from

arbitrariness. That is the very essence of the rule of law and its bare minimal requirement. And to the application of this principle it makes no difference whether the exercise of the power involves affectation of some right or denial of some privilege. (Emphasis given).

43. Continuing in the vein of accepting the inherent authority of an employer to deviate from the terms and conditions of an NIT, and reintroducing the privilege-of-participation principle and the level playing field concept, this Court laid emphasis on the decision making process, particularly in respect of a commercial contract. One of the more significant cases on the subject is the three-judge decision in *Tata Cellular v. Union of India*, (1994) 6 SCC 651 which gave importance to the lawfulness of a decision and not its soundness. If an administrative decision, such as a deviation in the terms of the NIT is not arbitrary, irrational, unreasonable, mala fide or biased, the Courts will not judicially review the decision taken. Similarly, the Courts will not countenance interference with the decision at the behest of an unsuccessful bidder in respect of a technical or procedural violation. This was quite clearly stated by this Court (following *Tata Cellular*) in *Jagdish Mandal v. State of Orissa*, (2007) 14 SCC 517 in the following words:

“22. a Judicial review of administrative action is intended to prevent arbitrariness, irrationality, unreasonableness, bias and mala fides. Its purpose is to check whether choice or decision is made “lawfully” and not to check whether choice or decision is “sound”. When the power of judicial review is invoked in matters relating to tenders or award of contracts, certain special features should be borne in mind. A contract is a commercial transaction. Evaluating tenders and awarding contracts are essentially commercial functions. Principles of equity and natural justice stay at a distance. If the decision relating to award of contract is bonafide and is in public interest, courts will not, in exercise of power of judicial review, interfere even if a procedural aberration or error in assessment or prejudice to a tenderer, is made out. The power of judicial review will not be permitted to be invoked to protect private interest at the cost of public interest, or to decide contractual disputes. The tenderer or contractor with a grievance can always seek damages in a civil court. Attempts by unsuccessful tenderers with imaginary grievances, wounded pride and business rivalry, to make mountains out of molehills of some technical/procedural violation or some prejudice to self, and persuade courts to interfere by exercising power of judicial review, should be resisted. Such interferences, either interim or final, may hold up public works for years, or delay relief and succor to thousands and millions and may increase the project cost manifold.”

This Court then laid down the questions that ought to be asked in such a situation. It was said:

“22.Therefore, a court before interfering in tender or contractual matters in exercise of power of judicial review, should pose to itself the following questions:

(i) Whether the process adopted or decision made by the authority is mala fide or intended to favour someone;

OR

Whether the process adopted or decision made is so arbitrary and irrational that the court can say: "the decision is such that no responsible authority acting reasonably and in accordance with relevant law could have reached";

(ii) Whether public interest is affected.

If the answers are in the negative, there should be no interference under Article 226."

38. After having carefully perused the pleadings and record made available by the respondent-Corporation, this Court has no hesitation to conclude that role of the Authorities responsible for taking final decision in the matter has not been very fair and reasonable, rather Authority competent to take final decision instead of examining the matter itself proceeded to cancel the tender, ignoring the opinion of standing counsel as well as one member of the Committee. Had competent Authority cared/bothered to examine tender form submitted by the petitioner itself in the light of terms and conditions in tender document, much time of the Department as well as this Court would have not been wasted and nobody would have raised finger of suspicion as is being raised in the present case by present petitioner. In the case at hand, as has been observed above, though the authorities have not acted reasonably and judiciously, while taking final decision qua the tender submitted by petitioner firm, but definitely this Court was unable to find anything on record suggestive of the fact that the action of the authority in not accepting the tender of the petitioner was mala fide or intended to favour someone. Similarly, nothing has been placed on record by the petitioner, from where this Court could come to the conclusion that due to the rejection of tender submitted by petitioner, public interest would suffer.

39. Though, this Court, after having noticed aforesaid omissions and inaction on the part of competent authority, while examining tender submitted by the petitioner, would have exercised power under Article 226 of the Constitution of India, to undo the wrong committed by the respondent authorities, but, taking note of the fact that pursuant to decision dated 22nd April, 2017, respondent-Corporation has already issued fresh tender, deems it fit to restrain itself from passing any stringent order.

40. Having gone through the record, we are constrained to observe that action of the respondents, while dealing with the tender of petitioner-firm is not free from bias, rather there appears to be attempt on the part of certain officials to ensure fresh tendering as far as purchase of Plant Protection Equipment is concerned. Before parting, we deem it proper to place on record our dis-pleasure and anguish over the practice adopted by the respondents-Authorities while dealing with the tender in question and respondents-Authorities are warned to be more careful in future while discharging their duties. This

Court hopes and trust that authorities concerned while examining/analyzing tenders submitted by various parties including petitioner pursuant to fresh advertisement issued by the Department shall act judiciously in accordance with law without there being any malice towards the petitioner.

41. Consequently, in view of detailed discussion made herein above as well as law laid down by this Court, present petition is disposed of with a direction to the respondent authorities to be more careful and diligent in future, while dealing with tender matters. Registry is directed to supply a copy of this judgment to the Chief Secretary to the Government of Himachal Pradesh, so that effective steps are taken by the Government, to sensitize /educate its officers/ authorities with regard to procedure/approach required to be followed and adopted in the tender matters.

42. Interim direction, if any, is vacated. All miscellaneous applications are disposed of.

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Annexure 35.76

Copy of H.P. Govt. Deptt. of Personnel letter No. Per(AP-B)B(15)-5/2014- dated 21st February, 2018 addressed to all Administrative Secretaries, HODs, Secretary, HP PSC, Registrar, HPAT and Secretary, HP SSC, Hamirpur alongwith others.

(Referred to in para 35.57)

Subject: Regarding filling up of vacant posts on merit - Implementation of Vision Document 2017.

I am directed to invite your attention to subject cited above and to say that the Vision Document of Bhartiya Janta Party i.e. स्वर्णिम हिमाचल दृष्टिपत्र 2017 has been decided to be adopted as Policy Document of the State Government and the items/points appearing therein has to be implemented in letter & spirit by all concerned. One of the priorities of the State Government is to make recruitments against vacancies in Government purely on merit basis. There shall be no interview for selection to all Class-III and Class-IV posts.

It is, therefore, emphasized that the process for selection to Class-III and Class-IV posts prescribed in Department of Personnel notification No. per(AP.B)B(15)-5 /2014 dated 17-04-2017 may be followed in letter and spirit.

Any deviation of the above shall be viewed seriously and render liable for disciplinary action.

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Annexure 35.77

Copy of H.P. Govt. Deptt. of Personnel letter No. PER(AP)-C-B(12)-2/2013-III dated 12th March, 2018 addressed to all Administrative Secretaries to the Government of Himachal

Pradesh, all Divisional Commissioners, HODs, Deputy Commissioners, Chairmen/managing Directors/Secretaries & Registrars of all the Public Sector Undertakings/Corporations/Boards/ Universities etc. in H.P.

(Referred to in para 35.58)

Subject: Special recruitment drive for clearance of backlog and shortfall of Scheduled Castes, Scheduled Tribes, Persons with Disabilities and Other Backward Classes in direct recruitments.

I am directed to invite your attention to this department's letter No. PER(AP)-C-B(12)-2/2013-I, dated 21.11.2015 and letter No. PER(AP)-C-F(4)-6/2016, dated 09.09.2016 regarding Special Recruitment Drive to fill-up the backlog/shortfall of reserved vacancies of Scheduled Castes, Scheduled Tribes, Persons with Disabilities and Other Backward Classes. Attention is also invited to this department's letter No. PER(AP)-C-B(12)-2/2013-1, dated 06.04.2017 whereby the process of referring cases to the Finance Department for filling-up the shortfall/backlog of above-mentioned reserved categories in direct recruitment was dispensed with, with the approval of the competent authority for filling up such posts expeditiously and it was emphasized to complete the drive by 30.06.2017. However, it is, observed that a number of backlog vacancies of above categories in various departments are yet to be filled-up which is resulting in negation of the spirit of the decision of the Government for launching a Special Recruitment Drive to wipe out the shortfall/backlog in a time bound matter.

2. It is, therefore, once again requested to make sincere efforts to ensure that all backlog reserved vacancies of above mentioned categories in various departments are filled 'up expeditiously. The advertisements for filling-up the backlog/shortfall posts can be published under the caption, 'Special Recruitment Drive', and may be given wide publicity. The HP Public Service Commission, HP Staff Selection Commission and other recruiting agencies are also expected to expedite the process for selection of the eligible candidates against the requisitions placed with them.

3. These instructions may be brought into the notice of concerned and be implemented in letter and spirit. The action taken be reported to this department by 30.04.2018, positively.

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Annexure 35.78

Copy of H.P. Government Department of Personnel letter No. Per(AP.B)A(9)-2/2018 dated 13th November, 2018 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioners and Deputy Commissioners, in H.P.

(Referred to in Para 35.59)

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Subject: Official dealings between the Administration and Members of Parliament and State legislatures - Observance of proper procedure.

I am directed to enclose a copy of O.M. F.No. 11013/4/2018-Estt.A-III dated 11th October, 2018 alongwith its enclosures from the Under Secretary to the Govt. of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training on the subject cited above and to request you to ensure that these instructions are followed by all Officers/Officials concerned, both in letter and spirit. Violation of the instructions/guidelines laid down on this subject will be viewed seriously.

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Enclosure 1 to Annexure 35.78

Copy of Government of India, Ministry of Personnel, Public Grievances and Pensions Department of Personnel & Training Establishment Division O.M. F. No. 11013/4/2018-Estt. A-III dated 11th October, 2018, addressed also to Chief Secretaries of all States/ UTs

Subject: Official dealings between the Administration and Members of Parliament and State legislatures - Observance of proper procedure.

The undersigned is directed to refer to this Department's Office Memorandum No. 11013/4/2011-Estt.(A) dated 1st December 2011 subsequently reiterated vide D.O. letter dated the October 9, 2012 from Secretary (Personnel), O.M. No. 11013/2/2012-Estt.A dated 19.11.2014 and O.M. of even No. dated 7.02.2018 (copies enclosed) on the subject mentioned above and to reiterate these instructions for strict compliance on the recommendations of the Committee of Privileges, Lok Sabha in its Sixth Report tabled in the Lok Sabha on 20.12.2017 and Committee on Violation of Protocol Norms and Contemptuous Behaviour of Government Officers with Members of Lok Sabha in its Fourth and Fifth Report tabled in the Lok Sabha on 01.08.2018.

2. All Ministries/ Departments are requested to ensure that instructions issued through aforementioned communications are followed by all officials concerned, both in letter and spirit. Violation of these guidelines will be viewed seriously.

3. Chief Secretaries of all States/ UTs are requested circulate these instructions to all State Government officials at the State/Division and District levels and sensitize them with regard to their duties and obligations in so far as the movement of Members of Parliament in general and more particularly during Parliament sessions. It is also requested to periodically review implementation of these instructions.

4. Hindi version will follow.

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Enclosure 2 to Annexure 35.78

Copy of Government of India, Ministry of Personnel, Public Grievances and Pensions Department of Personnel & Training Establishment Division O.M. F. No. 11013/4/2018-Estt. A-III dated 7th February, 2018, addressed also to Chief Secretaries of all States/ UTs .

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Subject: Official dealings between the Administration and Members of Parliament and State legislatures - Observance of proper procedure.

The Members of Parliament and State Legislatures, as the accredited representatives of the people, occupy a very important place in our democratic set-up. In connection with their duties, they often find it necessary to seek information from the Ministries/ Departments of the Government of India or the State Governments, or make suggestions for their consideration or ask for /interviews with the officers.

2. The guidelines concerning official dealings between Administration and Members of Parliament and State Legislatures have been issued by the Ministry of Personnel, Public Grievances and Pensions and reiterated from time to time. The provisions of the Central Secretariat Manual of Office Procedure regarding prompt disposal of communications from MPs have also been reiterated from time to time. However, keeping in view the instances of occasional non-observance of the above guidelines, a need was felt by the Committee of Privileges of the Lok Sabha for consolidating and reiterating the existing instructions. Accordingly, revised comprehensive guidelines were issued by this Department vide Office Memorandum No. 11013/4/2011-Estt. (A) dated 1st December 2011 (copy enclosed). A copy of former Secretary (P)'s D.O. No. 11013/4/2011-Estt.(A) dated 9th October, 2012 and O.M. No. 11013/2/2012-Estt.A dated 19.11.20104 reiterating the said instructions are also enclosed for ready reference.

3. The Committee on Violation of Protocol Norms and Contemptuous Behaviour of Government Officers with Members of Lok Sabha in its Second Report tabled in the Lok Sabha on 4.01.2018 has recommended that the consolidated instructions / guidelines on Official dealing between the Administration and Member of Parliament and State Legislature should strictly be complied by all the Government servants, both in letter and spirit.

4. The Committee on Violation of Protocol Norms and Contemptuous Behaviour of Government Officers with Members of Lok Sabha in Paragraph 43 of its Third Report tabled in the Lok Sabha on 4.01.2018 has recommended discouraging and desisting the State Governments to involve Private companies/ agencies in organizing/ sponsoring functions which essentially fall under the domain of State Governments.

5. All Ministries/ Departments are requested to ensure that the above basic principles and instructions are followed by all officials concerned, both in letter and spirit. Violation of the guidelines laid down on this subject will be viewed seriously.

6. Chief Secretaries of all States/ UTs are requested to circulate these instructions to all State Government officials at the State/ Division and District levels and to periodically review implementation.

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Enclosure 3 to Annexure 35.78

Copy of Government of India, Ministry of Personnel, Public Grievances and Pensions Department of Personnel & Training O.M. No. 11013/4/2011-Estt. (A) dated 01st December, 2011, addressed also to all Chief Secretaries of all States/ UTs.

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Subject: Official dealings between the Administration and Members of Parliament and State Legislatures - Observance of proper ' procedure.

The Members of Parliament and State Legislatures as the accredited representatives of the people occupy a very important place in our democratic set-up. In connection with their duties, they often find It necessary to seek information from the Ministries/Departments of the Government of India or the State Governments, or make suggestions for their consideration or ask for interviews with the officers. Certain well-recognized principles and conventions to govern the relations between the Members of Parliament State Legislatures and Government servants have already been established.

2. Reference is invited to the guidelines concerning the official dealings between Administration and Members of Parliament and State Legislatures which were issued by the Cabinet Secretariat (Department of Personnel and Administrative Reforms, In the O.M. No 25/19/64-Estt.(A) dated 08.11.1974). The importance of adherence to these guidelines was reiterated In the Department of Personnel and Training's O.M. No. 11013J6J2005-Estt. (A) dated 17.08.2007. The provisions of the Central Secretariat Manual of Office Procedure regarding prompt disposal of communications from Mps have also been reiterated by the Department of Administrative Reforms and Public Grievances. The Minister of State for Personnel, Public Grievances and Pensions has also written to all Ministers In this regard vide D.O. letter dated 5th May, 2011, requesting that a mechanism may be set up to periodically monitor progress in disposal of references received from Members of Parliament.

3. Some instances of non-adherence to the existing guidelines have been brought to Government's attention by Members of Parliament and a need has been fell for again sensitizing all administrative authorities concerned.

4. The Central Secretariat Manual of Office Procedure provides following instructions for prompt disposal of letters from Members of Parliament:-

Correspondence with Members of Parliament-

- (1) Communications received from a Member of Parliament should be attended to promptly.
- (2) Where a communication is addressed to a Minister or a Secretary to the Government, it should, as far as practicable, be replied to by the Minister or the Secretary himself as the case may be. Where it is not practicable for the Minister to reply, a reply should normally be issued under the signature of an officer of the rank of Secretary to the Government.
- (3) Where a communication is addressed to the head of an attached or subordinate office, Public Sector Undertakings, Financial Institutions (including nationalized banks) Division/Branch In charge in a Ministry/Department/ Organization, it should be replied to by the addressee himself. In such cases, care may be taken to ensure that wherever policy issues are involved, approval of the competent authority is obtained before a reply is sent. It should, however, be ensured that

- the minimum level at which such replies are sent to Member of Parliaments that of Under Secretary and that also In a polite letter form only.
- (4) Information sought by a Member of Parliament should be supplied unless it is of such a nature that it would have been denied to him, if similar information had been sought in Parliament.
 - (5) While corresponding with Members of Parliament, It should be ensured that the letter is legible. Pre-printed or cyclostyled replies should be scrupulously avoided.
 - (6) In case a reference from an ex-member of Parliament is addressed to a Minister or Secretary, reply to such reference may be sent by the concerned Divisional Head after obtaining approval of the Secretary of Ministry/Department.

In case the reference is addressed to a lower level officer. reply to such reference could be sent by the officer on his own in non-policy cases and after obtaining approval of the higher authorities in policy cases. Here also, it may be ensured that the minimum level at which a reply is sent is that of an Under Secretary and that too in a polite letter form only.

Prompt response to letters received –

- (1) each communication received from the Member of Parliament, a member of the public, a recognized association or a public body will be acknowledged within 15 days, followed by a reply within the next 15 days of acknowledgement sent.
- (2) where a delay is anticipated In sending a final reply, or where the Information has to be obtained from another Ministry or another office, an interim reply may be sent within a month (from the date of receipt of the communication) indicating the possible date by which a final reply can be given,
- (3) if any such communication is wrongly addressed to a department, it should be transferred promptly (within a week) to the appropriate department under intimation to the party concerned.'

5. The aforesaid guidelines also cover Official dealings between Administration and Members of Parliament/State Legislatures. In this context, attention is also invited to Rule 3(2A) of All India Service (Conduct) Rule, 1968 and Rule 3-A of Central Civil Service (Conduct) Rules, 1964 which provide as follows :-

Every member of the service shall in the discharge of his duties act in a courteous manner and shall not adopt dilatory tactics in his dealings with the public or otherwise.

