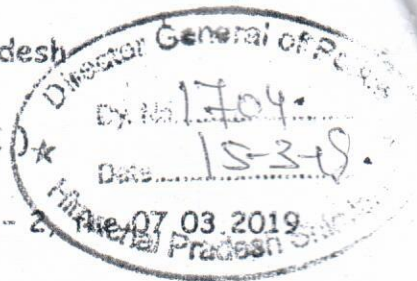


Government of Himachal Pradesh
Finance Department
(Expenditure Control - II)



No. Fin-F-(A)-(16)-1/2013 Dated Shimla - 2,

OFFICE MEMORANDUM

Subject:- Policy for providing 'Compassionate Employment' and delegation of Powers to department(s) for disposal of cases of compassionate appointments.

1. The 'Compassionate Employment Policy' of the Government was framed/circulated by the Department of Personnel vide its OFFICE MEMORANDUM No. Per. (AP-II)-F-(4)-4/89 dated 18.01.1990 & subsequent amendments were made thereunder, from time to time. A "Revised Policy for providing 'Compassionate Employment' and also delegation of Powers to department(s) for disposal" as at ANNEXURE-A is enclosed herewith for information and strict compliance of all concerned.
2. All the pending & new compassionate appointment cases may be regulated as per this OFFICE MEMORANDUM.
3. This Office Memorandum/instruction may also be seen on www.himachal.nic.in/finance under the link "Expenditure."

[AKSHAY SOOD, IAS],
Secretary (Finance) to the
Government of Himachal Pradesh, SHIMLA - 2.

To

All the Administrative Secretaries to the
Government of Himachal Pradesh, SHIMLA - 2.

.....2/.....

Endst. No. Fin-F-(A)- (16)-1/2013 Dated: 07.03.2019

1. The Secretary to Governor, H.P., Shimla -2.
2. The Divisional Commissioner(s), Shimla/Kangra/Mandi.
3. The Secretary, H. P. Vidhan Sabha, Shimla - 4.
4. All Heads of Departments in Himachal Pradesh.
5. The Secretary, H. P. Public Service Commission, Shimla -2.
6. The Secretary, H. P. Staff Selection Commission, Hamirpur.
7. The Registrar General, H. P. High Court, Shimla.
8. The Secretaries/Chairman/Managing Directors/Registrar of the Public Sector Undertakings/Autonomous Bodies and Boards/Corporations etc. in Himachal Pradesh.
9. 100 Spare Copies.

[D. D. SHARMA, IAS]

Special Secretary (Finance) to the
Government of Himachal Pradesh, SHIMLA - 2.

E-MAIL

**OFFICE OF THE
DIRECTOR GENERAL OF POLICE
HIMACHAL PRADESH POLICE HEADQUARTERS
SHIMLA-171002.**

Endst. No..P-III(4) Instruction/2019- 9021-9056 Dated- 19-3-19

Copy alongwith its enclosure is forwarded with the directions that in future the case for providing employment assistance on compassionate grounds may be sent to Police Hdqrs. in accordance with the instruction/direction & new application form:-

1. All Heads of Police offices in H.P (including SFSL, SV&ACB).
2. Supdt., P-II, PHQ ,HP, Shimla.
3. Incharge, SCRB to put copy in website.
4. Dealing Asstt.-I, P-III Branch, PHQ, Shimla, H.P.

for Director General of Police,
Himachal Pradesh, Shimla-2.

ANNEXURE - A

REVISED POLICY FOR PROVIDING COMPASSIONATE EMPLOYMENT TO THE ELIGIBLE DEPENDENTS OF THE DECEASED EMPLOYEE(S) OF THE STATE GOVERNMENT

1) OBJECTIVE: - The main objective of the policy is to grant appointment on compassionate grounds to eligible dependent(s) of a Government servant dying in harness or who is retired on medical grounds, leaving behind his family in penury and without any means of livelihood, to relieve the family of the Government servant concerned from financial destitution. These appointment(s) are strictly speaking, not in accordance with the provision(s) of Article 14 & 16 of the Constitution of India, yet these are being provided on humanitarian grounds. The employment on compassionate grounds to the dependents of Govt. Servants, who die while in service or are retired on medical grounds, is not to be provided 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 Administrative Departments would satisfy themselves about the indigent circumstances of the family, before appointment on compassionate grounds is offered.

