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GOVERNMENT OF HIMACHAL PRADESH
DEPARTMENT OF PERSONNEL (AP-II)


Subject: Appointment of sons/daughters/near relations of a government servant who dies in harness leaving his family in immediate need of assistance—modification thereof.

OFFICE MEMORANDUM

The policy of providing employment assistance to the dependents of government servants, who die while in government service leaving their family in indigent circumstances was circulated vide this Department Office Memorandum of even number dated the 18th January, 1990. According to Para 5(c) of the policy the employment assistance, under any circumstances, is not allowed to the dependent of the deceased government servant where one or more members of the family are already in government service or in employment of autonomous Bodies/Boards/Corporations etc. of the State/Centre Government. According to the existing policy where one or more members of the family are already in Defence Services, the employment assistance is not provided to the second or third member of the family.

After due consideration of the matter it has been decided by the Government that the employment assistance to the dependent of the deceased government servant shall also be provided irrespective of the fact whether one or more members of the deceased family is/are in Defence Services.

Accordingly, para 5(c) of this Department Office Memorandum of even number dated 18.1.1990 may deem to have been amended to the above extent.

These instructions will come into force with immediate effect.

FC-cum-Secretary(Personnel) to the Government of Himachal Pradesh.

Contd...2..

Copy forwarded to:


2. All Heads of Departments in Himachal Pradesh.

3. All Divisional Commissioners in Himachal Pradesh.

4. All Deputy Commissioners in Himachal Pradesh.

5. The Secretary, Vidhan Sabha, H.P. Shimla-171004.

6. The Secretary, H.P. Public Service Commission, Shimla-2.

7. The Secretary to the Governor, H.P. Shimla-171002.

8. The Secretary to Lokayukta, H.P. Shimla-2.


10. The Registrar, H.P. High Court, Shimla-171001.

11. The Registrar, H.P. University/H.P. Krishi Vidyavatya Vidyalya, Palampur/Horticulture University, Nauni, Solan, H.P.

12. The Secretaries/Chairmen/Managing Directors of the Public Sector Undertakings/Autonomous Bodies and Boards etc.

13. 100 spare copies.

(J.R. Gazette)
Joint Secretary(Personnel) to the Government of Himachal Pradesh.
No.Per(AP-II)F(4)-3/84-part
Government of Himachal Pradesh
Department of Personnel(AP-II)

Dated Shimla-2, the, 24th November,1998.

OFFICE MEMORANDUM

Subject:- Appointment on compassionate grounds-Clarification regarding grant of annual increments.

In partial modification of this department Office Memorandum of even number dated 3.1.1992 on the subject cited above the undersigned is directed to say that the incumbent(s) appointed on compassionate grounds as Clerks are allowed annual increment after one year of service or on the date of passing typing test whichever is later. The matter with regard to provide next increment to such incumbent(s) who passes the typing test subsequent to the date on which their increment fell due, has been under consideration of the Government. It has now been decided that the incumbent(s) appointed on compassionate grounds who pass(es) the typing test subsequent to the date on which their increment(s) fell due, the increments should be allowed from the date of typing test at which the individual concerned passed and that no arrears of increments should be allowed but the normal increments accrued subsequently should be allowed from that date with normal annual date being regained.

These instructions shall come into force from the date of issuance of this Office Memorandum and the cases already decided shall not be re-opened.

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

Under Secretary(Personnel) to the
Government of Himachal Pradesh.

To

1. All Administrative Secretaries to the Govt. of Himachal Pradesh.
2. All the Heads of departments in Himachal Pradesh.
3. All the Divisional Commissioners in Himachal Pradesh.
4. All the Deputy Commissioners in Himachal Pradesh.
5. The Secretary, Himachal Pradesh Vidhan Sabha, Shimla-3.
6. The Secretary, Himachal Pradesh Public Service Commission, Shimla-2.
7. The Secretary to Lokayukta, Himachal Pradesh.
8. The Secretary to Governor, Himachal Pradesh.
9. The Secretary, Subordinate Services Selection Board, Hamirpur.
10. The Registrar, H.P. Administrative Tribunal/High Court Shimla.
11. The Registrar, All the Universities in Himachal Pradesh.
12. 100 spare copies.
No.Per(AP-B)F(4)-1/2000
Government of Himachal Pradesh
Department of Personnel(AP-II)

Dated Shimla-2, the 8 May, 2001.