The existing instructions are hereby appropriately strengthened to emphasize the basic principles to be borne in mind by the Government servants while interacting with the Members of Parliament and State Legislatures. These are as follows:-

- (i) Government servants should show courtesy and consideration to Members of Parliament and State legislatures;

While the Government servants should consider carefully or listen patiently to what the Members of Parliament and of the State Legislatures may have to say, the Government servant should always act according to his own best judgment and as per the rules;

- (ii) Any deviation from an appointment made with a Member of Parliament/State Legislature must be promptly explained to him to avoid any possible Inconvenience. Fresh appointment should be fixed in consultation with him;
- (iii) An officer should be meticulously correct and courteous and rise to receive and see off a Member of Parliament/ State Legislature visiting him. Arrangements may be made to receive the Members of Parliament when, after taking prior appointment, they visit the officer of the Government of India, State Government or local. Government. Arrangements may also be made to permit entry of vehicles of the Members to these Offices subject to security requirements/restrictions.
- (iv) Members of Parliament of the area should invariably be invited to public functions organized by a Government office. Proper and comfortable seating arrangements at public functions and proper order of seating on the dais should be made for Members keeping In view the fact that they appear above officers of the rank of Secretaries to Government of India in the Warrant of Precedence; The invitation cards and media events, if organized for the function held in the constituency, may include the names of the Members of that constituency who have confirmed participation in these functions.

It is clarified that If a constituency of any Member of Parliament Is spread over more than one District, the M.P should Invariably be Invited to all the functions held In any of the Districts which are part of his/her constituency;

- (vi) Where any meeting convened by the Government is to be attended by Members of Parliament, special care should be taken to see that notice is given to them in good time regarding the date, time, venue etc. of the meeting. It should also be ensured that there is no slip in any matter of detail, however minor it may be. It should especially be ensured that:-
 - (a) intimations regarding public meetings/functions are sent through speedier communication devices to the M.Ps, so that they reach them well In time, and
 - (b) that receipt of Intimation by the M,P is confirmed by the officer/official concerned;

- (vii) Letters from Members of Parliament and Members of State Legislatures must be promptly acknowledged, and a reply sent at an appropriate level expeditiously as per the relevant provisions of the Central Secretariat Manual of Office Procedure;
- (viii) Information or statistics relating to matters of local Importance must be furnished to the MPs and MLAs when asked for. The information so supplied should be specific and answer the points raised. A soft copy of the information should also be sent to the Member via a-mail;
- (ix) If the information sought by a Member of Parliament cannot be given and is to be refused, instructions from a higher authority should be taken and the reasons for not furnishing the information should be given in the reply;
- (x) Wherever any letter from a Member of Parliament is in English and the reply is required to be given in Hindi in terms of the Official Languages Act, 1963 and the rules framed there under, an English translation should also be sent along with the reply for the convenience of such Members of Parliament from non Hindi speaking areas;
- (xi) References from the Committees of Parliament must be attended to promptly;
- (xii) The officers should not ignore telephonic messages left for them by the Members of Parliament/State Legislatures in their absence and should try to contact at the earliest the Member of Parliament/State Legislature concerned. These instructions also include SMS and emails received on official mobile telephones which also should be replied to promptly and on priority;
- (xiii) All Ministries/Departments may ensure that the powers of Members of Parliament/State Legislatures as Chairpersons/Members of Committees under various Centrally Sponsored/Central Sector government schemes are clearly and adequately defined; and
- (xiv) A Government servant should not approach MPs/MLAs for sponsoring his individual case as bringing or attempting to bring political or non-official or other outside influence is prohibited under the conduct Rules e.g. Rule 18 of the All India Service (Conduct) Rules, 1968 and Rule 20 of the Central Civil Services (Conduct) Rules.

6. All Ministries/Departments are requested to ensure that the above basic principles and Instructions are followed by all officials concerned, both in letter and spirit. Violation of the guidelines laid down on this subject will be viewed seriously.

7. Any violation of relevant Conduct Rules in this regard, which violation is established after due enquiry will render the Government servant concerned liable for appropriate punishment as per Rule.

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Enclosure 4 to Annexure 35.78

Copy of Government of India, Ministry of Personnel, Public Grievances and Pensions Department of Personnel & Training D.O. No. 11013/4/2011-Estt. (A) dated 9th October, 2012, addressed to Chief Secretaries of all States/ UTs.

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You would be aware that guidelines concerning official dealings between Administration and Members of Parliament and State Legislatures have been issued by the Ministry of Personnel, Public Grievances and Pensions. However, keeping in view certain instances of occasional non-observance of the above guidelines, the Committee of Privileges of the Lok Sabha recommended consolidation and reiteration of the existing instructions so that all concerned are aware of the same. Accordingly, revised comprehensive guidelines have been issued by this Department vide Office Memorandum No. 11013/4/2011-Estt.A dated 1st December, 2011. Copy of this O .M. was also forwarded to the Chief Secretaries of all the States/ UTs vide D.O. letter dated 8.12.2011 from my predecessor with the request that these instructions may be circulated to all officials of the State Government for compliance.

2. A copy of the above instructions dated 1st December, 2011 is again enclosed. It is once again requested that these instructions may be circulated to all officials of the State Government for compliance.

3. Some Members of Parliament have brought to the notice of this Department directly or through Lok Sabha / Rajya Sabha Secretariat that District Level officials have not been showing them due regard and courtesy. This has also been raised in the recent meeting of the Committee on violation of Protocol Norms and Contemptuous Behaviour of Government Officers with Members of Lok Sabha constituted by the Hon'ble Speaker. It is, therefore, advised that implementation of the above mentioned instruction are to be periodically reiterated and reviewed in the Conference of District Magistrates/Collectors and Superintendent of Police of your States/UTs

4. You may please issue necessary directions to the district level officers and send a copy to this Department for its onward transmission to the Lok Sabha Secretariat, as desired by them.

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Enclosure 5 to Annexure 35.78

Copy of Government of India, Ministry of Personnel, Public Grievances and Pensions Department of Personnel & Training Establishment Division letter No. F. No.

11013/2/2012-Estt. A dated 19th November, 2014, addressed also to Chief Secretaries of all States/ UTs.

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Subject: Official dealings between the Administration and Members of Parliament and State legislatures- Observance of proper procedure.

The Members of Parliament and State Legislatures as the accredited representatives of the people occupy a very important place in our democratic set-up. In connection with their duties, they often find it necessary to seek information from the Ministries/Departments of the Government of India or the State Governments, or make suggestions for their consideration or ask for interviews with the officers.

2. The guidelines concerning official dealings between Administration and Members of Parliament and State Legislatures have been issued by the Ministry of Personnel, Public Grievances and Pensions and reiterated from time to time. The provisions of the Central Secretariat Manual of Office Procedure regarding prompt disposal of communications from MPs have also been reiterated from time to time. However, keeping in view the instances of occasional non-observance of the above guidelines, a need was felt by the Committee of Privileges of the Lok Sabha for consolidating and reiterating the existing instructions. Accordingly, revised comprehensive guidelines were issued by this Department vide Office Memorandum No. 11013/4/2011-Estt. (A) dated 1st December, 2011 (copy enclosed). A copy of former Secretary (P)'s D.O. No. 11013/4/2011-Estt. (A) dated 9th October, 2012 reiterating the said instructions is also enclosed for ready reference.

3. The Committee on Violation of Protocol Norms and Contemptuous Behaviour of Government Officers with Members of Lok Sabha in Paragraph 63 of its First Report tabled in the Lok Sabha on 06-02-2014 has recommended that this Department may sensitise all civil servants and officials in various Ministries and Departments particularly under them for strict compliance of the instructions relating to official dealings issued in this regard between the Administration and the Members of Parliament.

4. The Committee on Violation of Protocol Norms and Contemptuous Behaviour of Government Officers with Members of Lok Sabha at its first sitting held on 28th October 2014, also felt that the consolidated instructions/guidelines issued by the Department of Personnel & Training (DoPT) on 1st December, 2011 on Official Dealing between Administration and Members of Parliament need to be again circulated to all concerned Executive Functionaries.

5. All Ministries/Departments are requested to ensure that the above basic principles and instructions are followed by all officials concerned, both in letter in spirit. Violation of the guidelines laid down on this subject will be viewed seriously.

6. Chief Secretaries of all States/UTs are requested to circulate these instructions to all State Government officials at the State/Division and District levels and to periodically review implementation.

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Annexure 35.79

Copy of H.P. Govt. Department of Personnel (Apptt.II) letter No. Per(AP.B)B(19)-16/2000 dated 26-9-2002 addressed to Registrar, HPAT, Secretary, HPPSC and Secretary, HPSSSB and endorsed to PS to CM, PS to CS, Director, I&PR and DPRO Shimla & Hamirpur.

(Referred to in Para 35. 60)

Subject: Response to Press Report.

Jai Hind.

In continuation of this department letter No. Per(AP-II)A(4)-2/91-Pt. IV dated 29-7-2001, I am directed to refer to the subject cited above and to say that it has come to the notice of the Government that some reports are being published in various news papers, which adversely reflect on the working of the H.P. Subordinate Services Selection Board/Commission and Tribunal. It has been observed that maximum number of published news items amount to misreporting or are based on lack of correct information with the Reporting Agencies. The reports appearing in the news papers are required to be contradicted/ clarified immediately.

You are, therefore, requested to issue clarification on such adverse Press Reports to the Director, Inf. & Public Relations, concerned District Public Relation Officer and a copy to the Press Correspondent, if identifiable, who has originated the report as well as to the Editor of the Newspaper for publication. It is further requested that a copy of the departmental version/clarification be also faxed to Chief Secretary's office for consolidation, Private Secretary to Chief Minister and to this department.

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Annexure 35. 80

Copy of H.P. Govt. Department of Personnel letter No. Per(AP)-C-F(10)-4/2010 dated 23rd October, 2013 addressed to All Administrative Secretaries, Divisional Commissioners, Heads of Departments, Deputy Commissioners and Chairmen/MD's/Secretaries & Registrars of all the Public Sector Undertakings/Corporations/Boards/Universities etc., in H.P.

(Referred to in Para 35. 61)

Subject: Appointment on the basis of false/fake certificate

I am directed to refer to this department's letter No. Per(AP)-C-F(10)-4/2005, dated 15-05-2007 on the subject cited above and to say that the existing instructions on the matter provides as under:-

“Whenever it is found that a Government servant, who was not qualified or eligible in terms of the recruitment, rules etc., for initial recruitment in service or had furnished false information or produced a false certificate in order to secure appointment, he should not be retained in service. If, he is probationer or a temporary Government servant, he should be discharged or his services should be terminated. If he has become a permanent Government servant, an inquiry as prescribed in Rule 14 of CCS(CCA) Rules, 1965 may be held and if the charges are proved, the Government servant should be removed or dismissed from service. In no circumstances should any penalty be imposed”.

2. It has been observed that disciplinary proceedings in the cases involving appointments on the basis of false/fake caste certificates take considerable time and the persons who have secured employment on the basis of false caste certificates enjoy the benefits of Government service whereas such Government servants should be removed/dismitted from the service at the earliest.

3. It is, therefore, requested that disciplinary enquiries involving the matter of securing jobs on the basis of false/fake certificates should be completed in a time bound manner and unscrupulous persons who have got appointment on the basis of the fake/false caste certificates should not be retained in service and should be dismissed/removed thenceforth.

4. These instructions may be followed in letter & spirit and brought to the notice of all concerned for strict compliance.

5. Kindly acknowledge the receipt.

Annexure 35.81

Copy of Himachal Pradesh Government Department of Training and Foreign Assignment letter No. Per(Trg)B(12)-5/2017 dated 13th November, 2019 addressed to all Administrative Secretaries, Heads of Department, , Divisional Commissioners, Deputy Commissioners and MDs of Boards/Corporations etc. in H.P.

(Referred to in Para 35.62)

Subject: Regarding Online Portal for Nomination of Participants for HIPA Courses.

On the subject cited above, I am directed to say that the HP Institute of Public Administration is an apex training institute of the State engaged in imparting training to the Officers/Officials. HIPA, in collaboration with NIC, has recently developed Software for Online Nomination/Registration of Officers/officials for attending the various training

programmes being organized by the Institute. This portal is linked with the “Manav Sampada E-Service Book Software”, which is already in use by most of the Government offices in Himachal Pradesh.

You are, therefore, requested to make use of this portal and ensure that all the nominations for training form your establishment in future, are made only through this portal (<http://genpmis.hp.nic.in/>). Henceforth, all the nominations to HIPA be sent through this online portal only.

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Annexure 35.82

Copy of H.P. Govt. ARO letter No. Per(AR)F(10)-9/2019 dated 27-11-2019 addressed to all Administrative Secretaries/HoDs/DCs/Divisional Commissioners, MDs/ Secretaries/Registrar of Boards/Corporations, Govt., Universities/ Authorities/ Bodies & Commissions in H.P.

(Referred to in Para 35.63)

Subject: Judgement delivered by the Hon’ble High Court in CWP NO. 2173/2015 on 19-08-2019 titled as Sangeeta Kumari Vs State of H.P. & Ors. : Instructions reg. distribution of urgent Dak in Government offices.

I am directed to invite your Attention to the subject cited above and to say that a meeting has been held under the Chairmanship of Chief Secretary to the Govt. of H.P. on 27-11-2019 in connection with the directions passed by the Hon’ble High Court on 19-08-2019 in the above CWP. It has been decided in the meeting that it has been decided that all type of dak/letters regarding urgent matters, i.e. court matters/RTI matters/Notice for meetings etc will be distributed within the offices in the same building/premises through Peon Book/special messenger on the same day rather than by post to avoid unnecessary delays as has been observed in the said case by the Hon’ble High Court.

You are, therefore, requested to ensure strict compliance of these instructions henceforth.

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Annexure 35.83

Copy of Government of Himachal Pradesh Department of Personnel letter No. Per(AP-B)B(15)-13/2019 dated 01-01-2020 addressed to all the Administrative Secretaries, Secretary, HPPSC and Secretary, HPSSC, Hamirpur.

(Referred to in Para 35.64)

Subject:- Exemption in Examination fee for the female candidates in the examinations conducted by the HP Public Service Commission and HP Staff Selection Commission Hamirpur.

I am directed to refer to the subject cited above and to say that the matter regarding exemption in fee in respect of female candidates in the examinations being conducted by the HP Public Service Commission and HP Staff Selection Commission, Hamirpur, was under consideration of the State Government for some time past. It has now been decided by the Government that female candidates shall be exempted from the examination fee for the examinations to be conducted by the HPPSC and HPSSC. It has further been decided with the approval of the competent authority (Cabinet) that the relevant rules wherein provisions of such fee in respect of female candidates exists e.g. HP Administrative Service Combined Competitive Examinations, Judicial Service Examinations, Rules of Business of Himachal Pradesh Public Service Commission/HPSSC shall also be amended to this extent by the concerned Department/authority at their own level.

These instructions may be adhered to strictly by all concerned.

Annexure 35.84

Copy of Govt. of Himachal Pradesh Department of Personnel (AP-II) O.M. No. Per(AP. B)B(19)-1/2017 dated 4th February, 2020 to all Administrative Secretaries, DGP, Secretary, HPPSC, Secretary, HPSSC, Hamirpur, HoD's, Divisional Commissioners, Deputy Commissioners, MD's/ Secretaries/Registrar of Boards/Corporations/Universities etc. in H.P.

(Referred to in Para 35.65)

Subject: Instructions relating to fair and transparent conduct of recruitment process.

A number of complaints are being received time and again from various quarters regarding irregularities/illegalities being committed by the candidates during the recruitment process of various posts in Government Sectors/Autonomous bodies. Some mischievous candidates in connivance with some outsiders/touts are using unfair means such as electronic gadgets etc. for manipulating their selection to the posts. These malpractices not only adversely affect the morale of the aspiring candidates but also very often lead to adversely affecting the credibility and purity of the recruitment examination. In order to avoid such malpractices and for fair and transparent selection of candidates on merit, the following instructions are hereby issued to the recruitment agencies and all the concerned functionaries of the State Government for its strict compliance:-

1. Access Control:

- (i) The Examination hall or the place of public recruitment must be properly searched before commencing the recruitment. The search must include the main venues, toilets and the peripheral areas.
- (ii) Candidates identity must be properly checked and biometrics verification must also be done by taking digital image and finger prints before allowing their entry in the examination hall/room(s).
- (iii) Proper frisking of both male & female candidates by male & female police personnel must be ensured prior to their entry in recruitment venue. (iv) Must ensure that candidates do not take anything extra to the recruitment venue beyond what is essentially allowed/required.
- (v) Candidates must not wear ornaments like ring, bracelet, earrings, nose-pin, chain/necklace, pendants badge, brooch, watch/wristwatch, hair pin, hair band, amulets, belts, caps, scarf etc.
- (vi) Candidates must not carry stationery items like bit of paper, geometry/ pencil box, plastic pouch, calculator, scale writing pad, rubber, pen driver, log table, electronic pen/scanner, camera etc. (vii) Candidates must not carry communication devices like mobile phone, Bluetooth, earphones, microphone, pager health band etc.
- (viii) Candidates must not bring any handbag, eatable item opened or packed, Water bottle, Wallet, goggles etc.

2. Strengthening institutional mechanism for Public recruitment:-

- (i) Official of doubtful integrity must not be associated with the recruitment process.
- (ii) The entire recruitment process must be video graphed or connected through CCTVs.

3. Usage of Electronics Gadgets:-

- (i) Recruitment Agencies/Departments must take advice or associate experts of the cyber crime of the State CID while conducting public recruitments.
- (ii) The recruitment venue must be jammed for making mobile calls and to transmit data during the recruitment process by installing adequate jammers.

Annexure 35.85

Copy of Government of Himachal Pradesh Department of Personnel O.M. No. Per(AP-B)B(3)-4/2017 dated 12th February, 2020 to all the Administrative Secretaries, Principal Accountant General, Divisional Commissioner, Deputy Commissioner, Heads of Departments, in H.P.

(Referred to in Para 35.66)

Subject: Requirement of taking prior permission by Government servants for leaving station/ headquarters during leave or otherwise, especially for visits abroad-Regarding.

The undersigned is directed to say that instances have come to the notice of the Government from time to time on the issues related to taking prior permission for leaving station/ headquarters during leave or otherwise, especially for visits abroad.

