

AUTHORITATIVE ENGLISH TEXT

BILL NO. 39 OF 2024

**THE HIMACHAL PRADESH RECRUITMENT AND CONDITIONS OF
SERVICE OF GOVERNMENT EMPLOYEES BILL, 2024**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

**THE HIMACHAL PRADESH RECRUITMENT AND CONDITIONS OF
SERVICE OF GOVERNMENT EMPLOYEES BILL, 2024**

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**THE HIMACHAL PRADESH RECRUITMENT AND
CONDITIONS OF SERVICE OF GOVERNMENT
EMPLOYEES BILL, 2024**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to regulate the recruitment and conditions of service of persons appointed, to public services in connection with the affairs of the State and matters connected therewith or incidental thereto.

WHEREAS, article 309 of the Constitution provides for making law for regulating the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the State;

AND WHEREAS, in the recruitment and promotion rules framed in exercise of the powers conferred under the proviso to article 309 of the Constitution, the appointments on contract basis have also been included;

AND WHEREAS, on account of inclusion of contract appointments in the recruitment and promotions rules, these appointments are being treated as appointments to the public services;

AND WHEREAS, since, the service conditions of the persons working on contract basis are regulated as per the agreement signed between the parties, the various service rules applicable to the Government employees, are not applicable to them and as such the contract appointees are not part of public service;

AND WHEREAS, it is necessary to harmonise the interests of the persons appointed on regular basis to the public services and on contract basis;

NOW THEREFORE, it is expedient to exclude the contract appointments from the recruitment and promotion rules.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Seventy-fifth Year of the Republic of India as follows:—

Short title
and
commencement.

1. (1) This Act may be called the Himachal Pradesh Recruitment and Conditions of Service of Government Employees Act, 2024.

(2) It shall come into force on such date as the State Government may, by notification in the Rajpatra (e-Gazette), Himachal Pradesh, appoint.

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Definitions.

2. In this Act, unless the context otherwise requires;

(a) “Competent Authority” means an authority, as may be prescribed;

(b) “Department” means any Department of the Government of Himachal Pradesh;

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(c) “Government” or “State Government” means the Government of Himachal Pradesh;

(d) “Government employee” means a person appointed to the public services on the regular basis;

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(e) “Notification” means a notification published in the Rajpatra (e-Gazette), Himachal Pradesh;

(f) “prescribed” means prescribed by rules made under this Act; and

(g) “State” means the State of Himachal Pradesh.

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Method of
recruitment.

3. All the recruitments to the public services in the State shall be made by regularisation of services or by promotion or in the manner as may be prescribed.

4. The conditions of service of a Government employee shall be such, as may be prescribed. Conditions of service.

5. Notwithstanding anything contained in any law, rule, notification, Government order etc. for the time being in force, the services of a person appointed on contract basis or on daily wage basis shall be regularised, in the manner and subject to fulfillment of such terms and conditions, as may be prescribed. Regularisation of persons working on contract basis.

6. (1) The service benefits available under various Central Civil Services Rules, as applicable in the State, the Himachal Pradesh Civil Services Rules and other service benefits like, seniority, increment, promotion, etc. shall be applicable only to the employees appointed on regular basis. Extension of service benefits.

(2) No person working in any Government Department, who has not been appointed as per the provisions of this Act and rules made thereunder on regular basis shall be entitled to service benefits available under various Central Civil Services Rules, as applicable in the State, the Himachal Pradesh Civil Services Rules and other service benefits like, seniority, increment, promotion etc.:

Provided that a person shall be entitled for service benefits only from the date of regularisation of his services:

Provided further that a person, whose services have been regularised after 12th December, 2003 shall also be entitled for the service benefits from the date of regularisation, as if their services have been regularised under the provisions of this Act:

Provided also that the service benefits already extended to the persons for the service other than regular service shall stand withdrawn.

7. No rule, regulation, order, direction, or notification made or published and no adjudication, inquiry or act done under any of the provisions of this Act or the rules made thereunder, which is substantially in consonance with the same, shall be deemed to be illegal, void or invalid only by reason of any defect or form. Validity of rules and orders, etc.

Amendment
in Column
10 of the
rules.