Subject:- Appointment on Compassionate ground—Termination of service.

OFFICE MEMORANDUM

The undersigned is directed to refer to this Department O.M. No. Per(AP-II)F(4)-4/89, dated 18.01.1990 vide which the policy on appointment of sons/daughters/near relations of a Government servant who died in harness, leaving his family in immediate need of assistance was circulated and to say that a question of maintenance of other dependant family members of the deceased Government servant by an appointee appointed on compassionate grounds under the existing policy was under consideration of the Government. After careful consideration it has been decided that a person appointed on compassionate grounds should give an undertaking in writing that he/she will maintain properly the other family members who were dependent on the deceased Government servant and in case it is proved subsequently (at any time) that the family members are being neglected or are not being looked after properly by him/her, his/her services may be terminated forthwith. It should be incorporated as one of the additional conditions in the offer of appointment applicable only in the case of compassionate appointee.

2. Further, it has been decided that such compassionate appointments can be terminated on the grounds stated in the offer of appointment after providing an opportunity to the person appointed on compassionate grounds by way of issuing a show cause notice asking him/her to explain why his/her services should not be terminated for non-compliance of the condition(s) in the offer of appointment and it will not be necessary to follow the procedure prescribed in the Disciplinary Rules/Temporary Service Rules for this purpose.

3. In order to check its misuse, it has also been decided that this power of termination of services for non-compliance of the condition(s) in the offer of compassionate appointment should vest only with the concerned Administrative Secretary of the Department not only in respect of persons working in the department but also in respect of Attached/Subordinate Offices under that Department.
4. The above instructions may be brought to the notice of all concerned for information and strict compliance.

5. These instructions will come into force with immediate effect.

Commr.-cum-Secretary(Personnel)to the Government of Himachal Pradesh.

To
All the Administrative Secretaries to the Govt. of H.P.

No. Per(AP-B)F(4)-1/2000 Dated Shimla-2
8 May, 2014

Copy forwarded to:

1. All the Heads of Departments in Himachal Pradesh.
2. All the Deputy Commissioners in Himachal Pradesh.
3. The Secretary to Governor, Himachal Pradesh.
4. The Secretary, H.P. Public Service Commission Shimla-171002.
5. The Secretary, H.P.Subordinate Services Selection Board, Hamirpur.
6. The Secretary, Vidhan Sabha, Himachal Pradesh.
7. The Secretary to Lokayukta, Shimla-171002.
8. The Registrar, H.P. Administrative Tribunal, Shimla-171002.
9. The Registrar, H.P. High Court, Shimla-171002.
10. The Registrar, H.P. University/H.P. Krishi Vishwavidyalaya, Palampur/University of Horticulture & Forestry, Naini (Solan), H.P.
11. The Chairman/Managing Director/Secretaries of the Public Sectors Undertakings/Autonomous Bodies and Boards etc.
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Under Secretary(Personnel)to the Government of Himachal Pradesh.
No. Per(AP-II)F(4)-4/89-II
Government of Himachal Pradesh
Department of Personnel (AP-II)

OFFICE MEMORANDUM

Dated Shimla-2 25.5.2001

Subject: Appointment of sons/daughters/near relations of a Government servant who died in harness, leaving his family in immediate need of assistance.