The provision of employment assistance i.e. compassionate appointment was introduced in 1958 and since then a number of welfare measures have been introduced by the Government which have made significant difference in the financial position of the families of the Government employees dying in harness/retired on medical grounds. Such measures, at present available to the families of the deceased employees include - Adhoc ex-gratia grant, Grant of family pension in case of employees covered by CCS (Pension) Rules, 1972, Grant of death Gratuity, Employees Group Insurance Scheme, Earned Leave Encashment of the leave at the credit of the deceased Government employee.

2) TO WHOM THE POLICY IS APPLICABLE:- The employment assistance on compassionate grounds will be allowed in order of priority only to widow or a son or an unmarried daughter (in case of unmarried Govt. Servant, to father, mother, brother and unmarried sister) of :-

- a) A regular Government employee/Contractual employee, who dies while in services (including suicide), leaving his family indigent & in immediate need of assistance;
- b) A Daily Waged worker, who dies while in service, leaving his/her family indigent & in immediate need of assistance.;
- c) A Government servant, who has been missing for more than two years, and the family is indigent & needs immediate assistance [an FIR to this effect must be lodged with the Police, the missing person should be declared not traceable by the Court and the competent authority must satisfy itself that the case is genuine]. The cases of those missing Government servants are not to be considered who had less than two years to retire on the date from which they have gone missing or who are suspected to have committed fraud, or are suspected to have joined any terrorist organization or are suspected to have gone abroad;
- d) A Government servant (Class-III and IV only), who retires on medical grounds under Rule-38 of the CCS (Pension) Rules, 1972, provided the employee so retiring has not crossed the age of 45 years.

3) AUTHORITY COMPETENT TO MAKE APPOINTMENT ON COMPASSIONATE GROUNDS: The Administrative Department, shall be competent to make the compassionate appointment, subject to fulfilment of all essential conditions and satisfaction as to the indigent circumstances of the family of the deceased/retired Govt. servant.

4) POST TO WHICH SUCH APPOINTMENT CAN BE MADE:-
The compassionate appointment is to be provided basically in the department to which the deceased Govt. employee or the medically retired Government

employee belonged, subject to fulfilment of minimum educational qualifications and such skills as are prescribed for the post. In exceptional cases, where the post does not exist in the Department concerned, the said Department may recommend appointment in another department, to the Finance Department, subject to availability of vacancies in the concerned Department. On receiving the request, Finance Department will send the matter to the concerned Department to consider the appointment. The appointment on compassionate grounds can be made only to the lowest rung of class-IV and Class-III posts. The compassionate employment can be given against Class-III posts on Contract basis, in case the applicant has requisite qualifications prescribed for the job as per R & P Rules. In case the deceased was a daily waged worker, the employment assistance shall be given on daily wage basis only. Compassionate employment to be given against on Class-IV posts will only be on Daily Wage basis. Under no circumstances, appointment(s) should be made against the Class-III posts, which require technical/professional qualifications.

5) ELIGIBILITY:-

- a) The family should be indigent and should deserve immediate assistance for relief from financial destitution and
- b) Applicant for compassionate appointment should be eligible and suitable for the post in all respects under the provisions of the relevant Recruitment Rules.
- c) For Class-III (Clerical) post, the requisite typing test @ required speed prescribed for direct appointee(s) will be compulsory before anyone is given compassionate appointment, as per the requirement of Recruitment & Promotion Rules made for that post. The typing test may be conducted through the Government Industrial Training Institute(s) located at the State Headquarter or District Headquarter, for which only 03 (THREE) chances be permitted within a maximum time span of 12 months. The assessment in the Industrial Training Institute(s) may be done by a Committee of three officers including a Senior Officer of the Industrial

Training Institute(s) and the Head of Office/Class-I officer of the Department, where appointment is to be made.