2. Attention is invited to the provisions of FR-II which provides that unless in any case it be otherwise distinctly provided, the whole time of a Government servant is at the disposal of the Government which pays him, and he may be employed in any manner required by proper authority etc. This means that no officer is entitled to pay and allowances for any time he may spend beyond the limits of his charge without authority. Thus, it is implicit in these provisions that a Government servant is required to take permission for leaving station/ headquarters and more so when he proposes to go abroad during such absence, as such visit may have wider implications.

3. However, It is also clarified that in case leave applied for the purpose of visiting foreign country is sanctioned, it would imply that permission for going abroad is also granted and, therefore, leave sanctioning authority should keep this aspect in mind while granting the leave applied for. For this purpose, while granting leave, the Leave Sanctioning Authority shall take prior approval of the Appointing Authority or any subordinate authority to whom the powers have been delegated to accord such permission to visit abroad, as the case may be. It may also be ensured that the leave applications in such cases invariably mention the purpose of going abroad. Besides, when such permission to visit abroad is sought, the Government servant is required to furnish information relating to the proposed and previous private visits as per the Proforma (enclosed).

3. Notwithstanding the power of the authority to accord permission to visit abroad as enunciated in the preceding para, the authority competent while considering the request of the Government servant shall also take care of the pending criminal cases in the Court of Law, if any. In case, the Government servant is facing departmental disciplinary proceedings, then NOC or report from the Enquiring Authority may be obtained to the effect that visit of such Government servant may not hinder the departmental proceedings.

4. All the Departments/ Boards/ Corporations/ Universities/ Councils etcetera are requested to bring the existing instructions to the notice of all concerned for strict compliance and failure to obtain such permission will be viewed seriously and will entail disciplinary action.

PROFORMA

1. Name
2. Designation
3. Pay
4. Department/PSU
5. Passport No.
6. Details of private foreign travel to be undertaken

Period of Abroad		Names of Foreign Countries to be visited	Purpose	Estimated Expenditure (Travel, board/lodging, visa, misc. etc.)	Source of funds	Remarks
From	To					

7. Details of previous private foreign travel, if any undertaken during the last four years (as under item No.6)

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Copy of Government of Himachal Pradesh Department of Personnel letter No. Per(AP-B)B(15)-26/2020 dated 18th June, 2020 to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioners, Registrar General, H.P. High Court, Secretary Vidhan Sabha, Secretary, /Himachal Pradesh Public Service Commission, MD/Secretaries of Boards/Corporations/Public Sector Undertakings/Autonomous Bodies etc., in H.P.

(Referred to in Para 35.67)

Subject: Regarding noting and drafting-instructions thereof.

I am directed to refer to the subject cited above and to say that detailed procedure for dealing the various types of receipts, noting and drafting has been laid down in Chapter-XI of the Office Manual (Third Edition) published by the Government of H.P. in April, 2011. It is imperative that the detailed process is followed meticulously so that the issues involved are addressed, related correspondence/noting portion are referred to, IT tools are utilized to the optimum and appropriate decision by the competent authority is facilitated.

2. However, it has been observed that the instructions contained in the Office Manual are not being followed in letter and spirit. Recently, an instance came to the notice of the Hon'ble High Court of H.P. wherein, the noting sheet had been pasted over. Hence, it is directed that in case old notes require amendment/modification, addition/deletion/substitution because of factual errors or any other reason or there is some printing deficiency, then instead of pasting it over, it should be cancelled by putting a cross mark and fresh notes be generated. In no case, such methods of over writing or pasting over of the noting sheets should be resorted to, which might indicate tampering of record of handwritten or computer-typed notes/comments/proposal.

3. These instructions be brought to the notice of all concerned for strict compliance. Any departure or deviation shall attract disciplinary proceedings apart from criminal action against the defaulter(s).

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Copy of Government of Himachal Pradesh Department of Personnel, Administrative reforms O.M. No. Per(AR)D(1)-1/2020 dated 25th June, 2020 to all the Administrative Secretaries, RCHP, New Delhi, Heads of Departments, Divisional Commissioners, Deputy Commissioners, Registrar General, H.P. High Court, Secretary Vidhan Sabha, Secretary\Himachal Pradesh Public Service Commission, MD/Secretaries of Boards/Corporations/Public Sector Undertakings/Autonomous Bodies etc., in H.P.

(Referred to in Para 35.68)

Subject: Issuance of Photo Identity Cards to the Government employees.

The undersigned has to say that para 13.1.9 of the Office Manual contains the provision regarding issuance of Identity Cards to the Government employees. However, it has come to the notice of the Government that the Departments/Boards/Corporations and Govt. Universities are not issuing the Identity Cards to the employees working under their control.

2. Hence, it is emphasized that henceforth all the departments/ Boards/ Corporations and Government Universities will issue photo Identity Cards to every employee working under their control subject to adhering to the following conditions:-

- i) The photo Identity Cards shall be valid for a period of five years or the date of superannuation whichever is earlier. It shall be renewed after every five years in respect of in-service Government servant. The validity and expiry date shall be invariably mentioned on the Cards by the issuing Authority.
- ii) On the Photo Identity Card, it shall be clearly indicated that if the card is lost by a Government Servant, a complaint, to this effect, shall be lodged to the Police as well as the Issuing Authority. The Government servant shall have to surrender the Photo Identity Cards to the Issuing Authority on its expiry/superannuation or quitting the job. The concerned authority shall ensure that the final dues in respect of a Government servant who superannuates, quits the job or is otherwise removed/disengaged from government service are settled only after the Identity Card issued to him is surrendered to the Issuing Authority.
- iii) The Issuing Authority will issue Photo Identity Cards to all the regular/contract employees. In the case of daily waged and outsourced workers, the Photo Identity Cards of different colour and design may be issued, which shall remain valid for a period not exceeding twelve months.

3. These instructions may be brought to the notice of all concerned for necessary implementation.

Annexure 35.88

Copy of Government of Himachal Pradesh Department of Personnel O.M. No. Per (AP-B)A(4)-1/2020 dated 20th Feb., 2020 to all the Administrative Secretaries, Heads of Departments, MDs Boards/Corporations/ Autonomous Bodies, Divisional Commissioners, Deputy Commissioner's in Himachal Pradesh and Section Officers in H.P. Secretariat

(Referred to In Para 35.69)

Subject : Disposal of Assembly Questions- Instructions thereof.

It has been noticed by the Government that most of the Administrative Departments are not supplying the requisite consolidated information/reply to postponed Starred/Unstarred Assembly Questions as well as current Starred/Unstarred Assembly Questions sought by the Department of Personnel within prescribed period to enable the replies in the Legislative Assembly, due to which the position of the State Government is embarrassing in the Assembly. It has also been found that some Heads of Departments, Boards/Corporations/ Autonomous Bodies, Universities etc. are supplying the replies of Assembly Questions directly to Department of Personnel, which reply do not tally with the reply supplied by their Administrative Department and thus create confusion for preparing replies.

2. Hon'ble Chief Minister has taken a serious view for ordinate delay in replies to the pending Assembly Questions and has issued directions to develop a mechanism for speeding up the preparation of replies to Assembly Questions in a time bound manner.

3. The issue was also discussed in the meeting of Secretaries of Committee held on 15-2-2020 and it has been decided that henceforth all Administrative Departments shall designate a Nodal Officer (at Secretariat level from amongst the Branch Officers/Section Officers of the concerned Administrative Department) as prescribed in Chapter IV of Office Manual (Third Edition) April, 2011 to collect the information relating to Assembly Questions from the Departments/Boards Corporations/ Autonomous Bodies etc. under their control as well as from other Branches/Sections where there are two or more Branches/Sections at Secretariat level. It shall be the duty of the Nodal Officer to have the information so received get compiled at Administrative level and after compilation of the information/replies, a consolidated reply be supplied to Department of Personnel within prescribed time limit.

4. All Heads of Departments! Boards/Corporations/ Autonomous Bodies etc are to ensure that the requisite information/data relating to Assembly Questions is got supplied by them to their concerned Administrative Department well in time as Department of Personnel will not entertain any direct communication from them In this regard, in future.

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

Annexure 35.89

Copy of Government of Himachal Pradesh Department of Personnel, letter No. Per (AP.B)C(1)-1/2010-Part dated 18-09-2020 to all the Administrative Secretaries, Divisional Commissioners, Heads of Departments, Deputy Commissioners and , MD/Secretaries of Boards/Corporations/Public Sector Undertakings/Autonomous Bodies etc., in H.P & endorsed to Pr. Secretary-cum-FC (Revenue) to the Government of Himachal Pradesh/ Ld. Advocate General, H.P, Secretary, HPPSC/H.P. Staff Selection Commission, Hamirpur,

(Referred to in Para 35.70)

Subject: Order passed by the Hon'ble High Court H.P in CWP No. 3796/2020- Pankaj Sharma and Anr. V/s State of HP.

I am directed to refer to the subject cited above and to say that the Hon'ble High Court, Himachal Pradesh vide orders dated 03-06-2020 in CWP NO. 3796/2020-Pankaj Sharma and Anr. V/s State of H.P has directed the Respondent No. 2 i.e. the Director, Land Records, HP to prepare its own Questions Bank in accordance with syllabus prescribed in the Recruitment & Promotion Rules for the post of Patwari in accordance with law for conducting the 'Patwar Examination' in future. The Question Bank so prepared in accordance with may be also regularly updated with the passage of time. The Hon'ble High Court has further directed to bring this direction to the notice of all such Departments/Agencies for compliance which conduct such like examination on their own without preparing/possessing a Question Bank of their own.

2. All the Government Departments/ Corporations/ Boards etc. are therefore directed to ensure compliance of the said orders of Hon'ble High Court by the Recruiting Agency(s) under control in letter and spirit.

Annexure 35.90

Copy of Government of Himachal Pradesh Department of Personnel O.M No. Per(AP.B)A(3)-7/2020 dated 26-10-2020 to all the Administrative Secretaries, Pr. AGHP, Registrar General, H.P High Court, Divisional Commissioners, RCHP, New Delhi, Heads of Departments, Deputy Commissioners, MDs, Registrars, Secretaries of Boards/Corporations/Universities/ Banks in H.P and Director, Vigilance, Secretary, HPPSC/H.P. Staff Selection Commission, Hamirpur & SO's in H.P. Secretariat.

{Referred to in Para 35.71}

Subject: Requirement of taking prior permission by government servants for leaving station/headquarters during leave or otherwise.

The undersigned is directed to say that instances have come to the notice of the Government from time to time on the issues related to taking prior permission for leaving station/headquarters during leave or otherwise.

2. Attention is invited to the provisions of FR-11 which provides that unless in any case it be otherwise distinctly provided, the whole time of a Government servant is at the disposal of the Government which pays him, and he may be employed in any manner required by proper authority etc. Besides, Article 56 of the Civil Service Regulations also provides that no officer is entitled to pay and allowance for any time he may spend beyond the limits of his charge without authority. It is implicit in these provisions that a Government servant is required to take permission for leaving station/headquarters. However, separate permission may not be necessary where a Government servant has indicated his intention of leaving headquarters/station alongwith leave address while applying for leave. Also as per provisions prescribed in Rule-161 of Himachal Pradesh Treasury Rules, the pay of a Government employee can be drawn only from the station/institution/ office where he/she is actually posted, and in no case the pay of a Government servant shall be drawn from a station/ institution/ office other than his place of posting.

3. A catena of instructions in this regard have been issued by the Government of India vide OM No. 11013/7/4- Estt (A) dated 18th May. 1994 and OM No. 11-13/8/2000-Estt.(A) dated 7th November. 2000, which stand adopted by this State Government vide which attention has been invited to the provisions of Fundamental Rule-II and Article-56 of the Civil Service Regulations which stipulates that a Government servant is required to take permission to leave station or headquarters and more so when he proposes to go abroad during such absence, as such visit may have wider implications. However, separate permission may not be necessary where a Government servant has indicated his intention to leave headquarters/station alongwith Leave Address while applying for leave.

4. It has come to the notice of the Government that employees often leave the station/headquarters without seeking prior permission of the competent authority. The Government has taken this aspect very seriously, particularly in respect of those employees who leave station everyday without proper permission of the competent authority. Although the Government is aware of the facts that due to improvement in the transport facilities and the living standards of the employees of the State with the passage of time, they use their own conveyance or pool vehicles to reach their place of posting. But it does not imply that they may leave their headquarters without prior permission, which is violation of the rules / instructions and can attract disciplinary proceedings too.

5. Recently, the Hon'ble High Court in its judgement delivered on 26.06.2020 in CWP No. 1737/2020 titled as Pradeep Kumar V Is State of Himachal Pradesh & Others has directed the State Government to lay down guidelines ensuring attendance of the government servant with maximum output in his job for which he is paid out of State Exchequer.

6. The State Government has allowed various allowances to its employees such as Dearness Allowance, House Rent Allowance, Compensatory Allowance, Capital Allowance etc. in order to meet the price escalation. House Rent Allowance has been allowed to Government employees for rented/ own accommodation at the place of posting. This allowance has been allowed in different slab rates i.e. (i) Shimla (including suburbs), (ii) District Headquarters and (iii) other parts of the State. Compensatory Allowance has been allowed at different rates for different groups whereas the Capital Allowance is admissible only to the employees posted in Shimla. As per provisions of rules these allowances have been allowed/ determined with reference to the place of postings. Hence, in case, employees who are not residing at their place of posting for one reason or other and are travelling from their place of posting to the place of residence i.e. other than the place of posting and beyond the permissible limits, and are getting allowances with reference to their place of posting, and is against the basic principles / intention for granting such allowances to its employees which is a burden on the state Exchequer.

7. In view of factual position narrated above, it has been decided by the State Government that henceforth, a Government servant who does not stay at the place of his/her office can only be allowed to stay at other place subject to the following conditions:-

- (i) The to and fro Journey time should not exceed two hours every day;
- (ii) He/she shall be required to disclose this to the competent authority and obtain general permission, which can be revoked based on periodic review of the performance and output of the employee;
- (iii) This permission does not prohibit/ preclude the competent authority to suspend this permission whenever the competent authority wants the concerned government servant to stay back on any particular day(s) in order to dispose of urgent official business;
- (iv) Such permission will not government servants connection with "Essential be granted to employed in Public Services" and in no situation where the competent authority is of the view that services of an official are required at the headquarters regularly due to administrative exigencies;
- (v) Once such permission is granted in favour of a Government servant, the admissible allowance will be regulated as under :-

House Rent Allowance- The Government servant will be permitted to draw allowance only at the minimum rate prescribed in other parts of the State by the Finance Department vide OM No. Fin(C)-B(7)-1/2012 dated 28.02.2012. as amended from time to time.

Compensatory Allowance - The Government servant will be permitted to draw allowance at the rate admissible to the lowest Group i.e. Group-VIII as

prescribed by the Finance Department vide OM No. Fin(C)-B(7)-16/98. dated 11 th June. 1999. as amended from time to time.

Capital Allowance- This allowance is admissible only to the Government servants who are posted in Shimla. Hence. in case. such permission is granted, the Government servant will not be permitted to draw this Allowance in case permission is granted to reside outside Shimla and commute daily.

8. Instances of leaving station without permission will attract disciplinary action.

Annexure 35.91

Copy of Government of Himachal Pradesh Department of Personnel letter No. PER (AP)-C-A(3)-1/2020 dated 02-11-2020 addressed to all the Administrative Secretaries, Divisional Commissioners, Heads of Departments, Deputy Commissioners, Chairman/MD/Registrar of PSU's, Boards and / Universities in H.P

{Referred to in Para 35.72}

Subject:- Regarding appointments to various posts in Government departments.

I am directed to refer to the subject cited above and to say that it is imperative that all recruitments are done in accordance with the R&P Rules framed under Constitutional/statutory provisions. The provisions pertaining to eligibility criteria/qualifications, pay structure/emoluments, mode and method of recruitment etc. ought to be followed strictly. Even in case of newly created posts, recruitment must be done only after notifying the R&P Rules so that it stands the tests of administrative propriety, financial feasibility and judicial scrutiny. However, instances of deviation and departure from the established norms/infringement of one or more provisions of the respective R&P Rules and instructions issued by the Government have been noticed and viewed very seriously.

2. It has, therefore, been decided that henceforth no recruitment should be done to any post (s) in the absence of the Recruitment and Promotion Rules and through any other mode and method of recruitment as notified/prescribed/approved by the Government.

3. You are requested to ensure compliance of these directions in letter and spirit.

Annexure 35.92

Copy of Government of Himachal Pradesh Department of Personnel letter No. PER (AP.B)B(15)-26/2020 dated 16-12-2020 addressed to all the Administrative Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioners, SDMs in H.P

{Referred to in Para 35.73}

Subject: Regarding passing of speaking orders while dealing with the matter in quasi-judicial capacity.

I am directed to say that as per settled law, the Authorities while exercising Quasi-judicial powers, have to pass speaking and reasoned orders. The Hon'ble Courts have time and again emphasized that the Quasi-judicial Authorities are bound to give reasons and pass speaking orders. In a case CMPMO No. 403 of 2020 titled Sheela Devi Versus Sarmina Devi and others decided on 05.11.2020, the Hon'ble High Court of H.P. has held that the reasoning is the essence and soul of any order. In the absence of there being any reasoning in the order as to why the conclusion, as has been arrived at by the Authority, stands arrived at, the same is not sustainable in law. The Authority is expected to adhere to the basic principles and ensure that the order should reflect the respective contentions of the parties and reasons for agreement/concurrence with the submissions of either party be elaborated. You are, therefore, requested to ensure compliance of the Hon'ble High Court orders by all Quasi-judicial Authorities in letter and spirit.

