

*AUTHORITATIVE ENGLISH TEXT*

BILL NO. 12 OF 2019.

**THE HIMACHAL PRADESH ADMINISTRATIVE TRIBUNAL  
(TRANSFER OF DECIDED CASES AND PENDING  
APPLICATIONS) BILL, 2019**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

**THE HIMACHAL PRADESH ADMINISTRATIVE TRIBUNAL (TRANSFER  
OF DECIDED CASES AND PENDING APPLICATIONS) BILL, 2019**

ARRANGEMENT OF CLAUSES

*Clauses :*

1. Short title and commencement.
2. Definitions.
3. Transfer of decided cases and pending applications.
4. Intimation of transfer of applications to the parties.
5. Repeal of the Himachal Pradesh Ordinance No. 1 of 2019 and savings.

**THE HIMACHAL PRADESH ADMINISTRATIVE TRIBUNAL  
(TRANSFER OF DECIDED CASES AND PENDING  
APPLICATIONS) BILL, 2019**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

*to provide for the transfer of decided cases and pending applications before the Himachal Pradesh Administrative Tribunal, which has been abolished by the Government of India vide Notification No. G.S.R. 529 (E), dated 26<sup>th</sup> July, 2019 by rescinding the Notification No. G.S.R. 926 (E), dated 29<sup>th</sup> December, 2014.*

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

5           1. (1) This Act may be called the Himachal Pradesh Administrative Tribunal (Transfer of Decided Cases and Pending Applications) Act, 2019. Short title and commencement.

(2) It shall be deemed to have come into force on 13<sup>th</sup> August, 2019.

2. In this Act, unless the context otherwise requires,— Definitions.

13 of 1985           (a) “application” means an application made under section 19 of the Administrative Tribunals Act, 1985;

(b) “High Court” means the High Court of Himachal Pradesh; and

15           (c) “Tribunal” means the erstwhile Himachal Pradesh Administrative Tribunal established under sub-section (2) of section 4 of the Administrative Tribunals Act, 1985.



Transfer of decided cases and pending applications.

3. (1) Any suit or case or other proceeding which was transferred by any Civil Court and decided by the Tribunal or pending on the date of commencement of this Act before the Tribunal shall stand transferred back to the same Civil Court from which it was transferred and in case such court is not in existence then to the court of competent jurisdiction in its place and such court shall proceed to dispose of the same as it was a plaint under the Code of Civil Procedure, 1908. 5

5 of 1908

(2) Every petition or proceeding which was transferred by the High Court to the Tribunal and decided by the Tribunal or is pending on the date of commencement of this Act before the Tribunal shall stand transferred back to the High Court. 10

(3) Every proceeding of a case which was filed as an original application in the Tribunal and decided by the Tribunal or is pending on the date of commencement of this Act before the said Tribunal shall stand transferred to the High Court. 15

(4) Where any case or proceeding stands transferred from the Tribunal to the High Court or Civil Court under sub-section (1), (2) or (3),—

(a) the record of such cases or proceedings shall be forwarded to the High Court or the Civil Court concerned, as the case may be; and 20

(b) the High Court or the Civil Court, as the case may be, on receipt of such record, proceed to deal with the case from the stage which was reached before such transfer or from any earlier stage as the High Court or the Civil Court may deem fit. 25

(5) Every proceeding relating to contempt, execution or review of final order or interim order pending before the Tribunal on the date of commencement of this Act, shall stand transferred to the High Court or the Civil Court, as the case may be. 30

4. As soon as after the transfer of applications or proceedings under section 3, the High Court or the Civil Court concerned, as the case may be, shall intimate the parties or their counsel accordingly.


Intimation  
of transfer  
of  
applications  
to the  
parties.

5 (1) The Himachal Pradesh Administrative Tribunal (Transfer of Decided Cases and Pending Applications) Ordinance, 2019 is hereby repealed.