- d) In all cases where one or more members of the family are already in Government service or in defence or Para Military Forces or in employment of Autonomous bodies/Boards/Corporations etc., of the State/Central Government, employment assistance should not under any circumstances be provided to the second or third member of the family. In cases, however, where the widow to the deceased or the medically retired Government servant represents or claims that her employed sons/daughters are not supporting her, the request of employment assistance may be considered only in respect of the widow. Such matter should be finally got decided from the Council of Ministers after consulting Department of Personnel and Finance.
- e) In the case of deceased or the medically retired Government servant who had taken loans/advances from the Government or where there is any other pending liability to the Government etc., the employment assistance to his widow or son or un-married daughter will be provided only after obtaining an undertaking from him/her on non-judicial paper, to refund the entire amount of loan together with interest, which the deceased or the medically retired Government servant had taken.

6) APPOINTMENT(S) TO BE PROSPECTIVE:- Compassionate employment will be prospective and thus, no retrospective benefit under any circumstances be given in this regard.

7) EXTENT OF RELAXATION AND POWER TO RELAX:- (1)

While providing employment on compassionate grounds, the following shall be deemed to be relaxed:-

- a) Relaxation from recruitment procedure, i.e. without the agency of H.P. Public Service Commission or H.P. Staff Section Commission or Employment Exchange or any other approved method, as the case may be.

- b) If there is a ban on filling up the posts, the ban shall be deemed to have been relaxed for the purpose of making compassionate appointments.
- (2) Relaxation in time limit(s) prescribed for submission of compassionate employment case(s), relaxation in upper or lower age limit for employment shall not be given by any Administrative Department. Genuine cases may be placed before the Cabinet for its decision. No relaxation will be given in minimum educational qualification and required skills as per R & P Rules.

8) DETERMINATION/AVAILABILITY OF VACANCIES:-

- (a) Compassionate appointments may be made upto a maximum of 5% of vacancies under direct recruitment quota in Class-III & Class-IV posts. The appointing authority may hold back upto 5% of vacancies in the aforesaid categories to be filled by direct recruitment so as to fill such vacancies by appointment on compassionate grounds. A person selected for appointment on compassionate grounds should be adjusted in the recruitment roster against the appropriate category viz. SC/ST/ OBC/General etc. depending upon the category to which he/she belongs. For example, if he/she belongs to SC category he/she will be adjusted against the SC reservation point, if he/she is ST/OBC he will be adjusted against ST/OBC point and if he/she belongs to General category, he/she will be adjusted against the vacancy point meant for General category.
- (b) The ceiling of 5% for making compassionate appointment against regular vacancies should not be circumvented by making appointment of dependent family member of Government servant, on casual/daily wage/ad-hoc/contract basis against regular vacancies.
- (c) The ceiling of 5% of direct recruitment vacancies for making compassionate appointment should not be exceeded by utilising any other vacancy e.g. sports quota vacancy etc.
- (d) The Administrative Department may constitute a Committee to consider cases of compassionate appointment. The Committee constituted for

considering a request for appointment on compassionate grounds should limit its recommendation to appointment on compassionate grounds in really deserving case and only if the vacancy meant for appointment on compassionate grounds is available within a year in the concerned department, within the ceiling of 5% of vacancies falling under Direct Recruitment [DR] quota, in Class-III & Class-IV posts.

- (e) Calculation of vacancies by grouping of posts for small offices/cadres - Grouping of posts in small Offices/Cadres for the purpose of calculation of vacancies for appointment on compassionate grounds is allowed. Consequently, Class-III & Class-IV posts in an Administrative Department, where there are less than 20 direct recruitment vacancies in a recruitment year, may be grouped together and out of the total number of vacancies, 5% may be filled on compassionate grounds subject to the condition that appointment on compassionate grounds in any such post, should not exceed one. For the purpose of calculation of vacancies for compassionate appointment, fraction of a vacancy, either half or exceeding half, but less than one, may be taken as one vacancy.

- (f) Liberalized method of calculation of vacancies for small Departments - The small Departments may apply a more liberalized method of calculation of vacancies under 5% quota for compassionate appointment. The small Departments, for the purpose of these instructions, are defined as organizations where no vacancy for compassionate appointment could be located under 5% quota for the last 3 years. Such small Departments may add up the total of DR vacancies in Class-III & Class-IV posts (excluding technical posts) arising in each year for 3 years and calculate 5% of vacancies with reference to the grand total of vacancies of such years, for locating one vacancy for compassionate appointment. This is subject to the condition that no compassionate appointment was/has been made by the Departments during 3 years for locating one vacancy under 5% quota.