Annexure 35.93

Copy of Government of Himachal Pradesh Department of Personnel letter No. Per(AP.B)B(2)-5/2020 dated 01-02-2021 addressed to Addl. Chief Secretary (Home) to the (Revenue), Secretary (Education), Secretary (Technical Education), Director General of Police, HP, all DC's in HP, SPs in H.P and endorsed to Secretary, HPPSC & HPSSC, Hamirpur

{Referred to in Para 35.65 (2)}

I am directed to invite your attention to this Department's Office Memorandum No. Per(AP.B)B(19)-1/2017 dated 4th Feb.,2020 (copy enclosed – Please see Annexure 35.84) vide which instructions were issued relating to fair and transparent conduct of recruitment process. The Himachal Pradesh Staff Selection Commission is conducting screening tests for various posts in Government and private educational institutions of the State with the assistance of the respective District Administration. As such, the Commission circulated a copy of instructions booklet to all concerned Centre Superintendents for strict implementation and also for compliance by all the staff deployed for the conduct of examinations. It has been observed that the lackadaisical and irresponsible attitude of some of the personnel deployed for conduct of examinations has often resulted in tarnishing the image of the Commission as also the State Government with respect to the sensitive issue of recruitment. Some such glaring discrepancies and untoward Instances have come to the notice in the recent past. It has been observed that the employees deputed for examination duties in the Government/private educational are not well conversant with and not serious about their duties and have been committing numerous mistakes. Errors commonly committed are improper checking of the candidates entering

the examination centers, improper handling of examination materials, improper identification of the candidates, carrying of not permissible electronics gadgets by the candidates inside the examination centre, submission of incomplete/improper written record of the examination after its conclusion etc. Such incidents are not only affecting the fair and transparent working of the Commission, but also maligning the image of the Government in the eyes of the general public. Therefore, the Government has taken a serious view in the aforesaid incidents of gross negligence and carelessness of the concerned Centre Superintendents and invigilation staff.

2. It is, therefore, requested that the Education Department may ensure to issue necessary directions to all the Heads of the Educational (Government/Private) Institutions to pay proper attention to the instructions regarding conduct of examinations issued by the Government/Commission from time to time and ensure its strict implementation while undertaking the duties regarding conduct of written screening tests for recruitment of various posts conducted by the Commission in order to avoid such incidents of gross negligence and carelessness in future failing which disciplinary proceedings may be initiated against the erring officers/officials concerned as per rules.

3. It is further requested that the necessary directions may be conveyed to all the subordinate officers/officials deputed for examination duties to ensure strict compliance of the instructions and SOPs.

Annexure 35.94

Copy of Government of Himachal Pradesh Department of Personnel letter No.Per(AP.B)B(15)-7/2015 dated 26th March, 2021 addressed to all Administrative Secretaries, HoD's/Divisional Commissioners, DC's & MD's/Registrars/Secretaries of Boards/ Corporations/Universities/ Autonomous Bodies etc. and endorsed to the Secretary, HPPSC, Shimla & HPSSC, Hamirpur.

{Referred to in Para 35.38 (iv)}

Subject: Regarding conducting of examination once in the year for the posts having same nomenclature – fixation of time schedule thereof.

I am directed to invite your attention to this Department's letter of even number dated 22-08-2016 (**Annexure 35.53**) on the subject cited above and to say that in the light of the judgement on 03-11-2020 delivered by the Hon'ble High Court in CWPIIL No. 157 of 2017 Court on its motion versus State of Himachal Pradesh and others that the recruitment process may be completed strictly in terms of the "Time Schedule" prescribed in the instructions issued by this Department vide letter dated 22-08-2016. It is, therefore,

reiterated that these instructions may be adhered to strictly, a copy of which is enclosed for ready reference.

Annexure 35.95

Copy of Government of Himachal Pradesh Department of Personnel letter No.Per(AP.B)B(15)-12/2015-Vol.I dated 23rd April, 2021 addressed to all Administrative Secretaries, HoD's/Divisional Commissioners, DC's & MD's/Registrars/Secretaries of Boards/ Corporations/Universities/ Autonomous Bodies etc. and endorsed to the Pr. AGHP, Spl. Secy (Finance)-cum-Director, T&A, H.P & all Treasury Offices in the State of HP.

{Referred to in Para 35.74}

Subject: Regarding Manav Sampada implementation in all Departments of H.P. Government for keeping up-to-date record of all employees for online updation of e-Service books, required for MIS purposes.

The Manav Sampada software was rolled out by the State Government and instructions for full roll out using all the functionalities available under the Manav Sampada were issued from time to time by the Government. However, it has been observed that barring one or two Departments have not completed digitization of the service record on the Manav Sampada. Even in Departments where digitization was done initially, subsequent non-usage has rendered the initial digitization ineffective. Full benefits of the system can only be treated if service record is digitized on the Manav Sampada application and all the modules are used so that digital data is available for entire service period of any employee. In addition to this, Treasury, Accounts & Lotteries Department had also issued instructions for completion of record so that pension papers of all prospective pensioners are generated through Manav Sampada system. However, in this also the progress was quite discouraging.

It has now been decided that:-

- (1) All the Departments will complete service record of all the employees under them on Manav Sampada by 31st May, 2021.
- (2) Thereafter, Transfer, Relieving, Joining, Increment, LPC shall be generated through Manav Sampada software.
- (3) The pay revision and pension papers shall also be generated through Manav Sampada application.

The NIC HP shall provide necessary training at State/ District Headquarter for effective rollout of Manav Sampada application.

It is, therefore, requested to ensure complete rollout of Manav Sampada in the State.

CHAPTER 36

CIVIL SERVICES BOARD

36.1 Constitution of Civil Services Board

In pursuance of the directions of Hon'ble Apex Court in the writ petition (Civil) No.82 of 2011 and the Notifications of Ministry of Personnel, PG & Pensions (Department of Personnel & Training), New Delhi dated 28-01-2014 i.e. the Indian Administrative Service (Cadre) Amendment Rules, 2014, the Indian Police Service (Cadre) Amendment Rules, 2014 & the Indian Forest Service (Cadre) Amendment Rules, 2014, the State Government has constituted the Civil Services Board vide notification dated 10-04-2015 for recommending transfer and posting of Indian Administrative Service, Indian Police Service & Indian Forest Service officers of Himachal Pradesh cadre.

36.2 Functions of the Civil Service Board : The functions of the Civil service Board are to make recommendations for all appointments of cadre officers, examine the cases of Officers who are proposed to be transferred before completion of minimum tenure as determined as specified under sub-rule (3) and (4) of rule 7 of the Indian Administrative Service (Cadre) Rules, 1954, the Indian Police Service (Cadre) Rules, 1954 and the Indian Forest Service (Cadre) Rules, 1966, consider for transfer before the tenure fixed under sub-rule (3) and (4) of rule 7 of the Indian Administrative Service (Cadre) Rules, 1954, the Indian Police Service (Cadre) Rules, 1954 and the Indian Forest Service (Cadre) Rules, 1966 based on such circumstances regarding as it thinks fit and to recommend the Competent Authority the names of officers for transfer before completion of minimum tenure with reasons to be recorded in writing.

(H.P. Govt. Department of Personnel notification No. Per (AP.B)B(7)-1/2010-Vol-II- dated 10-04-2015 - **Annexure- 36.1**)

**Annexures to Chapter
The Civil Services Board**

Annexure No.	Details of communications	Page No.
36.1	No. Per (AP.B)B(7)-1/2010-Vol-II dated 10-04-2015	700

Annexure 36.1

[Copy of Notification No.Per (AP.B)B(7)-1/2010-Vol-II dated 10th April, 2015]
(Referred to in para 36.1)

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In pursuance of the directions of Hon'ble Apex Court in the writ petition (Civil) No.82 of 2011 and the Notifications of Ministry of Personnel, PG & Pensions (Department of Personnel & Training), New Delhi No.11033/1(A)/2014-AIS-II, 11033/1(B)/2014-AIS-II and 11033/1(C)/ 2014 -AIS-II dated 28-01-2014 i.e. the Indian Administrative Service (Cadre) Amendment Rules, 2014, the Indian Police Service (Cadre) Amendment Rules, 2014 & the Indian Forest Service (Cadre) Amendment Rules, 2014, the State Government is pleased to constitute the Civil Services Board (herein after referred to as the Board) for recommending transfer and posting of Indian Administrative Service, Indian Police Service & Indian Forest Service officers of Himachal Pradesh cadre.

1. Constitution of the Board :

Indian Administrative Services Officers of Himachal Pradesh Cadre

1.1 The Board shall consist of the following in respect of Indian Administrative Service officers of Himachal Pradesh cadre:

1.2

1.	Chief Secretary	Chairman
2.	Additional Chief Secretary or Pr. Secretary	Member
3.	Principal Secretary or Secretary, Department of Personnel	Member Secretary

Indian Police Services Officers of Himachal Pradesh Cadre

1.3 The Board shall consist of the following in respect of Indian Police Service officers of Himachal Pradesh cadre:

1.	Chief Secretary	Chairman
2.	Additional Chief Secretary or Pr. Secretary	Member
3.	Principal Secretary or Secretary, Department of Personnel	Member Secretary
4.	Addl. Chief Secretary or Principal secretary or Secretary, Home	Member
5.	Director General of Police	Member

Indian Forest Services Officers of Himachal Pradesh Cadre

1.4 The Board shall consist of the following in respect of Indian Forest Service officers of Himachal Pradesh cadre:

1.	Chief Secretary	Chairman
2.	Additional Chief Secretary or Pr. Secretary	Member
3.	Principal Secretary or Secretary, Department of Personnel	Member Secretary
4.	Addl. Chief Secretary or Principal secretary or Secretary, Forest	Member
5.	Principal Chief Conservator of Forest	Member

2. Postings

2.1 All appointments of cadre officers shall be made on the recommendations of the Board by the State Government.

Provided that the State Government may transfer a cadre officer for the purpose of filling leave vacancies or for making temporary arrangements for a period not exceeding three months, delegate its power to Chief Secretary or Pr. Secretary, Personnel.

2.2 A cadre officer, appointed to any ex-cadre post shall hold office for at least two years unless in the meantime he or she has been promoted, retired or sent on deputation outside the State or training exceeding two months.

2.3 The State Government may transfer a cadre officer before the minimum specified period on the recommendation of the Board:

Provided that the Competent Authority may reject the recommendations of the Board by recording the reasons thereof.

3. Functions of the Board –

- (a) The Board shall make recommendations for all appointments of cadre officers.
- (b) The Board shall examine the cases of Officers who are proposed to be transferred before completion of minimum tenure as determined as specified under sub-rule (3) and (4) of rule 7 of the Indian Administrative Service (Cadre) Rules, 1954, the Indian Police Service (Cadre) Rules, 1954 and the Indian Forest Service (Cadre) Rules, 1966.
- (c) The Board may consider for transfer before the tenure fixed under sub-rule (3) and (4) of rule 7 of the Indian Administrative Service (Cadre) Rules, 1954, the Indian Police Service (Cadre) Rules, 1954 and the Indian Forest Service (Cadre) Rules, 1966 based on such circumstances regarding as it thinks fit.
- (d) The Board may recommend the Competent Authority the names of officers for transfer before completion of minimum tenure with reasons to be recorded in writing.

Procedure --

- (a) The Board shall seek detailed justification from the Administrative Department of the concerned State Government for the transfer of an officer before the specified tenure.
- (b) The Board shall ---
 - (i) consider the report of Administrative Department along with any other inputs it may have from other reliable sources;
 - (ii) obtain the comments or views of the Officer proposed to be transferred regarding the circumstances presented to it in justification of the proposal;
 - (iii) not make recommendation for premature transfer of Cadre Officers unless it has been satisfied itself of the reasons for such premature transfer.
- (c) The Board shall submit a quarterly report in such form as it thinks fit to the State Government clearly stating the details of the officers recommended to be transferred before the minimum specified tenure and the reasons therefor:

Provided that the Competent Authority may reject the recommendations of the Board for the reasons to be recorded in writing.

.....

CHAPTER 37

Dispensing with interviews in respect of Class-III and IV services/posts

37.1 Discontinuation of interviews in respect of Class-III and IV services/posts

Ministry of Personnel, PG and Pensions, Department of Personnel and Training, GOI, New Delhi had requested for an exercise for identifying lower level posts for which interviews could be dispensed with. The Committee of Secretaries (CoS) in its meeting held on 14-09-2015 while considering a note regarding discontinuation of interviews for various junior level posts in the Government of India made recommendation that interviews will be dispensed with for all Group 'C' and Group 'D' and interview should also be discontinued for non-gazetted posts of Group 'C' category. M/O Personnel, PG & Pensions, GOI requested all stakeholders to initiate necessary action towards achieving the objectives of citizen centric transparent governance by discontinuing interviews in respect of Class-'C' and 'D' services/posts.

Himachal Pradesh is a multi-religion, multicultural, multi-lingual state having difficult terrain and predominantly rural population. In order to maintain parity, equity and balance between disadvantaged candidates of hard, inaccessible and remote areas having limited resources as well as meager employment opportunities as compared to their counterparts in urban/semi-urban areas, which are better placed. In H.P., interview is a part of recruitment process to the posts/services under the State Government through H.P. Public Service Commission/H.P. Staff Selection Commission, Hamirpur. To discontinue the process of holding interviews in respect of direct recruitment for making recommendations for Class-III and IV posts/services under the State Government and to make selections in jobs based on written exams/qualification with less emphasis on skill test/ personality traits, the State Government in Department of Personnel vide notification No. Per(AP.B)B(15)-5/2014 dated 17th April, 2017 discontinued/dispensed with the process of holding interviews for Class-III and IV posts/services and ordered that the selection to all Class-III and IV posts/services under the State Government shall be made on the basis of merit of written examination or prescribed educational qualification followed by evaluation, based on the parameters as contained therein. The above notification also provides that for isolated/specific post(s), if any, for which personal interview is considered absolutely essential, the prior concurrence of Department of Personnel and Finance Department shall be obtained.

(H.P. Government, Department of Personnel notification No. Per(AP.B)B(15)-5/2014 dated 17th April, 2017 – **Annexure 37.1**)

37.1.1 Discontinuation of holding of interviews in respect of Class-III and IV services/posts – amendment in R&P Rule concerned

The State Government ordered that under the Recruitment and Promotion Rules in respect of Class-III and IV posts/services where presently a provision of interview exists, the interviews process will not imply viva-voce or evaluating the personality of the incumbent. The selection to those Class-III and IV posts/services shall be made on the basis of merit of written examination or prescribed educational qualification followed by evaluation, by verifying the original documents/credentials only based on the parameters devised in the notification of even number dated 17-04-2017. It was also ordered that the concerned Department(s) will simultaneously initiate the process of carrying out amendment immediately in such Recruitment and Promotion rules in respect of Class-III and IV posts/services in consonance with the provisions of notification dated 17-04-2017 prescribing the evaluation criteria based upon pre-defined parameters.

(H.P. Government, Department of Personnel notification No. Per(AP.B)B(15)-5/2014 dated 25th April, 2017 – **Annexure 37.2**)

37.2 Clarification regarding 11 parameters for distribution of 15 marks during evaluation of the candidates.

In order to give suitable credit to professional qualifications, a procedure has been prescribed to follow in the case of posts of technical nature.

(H.P. Government, Department of Personnel notification No. Per(AP.B)B(15)-5/2014-loose-I dated 18th July, 2017 – **Annexure 37.3**)

37.3 Clarification regarding issuance of certificate.

The State Government decided and prescribed authorities competent to issue certificate to be considered for the purpose of evaluation as under:-

Sr. No.	Name of Certificate	Authority
1	Backward Area/ Panchayat, Landless family/ family having less, than 1 ha. land, non-employment/ income certificate etc.	SDO(C)/ Tehsildar/ Naib Tehsildar
2	BPL/widow/divorced/destitute/single woman : single daughter/orphan etc.	BDO (by taking the authenticated entries in the 'Parivar Register' as the basis of such certificate)

3	Differently abled Person	Health & Family Welfare authorities/ Medical Boards
4	NCC/NSS/Scouts & Guides	Head of concerned institution
5	Medal winners in national level sports competitions	Concerned District Youth Services and Sports Officer I Head of institution

(H.P. Government, Department of Personnel notification No. Per(AP.B)B(15)-5/2014-loose-I dated 18th July, 2017 – **Annexure 37.4**)

37.4 Discontinuation of holding of interviews in respect of Class-III & IV posts/ services and issuance of certificate-clarification thereof.

The Government further decided that the authorities (Commissioner/Joint/Assistant Commissioners of Municipal Corporation, Executive Officer of Municipal Council and Secretary of Nagar Panchayats) shall be competent to issue certificates, within their jurisdiction, in the case of BPL/widow/divorced/ destitute/single woman: single daughter/ orphan etc., to be considered for the purpose of evaluation.

(H.P. Government, Department of Personnel notification No. Per(AP.B)B(15)-5/2014-Part dated 15th September, 2017 – **Annexure 37.5**)

37.5 Discontinuation of holding of interviews in respect of Class-III and IV posts/ services and issuance of certificate - clarification thereof.

(i) The Government in continuation of earlier letter dated 18-07-2017 (**Annexure 37.4**) has decided that the following shall be the authorities competent to issue "BPL/Widow/divorced/single woman, single daughter/orphan etc." certificate in the Urban areas:-

"Executive Officer/Secretary, Municipal Committee/Council and Commissioner, Municipal Corporation."

(H.P. Govt., Department of Personnel letter No. Per (AP.B)B(15)-5/2014-Loose-I dated 17-11-2020 - **Annexure 37.6**)

(ii) The Government in continuation of earlier letters dated 18-07-2017 (**Annexure 37.4**) and 17-11-2020 (**Annexure 37.6**) has decided that the following shall be the authorities competent to issue "Non Employment Certificate" within their jurisdiction:

Authority		Remarks
(i)	The Commissioner, Additional Commissioner/ Joint Commissioner of the Municipal Corporation/ Executive Officer of the Municipal Council/ Secretary of the Nagar Panchayat	In terms of the instructions dated 28 th August, 2015, 21 st July, 2016 and 18 th July, 2018 issued by the Urban Development Department
(ii)	Tehsildars/Naib Tehsildar, Sub Divisional Officer(Civil), Additional District Magistrate/ Additional Deputy Commissioner /Deputy Commissioner	In terms of the provisions prescribed in Chapter-28 of HP Land Manual

It has been conveyed that in case any other authority has been prescribed by any other Administrative Department to issue certificate(s) mentioned in this department's notification of even No. dated 17-04-2017, the certificates issued by such authority shall also be valid during the evaluation process. It has also been conveyed that prescribed authorities may also be directed to entertain all requests for issuing various certificates pursuant to the letters of even number dated 18.07.2017 and 17.11.2020.