The policy of providing employment assistance to the dependents of Government servants, who die while in Government service leaving their families in indigent circumstances was circulated on 18-01-1990. It has been provided in para-7(b) of the existing policy that if there is ban on filling up the posts, the ban shall be deemed to have been relaxed for the purpose of making compassionate appointments. The matter with regard to optimal utilization of man-power in the departments based on the state Government policy of filling up of vacant posts by way of providing compassionate appointment even to those seeking retirement on medical grounds under Rule 38 of CCS (Pension) Rules, 1972 was under consideration of the Government. It has now been decided by the Government that the ban on direct recruitment will also be applicable in the cases of providing employment to the dependents of deceased Government servants. In view of this, it has also been decided that all the matters of compassionate appointments henceforth shall be referred by concerned Head of Departments to the Finance Department which in turn, based on the educational and professional background of the candidate will decide the issue of appointment against a particular post in a particular Department which can also be the department other than where the deceased employee was working. Based on the decision of Finance Department, the appointing authority to which such candidate is nominated will issue appointment order.

Accordingly, para 2(b) and para 7(b) of this Department O.M. No. Per(AP-II)F(4)-4/89 dated 18-01-1990 may be deemed to have been modified to the above extent.

These instructions may be brought to the notice of all concerned.
These instructions are issued with the prior concurrence of Finance Department.

Secretary(Personnel) to the Government of Himachal Pradesh.

To
1. FC-cum-Secretary(Finance) to the Government of H.P.
2. All the Administrative Secretaries to the Government of Himachal Pradesh.

No.Per(AP-II)F(4)-4/89-II Dated Shimla-171 002 25.5.2001
Copy forwarded to :-

1. All Heads of Department in Himachal Pradesh.
2. All Deputy Commissioners in Himachal Pradesh.
3. The Secretary, H.P. Vidhan Sabha, Shimla-171 004.
4. The Secretary, H.P. Public Service Commission, Shimla-2
5. The Secretary to the Governor, Himachal Pradesh.
6. The Secretary to Lokayukta, Shimla-171 002.
7. The Registrar, H.P. Administrative Tribunal, Shimla-2
8. The Registrar, H.P. High Court, Shimla-171 001
9. The Registrar all the Universities in H.P.
10. The Secretaries/Chairmen/Managing Director of the Public Sector Undertakings/Autonomous Bodies and Boards etc.
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Under Secretary(Personnel) to the Government of Himachal Pradesh.

***
Subject: Appointment of sons/daughters/near relations of a Government servant who died in harness leaving his family in immediate need of assistance.

The undersigned is directed to invite a reference to this Department O.M. of even number dated 25th May, 2001, on the subject cited above, para-1 whereby interalia provides that all the matters of compassionate appointments henceforth shall be referred by the concerned Head of Departments to the Finance Department.

It is clarified that all the matters of compassionate appointments henceforth shall be referred by the concerned Head of Departments to the Finance Department through their respective Administrative Departments.

These instructions may be treated as amended to this extent.

Secretary (Personnel) to the Government of Himachal Pradesh.

To
1. The F.C. cum Secretary (Finance) to the Government of H.P.
2. All the Administrative Secretaries to the Govt. of H.P.


Copy forwarded to:
1. All Heads of Department in Himachal Pradesh.
2. All Deputy Commissioners in Himachal Pradesh.
3. The Secretary, H.P. Vidhan Sabha, Shimla-171004.
4. The Secretary, H.P. Public Service Commission, Shimla-2.
5. The Secretary to the Governor, Himachal Pradesh.
6. The Secretary to Lokayukta, Shimla-171002.
8. The Registrar, H.P. High Court, Shimla-171001.
9. The Registrar all the Universities in H.P.
10. The Secretaries/Chairman/Managing Director of the Public Sector Undertakings/Autonomous Bodies and Boards etc.
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Secretary (Personnel) to the Government of Himachal Pradesh.
Government of Himachal Pradesh
Department of Personnel
Appointment-II
***

No: Per (AP-II) F(4)-4/89-III Dated Shimla-171002 June 21, 2002

"OFFICE MEMORANDUM"

Subject: Appointment of sons/daughters/near relations of a Government servant who dies in harness leaving his family in immediate need of assistance - modification thereof.