Repeal of  
the  
Himachal  
Pradesh  
Ordinance  
No. 1 of  
2019 and  
savings.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed, shall be deemed to have been done or taken under the corresponding provisions of this Act.

*Authenticated*

  
Chief Minister  
Himachal Pradesh



## STATEMENT OF OBJECTS AND REASONS

The Himachal Pradesh Administrative Tribunal was established by the Government of India, in exercise of the powers conferred by sub-section (2) of section 4 of the Administrative Tribunals Act, 1985 (13 of 1985) on 29<sup>th</sup> December, 2014. The main motive to establish the Tribunal has not been found achieved due to the following reasons :—

- (1) With the establishment of the Tribunal, the three tier system of justice had come into play as before approaching the High Court, the aggrieved employees had to approach the Tribunal also. Thus, this system was neither in the interest of the employees nor in the public interest as the time to decide the disputes was getting longer.
- (2) The Himachal Pradesh being a small State, the Tribunal was not required in the interest of economy as an exclusive High Court has been established for the State.
- (3) The vast majority of the States are not having the Administrative Tribunal. Thus, it may also be abolished in the State.
- (4) The Tribunal was established to dispose of the cases expeditiously. However, the pendency is increasing day by day and more than 21,000 cases are pending adjudication in the Tribunal.

In view of the above, it was decided to request the Government of India for abolition of the Himachal Pradesh Administrative Tribunal in the public interest. The Government of India has now rescinded its Notification issued on 29<sup>th</sup> December, 2014 vide which the Himachal Pradesh Administrative Tribunal was established. As such the Himachal Pradesh Administrative Tribunal has ceased to be in operation *w.e.f.* 26<sup>th</sup> July, 2019.

However, more than 21,000 cases were pending in the Tribunal, therefore a scheme was required to be provided for transferring the cases urgently to the Hon'ble High Court and Civil Courts, as the case may be.

Since, the Legislative Assembly was not in Session and a scheme to transfer the cases was required to be provided urgently, therefore, the Hon'ble Governor in exercise of the powers conferred under clause (1) of article 213 of the Constitution of India promulgated the Himachal

Pradesh Administrative Tribunal (Transfer of Decided Cases and Pending Applications) Ordinance, 2019 (The Himachal Pradesh Ordinance No.1 of 2019) on 9<sup>th</sup> August, 2019 which was published in the Rajpatra (e-Gazette), Himachal Pradesh on 13<sup>th</sup> August, 2019. Now, the said Ordinance is required to be replaced by the regular legislation.

This Bill seeks to replace the said Ordinance without modification.

**(JAI RAM THAKUR)**

*Chief Minister.*

SHIMLA :

THE....., 2019.

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### FINANCIAL MEMORANDUM

-NIL-

### MEMORANDUM REGARDING DELEGATED LEGISLATION

*Authenticated*



Chief Minister  
Himachal Pradesh

-NIL-



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*to provide for the transfer of decided cases and pending applications before the Himachal Pradesh Administrative Tribunal, which has been abolished by the Government of India vide Notification No. G.S.R. 529 (E), dated 26<sup>th</sup> July, 2019 by rescinding the Notification No. G.S.R. 926 (E), dated 29<sup>th</sup> December, 2014.*

**(JAI RAM THAKUR)**  
*Chief Minister.*

**(YASHWANT SINGH CHOGAL)**  
*Principal Secretary (Law).*

SHIMLA:

THE ....., 2019.

*Authenticated*



Chief Minister  
Himachal Pradesh



THE HIMALACHAL PRADESH ADMINISTRATIVE TRIBUNAL HAS DECIDED AS FOLLOWS AND IN THIS CONNECTION THE GOVERNMENT HAS DECIDED AS FOLLOWS:

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In order to provide for the transfer of certain posts and positions and to provide for the transfer of certain posts and positions and to provide for the transfer of certain posts and positions...

(SIGNED)

Chief Minister  
Himachal Pradesh

6-1-19

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