(H.P. Govt., Department of Personnel letter No. Per (AP.B)B(15)-5/2014-loose-I dated 04-02-2021 - **Annexure 37.7**)

Annexures to Chapter 37

**Dispensing with interviews in respect of
Class-III and IV services/posts**

Annexure No.	Details of communications	Page No.
37.1	Per(AP.B)B(15)-5/2014 dated 17-04-2017	708
37.2	Per(AP.B)B(15)-5/2014 dated 25-04-2017	710
37.3	Per(AP.B)B(15)-5/2014-loose-I dated 18-07-2017	711
37.4	Per(AP.B)B(15)-5/2014-loose-I dated 18-07-2017	712
37.5	Per(AP.B)B(15)-5/2014-Part dated 15-09-2017	713
37.6	Per(AP.B)B(15)-5/2014-Loose-I dated 17-11-2020	713
37.7	Per(AP.B)B(15)-5/2014-Loose-I dated 04-01-2021	714

Annexure- 37.1

Copy of HP Government, Department of Personnel Notification No. Per(AP.B)B(15)-5/2014 dated 17th April, 2017 addressed to all Departments

(Referred to in Para 37.1)

The Governor of Himachal Pradesh is pleased to order to discontinue/dispense with the process of holding interviews in respect of direct recruitment for making recommendations for Class-III and IV posts/services under the State Government with immediate effect. The Governor of Himachal Pradesh is further pleased to order that the selection to all Class-III and IV posts/services under the State Government shall be made on the basis of merit of written examination or prescribed educational qualification followed by evaluation, based on the following parameters:

		for Class-III posts	for Class-IV posts
	Written Test	85 marks	---
i)	Weightage for the minimum educational qualification as per the Recruitment & Promotion Rules. {Percentage of marks obtained in the educational qualification would be multiplied by 0.025. For example, an individual has secured 50% marks in the required educational qualifications, he/she will be allowed 1.25 marks (50 X 0.025 = 1.25)}	2.5 (two & a half)	Percentage of marks obtained in qualifying examination to be calculated out of 85. For example, a candidate getting 50% marks in Matric will be given 42.5 marks.
ii)	Belonging to notified Backward Area or Panchayat, as the case may be	1 (one)	1 (one)
iii)	Land less family/ family having land less than 1 Hectare to be certified by the	1 (one)	2 (two)

	concerned Revenue Authority		
iv)	Non-employment Certificate to the effect that none of the family members is in Government/Semi Government.	1 (one)	2.5 (Two & a half)
v)	Differently abled persons with more than 40% impairment / disability/ infirmity	1 (one)	1 (one)
vi)	NSS (atleast one year) certificate holders in NCC / The Bharat Scout and Guide. Medal winner in National level sports competitions	1 (one)	1 (one)
vii)	BPL family having family annual income (from all sources) below ₹ 40,000/- or as prescribed by the Govt. from time to time.	2 (two)	2.5 (Two & a half)
viii)	Widow/divorced/destitute /single woman.	1 (one)	1.5 (one & a half)
ix)	Single daughter/Orphan	1 (one)	1 (one)
x)	Training of atleast 6 months duration related to the post applied for from a recognized University/Institution.	1 (one)	-----
xi)	Experience upto a maximum of 5 years in Govt./semi-Govt. organisation relating to the post applied for (0.5 mark only for each completed year).	2.5 (two and a half)	2.5 (two and a half)
	Pro-rata weightage for more/less than 15% interviews marks at present will be given accordingly.		

2. Where skill test and physical test, different from the personal interview, are the requirement/essentiality of recruitment process, these tests shall continue and only be of qualifying nature.

3. For already notified vacancies by the recruiting authorities prescribing personal interview, which have not been completed as yet, either the posts shall be re-advertised to the extent of dispensing with the personal interview and parameters as above may be adopted OR selection process shall be completed by 31-05-2017 by the respective recruiting authorities. In case(s) where advertisement for filling up of vacancies has been issued by the recruiting agencies but the written examination hasn't been held in such cases, the recruiting agencies will issue supplementary advertisement immediately clarifying that after written examination no interview will be held and the above parameters will be applicable for selection.

4. For isolated/specific post(s), if any, for which personal interview is considered absolutely essential, the prior concurrence of Department of Personnel and Finance Department shall be obtained.

Annexure- 37.2

Copy of HP Government, Department of Personnel Notification No. Per(AP.B)B(15)-5/2014 dated 25th April, 2017 addressed to all Departments.

(Referred to in Para 37.1.1)

The Governor of Himachal Pradesh is pleased to order that under the Recruitment and Promotion Rules in respect of Class-III and IV posts/services under the State Government where presently a provision of interview exists, the interviews process will not imply viva-voce or evaluating the personality of the incumbent. The selection to those Class-III and IV posts/services shall be made on the basis of merit of written examination or prescribed educational qualification followed by evaluation, by verifying the original documents/credentials only based on the parameters devised in the notification of even number dated 17-04-2017.

2. The Governor of Himachal Pradesh is further pleased to order that the concerned Department(s) will simultaneously initiate the process of carrying out amendment immediately in such Recruitment and Promotion rules in respect of Class-III and IV posts/services in consonance with the provisions of notification dated 17-04-2017 prescribing the evaluation criteria based upon pre-defined parameters.

Copy of HP Government, Department of Personnel letter No. Per(AP.B)B(15)-5/2014-loose-I dated 18th July, 2017 addressed to the Secretary, H.P. Staff Selection Commission, Hamirpur.

(Referred to in Para 37.2)

Subject: Clarification regarding 11 parameters for distribution of 15 marks during evaluation of the candidates for selection to Class-III posts, instructions thereof.

I am directed to refer to your letter No. HPSSC-A(7)-04/2017-11096 dated 06-06-2017 on the subject cited above and to say that the matter has been examined at Government level and in order to give suitable credit to professional qualifications, the following procedure is prescribed to follow in the case of posts of technical nature only;-

- (i) For technical posts, professional educational qualification prescribed in the R&P Rules shall be taken into consideration e.g. for the post of Junior Engineer (civil) Diploma (three year's) in civil Engineering or B.E/B. Tech. Degree in Civil Engineering; for TGT-B.Ed. and for Junior Office Assistant (IT) one year Diploma in Computer Science/Computer Application/IT may be given the prescribed weightage. In case of aspirants possessing multiple basic professional qualification, weightage may be given to higher percentage/marks.
- (ii) In the case of non-technical posts and where professional Degree/Diploma etc. is not required, the educational qualification as prescribed in the recruitment rules of the post shall be taken into account.

2. So far as the matter of the authorities competent to issue various certificates for the purpose of evaluation is concerned, the Government has prescribed these authorities, as under :-

- (i) The certificates of Backward Area/ Panchayat, Landless family/ family having less than 1 ha. land, non-employment/ income certificate etc. shall be issued by the concerned SDO (C), Tehsildar / Naib Tehsildar'
- (ii) The BPL certificate, widow/divorced/ destitute/single woman: single daughter orphan etc. shall be certified/issued by the concerned BDO by taking the authenticated entries in the 'Parivar Register' as the basis of such certificate.
- (iii) Differently abled person certificate shall be issued by the H&FW authorities/Medical Boards.
- (iv) NCC/NSS/Scouts & Guides shall be certified by the concerned Head of Institution.

(v) Medal winners in national level sports competitions shall be certified by the concerned District Youth services and sports Officer/Head of Institution.

You are requested to take further necessary action accordingly. Instructions in this regard to concerned authorities are being issued separately by the concerned Departments.

Annexure 37.4

Copy of HP Government, Department of Personnel Notification No. Per(AP.B)B(15)-5/2014-loose-I dated 18th July, 2017 addressed to the ACS (Revenue/Education/Health & Family Welfare), Secretary (RD & PR, YSS) and all DC's in H.P.

(Referred to in Para 37.3)

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Subject: Discontinuation of holding of interviews in respect of Class-III & IV posts/ services and issuance of certificate-clarification thereof.

I am directed to invite your attention to this Department notification No. Per(AP.B)B(15)-512014 dated 17-04-2017 dispensing with the process of holding interviews for making recommendation for appointment to Class-III and Class -IV posts under the State Government and prescribing that selection to such posts/service shall be made on the basis of merit of written examination or prescribed educational qualification followed by evaluation, based on the parameters, as defined therein, The Government has now further decided that following shall be the authorities competent to issue certificates, to be considered for the purpose of evaluation:-

Sr. No.	Name of Certificate	Authority
1	Backward Area/ Panchayat, Landless family/ family having less, than 1 ha. land, non-employment/ income certificate etc.	SDO(C)/ Tehsildar/ Naib Tehsildar
2	BPL/widow/divorced/destitute/single woman : single daughter/orphan etc.	BDO (by taking the authenticated entries in the 'Parivar Register' as the basis of such certificate)
3	Differently abled Person	Health & Family Welfare authorities/ Medical Boards
4	NCC/NSS/Scouts & Guides	Head of concerned institution
5	Medal winners in national level sports competitions	Concerned District Youth Services and Sports Officer I Head of institution

You are requested to brought this decision of the Government to the notice of all concerned for strict implementation.

The receipt of this letter may be acknowledged.

Annexure 37.5

Copy of HP Government, Department of Personnel Notification No. Per(AP.B)B(15)-5/2014-loose-I dated 15th September, 2017 addressed to

(Referred to in Para 37.4)

Subject: Discontinuation of holding of interviews in respect of Class-III & IV posts/ services and issuance of certificate-clarification thereof.

In continuation of this department's letter of even number dated 18.07.2017, I am directed to say that the Government has further decided that the following shall also be the authorities competent to issue certificates, within their jurisdiction, in the case of BPL/Widow/Divorced/ destitute/single woman: single daughter/ orphan etc., to be considered for the purpose of evaluation:

<u>Authority</u>	<u>Areas</u>
Commissioner/Joint/Assistant Commissioners	Municipal Corporation
Executive Officer	Municipal Council
Secretary	Nagar Panchayats

You are requested to brought this decision of the Government to the notice of all concerned for strict implementation.

The receipt of this letter may be acknowledged.

Annexure 37.6

Copy of HP Government, Department of Personnel Notification No. Per(AP.B)B(15)-5/2014-Loose-I dated 17th November, 2020 addressed to the ACS (Revenue/Education/Health & Family Welfare), Secretary (RD & PR, YSS), Secretary (UD) and all DC's in H.P.

{Referred to in Para 37.5 (i)}

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Subject: Discontinuation of holding of interviews in respect of Class-III & IV posts/services and issuance of certificate-clarification thereof.

In continuation of this Department letter of even number dated 18th July, 2017 (Annexure 37.4) on the subject cited above, I am directed to convey the decision that the

following shall be the authorities competent to issue "BPL/Widow/divorced/Single woman, single daughter/orphan etc." certificate in the Urban areas:-

"Executive Officer/Secretary, Municipal Committee/Council and Commissioner, Municipal Corporation."

These instructions may be brought to the notice of all concerned for strict implementation.

The receipt of this letter may be acknowledged.

Annexure 37.6

Copy of HP Government, Department of Personnel Notification No. Per(AP.B)B(15)-5/2014-Loose-I dated 04-02-2021 addressed to the ACS (Revenue), Secretary, UD, RD & PR, YSS, Education, Health & Family Welfare and all DC's in H.P.

{Referred to in Para 37.5 (ii)}

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Subject: Discontinuation of holding of interviews in respect of Class-III & IV posts/services and issuance of certificate-clarification thereof.

In continuation of this Department's letters of even number dated 18-07-2017 (Annexure 37.4) & 17-11-2020 (Annexure 37.6) on the subject cited above, I am directed to say that the certificate(s) issued by the following authorities shall also be competent to issue the Non Employment Certificate within their respective jurisdiction :-

Authority		Remarks
(i)	The Commissioner, Additional Commissioner/ Joint Commissioner of the Municipal Corporation/ Executive Officer of the Municipal Council/ Secretary of the Nagar Panchayat	In terms of the instructions dated 28 th August, 2015, 21 st July, 2016 and 18 th July, 2018 issued by the Urban Development Department
(ii)	Tehsildars/Naib Tehsildar, Sub Divisional Officer(Civil), Additional District Magistrate/ Additional Deputy Commissioner /Deputy Commissioner	In terms of the provisions prescribed in Chapter-28 of HP Land Manual

2. In case any other authority has been prescribed by any other Administrative Department to issue certificate(s) mentioned in this department's notification of even No. dated 17-04-2017, the certificates issued by such authority shall also be valid during the evaluation process.
3. These instructions may be brought to the notice of all concerned for strict compliance. The prescribed authorities may also be directed to entertain all requests for issuing various certificates pursuant to the letters of even number dated 18.07.2017 and 17.11.2020.
4. The receipt of this letter may be acknowledged.

Chapter 38

POLICY GUIDELINES FOR PROVIDING EMPLOYMENT ASSISTANCE TO THE ELIGIBLE DEPENDENTS OF MARTYRS SOLDIERS

38.1 Policy guidelines dated 23-04-2016 - The State Government in Department of Personnel decided to provide employment assistance to one eligible dependent of martyrs in relaxation of provision of direct recruitment prescribed in the Recruitment and Promotion rules prevailing in the State of respective category. The policy guidelines issued on 23-04-2016 in this behalf are as follows:

- (i) The consideration shall be made in respect to bonafide resident of Himachal Pradesh only.
- (ii) The consideration of eligible dependents of martyrs soldiers in order of priority to the widow or a son or unmarried daughter and in case unmarried person to a brother or an unmarried sister.
- (iii) The dependent(s) are to be considered for lowest rung of Class-III and Class-IV posts/services, as the case may be, keeping in view their educational qualifications, eligibility criteria and provisions as laid down in the recruitment rules for the concerned post.
- (iv) The consideration shall be admissible even if one or more members of the family of martyr soldier is/are in service.
- (v) The relaxation with regard to age and time limit shall be made with the prior approval of Hon'ble Chief Minister.
- (vi) The request for grant of employment assistance shall be made by the dependent of martyrs soldier to the concerned Deputy Commissioner within a period of one year of death. In case where none of the son/daughter of the deceased is major, the time limit in such event will be attainment of 18 years by the eldest son/unmarried daughter, as the case may be.
- (vii) The request received shall be forwarded to the Sainik Welfare Department for consideration and appropriate action in prior consultation with Finance Department and competent authority.
- (viii) The consideration shall be made only against direct recruitment quota post.
- (ix) The employment assistance shall be given in relaxation of recruiting procedure only after the approval of Finance Department in each case.

(H.P. Govt. Department of Personnel letter No. Per(AP.B)F(4)-1/99 dated 23-04-2016 – **Annexure 38.1**)

38.2 Extension of policy guidelines to martyrs soldiers of Para- Military

The State Government decided to extend the benefit of providing employment to one eligible dependent of martyrs of Para-Military in relaxation of provisions of direct recruitment prescribed in the recruitment rules prevailing in the State of respective category on the analogy and policy guidelines prescribed for martyrs soldiers, in larger public interest.

(H.P. Govt. Department of Personnel letter No. Per(AP.B)B(15)-2/2018 dated 04-07-2018 – **Annexure 38.2**)

38.3 Employment assistance to the dependents of soldiers belonging to Himachal Pradesh who lost their lives in Manipur on 04-06-2015.

In a militant attack on the army troops on 04-06-2015 in Manipur, seven soldiers belonging to the Himachal Pradesh sacrificed their lives for the nation. The State Government decided to provide employment assistance to the widows or one member of the family of the deceased soldier on the criteria issued vide Department of Personnel letter dated 08-10-2015.

(H.P. Govt. Department of Personnel letter No.Per(AP.B)B(15)-1/2014 dated 08-10-2015 – **Annexure 38.3**)

Annexures to Chapter 38

POLICY GUIDELINES FOR PROVIDING EMPLOYMENT ASSISTANCE TO THE ELIGIBLE DEPENDENTS OF MARTYRS SOLDIERS

Annexure No.	Detail of communication	Page No.
38.1	Per(AP.B)F(4)-1/99 dated 23-04-2016	719
38.2	Per(AP.B)B(15)-2/2018 dated 04-07-2018	720
38.3	Per(AP.B)B(15)-1/2014 dated 08-10-2015	721

Annexure 38.1

(Copy of H.P. Govt. Department of Personnel letter No. Per(AP.B)F(4)-1/99 dated 23-04-2016 addressed to all Secretaries, Divisional Commissioner, HoD's, DC's, Boards/Corporations & Universities)

(Referred to in Para 38.1)

Subject: Providing of employment assistance to the eligible dependents of martyrs soldiers.

I am directed to say that the matter with regard to providing employment assistance to the eligible dependents of martyrs soldiers was under consideration of the Government for some time past. After thorough consideration, it has been decided by the State Government to provide employment to one eligible dependent of martyrs in relaxation of provision of direct recruitment prescribed in the R&P Rules prevailing in the State of respective category on the following policy guidelines:-

- (i) The consideration shall be made in respect to bonafide resident of Himachal Pradesh only.
- (ii) The consideration of eligible dependents of martyrs soldiers in order of priority to the widow or a son or an unmarried daughter and in case of unmarried person to a brother or an unmarried sister.
- (iii) The dependent(s) are to be considered for lowest rung of Class-III and Class-IV posts/services, as the case may be, keeping in view their educational qualifications, eligibility criteria and provisions as laid down in the recruitment rules for the concerned post.
- (iv) The consideration shall be admissible even if one or more members of the family of martyr soldier is/are in service.
- (v) The relaxation with regard to age and time limit shall be made with the prior approval of Hon'ble Chief Minister.
- (vi) The request for grant of employment assistance shall be made by the dependent of martyrs soldier to the concerned Deputy commissioner within a period of one year of death. In case where none of the son/daughter of the deceased is major, the time limit in such event will be attainment of 18 years by the eldest son/unmarried daughter, as the case may be.
- (vii) The request received shall be forwarded to the Sainik Welfare Department for consideration and appropriate action in prior consultation with Finance Department and competent authority.
- (viii) The consideration shall be made only against direct recruitment quota post.