The policy of providing employment assistance to the dependents of Government servants, who die while in Government service leaving their family in indigent circumstances has been circulated vide this department O.M. No.Per(AP-II)F(4)-4/89 dated 18-1-1990, and thereafter certain amendments were made from time to time.

The policy provides that the appointment on compassionate grounds is to be provided in deserving cases where the family of deceased Government servant is left in indigent circumstances requiring immediate means of subsistence. As per the policy the Administrative Departments have already been empowered to relax the age, educational qualifications and time limit restrictions for receipt of application for employment assistance in deserving cases of appointment to Class-IV posts. In all other cases powers for relaxation of age, educational qualifications and time limit restriction vests in the Hon'ble Chief Minister.

The matter for providing employment on compassionate grounds expeditiously in deserving cases was under consideration of the Government for some time past. After due consideration and in supersession of this Department O.Ms. No. Per(AP-II)F(4)-4/89-II dated 25.5.2001 and 28.6.2001, it has been decided by the Government that henceforth the Administrative Departments shall be the competent authority to take a decision on the requests for compassionate appointments subject to fulfillment of all essential conditions of the policy and their satisfaction as to the indigent circumstances of the family of the deceased/retired Government servant.
These instructions may be brought to the notice of all concerned.

Secretary (Personnel) to the Government of Himachal Pradesh.

No. Per(AP-II)F(4)-4/89-III, Dated Shimla-171002, the June 21, 2002

Copy to:-

1. All the Administrative Secretaries to the Govt. of H.P.
2. All Heads of Departments in Himachal Pradesh.
3. All Deputy Commissioners in Himachal Pradesh.
4. The Secretary, Vidhan Sabha, H.P. Shimla-171004.
5. The Secretary, H.P. Public Service Commission Shimla-171002.
6. The Secretary to the Governor, H.P. Shimla-171002.
7. The Secretary to Lokayukta, H.P. Shimla-171002.
8. The Registrar, H.P. Administrative Tribunal, Shimla-171002.
9. The Registrar, H.P. High Court, Shimla-171001.
10. The Registrar all the Universities in H.P.
11. The Secretaries / Chairman / Managing Director of the Public Sector Undertakings / Autonomous Bodies and Boards etc..
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Secretary(Personnel) to the Government of Himachal Pradesh.

*****
No. Per (AP-II)F(4)4/89-III
Government of Himachal Pradesh
Department of Personnel
Appointment II Section

From

The Chief Secretary to the
Government of Himachal Pradesh.

To

All the Principal Secretaries/Secretaries to the
Government of Himachal Pradesh.

(By name)

Dated: Shimla-171002, the 24th August, 2002.

Subject: Employment on compassionate grounds - "Indigent circumstances".

Sir,

Vide orders dated the 21st June, 2002, the powers to sanction employment in government services to the ward/dependent of government employee dying in harness have been delegated upon the concerned Administrative Secretary of the department where the deceased government employee was working.

2. In this connection, references have been received from certain departments enquiring as to what constitutes "indigent circumstances" and also requesting that some uniform guidelines on the subject may be issued.

3. The matter has been considered carefully and it is noticed that specific guidelines with respect to what would amount to "indigent circumstances" will not be possible or practicable. "Indigent circumstances" of a family are to be seen with specific reference to the assets i.e. immovable and movable property left behind by the deceased; income from various sources i.e. assets, house(s), pension, savings resulting in income, employment status and number of employees within the extended family etc. as also liabilities i.e. number of dependents specially unmarried daughters, aged parents etc. left behind by the deceased; some consideration towards the particular standard of life that the family of the deceased might be used to during the life time of the government employee etc. These are vital parameters that have to be kept in mind before any decision is arrived at regarding admissibility of employment to the ward/
dependent of the deceased employee. As the above would show, the question of "indigent circumstances", therefore has to be decided in each individual case after obtaining detailed information about all the relevant aspects mentioned, so that employment on compassionate grounds is not given as matter of routine. While every effort should be made to provide suitable employment in all deserving cases, it should always be kept in mind that employment on compassionate ground can not be claimed as a matter of right. Also the competent authority should take full precautions to exclude the element of "pick and choose" while considering such cases.

