

**Government of Himachal Pradesh
Finance(Pension)Department**

No. Fin (Pen)E(1)-1/2020

Dated: Shimla-171002, the

16th June, 2024

OFFICE MEMORANDUM

1. The Hon'ble Supreme Court of India vide Judgment dated 07.08.2023 passed in SLP(C) No. 10399 of 2020 titled "the State of Himachal Pradesh &Ors V/s Sheela Devi &Ors" has passed following directions: -

- (i) *The state shall take immediate steps to indicate the mode and manner of exercising option by all the employees concerned (who had been regularized after spells of contractual employment) regardless of the dates on which they were engaged i.e. prior to the year 2003 or subsequently, within a time frame, of within eight weeks from today.*
- (ii) *After receiving the options within the time indicated in the notice, the concerned employee(s) who exercise the relevant options should be notified about the amounts they would have to remit in case any amount towards contribution is required, clearly.*
- (iii) *The options should be processed and completed within eight weeks from the last date of receiving options.*
- (iv) *Time limit for payment too should be indicated and entire process should be completed within four months and all orders fixing pensions or family pension as the case may be, shall be issued.*

2. In compliance to the Hon'ble Apex Court directions dated 07.08.2023 rendered in the SLP(C) No. 10399 of 2020, the matter was examined in the Finance Department under the extant statutory provisions of the CCS (Pension) Rules, 1972, H.P. Civil Services Contributory Provident Fund Rules, 2006, the Pension Fund Regulatory and Development Authority (PFRDA) Regulations and the amended Rules/instructions, thereto, issued from time to time.


3. The State Government vide Notification No. Fin(Pen)A(3)-1/96 dated 15.05.2003 had amended the CCS(Pension)Rules, 1972 and these Rules were made inapplicable for all appointments made on or after 15.05.2003 in the State Government Departments.

4. Subsequently, the State Government notified, the Himachal Pradesh Civil Services Contributory Pension Rules, 2006, vide notification No. Fin(Pen)A(3)-1/96 dated 17.08.2006 and these Rules were given effect from the retrospective date i.e. 15.05.2003 and all appointments made on or after 15.05.2003 were covered under the said Rules.

5. In the year 2010, the State Government had adopted the NPS Architecture, formulated by the Pension Fund Regulatory and Development Authority (PFRDA), in view of agreements signed by the State Government with the Central Record-keeping Agency, National Securities Depository Ltd.(NSDL) and the NPS Trust in the year 2009-2010 vide Office Memorandum No. Fin(Pen)A(3)-1/2009 dated 11.06.2010. Accordingly, all Government servants appointed on or after 15.05.2003 were covered under the National Pension System (NPS).

6. In the year 2023, the State Government restored the Old Pension Scheme i.e. the CCS(Pension)Rules, 1972 vide Notification No. Fin(Pen)A(3)-1/2023 dated 04.05.2023 and these Rules came into force from 01.04.2023. The Standard Operating Procedures to regulate the Old Pension Scheme(OPS) were also issued vide Office Memorandum No.Fin.(Pen)A(3)-1/2023 dated 04.05.2023. The restoration of Old Pension Scheme was on optional basis. Therefore, all Government servants appointed between the period 15.05.2003 to 31.03.2023 were given one time option either to opt for the CCS(Pension)Rules,1972 (OPS) or continue under the National Pension System (NPS) with effect from 01.04.2023.

7. After detailed examination and consideration of the matter at Government level keeping in view the observations and directions passed by the Hon'ble Apex Court, in para-5 to para-11 of the Judgement dated 07.08.2023, and also, in view the position of Rules, as were applicable during the period 15.05.2003 to 31.03.2023, the Government has decided to count the contractual service followed by regular appointment on same post by way of regularisation as per the 'Regularisation Policy' of the Government for pensionary benefits under the CCS(Pension)Rules, 1972 on following terms and conditions:-

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- (i) The initial engagement/selection of a government servant, on contract service, was made by the appropriate recruiting agency i.e. the H.P. Public Service Commission or the erstwhile H.P. Subordinate Staff Selection Board or through contract policy prevalent in the Department, duly approved by the Government.
 - (ii) A Government servant engaged/selected by any other mode of recruitment and without approval/consent of the Government shall not be eligible to count contract service for pensionary benefits under the CCS(Pension)Rules,1972.

- (iii) The counting of contract service for pensionary benefits shall be subject to the condition that contractual service of a Government servant was/is followed by regular appointment on same post by way of regularisation of such contract service under the 'Regularization Policy' of the Government issued by the Personnel Department, Government of Himachal Pradesh, from time to time.
- (iv) A Government servant who wishes to count contract service for pensionary benefits under the CCS(Pension)Rules, 1972, shall exercise an option within 30 days from the date of issuance of these instructions, on the prescribed format at **Annexure-A**. The 'option' as per the Annexure- A shall be submitted to the Head of Department/Head of Office, as the case may be.
- (v) An option once exercised by the Government servants shall be final and irrevocable. If, a Government servant fails to exercise an option within the stipulated period, it shall be deemed that he/she does not want to count contract service under the CCS (Pension) Rules, 1972.
- (vi) In case, a Government servant had/has died in harness after regularisation of contract service, the option in Annexure-A, to count contract service for family pension shall be given by the spouse/family member eligible to get family pension under the CCS(Pension)Rules, 1972. However, where, a Government servant has retired/ died, while working on contract basis and his/her contract service was not followed by regular appointment on same post, he/she or family member of deceased employee will not be eligible to count contract service under the CCS(Pension)Rules, 1972.
- (vii) The Government servants who were engaged on contract service on or before 14.05.2003 shall be deemed to be covered under the CCS(Pension) Rules, 1972 from the date of their contract appointments in the Government Departments and they shall be entitled to the pensionary benefits from the date of retirement. The arrears of such Government servants including petitioners/appellants in the court cases, shall be regulated in accordance with Government instructions contained in letter the No. Fin(PR)-B(7)-16/98-III dated 15.12.2011 and letter No. Fin-E-1-C(17)-6/08 dated 07.01.2012.
- (viii) The Government servants who were engaged on contract service between the period 15.05.2003 to 31.03.2023 and whose contract service was followed by regularisation on same post, shall be entitled to get pensionary benefits for