(ix) The employment assistance shall be given in relaxation of recruiting procedure only after the approval of Finance Department in each case.

The appointment under these instructions shall be made in the Government Departments/Board/Corporation and Autonomous Bodies where posts are lying vacant.

The concerned Deputy Commissioner shall ascertain the vacancy position, scrutinize/verify the papers of the applicant relating to age, educational qualification, fact of being dependent of the Defence Personnel killed in various operations/counter insurgency operations, death of such personnel, status of bonafide resident of Himachal Pradesh and submit the same to the concerned appointing authority under intimation to Sainik Welfare Department. Concerned Deputy Commissioners will co-ordinate with the appointing authority before recommending the case so as to ensure availability of posts and consequent appointment without delay.

These instructions may be adhered to strictly and brought to the notice of all concerned.

Annexure 38.2

(Copy of H.P. Govt. Department of Personnel letter No. Per(AP.B)B(15)-2/2018 dated 04-07-2018 addressed to all Secretaries, Divisional Commissioner, HoD's, DC's, Boards, Corporations & Universities)

(Referred to in Para 38.2)

Subject: Providing of employment assistance to the eligible dependents of Martyrs soldiers of para-military forces.

I am directed to say that the State Government after through consideration has decided to extend the benefit of providing employment to one eligible dependent of martyrs personnel of Para-Military Forces in relaxation of provision of direct recruitment prescribed in the R & P Rules prevailing in the State of respective category on the analogy and policy guidelines prescribed vide Department of Personnel letter No. Per(AP-B)F(4)1/99 dated 23rd April, 2016 for providing of employment assistance to the eligible dependents of martyr soldiers, with immediate effect, in the larger public interest.

These instructions may be adhered to strictly and brought to the notice of all concerned.

Annexure 38.3

(Copy of H.P. Govt. Department of Personnel letter No. Per(AP.B)B(15)—1/2014 dated 08-10-2015 addressed to all Secretaries, Divisional Commissioner, HoD's, DC's, Boards, Corporations & Universities)

(Referred to in Para 38.3)

Subject: Providing of employment assistance to the dependents of deceased soldiers who lost their lives in Manipur in June,2015.

I am directed to say that in a biggest militant attack in form of ambush on the army troops on Thursday 4th June, 2015 in Manipur, seven soldiers belonging to the Himachal Pradesh sacrificed their lives. The matter with regard to providing employment assistance to the dependents of the deceased soldiers was under consideration of the Government and after thorough consideration it has been decided to provide employment assistance to the widows or one member of the family of the deceased soldier on the following criteria:

- i) The employment assistance under these instructions will be allowed in order of priority to the widow or a son or an unmarried daughter and in case of unmarried person to father or mother or a brother or an unmarried sister.
- ii) The appointment under these instructions shall be made on the posts as per eligibility and qualification of the applicant. The appointment shall be made only against direct recruitment quota posts and candidates should possess educational and technical qualification prescribed for the posts in the recruitment rules.
- iii) If the applicant fulfills the qualification of Class-III post/service as per provisions of R&P Rules, the offer of appointment shall be given on contract basis.
- iv) If the applicant does not fulfill the qualification for the Class-III post/service as per provisions of R&P Rules, then the offer of appointment shall be given as Class-IV on daily waged basis.
- v) The employment assistance under the scheme shall be admissible even if one or more members of the family of such persons is/are already in government employment.
- vi) The employment under these instructions shall be in relaxation of recruitment procedure i.e. without the recruitment agency of H.P. Public service commission or H.P. Subordinate Services Selection Board, Hamirpur or employment exchange.

vii) The request for grant of employment assistance shall be made by the widow or one member of the family of deceased soldier, as the case may be, to the Deputy Commissioner concerned within a period of one year.

viii) In case where none of the sons/daughter of such persons is major, the time limit will be attainment of 18 years by the eldest son/ unmarried daughter.

The employment assistance under these instructions shall be made in the Government Departments.

The concerned Deputy Commissioner shall scrutinize /verify the papers of the applicant relating to age, educational/technical qualifications and, fact of being dependent of the deceased soldier, bonafide resident of Himachal Pradesh and submit the case to the Sainik welfare Department, which is the nodal Department. Sainik Welfare Department will co-ordinate with the concerned appointing authority before recommending the case so as to ensure availability of posts and consequent appointment in time. The appointing authority shall offer appointment to the applicant without any delay.

These instructions may be adhered to strictly and brought to the notice of all concerned.

This is being issued with the prior concurrence of Finance Department obtained vide Diary Number 53354924 dated 07-09-2015.

Chapter 39

Formation of Difficult Area Sub-Cadre

39.1 - Decision regarding formation of Difficult Area Sub-Cadre

In order to remove regional imbalance in development, State Government's priority to various sectors of developmental infrastructure and special services in the tribal and backward areas of the State where the level of development was much lower than in the other parts of the Pradesh due to difficult geographical conditions and remoteness, development activities are taken in the public/government sector and leading role of administrative machinery in efficient and effective implementation of various programmes and schemes, the State Government decided that a Difficult Area Sub-Cadre of all posts/services of various Departments be formed.

39.2 - Constitution, Structure and Terms of the Difficult Area Sub-Cadre

The following are the Constitution, Structure and Terms of the Difficult Area Sub-Cadre:-

- i) There will be State Sub-Cadre of State Cadre posts and District Sub-Cadre of Distt. Cadre posts.
- ii) Total sanctioned posts in difficult areas in respective categories mentioned above will form the strength of the sub-cadre.
- iii) There will be common seniority i.e. seniority of the employees borne on the sub-cadre will be maintained in the State level seniority list of the State Cadre and Distt. Level for District Cadres.
- iv) Existing transfer policy will continue only the fresh direct recruitment posts against the vacancies existing in these areas.
- v) Employees so recruited against the sub-cadre shall have a minimum tenure of five years. On completion of five years of service in the difficult areas, they will be posted in non-difficult areas in any one of the three districts of their choice.
- vi) The process of transfer from difficult to non-difficult areas will be completed within one year so that maximum stay in sub-cadre is six years. Hence, all the departments will initiate process for filling up of resultant vacancies arising due to such transfers well before completion of five years. In case number of direct recruits in a cadre in particular year is more than the number of vacancies in the Sub-Cadre, the existing members of the Sub Cadre will be brought to the main cadre purely on seniority basis.

- vii) In case any employee of the sub-cadre is promoted in the next higher grade during this period of 5 years in normal course based on common seniority, he shall continue to complete the balance period, if post is available, in difficult area so that total of five years tenure is completed. Those officials who opt for further continuation in the sub-cadre even after completion of tenure shall be allowed, for which options should be ascertained well in advance to avoid excess recruitment.
- viii) Transfer within the sub-cadre will be permissible with average tenure of three years in one station.
- ix) Employees working in other departments outside the difficult areas in similar equivalent posts should also be allowed to be posted against vacant posts in other departments in the difficult areas by way of temporary transfer/deputation without any deputation allowance.
- x) In exceptional situations where there is delay in process of filling up of posts by way of direct recruitment, vacancies should be filled up on contract basis.
- xi) No additional monetary incentive will be available for employees of the sub-cadre. However, they will be entitled for special allowance applicable to employees posted in such difficult areas.

39.3 – Special DPCs for eligible persons and promotion of senior most employee of the sub-cadre posted in the difficult areas on officiating basis

The formation of Difficult Area Sub-Cadre doesn't include the posts which are filled up by way of promotion because of the reasons that this aspect is separately under examination and consideration of the Government. Till such time, in order to ensure filling up of all promotional posts on regular basis, it is decided that special Departmental Promotion Committee should be held for all the promotional posts in the difficult areas. While holding normal Departmental Promotion Committee, it is likely that the person promoted and posted in difficult area may not join or try for his posting to some other stations and consequently either there will be delay in joining or in case of foregoing promotion by such promotee there will be time lag in holding fresh DPC. Hence, special DPCs for eligible persons, including beyond the zone of consideration, should be obtained and Departmental Promotion Committee should held from amongst the candidates who opt for their promotion and posting in difficult areas. Such promotion will be regular promotion for all intent and purposes and consequential benefits. In case of small feeder categories or in the event of non-availability of any eligible persons, the senior most employee of the sub-cadre posted in the difficult areas shall be promoted on officiating basis with full consequential benefits i.e Administrative powers and financial benefits for a period of at least one year till next DPC is held. However, such promotion will be only for the period till the regular incumbent joins. When there is no vacancy in the cadre, normal

transfer policy will be followed. The officials opting for promotion to the difficult areas through special DPC shall have to work for a minimum period of three years in the difficult areas or till superannuation, whichever is earlier.

In order to ensure filling up of all promotional posts on regular basis, the State Government decided that special DPCs should be held for all the promotional posts in the difficult areas. While holding normal Departmental Promotion Committee, it is likely that the person promoted and posted in difficult area may not join or try for his posting to some other stations and consequently either there will be delay in joining or in case of foregoing promotion by such promotee there will be time lag in holding fresh Departmental Promotion Committee. Hence, special DPCs for eligible persons, including beyond the zone of consideration, should be obtained and Departmental Promotion Committee should be held from amongst the candidates who opt for their promotion and posting in difficult areas. Such promotion will be regular promotion for all intent and purposes and consequential benefits.

39.4 - Areas of State identified for Difficult Area Sub-Cadre

The following areas of the State were identified for the purpose of Difficult Area Sub-Cadre:-

1. All tribal areas of the State.
2. Tissa Sub-Division and Mehla Block of Chamba Distt.
3. Shillai and Sangrah Tehsil of Sirmour Distt.
4. Chhota Bhangal and Bara Bhangal area of Kangra District
5. Tehsil Tunag and Karsog including Bali-Chowki and Nehri Sub-Tehsil and Development Block Drang and Development Block Seraj of Mandi District.
6. Tehsil Chopal, Rohroo, Chirgaon, Dodra-Kawar and Rampur of Shimla District.
7. Tehsil Banjar, Ani and Nirmand of Kullu District.

(H.P. Government, Department of Personnel letter No. Per(AP.C)B(19)-1/94 dated 22-06-1999 – **Annexure 39.1**)

39.5 - Reformulation of Difficult Area Sub-Cadre

The State Government vide letter dated 19-11-2013 reformulated the Difficult Area Sub-Cadre as under and also conveyed that the other terms and conditions regulating the Difficult Area Sub-Cadre issued on 22nd June, 1999 (Annexure 39.1) shall remain unchanged:-

1. All tribal areas of the State.
2. Churah Block of Chamba District

3. 15/20, 18/20, 12/20 areas of Rampur Sub Division including Kuki, Darkali, Munish, Kasapat Panchayat, District Shimla.
4. Dodra Kwar Sub Divison of District Shimla.
5. Jabal Khabal, Pekha, Tangnu, Yanglik, Dundi, Mehala, Sindasli, Dagoli, Rohal, Ranol, Kharsali, Gaonsari, Diswani, Dakgaon Panchayats of Chaura Block of Rohru Sub Division, District Shimla
6. Sub Tehsil Kupvi of District Shimla
7. Chhota Bhangal and Bara Bhangal area of Kangra District
8. Shillai and Sangrah Tehsil of Sirmour Distt
9. Chunar Ghati of District Mandi.

(H.P. Government, Department of Personnel letter No. Per(AP.C)B(19)-1/2013 dated 19th November, 2013 – **Annexure 39.2**)

39.6 - Reformulation of Difficult Area Sub-Cadre on 3rd October, 2016

The State Government vide letter dated 03-11-2016 reformulated the Difficult Area Sub-Cadre as under and also conveyed that the other terms and conditions regulating the Difficult Area Sub-Cadre issued on 22-06-1999 (Annexure 39.1) shall remain unchanged:-

1. All tribal areas of the State.
2. Churah and Mehla Block of Chamba District
3. 15/20, 18/20, 12/20 areas of Rampur Sub Division including Kuki, Darkali, Munish, Kasapat Panchayat, District Shimla.
4. Dodra Kwar Sub Divison of District Shimla.
5. Jabal Khabal, Pekha, Tangnu, Janglik, Diudi, Mayla, Sindasli, Dhagoli, Rohal, Ranol, Kharshali, Gaonsari, Diswani, Dakgaon Panchayats of Chhohara Block of Rhoru Sub Division, District Shimla
6. Sub Tehsil Kupvi of District Shimla
7. Chhota Bhangal and Bara Bhangal area of Kangra District.
8. Shillai and Sangrah Tehsisl of Sirmour District.
9. Patwar Circle Charana of Tehsil Nohradhar and Patwar Circles; Khala Kyar, Bhatgarh, Koti Dhiman and Jarag of Tehsil Dadahu, District Sirmour.
10. Chunar Ghati of District Mandi.

(H.P. Government, Department of Personnel letter No. Per(AP)C-B(19)-1/2013 dated 3rd October, 2016 – **Annexure 39.3**)

39.7 - Formulation of Difficult Area Sub-Cadre – reduction of tenure

As per policy, the employees so recruited/promoted against the Sub-cadre shall have a minimum tenure of five years of service in the aforesaid cadre. This tenure in the Difficult Area Sub-Cadre was reduced from five years to four years vide letter dated the 11th July, 2003.

(H.P. Government, Department of Personnel letter No. Per(AP)C-B(19)-1/94-Part-II dated 11-07-2003 – **Annexure 39.4**)

39.8 -Formulation of Difficult Area Sub-Cadre – Enhancement of tenure

It was come to the notice of the Government that due to reduction of tenure in Difficult Area Sub Cadre, the very purpose of creating this Sub Cadre was being defeated, as most of the posts remain vacant in the Difficult Area Sub Cadre. The reduction of tenure of stay was hampering the smooth functioning of the administration. In view the above facts, the Government reviewed the matter and decided that the tenure of stay of the employees in the Difficult Area Sub Cadre may be restored to five years from four years. It has been conveyed that this decision will be applicable on uniform basis in all the Departments of the Government including Education Department. The instructions issued vide letter of even number dated the 11th July, 2003 were withdrawn.

(H.P. Government, Department of Personnel letter No. Per(AP-C)B(19)-1/94-Part-II, dated 15th September, 2004 – **Annexure 39.5**)

Annexures to Chapter-39

Formation of Difficult Area Sub-Cadre

Annexure No.	Details of communications	Page No.
39.1	No. Per(AP-C)B(19)-1/94 dated 22-06-1999	729
39.2	No. Per(AP-C)B(19)-1/2013 dated 19-11-2013	732
39.3	No. Per(AP)C-B(19)-1/2013 dated 03-10-2016	733
39.4	No. Per(AP-C)B(19)-1/94 dated 11-07-2003	734
39.5	No. Per(AP-C)B(19)-1/94 dated 15-09-2004	735

Annexure 39.1

(Copy of H.P. Government, Department of Personnel letter No. Per(AP.C)B(19)-1/94 dated 22-06-1999 addressed to all Administrative Secretaries/ HoD's/Divisional Commissioner/ Deputy Commissioner in H.P.)

(Referred to in Paras 39.1 to 39.4)

Subject : Decision regarding formation of Difficult Area Sub-Cadre.

I am directed to say that in order to remove regional imbalances in development, State Government is giving special priority to various sectors of development infrastructure and social services in the tribal and backward areas of the State, where the level of development is much lower than that in the other parts of the State due to difficult geographical conditions and remoteness. All such developmental activities are being undertaken in the Public/Government sector and hence the administrative machinery has a leading role in efficient and effective implementation of various programmes and schemes. One of the major impediments in effective implementation of the programmes has been large number of vacancies in the various departments in these areas. Due efforts have been made from time to time, including formulation of transfer of employees in these areas but despite all these efforts the situation has not improved.

2. Keeping this impediment in view, the Govt. have now decided that a Difficult Area Sub-Cadre of all the posts/services of various Department will be formed forthwith. To start with, the following posts shall be included for the initial constitution of sub-cadre:-

NAME OF DEPARTMENT(S)	NAME OF THE POSTS
	(Direct recruitment case only)
1. Animal Husbandry	Veterinary Doctor and Veterinary Pharmacist
2. P.W.D IPH & HPSEB	AEs, JEs, Draftsman & Surveyor
3. Secondary Education	TGTs, College and School Cadre Lecturer and C&V Teachers
4. Health & Ayurveda	Doctors, Nurses, Pharmacists, MPWs, FHWs and all categories of Technicians
5. Welfare	ICDS Supervisors Tehsil Welfare Officers.
6. Police	Constables, Head Constables, ASIs
7. Panchayat Raj	Gram Panchayat Vikas Adhikari,

- | | |
|--|--|
| | Gram Sevikas (Distt. Cadre) |
| 8.Primary Education | JBT Teachers (Distt. Cadre) |
| 9. Revenue | Patwaris (Distt. Cadre & Naib
Tehsildars, Tehsildars. |
| 10. Clerks & Steno typists of all Departments. | |
| 11. ADOs of Agriculture and Horticulture Deptt. | |
| 12. EOs/Inspectors/Sub Inspectors of Industries, Cooperation, Food & Supplies and Excise & Taxation Departments. | |

The Department may include more services/posts in addition to the above in the Sub Cadre at their own level whenever and wherever required.