4. All Administrative Secretaries may kindly keep the contents of this letter in consideration while taking decision on the requests received for such employment. It is, however, emphasised that all requests for compassionate employment, whenever received, should be disposed off as early as possible, albeit with proper application of mind.

Yours faithfully,

[Signature]

Secretary (Personnel) to the
Government of Himachal Pradesh.
Government of Himachal Pradesh
Department of Personnel(AP-II)

No.Per(AP-II)F(4)-4/89-III Dated Shimla-171002 the 2nd September,2002

"OFFICE MEMORANDUM"

Subject: Appointment of sons/daughters/near relations of a Government servant who dies in harness leaving his family in immediate need of assistance - modification thereof.

In continuation of this Department office memorandum of even number dated June 21, 2002, on the subject cited above, I am directed to say that requests have been received from various quarters including State NGO's Federation regarding defining the word indigent circumstances in the cases of appointment on compassionate grounds.

2. Para-1 of the policy circulated on 18-1-1990 provides that the employment on compassionate grounds to the dependents of Government Servants who die while in service is not to be interpreted as a matter of right. It should be given only in deserving cases where the family of deceased Government Servant is left in "indigent circumstances" requiring immediate means of subsistence. The concerned Administrative Departments would satisfy themselves about the indigent circumstances of the family before appointment on compassionate grounds is made.

3. The meaning of the word INDIGENCE/INDIGENT has been given in various dictionaries. A few of these are reproduced below:

1. Indigence: "A level of poverty in which real hardship and deprivation are suffered and comforts of life are wholly lacking". (Webster's Collegiate Dictionary, 10th Ed. 2001).


4. Indigent: "Not having much money or many possessions."

4. In addition to the meaning as given above, the word indigent also finds mention in Law. Civil Procedure Code, 1908 deals upon the subject in Order XXXIII Rule 1. Explanation 1 to Rule 1 of Order XXXIII is reproduced below:-

   "Explanation 1.- A person is an indigent person,-
   (a) if he is not possessed of sufficient means (other than property exempt from attachment in execution of a decree and the subject-matter of the suit) to enable him to pay the fee prescribed by law for the plaint in such suit, or
   (b) where no such fee is prescribed, if he is not entitled to property worth one thousand rupees other than the property exempt from attachment in execution of a decree, and the subject-matter of the suit."

   With reference to above para, the property exempt from attachment in execution of a decree has been detailed in Section 80 of the Civil Procedure Code. For ready reference the relevant part of Section 80 is reproduced below:-

   Property liable to attachment and sale in execution of decree
   (1) The following property is liable to attachment and sale in execution of a decree, namely, lands, houses or other buildings, goods, money, bank notes, cheques, bills of exchange, hundis, promissory notes, Government securities, lands or other securities for money, debts, shares in a corporation and, save as hereinafter mentioned, all other saleable property, movable or immovable, belonging to the judgment-debtor, or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, whether the same be held in the name of the judgment-debtor or by another person in trust for
him or on his behalf:

"Provided that the following particulars shall not be liable to such attachment or sale, namely:—

(a) the necessary wearing-apparel, cooking vessels, beds and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman;

(b) tools of artisans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section;

(c) houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to (an agriculturist or a labourer or a domestic servant) and occupied by him;

(d) books of account;

(e) a mere right to sue for damages;

(f) any right of personal service;

(g) stipends and gratuities allowed to pensioners of the Government (or of a local authority or of any other employer), or payable out of any service family pension fund notified in the Official Gazette by (the Central Government or the State Government) in this behalf, and political pension;

(h) the wages of labourers and domestic servants, whether payable in money or in kind;

[iii] salary to the extent of (the first (one thousand rupees) and two-thirds of the remainder) (in execution of any decree other than a decree for maintenance):