- (g) 5% ceiling should not be exceeded since these are compassionate appointments and any appointment in this category is at the cost of direct selection through competition. In exceptional cases, this ceiling may be exceeded only with the prior approval of the Council of Ministers.

9) TIME LIMIT FOR SUBMISSION OF APPLICATIONS FOR COMPASSIONATE APPOINTMENT:

Requests for grant of employment assistance should be received in the Department concerned within four years of the death of the Government servant/retirement on medical grounds as applicable. In case where none of the sons/daughters of the deceased Government servant have attained majority (age of 18 years) at the time of the death of the Government servant, the time limit for receipt of request for employment assistance in department concerned will be attainment of age of 22 years by the eldest son/un-married daughter.

10) WIDOW APPOINTED ON COMPASSIONATE GROUNDS

GETTING REMARRIED:- A widow appointed on compassionate grounds will be allowed to continue in service even after re-marriage.

11) PROCESSING OF APPLICATIONS:-

- a) **Seniority of Applications-** For disposal of compassionate employment cases by the respective Administrative Department(s), the seniority of the applicants for considering appointment will be determined with reference to the date of death/retirement on medical grounds of the employee and not from date of receipt of application. This means that even if an application of a dependent of a deceased/medically retired employee is received earlier to another application, but the date of death in the earlier case is later than that of the latter case, the latter's application will be considered senior for purposes of compassionate appointment, provided the earlier applicant has not already been offered employment, before the latter's application.
- b) It is not essential that a son or a daughter or a widow of a deceased Class-IV employee should be considered for employment against Class-IV post only. She/He can be appointed against the lowest rung of Class-III post as indicated in Para 4 & 5 above for which he is educationally qualified and has the skills required as per R & P Rules, provided a vacancy in Class-III is available.

12) HOW TO ASSESS INDIGENCY:- Indigency means a level of poverty in which real hardship and deprivation is suffered and the comforts of life are wholly lacking. Following criteria shall be adopted to assess indigency of the family of the deceased Government employee while examining compassionate cases:-

Sr. No.	Source of Income	Total Annual Income
01.	Income from Pension (PPO number, Name of DTO & Drawing Bank be mentioned where applicable)	
02.	Agricultural Income	
03.	Income from Rent	
04.	Income from Business	
05.	Income from Interest	
06.	Income from Other Sources	
	TOTAL ANNUAL INCOME	

Income Criteria will be an important criteria to determine indigency. The maximum ceiling of total family income to assess indigency is fixed as Rs. 2,25,000/-, presuming a family of 04 persons. Even if the number of family persons exceeds 04, the family size will still be presumed to be 04. If the family members are less than 04, then income of the family would be calculated by multiplying Rs. 56,250/- by the number of family members. Thus, if the family size is 03, the maximum income limit would be Rs. 1,68,750/- per annum to determine indigency. If family size is 02, the income limit would be Rs. 1,12,500/- per annum to determine indigency. The above income criteria has been mentioned to bring objectivity in the determination of indigency of a family/applicant.

13) REQUEST FOR CHANGE IN POSTS:- When a person has accepted a compassionate appointment to a particular post, it shall be treated as final. No request for change in posts will be allowed. However, this does not bar the incumbents applying and competing for jobs under State Govt./Corporations/Govt. of India etc., if they have better prospects there, like other Govt. servants.

14) UNDERTAKING FOR MAINTENANCE OF THE FAMILY

OF THE DECEASED EMPLOYEE:- A person appointed on compassionate grounds under the scheme should give an undertaking in writing as in prescribed application format that he/she will maintain properly other family members, who were dependent on the deceased or the medically retired Government servant and in case it is proved subsequently (at any time) that the family members are being neglected or are not being maintained properly by him/her, his/her appointment may be terminated forthwith. It should be incorporated as one of the additional conditions in the offer of appointment in the case of appointment on compassionate grounds.