3. Following shall be the Constitution, Structure and Terms of the Sub Cadre:-

- i) There will be State Sub-Cadre of State Cadre posts and District Sub-Cadre of Distt. Cadre posts.
- ii) Total sanctioned posts in difficult areas in respective categories mentioned above will form the strength of the sub-cadre.
- iii) There will be common seniority i.e. seniority of the employees borne on the sub-cadre will be maintained in the State level seniority list of the State Cadre and Distt. Level for District Cadres.
- iv) Existing transfer policy will continue only the fresh direct recruitment posts against the vacancies existing in these areas.
- v) Employees so recruited against the sub-cadre shall have a minimum tenure of five years. On completion of five years of service in the difficult areas, they will be posted in non-difficult areas in any one of the three districts of their choice.
- vi) The process of transfer from difficult to non-difficult areas will be completed within one year so that maximum stay in sub-cadre is six years. Hence, all the departments will initiate process for filling up of resultant vacancies arising due to such transfers well before completion of five years. In case number of direct recruits in a cadre in particular year is more than the number of vacancies in the Sub-Cadre, the existing members of the Sub Cadre will be brought to the main cadre purely on seniority basis.
- vii) In case any employee of the sub-cadre is promoted in the next higher grade during this period of 5 years in normal course based on common seniority, he shall continue to complete the balance period, if post is available, in difficult area so that total of five years tenure is completed. Those officials who opt for further continuation in the sub-cadre even after completion of tenure shall be allowed, for which options should be ascertained well in advance to avoid excess recruitment.

- viii) Transfer within the sub-cadre will be permissible with average tenure of three years in one station.
- ix) Employees working in other departments outside the difficult areas in similar equivalent posts should also be allowed to be posted against vacant posts in other departments in the difficult areas by way of temporary transfer/deputation without any deputation allowance.
- x) In exceptional situations where there is delay in process of filling up of posts by way of direct recruitment, vacancies should be filled up on contract basis.
- xi) No additional monetary incentive will be available for employees of the sub-cadre. However, they will be entitled for special allowance applicable to employees posted in such difficult areas.

4. Presently, the formation of above Sub Cadre does not include the posts which are filled up by way of promotion because of the reasons that this aspect is separately under examination and consideration of the Government. Till such time, in order to ensure filling up of all promotional posts on regular basis, it is decided that special Departmental Promotion Committee should be held for all the promotional posts in the difficult areas. While holding normal Departmental Promotion Committee, it is likely that the person promoted and posted in difficult area may not join or try for his posting to some other stations and consequently either there will be delay in joining or in case of foregoing promotion by such promotee there will be time lag in holding fresh DPC. Hence, special DPCs for eligible persons, including beyond the zone of consideration, should be obtained and Departmental Promotion Committee should be held from amongst the candidates who opt for their promotion and posting in difficult areas. Such promotion will be regular promotion for all intent and purposes and consequential benefits. In case of small feeder categories or in the event of non-availability of any eligible persons, the senior most employee of the sub-cadre posted in the difficult areas shall be promoted on officiating basis with full consequential benefits i.e Administrative powers and financial benefits for a period of at least one year till next DPC is held. However, such promotion will be only for the period till the regular incumbent joins. When there is no vacancy in the cadre, normal transfer policy will be followed. The officials opting for promotion to the difficult areas through special DPC shall have to work for a minimum period of three years in the difficult areas or till superannuation, whichever is earlier.

5. The areas of the State identified for the purpose of Difficult Area Sub-Cadre are as under:-

1. All tribal areas of the State.
2. Tissa Sub-Division and Mehla Block of Chamba Distt.
3. Shillai and Sangrah Tehsil of Sirmour Distt.
4. Chhota Bhangal and Bara Bhangal area of Kangra District

5. Tehsil Tunag and Karsog including Bali-Chowki and Nehri Sub-Tehsil and Development Block Drang and Development Block Seraj of Mandi District.
6. Tehsil Chopal, Rohroo, Chirgaon, Dodra-Kawar and Rampur of Shimla District.
7. Tehsil Banjar, Ani and Nirmand of Kullu District.

6. Accordingly, henceforth all the direct recruitments against the State Cadre posts and the District Cadre posts will be made under Difficult Area Sub-Cadre. It is requested that the steps to fill up all vacant posts in the Tribal/Difficult Areas indentified for the purpose may be initiated immediately. Similar action may also be taken for filling up of posts on promotion basis.

7. It is requested that immediate necessary steps for the proper implementation of above Government decision may kindly be initiated and all these instructions be brought to the notice of all concerned under you for their strict compliance.

Annexure 39.2

(Copy of H.P. Government, Department of Personnel letter No. Per(AP.C)B(19)-1/2013 dated 19-11-2013 addressed to all Administrative Secretaries/ HoD's/Divisional Commissioner/Deputy Commissioner in H.P.)

(Referred to in Paras 39.5)

Subject : Formation of Difficult Area Sub-Cadre.

I am directed to refer to the subject cited above and to say that the Department of Personnel has circulated detailed instructions regarding formulating of difficult area sub-cadre vide this Department letter No. Per(AP-C)B(19)-1/94, dated 22nd June, 1999. Reformulation of difficult area sub-cadre was under consideration of State Government for the past sometime. Therefore, it has not been decided to reformulate the difficult area sub-cadre as under:-

1. All tribal areas of the State.
2. Churah Block of Chamba District
3. 15/20, 18/20, 12/20 areas of Rampur Sub Division including Kuki, Darkali, Munish, Kasapat Panchayat, District Shimla.
4. Dodra Kwar Sub Divison of District Shimla.

5. Jabal Khabal, Pekha, Tangnu, Yanglik, Dundi, Mehala, Sindasli, Dagoli, Rohal, Ranol, Kharsali, Gaonsari, Diswani, Dakgaon Panchayats of Chaura Block of Rhoru Sub Division, District Shimla
6. Sub Tehsil Kupvi of District Shimla
7. Chhota Bhargal and Bara Bhargal area of Kangra District
8. Shillai and Sangrah Tehsil of Sirmour Distt
9. Chunar Ghati of District Mandi.

2. The other terms and conditions regulating the difficult area sub-cadre issued vide letter No. Per(AP-C)B(19)-1/94, dated 22nd June, 1999 shall remain unchanged.

3. It is requested that these instructions may be brought to the notice of all concerned under your control for strict compliance.

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Annexure 39.3

(Copy of H.P. Government, Department of Personnel letter No. Per(AP)C-B(19)-1/2013 dated 03-10-2016 addressed to all Administrative Secretaries/ HoD's/Divisional Commissioner/Deputy Commissioner in H.P.)

(Referred to in Paras 39.6)

Subject : Formation of Difficult Area Sub-Cadre.

In continuation of instructions resting with this department's letter of even number dated 19.11.2013, I am directed to say that the State Government has now decided to reformulate the difficult area sub-cadre as under:-

1. All tribal areas of the State.
2. Churah and Mehla Block of Chamba District
3. 15/20, 18/20, 12/20 areas of Rampur Sub Division including Kuki, Darkali, Munish, Kasapat Panchayat, District Shimla.
4. Dodra Kwar Sub Divison of District Shimla.
5. Jabal Khabal, Pekha, Tangnu, Janglik, Diudi, Mayla, Sindasli, Dhagoli, Rohal, Ranol, Kharshali, Gaonsari, Diswani, Dakgaon Panchayats of Chhohara Block of Rhoru Sub Division, District Shimla
6. Sub Tehsil Kupvi of District Shimla
7. Chhota Bhargal and Bara Bhargal area of Kangra District.
8. Shillai and Sangrah Tehsisl of Sirmour District.

9. Patwar Circle Charana of Tehsil Nohradhar and Patwar Circles; Khala Kyar, Bhatgarh, Koti Dhiman and Jarag of Tehsil Dadahu, District Sirmour.
10. Chunar Ghati of District Mandi.

2. The other terms and conditions regulating the difficult area sub-cadre issued vide letter No. Per(AP-C)B(19)-1/94, dated 22nd June, 1999 shall remain unchanged.
3. It is requested that these instructions may be brought to the notice of all concerned under your control for strict compliance.

Annexure 39.4

(Copy of H.P. Government, Department of Personnel letter No. Per(AP-C)B(19)-1/94 dated 11-07-2003 addressed to all Administrative Secretaries/ HoD's/Divisional Commissioner/Deputy Commissioner in H.P.)

(Referred to in Paras 39.7)

Subject : Decision regarding formation of Difficult Area Sub-Cadre.

I am directed to say that the State Government had issued policy instructions regarding formation of Difficult Area Sub-Cadre vide this Department letter No. Per(AP.C)B(19)-1/94 dated 22-06-1999. As per policy, the employees so recruited/promoted against the Sub-cadre shall have a minimum tenure of five years of service in the Difficult Area. The representations from various Institutions were being received in this Department for the reduction of aforesaid tenure in the Difficult Area Sub-Cadre. As such the matter was under consideration of the Govt. for some time past. Now, it has been decided that the aforesaid tenure may be reduced from five years to four years. Accordingly, the condition No. (iv) as prescribed in the main policy as referred to above may be replaced as under:-

“Employees so recruited against the Sub cadre shall have a minimum tenure of four years. On completion of four years of service in Difficult Area they will be posted in Non-Difficult Areas in any one of the three District of their choice.”

Annexure 39.5

(Copy of H.P. Government, Department of Personnel letter No. Per(AP-C)B(19)-1/94 dated 15-09-2004 addressed to all Administrative Secretaries/ HoD's/Divisional Commissioner /Deputy Commissioner in H.P.)

(Referred to in Paras 39.8)

Subject : Formation of Difficult Area Sub-Cadre –Enhancement of tenure thereof.

I am directed to say that the State Government had issued policy instructions regarding formation of Difficult Area Sub-Cadre vide this Department letter No. Per(AP.C)B(19)-1/94 dated 22-06-1999. As per policy, the employees so recruited/promoted against the Sub-cadre shall have a minimum tenure of five years of service in the aforesaid cadre. Subsequently, the tenure in the Difficult Area Sub-Cadre was reduced from five years to four years vide this Department instructions of even number dated the 11th July, 2003.

It has come to the notice of the Government that due to reduction of tenure in Difficult Area Sub Cadre, the very purpose of creating this Sub Cadre is being defeated, as most of the posts remain vacant in the Difficult Area Sub Cadre. This decision was, therefore, hampering the smooth functioning of the administration. Keeping in view the above facts, the Government has now reviewed the matter and have decided that the tenure of stay of the employees in the Difficult Area Sub Cadre may be restored to five years from four years. This decision is to be applicable on uniform basis in all the Departments of the Government including Education Department.

Hence, the instructions previously issued vide this Department letter of even number dated the 11th July, 2003 may please be treated as withdrawn.

It is, therefore, requested that these instructions may be brought to the notice of all concerned under you for strict compliance.

Chapter 40

PRODUCTION OF DOCUMENTS FOR SELECTION IN HIMCHAL PRADESH

40.1 Decision of the Government not to attach certificates

Keeping in view the facts that the competent authorities have to devote time for issuing certificates/documents at the cost of other important duties and functions and the applicants have also to spend a lot of time, energy and money for obtaining various certificates/documents from the concerned authorities which causes avoidable expenditure and inconvenience to the applicants who are generally poor, unemployed, the State Government decided that the applicants for jobs shall not be asked to attach any of the certificates viz. Caste/ Tribe/ Income/ Domicile/ Character etc. alongwith their applications while applying for various jobs under the State Government/PSU's. Only photocopies of educational qualification shall be required to be attached and in respect of other certificates, the candidate will give only a self declaration and original certificates will be required to be produced at the time of interview only by those candidates who are selected for such final interview. If any candidate gives wrong/ false declaration, he/she will be debarred from employment in State Governments/Board/ Corporation/ Autonomous Bodies for a period of three years.

(H.P. Government Department of Personnel letter No. Per(AP.B)B(19)-2/99 dated 12-02-1999 - **Annexure 40.1**)

40.2 Revised procedure w.e.f 07-01-2000

The H.P. Government in Department of Personnel after through consideration reconsidered the procedure devised vide letter dated 12-02-1999 and prescribed the following procedure:

- i) That the candidates while applying for various posts under the State Government/Board or Corporation/ PSU through HP Public Service Commission , shall be required to submit the copies of statutory certificates viz. Schedules Caste, Scheduled tribes and also of Educational Qualifications alongwith their application forms. However, for rest of the certificates i.e. IRDP, Ward of Ex-Servicemen, OBC etc., the candidates shall be required to give self declaration in the revised form (copy enclosed). These certificates will be produced by the candidates at the time of viva-voce.

- ii) The candidates while applying for various posts through Himachal Pradesh Subordinate Selection Board, Hamirpur (now Himachal Pradesh Staff Selection Commission) shall not be required to attach the copies of certificates as mentioned at Sl. No. 1 above alongwith their applications. However, the candidates shall have to give self-declaration on the revised form attached. All such certificates shall be produced by them at the time of viva-voce and/or before the appointing authorities at the time of their joining.

(H.P. Government Department of Personnel letter No. Per(AP.B)B(19)-2/99 dated 7th January, 2000 - **Annexure 40.2**)

40.3 Reiteration of instructions

Department of Personnel vide letter dated 18-08-2008 has reiterated the instructions dated 12-02-1999 and 07-01-2000 and requested to ensure the compliance of the above instructions in letter and spirit.

(H.P. Government Department of Personnel letter No. Per(AP.B)B(19)-2/99 dated 18th August, 2008 - **Annexure 40.3**)

Note: The State Government in Department of Personnel vide notification No. Per (AP.B)B(15)-5/2014 dated 17th April, 2017 (Please see Annexure 37.1 of Chapter 37 of this Hand Book) has discontinued/ dispensed with the process of holding interviews for Class-III and IV posts/services and ordered that the selection to all Class-III and IV posts/services under the State Government shall be made on the basis of merit of written examination or prescribed educational qualification followed by evaluation, based on the parameters as contained therein. Now, the originals certificates of the called candidates are verified at the time of evaluation/counseling by the HPSSC, Hamirpur or concerned recruitment agency, as the case may be.

• On line procedure of HPPSC

1. Candidates are required to visit at <http://www.hp.gov.in/hppsc/> to access the home page of the "ONLINE APPLICATION FILING SYSTEM".
2. Before filling up the form candidates have to read carefully the Notification/Advertisement for the post(s)/Exam(s) and also ensure that he/she is eligible in terms of the conditions/provisions mentioned in the Advertisement/Notification.
3. The candidates have to follow the "STEPS" determined for filing Online Applications.

4. NEW USER can register by clicking “NEW USER SIGNUP HERE” link available on the home page of HPPSC Website. On successful registration, a candidate ID is generated by the ORA System.
5. REGISTERED USER registered with the HPPSC for any Exam/Test need not to register again.
6. The candidates have to note down the user ID and Password which is applicable for all future references regarding examination(s)/ test(s) and also for future notification(s)/advertisement(s) issued by the HPPSC from time to time. The inserted profile of the candidate will be saved and no need to re-enter the same time and again.
7. The ‘CLICK TO APPLY’ button has to be clicked given against a recruitment case for filling up and submitting the Online application.

- **Online application procedure of HPSSC**

1. The candidates have to read the instructions carefully, which are also available on the website of the HPSSC, i.e. <http://www.hpsssb.hp.gov.in> before filling up ORA for the post(s) concerned.
2. Incomplete ORA submitted without requisite examinations fee, scanned photograph & scanned signatures of prescribed size, will be rejected straightway.
3. The candidates have to apply online well in time without waiting for the last date of submission of Online application, due to heavy rush on systems on last dates which may lead to non submission of forms.

Annexures to Chapter-40

PRODUCTION OF DOCUMENTS FOR SELECTION IN HIMCHAL PRADESH

Annexure No.	Details of communications	Page No.
40.1	No. Per(AP.B)B(19)-2/99 dated 12-02-1999	740
40.2	No. Per(AP.B)B(19)-2/99 dated 07-01-2000	742
40.3	No. Per(AP.B)B(19)-2/99 dated 18-08-2008	743

Annexure 40.1

(Copy of H.P. Government, Department of Personnel letter No. Per(AP.B)B(19)-2/99 dated 12th February, 1999 addressed to all Administrative Secretaries/HoD's/Divisional Commissioner/Deputy Commissioner/Boards/Corporations & Universities in H.P.)

(Referred to in Para 40.1)

Subject : Production of documents while appearing for selection to various posts under the State Government/PSU's.

Jai Hind.

I am directed to say that present practice of production of various certificates/documents while applying for selection to various posts under the State Government has been reviewed. It has been observed that the applicants have to spend a lot of time, energy and money for obtaining various certificates/documents from concerned authorities while applying for various posts/services under the State Government, Boards and Corporations. This causes avoidable expenditure and inconvenience to the applicants who are generally poor, unemployed youth. On the other hand, the competent authorities for issuing such certificates/documents also have to devote time for this purpose at the cost of other important duties and functions.

In view of this, government have now decided that the applicants for jobs shall not be asked to attach any of these certificates viz. Caste/Tribe/Income/Domicile/Character etc. alongwith their applications while applying for various jobs. Only photocopies of certificates of educational qualifications shall be required to be so attached. For all other certificates, candidates will give only a self declaration. Such declaration will be given on the proforma as prescribed by recruiting agency in the application form, if so devised or on plain paper as laid down by the recruiting agency. The certificates in original will be required to be produced at the time of final interview only by those candidates who are selected for such final interview. If any candidate gives wrong/false declaration, he will be debarred from employment in State Government/Board/Corporation/ Autonomous Bodies for a period of three years.

These instructions may be brought to the notice of all concerned officers/officials for strict compliance.

Kindly acknowledge receipt.

—

DECLARATION

I _____ S/O. D/O Sh _____
R/o Village _____ P.O. _____
Tehsil _____ District _____ Himachal Pradesh do hereby declares
as follows:-

- *1. that I am a bonafide resident of Himachal Pradesh * on account of having my permanent house in H.P./ *residence for a period of 15 years/ *having my permanent home in H.P. but living outside H.P. on account of my occupation.
- *2 that I belong to _____ *Caste/*Tribe which is recognized as a Scheduled *Caste/*Tribe under the Constitution of India.
- *3 that I belong to _____ caste which has been declared as Other backward Class (OBC) by the H.P. Government and further I do not fall under the definition of "Creamy Layer".
- *4 that the annual income of my family from all sources does not exceed Rs. _____.
- *5 that I belong to IRDP family.
- *6 that I have no criminal cases pending against me not convicted in any such case.

I further declare that the above declaration is true to the best of my knowledge and that in the event of this declaration being founds incorrect, I shall be liable to be debarred from any service/job under the Government of H.P for a period of 3 years.

