

Government of Himachal Pradesh
Department of Technical Education

No.EDN (TE) E (1)38/2024 Dated: Shimla-02, the 31st August, 2024

ORDER

WHEREAS Shri Navdeep Sharma was engaged by the Director/Principal of Atal Bihari Vajpayee Government Institute of Engineering and Technology Pragatinagar, District Shimla as a stop gap arrangement from Students Welfare Fund (SWF) as Lecturer (Computer Science and Engineering) on Hourly basis/Lecture/Period basis through walk in interview on 31.08.2012 and he has joined his duties in the Institution on 30.09.2012. Thereafter, his services were re-engaged from time to time.

ANDWHEREAS the minimum essential qualification for the post of Lecturer (Engineering) as per the Recruitment and Promotion Rules notified by the Government vide notification dated 28.11.2007 prevailing at the time of his initial engagement is as under :-

“First Class Bachelor’s Degree in the appropriate branch of Engineering/Technology or equivalent, valid GATE score minimum 75 percent, to complete M.Tech/M.E within 05 years failing which the increments will be stopped until the postgraduate degree is earned. The Institutions to provide adequate opportunity to its teaching staff to complete this requirement.”

These Recruitment and Promotion Rules were repealed and new Rules for the post of Assistant Professor (Engineering) were notified by the Government vide notification dated 29.03.2014 and the minimum essential qualification for the post is as under: “ B.E./B. Tech and M.E./M.Tech in relevant branch of Engineering with first class or equivalent either in B.E./B. Tech or M.E./M.Tech.”

ANDWHEREAS Vide this Department’s Notification dated 03.10.2015 and further clarification issued vide letter dated 21.10.2015 has granted approval to take over the services on Govt. contract basis of all the

incumbents (teaching and non-teaching) engaged under Student Welfare Fund upto 31.07.2015 after the completion of 7 years of services or 9600 hours whichever is earlier.

ANDWHEREAS In compliance of the aforesaid notification, the service record of the petitioner was submitted by the Director/Principal of ABVGIET Pragatinagar and was further placed before the screening committee for examination/verification of the record/documents and the screening committee had not recommend the case of the petitioner for taking over his service on Government contract as Sh. Navdeep Sharma, Lecturer, Computer Science and Engineering has done his Master Degree (M.Tech) in Information Technology for Karnataka State Open University and as per the All India Council of Technical Education (AICTE) norms/regulation degree through distance education is not recognized. However, the committee had further suggested to seek the necessary clarification from the respective agency regarding M.Tech. through Distance Education.

ANDWHEREAS as per the observation of the screening committee regarding recognition as well as AICTE approval of the Master Degree acquired by the applicant from Karnataka State Open University, the matter was taken up with the AICTE for clarification that as to whether, the Karnataka State Open University Mysore was recognized by the AICTE. The regulatory agency i.e. AICTE vide letter dated 11.03.2020 has informed that AICTE doesn't recognize diploma and degree level course in Engineering and Technology conducted through Open and Distance Education Mode. As far as M.Tech degree course in Information Technology conducted by though ODL mode from Karnataka State Open University Mysore, it is informed that AICTE has not accorded any approval to Karnataka Open State Open University for the same.

ANDWHEREAS the applicant has filed CWP No. 2266 of 2020 before Hon'ble High Court for converting of his services from hourly basis to contract from due date in the terms of policy decision taken vide notification

dated 03.10.2015. The operative part of the orders passed by Hon'ble High Court on 03.04.2024 in said CWP as under:-

“-----Consequently in view of the above, present petition is allowed and respondents are directed to convert the services of petitioner from hourly basis to contract from due date in terms of policy decision taken vide notification dated 03.10.2015 expeditiously preferable within a period of four weeks.”

ANDWHEREAS the matter was taken up with the Law Department who has given its advice as under :-

“----- In view of above discussed facts and circumstances of the case, this department is of the considered opinion that the findings returned by the Hon'ble Court in the instant case appear to be just and proper as the same is based on due appreciation of the provisions of the R&P Rules and in the opinion of this department, no fruitful purpose is likely be served by assailing the same further. As per R&P Rules of Lecturer Engineering notified on 28.11.2007, the person was eligible for appointment as Lecturer because he holds first class Bachelor's Degree in appropriate branch. The AD is advised to implement the directives of the Hon'ble Court as contained in the judgement dated 03.04.2024 passed in CWP No. 2266 of 2020, titled Navdeep Sharma Vs State of HP & Ors”.