8. Notwithstanding anything contained in any judgment, decree or order of any court; law, rule, notification, order, etc., for the period commencing on and from 12th December, 2003 and ending on the date of commencement of this Act, in Column number 10 of the recruitment and promotion rules notified in exercise of powers conferred by proviso to article 309 of the Constitution of India, the words "on contract basis", or such similar words conveying the same meaning, wherever occurs, the words "by regularisation" shall be deemed to have always been substituted as if this Act had been in force at all material times:

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Provided that the appointments, if any, already made on contract basis will be regularised or deemed to have been regularised under the provisions of this Act.

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Overriding
effect.

9. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law, rule, notification, etc., if any.

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Power to
make rules.

10. (1) The State Government may, by notification in the Rajpatra (e-Gazette), Himachal Pradesh; and after previous publication, make rules for carrying out the purposes of this Act.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session for a total period of not less than ten days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the Assembly makes any modification in the rule or decides that the rules should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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Power to
remove
difficulties.

11. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by general or special order, published in the Rajpatra (e-Gazette), Himachal Pradesh, make provision, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing difficulty:

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Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the State Legislative Assembly.

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12. (1) All rules, notifications, etc. made or notified in exercise of the powers conferred by the proviso to article 309 of the Constitution of India, which are contrary to the provisions of this Act, are hereby repealed. Repeal and savings.

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(2) Without prejudice to the provisions contained in the Himachal Pradesh General Clauses Act, 1968 with respect to repeals, any rule made under the proviso to article 309 of the Constitution, any notification, rule, order, appointment, decision, direction, approval, authorisation, consent, application, request or thing made, issued, given or done except to the extent that a provision may be inconsistent with the provisions of this Act, continue to be in force and shall have effect as if made under the corresponding provisions of this Act.

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Authenticated



Chief Minister
Himachal Pradesh

STATEMENT OF OBJECT AND REASONS

The provision under article 309 of the Constitution provides for making law for regulating the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the State. It has also been provided that until provisions on this behalf are made under an Act, rules may be made. Accordingly, the recruitment and conditions of service of persons appointed to the public services are being regulated by making the rules. In the recruitment and promotion rules framed in exercise of the powers conferred under the proviso to article 309 of the Constitution, the appointments on contract basis have also been included. Since, the service conditions of the persons working on contract basis are regulated as per the agreement signed between the parties, the various service rules applicable to the Government employees, do not apply to such persons and as such the contract appointees are not part of public services. On account of the inclusion of contract appointments in the recruitment and promotion rules, these appointments are being treated as appointments to the public services wrongly, which is totally against the intention and purpose of engaging the persons on contract basis. Hence, it is necessary to harmonise the interests of the persons appointed on regular basis to the public services and contract appointees. In case, the contract appointees are treated as equivalent to the regular employees, it will not only put a huge burden on the State Exchequer, but the settled position will also get unsettled. The contract appointments have been made since 2003 and treating them as equivalent to regular employees will result into revising the seniority lists for the last more than 21 years and many employees may have to be demoted to adjust the contract persons. The persons engaged on a contract basis were aware at the time of their engagement that they were not entitled to seniority and other service benefits for the period of contract service. Such persons had accepted these terms and conditions and signed contracts to this effect. Moreover, most of the regular employees were already in the service and had sufficient experience about the working of the department, which fact cannot be ignored. Therefore, to avoid a huge burden on the State Exchequer and not to unsettle the settled position, the Bill is required to be processed.

This Bill seeks to achieve the aforesaid objectives.

(SUKHVINDER SINGH SUKHU)

Chief Minister.

Authenticated

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Chief Minister
Himachal Pradesh

DHARAMSHALA:

THE, 2024.

FINANCIAL MEMORANDUM

—Nil—

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill seeks to empower the State Government to make rules for carrying out the purposes of this Act. The proposed delegation of power is essential and normal in character.

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*to regulate the recruitment and conditions of service of persons to public services
in connection with the affairs of the State and matters connected therewith or incidental
thereto.*

(SUKHVIDER SINGH SUKHU)
Chief Minister.

(SHARAD KUMAR LAGWAL)
Secretary (Law).

DHARAMSHALA:
THE....., 2024.

Authenticated

Chief Minister
Himachal Pradesh