15) SENIORITY:- A person appointed on compassionate ground in a particular year may be placed at the bottom of all the candidates recruited/appointed through direct recruitment, promotion etc. in that year, irrespective of the date of joining of the candidate on compassionate ground.

16) GENERAL:- Enclosed Application Proforma may be used by the candidates and the Department respectively for processing the cases of compassionate appointments which may be authenticated/verified by the Head of Department/competent authority of the Department after verifying the facts relating to that particular case. Complete case in all respects as per the Check list annexed herewith may then be moved for approval of the competent authority.

17) IMPORTANT COURT JUDGEMENTS RELATING TO COMPASSIONATE APPOINTMENTS:-

The Court rulings contained in the following judgements may be kept in view while considering cases of compassionate appointment:-

- (a) The Supreme Court in its judgement dated April 8, 1993 in the case of Auditor General of India and others vs. G. Ananta Rajeswara Rao [(1994) 1 SCC 192] has held that appointment on grounds of descent clearly violates Article 16(2) of the Constitution; but if the appointment is confined to the son or daughter or widow of the Government servant who died in harness and who needs immediate appointment on grounds of immediate need of assistance in the event of there being no other earning member in the family to supplement the loss of income from the bread winner to relieve the economic distress of the members of the family, it is unexceptionable.
- (b) The Supreme Court's judgement dated May 4, 1994 in the case of Umesh Kumar Nagpal vs. State of Haryana and others [JT 1994(3) S.C. 525] has laid down the following important principles in this regard:
 - (i) Only dependents of an employee dying in harness leaving his family in penury and without any means of livelihood can be appointed on compassionate ground.
 - (ii) The posts in Group 'C' and 'D' (formerly Class III and IV) are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds and no other post i.e. in the Group 'A' or Group 'B' category is expected or required to be given for this purpose as it is legally impermissible.
 - (iii) The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family of the deceased from financial destitution and to help it get over the emergency.

- (iv) Offering compassionate appointment as a matter of course irrespective of the financial condition of the family of the deceased or medically retired Government servant is legally impermissible.
 - (v) Neither the qualifications of the applicant (dependent family member) nor the post held by the deceased or medically retired Government servant is relevant. If the applicant finds it below his dignity to accept the post offered, he is free not to do so. The post is not offered to cater to his status but to see the family through the economic calamity.
 - (vi) Compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future.
 - (vii) Compassionate appointment cannot be offered by an individual functionary on an ad-hoc basis.
- (c) The Supreme Court has held in its judgement dated February 28, 1995 in the case of the Life Insurance Corporation of India vs. Mrs Asha Ramchandra Ambekar and others [JT 1994(2) S.C. 183] that the High Courts and Administrative Tribunals cannot give direction for appointment of a person on compassionate grounds but can merely direct consideration of the claim for such an appointment.
- (d) The Supreme Court has ruled in the cases of Himachal Road Transport Corporation vs. Dinesh Kumar [JT 1996 (5) S.C. 319] on May 7, 1996 and Hindustan Aeronautics Limited vs. Smt A. Radhika Thirumalai [JT 1996 (9) S.C. 197] on October 9, 1996 that appointment on compassionate grounds can be made only if a vacancy is available for that purpose.
- (e) The Supreme Court has held in its judgement in the case of State of Haryana and others vs. Rani Devi and others [JT 1996(6) S.C. 646] on July 15, 1996 that if the scheme regarding appointment on compassionate ground is extended to all sorts of casual, ad-hoc employees including those who are

working as Apprentices, then such scheme cannot be justified on Constitutional grounds.