ANDWHEREAS the matter was re-referred to the Law Department for its advice and Law Department has given its advice as under:-

Examined in the Law Department. It is noticed that the instant matter has already been examined in this Department and opinion qua implementation of the judgement dated 3rd April, 2024 rendered in CWP No. 2266 of 2020-Navdeep Sharma vs State of Himachal Pradesh & Ors. It is noticed that the department had already sought clarification in this regard from the All India Council of Technical Education (AICTE). It has been clarified by the AICTE that it does not recognize the diploma and degree level courses in Engineering and

Technology conducted through open and distance education mode. Thus, the Master Degree (M.Tech) in Information Technology, done by the petitioner, from Karnataka State Open University is not recognized by the AICTE. Here it is made clear that the Hon'ble Court has not made any observation with regard to the validity of M.Tech degree obtained by the petitioner from Karnataka Open University. The Hon'ble Court has observed that since the petitioner possesses degree of B.Tech with First Class awarded by the Himachal Pradesh University, he was fully eligible to be appointed against the post of Lecturer in terms of R&P Rules. The action of the department in not converting the service of petitioner from hourly basis to contract basis was contrary to its policy and provisions of the R&P Rules of Lecturer.

In view of above, the department may take an appropriate decision qua implementation of the judgement dated 3rd April, 2024, rendered in CWP No. 2266 of 2020, Navdeep Sharma vs State of H.P.”

ANDWHEREAS the matter was taken up with the Department of Personnel and has given advice as under :-

Examined. “It is clarified that all the matters regarding recognition of Degree/diploma/certificate/equivalence etc. fall within the purview of the “State Level Board of Equivalence Committee” constituted by the Education Department vide notification dated 03.04.2024. The Department of Personnel has no role in examining/or imparting advice with regard to recognition of degree/diploma/certificate/equivalence etc., which are to be taken up with the Education Department in the light of letter No. Per (AP.B) B (13)-1/2012 dated 02.09.2014, a copy is placed below. Accordingly, the AD is advised to take up this matter with Education Department.”

ANDWHEREAS as per advice of Department of Personnel the matter was taken up with Education Department for placing the matter before Equivalence Committee. The Education Department has intimated that the AICTE vide their letter No. 2-PC/AICTE/Gen. Dist. Edu. Policy/2020/665, dated 11-03-2020, has conveyed their opinion to Director, Technical Education, Vocational & Industrial Training, Sundernagar, H.P, that :-

“AICTE doesn't recognize diploma and degree level courses in

Engineering and Technology conducted through Open and Distance Education Mode. As far as M.Tech degree course in Information Technology conducted through ODL mode Karnataka State Open University, Mysore, it is informed that AICTE has not accorded any approval to Karnataka Open University for the same.”

Now, after carefully examination the matter, keeping in view of order of Hon'ble High Court passed in CWP No. 2266 of 2020 titled as Navdeep Sharma Vs State of Himachal Pradesh & Ors., advice of Law Department, Department of Personnel & Education Department, it has been decided to take over the services of petitioner Shri Navdeep Sharma who is engaged through Student Welfare Funds as Lecturer (Computer Science and Engineering) on Govt. contract basis w.e.f 15.01.2019 as per annexure-A below.

By Order

(Kadam Sandeep Vasant)
Secretary (Tech. Edu.) to the
Government of Himachal Pradesh

Endst. No. As above

Dated: Shimla the,

31st August, 2024

Copy forwarded to the following for information and necessary action:-

1. The Ld. Advocate General, H.P. Shimla with reference to CWP No. 2266 of 2020 titled as Navdeep Sharma Vs State of Himachal Pradesh & Ors. with the request to apprise the Hon'ble High Court.
2. The Director of Technical Education, Sundernagar, Distt. Mandi, Himachal Pradesh w.r.t his letter No. STV (TE) HB (2) 8/PF/ Navdeep Sharma/AP/CSE/E-203748/ 2024 -8311 dated 27.04.2024.
3. Sh. Navdeep Sharma, Assistant Professor (CSE) presently posted at Atal Bihari Vajpayee Government Institute of Engineering and Technology Pragatinagar, District Shimla, H.P. for information.