(Signature of Applicant)

Date : _____

Place: _____

* Note : Please strike out whichever is not applicable.

Annexure 40.2

(Copy of H.P. Government, Department of Personnel letter No. Per(AP.B)B(19)-2/99 dated 7th January, 2000 addressed to all Administrative Secretaries/HoD's/Divisional Commissioner/Deputy Commissioner/Boards/ Corporations & Universities in H.P.)

(Referred to in Para 40.2)

Subject : Production of documents while appearing for selection to various posts under the State Government/PSU's.

Jai Hind.

I am directed to refer to the subject cited above and to say that the policy with regard to the production of documents viz. Caste/Tribe/Income/Domicile/Character/Educational qualifications certificate etc. alongwith the applications while applying for various jobs through Himachal Pradesh Public Service Commission and Himachal Pradesh Subordinate Services Selection Board was formulated vide this Department letter of even number dated 12.2.99. This matter was reconsidered by the Government and after thorough consideration it has been decided that henceforth the following procedure shall be followed:-

- i) That the candidates while applying for various posts under the State Government/Board or Corporation/ PSU through HP Public Service Commission , shall be required to submit the copies of statutory certificates viz. Schedules Caste, Scheduled Tribes and also of Educational Qualifications alongwith their application forms. However, for rest of the certificates i.e. IRDP, Ward of Ex-Servicemen, OBC etc., the candidates shall be required to give self declaration in the revised form (copy enclosed). These certificates will be produced by the candidates at the time of viva-voce.
- ii) The candidates while applying for various posts through Himachal Pradesh Subordinate Selection Board, Hamirpur shall not be required to attach the copies of certificates as mentioned at Sl. No. 1 above alongwith their applications. However, the candidates shall have to give self-declaration on the revised form attached. All such certificates shall be produced by them at the time of viva-voce and/or before the appointing authorities at the time of their joining.

2. The revised format for self-declaration enclosed will form part of the application because application format will contain all the relevant information for whole proof by way of certificates, which would be required.
3. In case any candidates gives false information, he will be debarred from employment in State Govt./ Board/ Corporation/ Autonomous Bodies for a period of three years and shall also be liable for criminal proceedings.
4. The instructions issued vide this Department letter of even number dated 12th February, 1999 stand modified to the extent referred to above.
5. These instructions may be brought to the notice of all concerned for strict compliance.
6. Please acknowledge receipt.

Annexure "A"

" I _____ s/o D/O _____
Resident of village _____ Post Office _____ The _____
Contents of this application recorded/filed-in by me are true to the best of my knowledge and that I shall produce the documents in support of these contents as and when required by the H.P. Subordinate Services Selection Board/ H.P. Public Service Commission and that in the event of these contents being found incorrect, I shall be liable to be debarred from any service/job under the Government of Himachal Pradesh for a period of three years and also I shall be liable for criminal proceedings."

Annexure 40.3

(Copy of H.P. Government, Department of Personnel letter No. Per(AP.B)B(19)-2/99 dated 18th August, 2008 addressed to all Administrative Secretaries/HoD's/Divisional Commissioner/Deputy Commissioner/Boards/ Corporations & Universities in H.P. and endorsed to Pr. Secretary to Chief Minister to the Government of Himachal Pradesh)

(Referred to in Para 40.3)

Subject : Production of documents while appearing for selection to various posts under the State Government/PSU's.

I am directed to refer to the subject cited above and to say that it has come to the notice of the Government that the instructions with regard to the production of documents alongwith the applications while applying for various posts issued vide this department

letters of even number dated 12th February, 1999 and 7th January, 2000 (copies enclosed - Please see Annexures 40.1 & 40.2) are not being adhered to strictly. Accordingly these instructions are re-iterated and all the Departments/Boards/ Corporations/Universities will ensure the compliance of the same in letter and spirit.

Chapter 41

Seniority lists and Elimination of references to castes and sub castes from official records

41.1 The seniority list is to be prepared as per prevailing seniority rules and all possible efforts are required to be made to make the seniority list as authentic as possible. When a provisional seniority list is prepared on the basis of the principles, the objections needs to be called for only from the aggrieved officers/officials, alteration of the principles of seniority and ranking in the final list prepared to the disadvantage of the officers/officials who were not aggrieved by the provisional list would be opposed to principles of natural justice. In such a case, the principles of natural justice demands that the officers concerned should be given another opportunity to make representations against such proposed adverse decision. A decision taken without giving such an opportunity is opposed to principles of natural justice. However, the officers/officials of the concerned department needs to be requested to brought the notice of department/office for factual errors/discrepancies in the seniority list, if any, (along with authentic documents for claim, without documents the said claim is not to be entertained) for rectification within a period of one 'month from the date of issue of seniority list in form of Office Memorandum. In case nothing is pointed out within the stipulated time, it is to be presumed that the officers/officials have no objection to the draft seniority list and the same be treated as final thereafter.

41.2 Regarding finalization and issue of seniority lists of the Government employees.

With regard to seniority list, vide letters No. 1-9/73-DP (Apptt.II) dated 04-04-1994, No. Per(AP-B)B(13)-1/2007 dated 07-05-2007, No. Per(AP-B)B(2)-2/2008 dated 20-04-2011, No. Per(AP-B)B(13)-1/2007 dated 27-01-2012 and No. Per (AP-B)B(13)-1/2007 dated 22-02-2012, it has been emphasized that seniority lists must be circulated every year by 31st March showing the position as it stood on 31st December of the preceding year and also to incorporate relevant information relating to service particulars of the officers/officials in these lists. As many departments were not adhering to these instructions, the State Government requested to ensure that the seniority lists of all the categories of employees of the departments must be finalized and issued accordingly.

(H.P. Govt. Department of Personnel:

1. letter No: Per(AP-B)B(13)1/2007, dated 13th May, 2015 - Annexure 41.1)
2. letter No1-9/73-DP (Apptt.-II) dated 4-4-1994 - Annexure 41.2)

3. letter No. Per(AP-B)B(13)-1/2007 dated 7th May, 2007 - Annexure 41.3)
4. letter No. Per(AP-B)B(2)-2/2008 dated 20-04-2011 - Annexure 41.4)
5. letter No. Per(AP-B)B(13)-1/2007 dated 27-01-2012 - Annexure 41.5)
6. letter No. Per(AP-B)B(13)-1/2007 dated 22-02-2012 - Annexure 41.6)

41.3 - Elimination of references to castes and sub castes in matters connected with the State and its services from official records.

Consequent upon the decision of the Government of India, the State Government vide its O.M. dated 4th October, 1976 (Annexure 20.98 & 41.7) issued instructions for the elimination/abolition of castes and sub-castes in official records etc. These instructions have been reiterated vide letter dated 27th February, 1988. In the above instructions it has been emphasized that references to the castes and sub castes in all matters connected with the State and its services should be abolished. It has once again been reiterated that references to the castes and sub-caste in all matters connected with the State and its services may be eliminated from all official record immediately.

(H.P. Govt. Department of Personnel :

1. O.M. No. Per(AP.II)A(6)-6/75 dated 04-10-1976 – **Annexure 41.7**
2. Letter No. Per(AP.II)A(6)-6/75-Pt. dated 27-02-1988-**Annexure 41.8**
3. Letter No. Per(AP-B)A(3)-2/2015-Pt. dt 19-06-2015-**Annexure 41.9**)

➤ Please see para 20.17.3 and Annexure 20.98 & 20.164 of Chapter of HB on PM (2021 edition).

Annexures to Chapter 41

Seniority lists and Elimination of references to castes
and sub castes from official records

Annexure No.	Details of communications	Page No.
41.1	H.P. Govt. Deptt. of Personnel letter No. Per(AP.B)B(13)-1/2007 dated 13-05-2015.	748
41.2	H.P. Govt. Deptt. of Personnel letter letter No. 1-9/73-DP(Apptt.II) dated 04-04-1994	748
41.3	H.P. Govt. Deptt. of Personnel letter No. Per (AP.B)B(13)-1/2007 dated 07-05-2007	749
41.4	H.P. Govt. Deptt. of Personnel letter No. Per (AP.B)B(2)-2/2008 dated 20-04-2011	749
41.5	H.P. Govt. Deptt. of Personnel letter No. Per(AP.B)B(13)-1/2007 dated 27-01-2012	750
41.6	H.P. Govt. Deptt. of Personnel letter No. Per (AP.II)B(13)-1/2007 dated 22-02-2012	750
41.7	H.P. Govt. Deptt. of Personnel letter No. Per(AP.II)A(6)-6/1975 dated 04-10-1976	751
41.8	H.P. Govt. Deptt. of Personnel letter No. Per(AP.II)A(6)-6/75-Pt. dated 27-02-1988	751
41.9	H.P. Govt. Deptt. of Personnel letter No. Per(AP.B)A(3)-2/2015-Pt. dated 19-06-2015	752

Annexure 41.1

Copy of H.P. Govt. Department of Personnel letter No. Per(AP-B)B(13)-1/2007 dated 13-05-2015 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioners and MD's/Secretaries/Registrars of the Boards/Corporations/Universities in H.P.

[Referred to in Para 41.2]

.....

Subject: Regarding finalization and issue of seniority lists of the Government employees.

I am directed to invite your attention to references of this Department, as given in the margin, vide which it was emphasized that seniority lists must be circulated every year by 31st March showing the position as it stood on 31st December of the preceding year and also to incorporate relevant information relating to service particulars of the officers/officials in these lists. It has come to the notice of the Government that many departments are not adhering to these instructions, which is a matter of concern. It is, therefore, once again requested to ensure that the seniority lists of all the categories of employees of your department are finalized and issued accordingly.

These instructions may be brought to the notice of all concerned working under your control for strict compliance.

.....

Annexure 41.2

Copy of H.P. Govt. Department of Personnel letter No. 1-9/73-DP (Apptt.-II) dated 4-4-1994 addressed to all Administrative Secretaries, Heads of Departments and Deputy Commissioners in H.P.

[Referred to in Para 41.2]

.....

Subject: Finalization of seniority lists.

I am directed to say that it has come to the notice of the Government that large numbers of Departments have not finalized the seniority lists of officers/officials. Some departments have not issued up-to-date seniority lists. This past and indifferent attitude of the concerned Departments for not finalizing the seniority lists of the employees is not at all appreciable, because the non-finalisation of seniority lists create many complications for the Government in general and employees in particular both in the present and future. To avoid future disputes, it is essential that the seniority lists are finalized and updated forthwith.

You are, therefore, requested to finalize and circulate the seniority lists of all the categories of employees of your department/departments and compliance reported by 30th June, 1994. You are also requested to ensure that the seniority list of each category of employees is issued every year by 31st March, positively.

This may be given personal attention and the receipt of this letter be acknowledged.

.....

Annexure 41.3

Copy of H.P. Govt. Department of Personnel letter No. Per(AP-B)B(13)-1/2007 dated 7th May, 2007 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioner and Deputy Commissioners in H.P.

[Referred to in Para 41.2]

.....

विषय: वरिष्ठता सूचियों को अन्तिम रूप देना।

उपरोक्त विषय पर मुझे आपका ध्यान इस विभाग के पत्र संख्या 1-9/73-डी0पी0-(ए0पी0-।।) दिनांक 04-04-1994 (प्रति संलग्न-Annexure 41.2) की ओर दिलाते हुए यह कहने का निदेश हुआ है कि सरकार के ध्यान में यह आया है कि अधिकतर विभागों में अपने अधिकारियों/कर्मचारियों की वरिष्ठता सूचियों को अन्तिम रूप नहीं दिया है तथा न ही उन्हें समय पर परिचालित किया जा रहा है।

अतः आप से पुनः अनुरोध है कि उपरोक्त पत्र में निहित निर्देशों का कड़ाई से पालन सुनिश्चित किया जाए तथा अनुपालना रिपोर्ट इस विभाग को भी भेजी जाए।

.....

Annexure 41.4

Copy of H.P. Government Department of Personnel letter No. Per(AP-B)B(2)-2/2008 dated 20-04-2011 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioner, Deputy Commissioners and all MDs/Registrars/Secretaries of Corporations/Universities/Boards in H.P.

[Referred to in Para 41.2]

.....

Subject: Regarding seniority lists of the Govt. employees.

I am directed to invite a reference to this Department letter No. Per (AP-B)B(13)-1/2007, dated 7th May, 2007 on the subject cited above and to say that as per instructions issued by the Govt. seniority lists of each category of employees is to be finalized and circulated every year by 31st March, positively. It has come to the notice of the Government that large numbers of Departments are not adhering to these instructions which is a matter of concern.

Besides, it has also been seen that the seniority lists issued by various Departments do not contain the requisite information. Although there are no set guidelines with respect to the format of seniority list yet it is felt imperative that the seniority lists should contain all relevant information, i.e. date of joining, date of birth, qualification, mode of appointment and date of confirmation etc. This information on one hand will be very useful for handling day to day service matters of the employees and on the other hand the

concerned employees will also be aware of the service particulars and in the event of any error they can make representations against such information.

It is, therefore, emphasized that seniority lists must be circulated every year by the 31st March showing the position as it stood on 31st December of the preceding year and above mentioned information should also be incorporated in these lists.

These instructions may kindly be brought to the notice of all concerned working under your control for strict compliance.

.....

Annexure 41.5

Copy of H.P. Government Department of Personnel letter No. Per(AP-B)B(13)-1/2007 dated 27-01-2012 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioner, Deputy Commissioners and all MDs/Registrars/Secretaries of Corporations/Universities/Boards in H.P.

[Referred to in Para 41.2]

.....

Subject: Regarding seniority lists of the Govt. employees.

I am directed to refer to this Department letter No. Per(AP.B)B(2)-2/2008, dated 20-04-2011 on the subject cited above vide which it was emphasized that seniority lists must be circulated every year by 31st March showing the position as it stood on 31st December of the preceding year and also to incorporate relevant information relating to service particulars in these lists.

Now, it has been decided that seniority lists may be finalised at departmental level by 31.01.2012. You are, therefore, requested to ensure that the seniority lists of all the categories of employees of your department may be finalized by 31-01-2012 positively. These instructions may kindly be brought to the notice of all concerned working under your control for strict compliance.

.....

Annexure 41.6

Copy of H.P. Government Department of Personnel letter No. Per(AP-B)B(13)-1/2007 dated 22-02-2012 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioner, Deputy Commissioners and all MDs/Registrars/Secretaries of Corporations/Universities/Boards in H.P.

[Referred to in Para 41.2]

.....

Subject: Regarding seniority lists of the Govt. employees.

I am directed to invite your attention to this Department letter of even No. dated 27-01-2012 on the subject cited above vide which it was emphasized that seniority lists of all categories of employees have to be finalised at departmental level by 31-01-2012

Therefore, it is, once again emphasised that seniority lists of all categories of employees may be finalised at departmental level as early as possible and also put their status on respective websites.

.....

Annexure 41.7

Copy of H.P. Govt., Department of Personnel O.M. No: Per(AP-II)-A(6)-6/1975 dated 4th October, 1976 addressed to all Administrative Secretaries, Heads of Departments, etc. in H.P.

.....

(Referred to in para 41.3)

Subject: Abolition of castes and sub-castes in matters connected with the State and its service.

The undersigned is directed to say that the question of eliminating reference to castes and sub-castes in official records etc., consequent upon the decision of the Government of India was under consideration of the Government for some time past. It has now been decided by the Government that references to castes or sub-castes in all matters connected with the State and its services should be abolished. All forms, registers, etc. prescribed by the Government in various departments may, therefore, kindly be examined and suitable action taken to delete references to castes and sub-castes therefrom. In particular cases where there is any difficulty in giving effect to the above decision because of administrative reasons or for the fulfilment of a statutory obligation, the matter may be referred to this department for further consideration.

2. It has also been decided that the candidates belonging to Scheduled Castes/Scheduled Tribes applying for various posts/services under the Government should be asked to indicate only the fact whether they belong to Scheduled Castes or Scheduled Tribes and they should not be required to specify the name of the caste or sub-caste.

3. The Government also consider it desirable that similar steps should be taken by bodies which, though not full-fledged Government Departments, may be receiving assistance or support from Government in the form of Grants-in-aid etc. All the Administrative Departments are accordingly requested to advise such bodies accordingly.

The action taken in the matter may kindly be intimated to this Department.

.....

Annexure 41.8

Copy of H.P. Govt., Department of Personnel O.M. No: Per(AP-II)-A(6)-6/1975-Pt. dated 27th February, 1988 addressed to all Administrative Secretaries, Heads of Departments, etc. in H.P.

.....

(Referred to in para 41.3)

Subject: Abolition of castes and sub-castes in matters connected with the State and its service.

I am directed to say that the Government have issued instructions vide this Department O.M. No. Per(AP-II)A(6)-6/75, dated the 4th October, 1976(Annexure 20.98) to the effect that references to the castes or sub-castes in all matters connected with the State and its services should be abolished and to say that it has come to the notice of the Government that these instructions are not being adhered to strictly. I am, therefore, to request you that it may kindly be ensured that these instructions are followed by all concerned in letter and spirit.

.....

Annexure 41.9

Copy of H.P. Govt., Department of Personnel letter No: Per(AP-B)A(3)-2/2015 dated 19-06-2015 addressed to all Administrative Secretaries, Heads of Departments, Divisional Commissioners, Deputy Commissioners and Managing Directors/Secretaries/CEOs/Registrars of Boards/Corporations /Autonomous Bodies in H.P.

.....

(Referred to in para 41.3)

Subject: Elimination of references to castes and sub castes in matters connected with the State and its services from official records.

I am directed to refer to the subject cited above and to say that vide this Department's O.M. Per(AP-II)-A(6)-6/75 dated 4th October, 1976 and 27th February, 1988, it has been emphasized that references to the castes and sub castes in all matters connected with the State and its services should be abolished. It has been brought to the notice of the Government that these instructions are not being adhered to strictly by Departments.

2. It is, therefore, once again reiterated that references to the castes and sub castes in all matters connected with the State and its services may be eliminated from all official records immediately.

3. These instructions may also be brought to the notice of all concerned working under your control for compliance in letter and spirit.

.....