such contract service with effect from 01.04.2023 under the CCS (Pension) Rules, 1972 as the said Rules have come into force with effect from 01.04.2023 vide amended Notification No. No.Fin (Pen)A(3)-1/2023 dated 04.05.2023. No, arrears on account of counting of contract service, for pensionary benefits, to the Government servants retired prior to 01.04.2023, shall be admissible, in view of amended Notification dated 04.05.2023 *ibid*.

- (ix) A Government servant who has opted for the National Pension System (NPS) in pursuance to the Government Notification No. No.Fin (Pen)A(3)-1/2023 dated 04.05.2023 and the Standard Operating Procedures (SOP) issued vide Office Memorandum No. No. Fin (Pen)A(3)-1/2023 dated 04.05.2023 shall not be eligible to count contract service as qualifying service under the CCS(Pension)Rules, 1972.
- (x) The Competent Authority shall pass suitable orders to count contract service followed by regular appointment for the purpose of pensionary benefits under the CCS(Pension)Rules,1972 in respect of the Government servants who exercise an option in terms of these instructions and a copy of such order shall be pasted in the Service Book of the employee.
- (xi) The Head of Department/Head of Office shall process and finalise the pension cases of the Government servants in accordance with these instructions and send the cases to the Principal Accountant General(A&E) for authorisation in accordance with provision of the CCS(Pension)Rules, 1972.

8. If any question arises regarding the interpretation of these instructions, the Finance Department shall decide the same.

By Order


Devesh Kumar, IAS
Principal Secretary(Finance) to the
Government of Himachal Pradesh

Endst. No. Fin (Pen)E(1)-1/2020 dated: the 10th June, 2024

Copy is forwarded for information and necessary action to: -

1. All the Administrative Secretaries to the Government of Himachal Pradesh.
2. The Divisional Commissioner, Shimla, Mandi and Kangra at Dharamshala Himachal Pradesh.
3. The Resident Commissioner, Himachal Pradesh, Himachal Bhawan, 27-Sikandra Road, New Delhi-110001.
4. All the Heads of Departments in Himachal Pradesh.
5. The Secretary to the Governor, Himachal Pradesh, Shimla-2
6. The Principal Accountant General (Audit) Himachal Pradesh, Shimla-171003.

7. The Principal Accountant General (A&E) Himachal Pradesh-171003.
8. The Principal Private Secretary-cum-Special Secretary to the Chief Minister, Himachal Pradesh, Shimla-2.
9. The Secretary, Himachal Pradesh Public Service Commission Shimla-2.
10. The Registrar General, H.P. High Court, Shimla-171001.
11. All the Deputy Commissioners in Himachal Pradesh.
12. All the District and Sessions Judges in the Himachal Pradesh.
13. The Sr. Private Secretary to the Chief Secretary to the Government of Himachal Pradesh.
14. The Controller, Printing & Stationery Department, Himachal Pradesh, Shimla-171005, for publication in the Rajpatra.
15. The Controller (F&A), Personnel Department, H.P. Secretariat Shimla-2.
16. All the Controllers /Joint Controllers/ Deputy Controllers/Asstt.Controllers/ Section Officers under control of Department of Treasuries, Accounts & Lotteries, H.P.
17. All the District Treasury Officers/Treasury Officers in Himachal Pradesh.
18. All Sections of the Finance Department, H.P. Secretariat Shimla-2.
19. The Incharge, NIC, H.P. Secretariat, Shimla-2 with the request to upload this notification on the State Finance Department's Website <https://himachal.nic.in/finance>.


Rohit Jamwal, IAS
Special Secretary (Finance) to the
Government of Himachal Pradesh.

Option to count contract service for pensionary benefits under the CCS (Pension) Rules, 1972 in view of Hon'ble Apex Court Judgement dated 7.8.2023 in SLP (C) No. 10399 of 2020 titled the State of HP V/s Sheela Devi & other connected cases.

Option

- a) I, _____ designation _____ Office/Department _____ in reference to Office Memorandum No. _____ dated _____ do hereby exercise an option to count contract service, which was followed by regularisation vide Notification/Order No. _____ dated _____, for pensionary benefits under CCS(Pension)Rules, 1972.
- b) This option exercised by me shall be final and irrevocable.
- c) In case of any ambiguity, the interpretation made by the Finance Department will be final and acceptable to me.

Or

- d) I _____ (Spouse/son/daughter) of Late Shri/Smt. _____ who had rendered contract service as _____ (designation) w.e.f. _____ to _____ in the Department of _____, HP and his/her contract service was followed by regular appointment on same post by way of regularisation vide Notification/Order No. _____ dated _____, do opt for family pension in terms of Government Office Memorandum No. _____ dated _____
- e) This option exercised by me shall be final and irrevocable.
- f) In case of any ambiguity, the interpretation made by the Finance Department will be final and acceptable to me.

Date of
Option _____

Signature

Name _____

Designation _____

PMIS No _____

IP No _____

Office in which employed _____

Mobile No _____