

No. Per (AP-B)-E (3)-5/2022  
Government of Himachal Pradesh  
Department of Personnel

From

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The Chief Secretary to the  
Government of Himachal Pradesh

To

1. All the Administrative Secretaries to the Government of Himachal Pradesh, Shimla-171002
2. All Divisional Commissioners in Himachal Pradesh
3. The Secretary to Governor, HP, Shimla-171002
4. All the Heads of Departments in Himachal Pradesh
5. All the Deputy Commissioners in Himachal Pradesh
6. All the Chairmen/Managing Directors /Registrars /Secretaries of Boards/ Corporations /Universities/ Autonomous Bodies Himachal Pradesh.
7. The Registrar, Cooperative Societies, HP,
8. The Secretary, Himachal Pradesh Public Service Commission, Shimla-2.
9. The Secretary, H.P. Staff Selection Commission, Hamirpur.

Dated Shimla-171002, the 30<sup>th</sup> July, 2022

Subject RPT No.1/2020- titled as State of Himachal Pradesh and others V/s Indu Devi.

Sir/Madam,

I am directed to enclose a copy of directions passed by the Hon'ble High Court on 21.06.2022 in case RPT No.1/2020- titled as State of Himachal Pradesh and others V/s Indu Devi with the request to adhere to the observations of the Hon'ble Court in letter and spirit. It is also requested to ensure upload copies of the Rules/ Notifications issued from time to time timely on the departmental official website(s) without fail. The regular monitoring of Department website may also be ensured. It is also requested to make available the copies of rules/ instructions/ notifications to Hon'ble Court at the time of filing petitions or replies, as the case may be, in future.

Yours faithfully,



(Balbir Singh)

Deputy Secretary (Personnel) to the  
Government of Himachal Pradesh  
Phone : 0177-2880851



Distt. Treasury Officer Mandi & Ors. Vs. Indu Devi

**RPT No. 1/2020**

21.06.2022 Present:

Mr. Ashok Sharma, Advocate General with Mr. Rajinder Dogra, Sr. Addl. AG, Mr. Vinod Thakur and Mr. Shiv Pal Manhans, Addl. AGs, Mr. Bhupinder Thakur, Mr. Yudhvir Singh Thakur, Dy. AGs and Mr. Rajat Chauhan, Law Officer, for the petitioners.

Mr. Devender K. Sharma, Advocate, for the respondent.

On 26.4.2022 this Court passed the following order:-

*"The State has filed the instant petition for review of order dated 16.12.2016, passed by erstwhile H.P. Administrative Tribunal, in OA No. 6616/2016, titled Indu Devi Vs. State of H.P., on the ground that since the respondent was already in receipt of the family pension of her deceased husband, therefore, she could not have been granted pension after the death of her husband. For this purpose strong reliance was placed on Rule 54(13) (b) of the CCS Pension Rule, 1972, which provides that "family pension under this Rule shall not be granted to a person who has already in receipt of family pension or is eligible therefore under any other rule of the Central Government or State Government etc."*

*It is pointed out by the learned counsel for the respondent that the Rule as relied upon and quoted has in fact been omitted by the Government itself and it has further been clarified vide OM, dated 2<sup>nd</sup> September, 2008 as under:-*

*"It is clarified that family pension admissible to pensioner in respect of one deceased employee/pensioner is not to be counted as income for the purpose of determination of eligibility for another family pension, which is admissible in connection with another deceased employee/pensioner."*

*However, any other income earning of the pensioner under consideration will be counted towards income for deciding eligibility for family pension.*

*Confronted with this, learned Senior Additional Advocate General prays for and is granted two weeks' time to obtain instructions. List on 17.05.2022."*

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2. Thereafter, when the matter was listed on 17.05.2022, this Court proceeded to pass the following order:-

*"Mr. Rajinder Dogra, learned Senior Additional Advocate General has placed on record instructions dated 11<sup>th</sup> May, 2022, however, we find that the same have been issued by the District Treasury Officer Mandi and not by any Senior rank Officer in the Government.*

*In such circumstances, let fresh instructions that too from responsible authority be obtained on or before the next date of hearing. List on 24<sup>th</sup> May, 2022."*

3. Today, learned Senior Additional Advocate General has placed on record instructions dated 20<sup>th</sup> June, 2022, whereby it has been pointed out that the matter has been referred to the Finance (Pension) Department for advice, which may take some time.

4. In addition to that, learned Senior Additional Advocate General has also placed on record copy of Notification dated 19<sup>th</sup> February, 2014, wherein the amendment carried out in sub rule 13 A of Rule 54 of the H.P. State Civil Services (Family Pension) Rules, 1972 have been quoted.

5. The learned counsel for the respondent would state that Rule 54(13-A & B) has been omitted vide Notification dated 27.12.2012 and, therefore, the same could not have been adopted by the State Government.

6. At this stage, we are not keen to comment or go into the legality or correctness of the decision taken by the State. However, we need to make it absolutely clear that



in majority of cases, the Courts are facing difficulty in deciding cases, more particularly those, relating to service matters, as copies of the Rules/Notifications that have been issued by the Government from time to time are not being uploaded timely on the official websites nor hard copies are being made available to the Court. ◇

7. One such glaring example has come up before this Court in CWP No. 3438 of 2022, titled **Lalit Kumar & Ors. vs. State of H.P. & Ors.**, relating to Transport Department, wherein the petition was filed on the basis of the unamended Rules as amendment that was carried out in the Rules had not been uploaded on the official website of the Transport Department.

8. That Apart, even the handbook on personal matters deserves to be updated as the same was published on July, 1995 and thereafter the Government has not taken any steps to publish the latest instructions.

9. In the given facts and circumstances, let Chief Secretary to the Government of Himachal Pradesh file personal affidavit, clearly pointing out therein within what time these publications of the Rules, Acts, Instructions, By-laws etc. would be made available offline by publishing the same and also online by uploading the same on the Government websites.

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List on **19<sup>th</sup> July, 2022**. In the meanwhile, instructions in the main matter be also obtained by the State.

**(Tarlok Singh Chauhan)**  
**Judge**

**(Chander Bhusan Barowalia)**  
**Judge**

**21<sup>st</sup> June, 2022**  
(raman)

High Court of H.P.