(Provided that where any part of such portion of the salary as is liable to attachment has been under attachment, whether continuously or intermittently, for a total period of 12 months, such portion shall be exempt from attachment until the expiry of a further period of 12 months, and, where such attachment has been made in execution of one and the same decree, shall, after the attachment has continued for a total period of 12 months, be finally exempt from attachment in execution of that decree;]

...4...
[(ia) one third of the salary in execution of any decree for maintenance;]

[(j) the pay and allowances of persons to whom the Air Force Act, 1950 (45 of 1950), of the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957), applies;]

[(k) all compulsory deposits and other sums in or derived from any fund to which the Provident Funds Act, [1925], (19 of 1925), for the time being applies, in so far as they are declared by the said Act not to be liable to attachment;

[(ka) all deposits and other sums in or derived from any fund to which the Public Provident Fund Act, 1968 (23 of 1968), for the time being applies, in so far as they are declared by the said Act as not to be liable to attachment;

[(kb) all moneys payable under a policy of insurance on the life of the judgment-debtor;

[(kc) the interest of lessee of a residential building to which the provisions of law for the time being in force relating to control of rents and accommodation apply;]

[(l) any allowance forming part of the emoluments of any servant of the Government or of any servant of a railway company or local authority which the appropriate Govt. may by notification in the Official Gazette declare to be exempt from attachment, and any subsistence grant for allowance made to [any such servant] while under suspension;]

[(m) an expectancy of succession by survivorship or other merely contingent or possible right or interest;

[(n) a right to future maintenance;

[(o) any allowance declared by [any Indian Law] to be exempt from liability to attachment or sale in execution of a decree; and

[(p) where the judgment-debtor is a person liable for the payment of land revenue; any movable property which, under any law for the time being applicable to him, is exempt from sale for the recovery of an arrear of such revenue.

(2) Nothing in this section shall be deemed to exempt houses and other buildings and the material and the sites thereof and the lands immediately appurtenant thereto and necessary for their enjoyment from attachment or sale in execution of decrees for rent of any such house, building, site or land."

5. Based on the above and after due consideration, all Administrative Departments are advised to keep the above in mind while
deciding the cases of the compassionate employment of the
wides/dependents of government servants who die in harness. They need
to satisfy themselves that the family of the deceased government
servants is really in "indigent circumstances" and therefore in urgent
need of employment so as to relieve the family of the deceased
government servant from destitution.

6. Cases where such employment has been granted in
disregard of the spirit of such employment shall be viewed
seriously.

Secretary (Personnel) to the
Government of Himachal Pradesh.

No.Per(AP-II)F(4)-4/89-III, Dated Shimla-171002, the 2nd September, 2002

Copy to:-

1. All the Administrative Secretaries to the Govt. of H.P.
2. All Heads of Departments in Himachal Pradesh.
3. All Deputy Commissioners in Himachal Pradesh.
4. The Secretary, Vicharan Sabha, H.P. Shimla-171004.
5. The Secretary, H.P. Public Service Commission Shimla-2.
6. The Secretary to the Governor, H.P. Shimla-171002.
7. The Secretary to Lokayukta, H.P. Shimla-171002.
8. The Registrar, H.P. Administrative Tribunal, Shimla-2.
9. The Registrar General, H.P. High Court, Shimla-171001.
10. The Registrar all the Universities in H.P.
11. The Secretaries/Chairman/Managing Director of the Public
    Sector Undertakings / Autonomus Bodies and Boards etc.
12. Shri Ganga Singh Thakur, President, H.P. NGOs Federation, 0/O
    the S.E., H.P. PWD, Fourth Circle, Winter Field, Shimla-171001.
13. Shri P.S. Bharmouria, Secretary General, H.P. NGOs Fed., 0/O the
    Executive Engineer, H.P. PWD, Hemirpur.
15. General Secretary, H.P. Sectt. Services(Class-III)
    Association.
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Secretary(Personnel) to the
Government of Himachal Pradesh.

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