(Suneel Sharma)
Special Secretary (TE) to the
Government of Himachal Pradesh

Government of Himachal Pradesh
Department of Technical Education

No: EDN(TE)E(1)38/2024 Dated: Shimla-02, the _____ August, 2024

NOTIFICATION

In pursuance to judgement dated 03.04.2024 in CWP No. 2266 of 2020 titled as Navdeep Sharma V/s State of Himachal Pradesh & Ors. passed by Hon'ble High Court, H.P. and this Department's notification No. EDN(TE)B(1)2/2015 dated 03-10-2015, further clarification dated 21-10-2015, the Governor of Himachal Pradesh is pleased to take over the services of Sh. Navdeep Sharma, Assistant Professor (Computer Science & Engineering) appointed under Students Welfare Fund in, Atal Bihari Vajpayee Government Institute of Engineering and Technology Pragatinagar, District Shimla, H.P as Assistant Professor (Computer Science & Engineering) on contract basis, w.e.f 15.01.2019 in the Department of Technical Education Vocational & Industrial Training, Himachal Pradesh, further he is posted at Atal Bihari Vajpayee Government Institute of Engineering and Technology Pragatinagar, H.P, on the terms and conditions depicted below:-

TERMS AND CONDITIONS:-

- i) The above contractual appointee will be paid fixed contractual amount @ Rs. 35000/- P.M. No other allied benefits such as senior /selection scales etc. will be given.
- ii) The services of the above contractual appointee will be purely on temporary basis. The appointment is liable to be terminated in case the performance/conduct of the contract appointee is not found satisfactory.
- iii) He will be entitled to one day's casual leave after putting one month service. However, he will also be entitled for 10 day's Medical Leave and 5 days special leave. He shall not be entitled for Medical Re-imburement and LTC etc. No leave of any kind except above is admissible to the above contractual appointee. Provided that the un-availed Casual Leave and Medical Leave can be accumulated up to the Calendar Year and will not be carried forward for the next Calendar Year.
- iv) Unauthorized absence from the duty without the approval of the Controlling Officer shall automatically lead to the termination of the contract. The above contractual appointee shall not be entitled for contractual amount for the period of absence from duty.

- v) The above official appointed on contract basis who has completed two years tenure at one place of posting will be eligible for transfer on need based basis wherever required on administrative grounds.
- vi) The candidate will have to submit a certificate of his fitness from a Government/Registered Medical Practitioner.
- vii) Contract appointee will be entitled to TA/DA if required to go on tour in connection with his official duties at the same rate as applicable to the regular officials at the minimum of the pay scale.
- viii) Provisions of service rules like FR SR, Leave Rules, GPF Rules, Pension Rules & Conduct Rules etc. as are applicable in case of regular employees will not be applicable in case of contract appointees. They will be entitled to emoluments etc. as detailed at (i) above.

He is directed to report for duty at the place of his posting within 10 days positively on the receipt of this appointment letter, failing which it will be presumed that the incumbent is not interested and offer of appointment shall be deemed to be cancelled.

By Order

(Kadam Sandeep Vasant)
Secretary (T.E) to the
Government of Himachal Pradesh

Endst. No.As above

Dated: Shimla-02,the

31st August, 2024

Copy for information and necessary action to:-

1. The Pr. Accountant General, Himachal Pradesh, Shimla-3.
2. The Accountant General (A&E), Himachal Pradesh, Shimla-3.
3. The Director, Technical Education Vocational & Industrial Training, H.P. Sundernagar, Distt. Mandi-174401. He is further requested that the certificates produced by the above appointee be got verified from competent authority and information alongwith joining report be sent to this Department.
4. The Director-cum-Principal, Atal Bihari Vajpayee Government Institute of Engineering and Technology Pragatinagar, District Shimla, H.P.
5. Sh. Navdeep Sharma, Assistant Professor (CSE) presently posted at Atal Bihari Vajpayee Government Institute of Engineering and Technology Pragatinagar, District Shimla, H.P. ~~has~~ directed to produce his original Degree/Certificates before the competent authority.
6. Personal file of concerned officers.



(Suneel Sharma)
Special Secretary (T.E) to the
Government of Himachal Pradesh