- (f) The Hon'ble Supreme Court in its judgment dated 05.04.2011 in Civil Appeal No. 2206 of 2006 filed by Local Administration Department vs. M. Selvanayagam @ Kumaravelu has observed that "an appointment made many years after the death of the employee or without due consideration of the financial resources available to his/her dependents and the financial deprivation caused to the dependents as a result of his death, simply because the claimant happened to be one of the dependents of the deceased employee would be directly in conflict with Articles 14 & 16 of the Constitution and hence, quite bad and illegal. In dealing with cases of compassionate appointment, it is imperative to keep this vital aspect in mind".
- (g) The Hon'ble Supreme Court of India in its judgement in Civil Appeal No. 988 of 2019 (Arising out of SLP (C) No. 7079 of 2016) titled State of Himachal Pradesh & Anr versus Shashi Kumar, has laid down the following important principles in this regard:
- (i) The Writ Petition (CWP No. 3652 of 2015) filed by the respondent before the High Court shall stand dismissed and the direction of the High Court for reconsideration of the application for compassionate appointment shall stand set aside;
 - (ii) The direction issued by the High Court to the appellants to desist from taking into account the family pension and other terminal benefits is unsustainable in law and is accordingly set aside;
 - (iii) While we confirm the decision of the State Government to fix income limits in order to satisfy the terms of eligibility for compassionate appointment, we expect that the State Government shall, in compliance with the Policy, revisit the income limits at intervals of three years or earlier and consider whether a revision is warranted having regard to the cost of living, inflation and other relevant facts and circumstances.

**PRESCRIBED FORMAT FOR APPLICATION FOR EMPLOYMENT
TO ELIGIBLE DEPENDENTS OF - EMPLOYEES DYING WHILE
IN SERVICE/MISSING FOR MORE THAN TWO
YEARS/MEDICALLY RETIRED EMPLOYEES**

PART-A (INFORMATION ABOUT EMPLOYEE)

01.	(a)	Name of the deceased/ missing/medically retired Government Employee.	
	(b)	Post Held lastly	
	(c)	Date of birth of the Employee as per service record	
	(d)	Date of Entry in Government Service	
	(e)	Date of death/missing/ retiring on medically grounds supported by authentic document	
	(f)	Total length of service rendered	
	(g)	Whether Regular/Contractual/ Daily Waged employee	
	(h)	Category to which belongs - General/SC/ST/OBC	

PART-B (INFORMATION ABOUT THE APPLICANT)

02.	(a)	Name of the Applicant for compassionate employment	
	(b)	His/Her Relationship with the employee	
	(c)	Date of birth supported by documentary evidence	
	(d)	Academic educational qualification(s)	
	(e)	Professional/Technical qualification(s)	
	(f)	Proof of identity viz. Voter Id, Aadhar Card etc.	
	(g)	Post for which employment is sought	

PART-C (INFORMATION ABOUT PENSION & OTHER RETIRAL BENEFITS)

03.	(a)	Family pension	
	(b)	D.C.R. Gratuity	
	(c)	G.P.F./C.P.F.	
	(d)	Life Insurance/Postal/any other insurance	
	(e)	Moveable and Immoveable Properties & annual income earned therefrom by the family	
	(f)	C.G.E. Insurance Amount	
	(g)	Encashment of leave	
	(h)	Any other assets	
		TOTAL	
04.		Brief particular(s) of liability, if any	

PART-D (PARTICULARS OF ALL THE DEPENDENTS OF THE GOVT. SERVANT (IF SOME ARE EMPLOYED, THEIR INCOME AND WHETHER THEY ARE LIVING TOGETHER OR SEPARATELY))

Sr. No.	Name & age	Relationship with the Government employee	Employed or not particular of the employment and emoluments.
1.			
2.			
3.			
4.			
5.			
6.			

DECLARATION/UNDERTAKING:-

(i) I hereby declare that the facts given by me above, are to the best of my knowledge, correct. If any of the facts herein mentioned are found to be incorrect/false at future date, my services may be terminated.

(ii) I also undertake to refund the entire amount of loan/advance taken from the Government by my husband/father in the event of employment being provided to me together with the interest on the loan/advance.

(iii) I also undertake that I shall maintain properly, other family members, who were dependent on the deceased or medically retired/missing Government servant and in case it is proved subsequently (at any time) that the family members are being neglected, or are not being maintained properly by me, my appointment may be terminated forthwith.

DATE:

Place:

Signature of the applicant.

Complete Home Address:-

I have certified that the facts mentioned by the candidate above are correct.

Signature of the Head of Office

Name :-

Address:-

Recommendation of the Head of Department.

Signature of the Head of Office

Name :-

Address:-