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Govt. of India, Ministry of Defence

Directorate General Defence Estates

Raksha Sampada Bhawan

Ulaanbaatar Marg,

Delhi Cantt 10

11 July, 2011

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To

The Principal Director, Defence Estates,
Central/ Eastern/Northern /Southern/Western Command,
Lucknow / Kolkata / Jammu / Pune / Chandigarh.

Subject.- Regularization of Appointment/Daily Wage Employments in the Cantonment Boards.

The Directorate General have received reports from some Directorates regarding cases of appointments/ daily wages wherein either request has been made for their regularization or the cases are pending at the Directorate level for long for seeking relaxation of the Competent Authority under Cantonment Fund Servants Rules, 1937. Broadly the cases would fall under following categories:-

(i) Cases of engagement of casual labours as office staff, safai karamcharies or labourers etc who are working with the Cantonment Board till date where the initial engagement was done prior to 01/09/1993.

(ii) Cases of engagement of casual labour as office staff, safaikarmcharies or laourers etc., engaged by CEOs/ Cantonment Boards either under conservancy agreements (under Head F-9) or for intermittent or seasonal works who are working with the Cantonment Board till date where the names were sponsored by the local employment exchange or received through a public notice/newspaper advertisement as per laid down procedure and the candidates fulfilled all necessary qualifications for appointment to a regular post, at the time of initial engagement.

(iii) Cases of appointment to a regular post where the appointment was made in compliance with the laid down recruitment rules & procedure except that the candidate was over-age at the time of appointment.

(iv) Cases of engagement of casual labour who are working with the Cantonment Board till date where the names were neither sponsored by the local employment exchanges nor the names were received through a public notice or the daily wagers did not fulfill eligible conditions of appointment to a regular post at the time of initial appointment.

(v) Cases of appointment to a regular post where the appointment was made without complying with the laid down recruitment rules or procedure.

2. The Directorates are required to take following action to resolve the appointment cases falling in the categories mentioned in para 1 above.

(i) Cases falling in para 1(i) should be dealt with in accordance with the Scheme for Grant of Temporary Status and Regularization of Casual Workers as

CANTTS SECTION	
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Sr. Addl DG	
Addl DG	
Dy. DG / Asstt. DG	
Dy. Dir/Asstt. Dir	
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Diary No. & Date	5992/997/11

published vide GOI, DOP&C OM NO. 51016/2/90-Estt(C) dated 10/09/1993. A copy of the OM dated 10/09/1993 is enclosed as Annexure 'A'.

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(ii) Cases falling in para 1(ii) should be considered for regular appointment against existing vacancies after completing all laid down formalities since such engagement was done as per the laid down procedure and recruitment rules. Wherever required, age relaxation of the competent authority shall be obtained as is required under rule 5-B(2) of the CFSR, 1937. However, the offer of appointment will be effective only from prospective date i.e. either from the date of offer of regular appointment or date of joining, whichever is later.

(iii) Cases falling in para 1(iii) should also be regularized by obtaining age relaxation from competent authority under rule 5-B(2) of the CFSR, 1937.

(iv) Cases falling in para 1(iv) can not be considered for regular appointment since the engagement of daily wages labourer was not done as per the laid down procedure. These cases can only be considered by the appointing authority if their names are sponsored by local employment exchange or applications received against public notice/ newspaper advertisement whenever a fresh notification is issued for filling up vacancies. In case such an applicant is over aged and submits application against a fresh vacancy notification, his case may be considered keeping in view the past services rendered by him. However, the appointing authority will have to obtain relaxation in age limit from the competent authority under rule 5-B(2) of CFSR, 1937 before any offer of appointment is made to him. In case, the age relaxation is not received from the competent authority, no appointment can be offered to him and his daily wage services will be terminated forthwith.

(v) Cases falling in para 1(v) will come under the category of irregular appointment. Such cases will have to be referred to the Government for regularization as is required under rule 31/A of FRSR.

3. PDs DE are advised to initiate requisite action on the guidelines given in para 2 above. Cantonment Boards should be directed not to engage daily wage casual labours against a permanent regular post. The engagement of casual labour should only be resorted for contractual, seasonal or intermittent work strictly as per laid down procedure under existing Government orders. The services of casual labour should be terminated after the completion of contractual, seasonal or intermittent work. For any fresh contract or seasonal or intermittent work, the procedure to engage casual labour should be started afresh.

(Ajay Kumar Sharma)
Dy. Director General
For Director General,
Defence Estate

Copy:

Director, NIDEM — *given by hand*

DMS — *given to Dadwal,*
[Signature]

O/c
[Signature]

If any deviation in this regard is committed, responsibility should be fixed and appropriate departmental action taken against the official concerned.

[G.I., D.P. & T., O.M. No. 49014/18/84-Estt. (C), dated the 7th May, 1985.]

5. Ban on engagement of casual workers for duties of Group 'C' posts

There is a complete ban on engagement of casual workers for performing duties of Group 'C' posts and hence no appointment of casual workers should be made in future for performing duties of Group 'C' posts. If any deviation in this regard is committed, the administrative officer in charge in the rank of Joint Secretary or equivalent will be held responsible for the same.

[G.I., M.F., O.M. No. 49014/16/89-Estt. (C), dated the 26th February, 1990.]

6. Payment of wages to unskilled casual workers in Archaeological Survey of India

It has been decided that the unskilled casual worker whose nature of work is the same as that of the regular employees may be paid at the rate of 1/30 of Rs. 750 plus DA for work of 8 hours a day with effect from 7-6-1988. The guidelines issued by the Department of Personnel and Training should be strictly observed. On a reference made to them, it has been clarified as under—

- (i) The persons on daily wages on regular nature of work should not be engaged. In case casual workers have been engaged to do duties of regular nature, they shall have to be paid at the minimum time-scale of pay plus DA for work of 8 hours a day.
- (ii) The casual workers are required to be paid for the day on which they actually perform duties.
- (iii) If the casual worker is called for duty on a holiday, he will have to be paid for that day. In case this holiday happens to be paid holiday for the casual worker that he will have to be allowed additional wages for the duty for that holiday.
- (iv) The practice of engaging a casual worker on his weekly off day should be avoided. The question of allowing paid weekly off to casual workers in the offices following five days week work pattern is under consideration of the Department of Personnel and Training.

As for revision of rates in respect of skilled labour is concerned, the matter is being examined separately and the orders will be issued shortly.

[G.I., Archaeological Survey of India, O.M. No. 27-1/86-Admn. III, dated the 15th December, 1988.]

7. Scheme for Grant of Temporary Status and Regularization of Casual Workers

The guidelines in the matter of recruitment of persons on daily wage basis in Central Government offices were issued *vide* this Department's

O.M. No. 49014/2/86-Estt. (C), dated 7-6-1988 [see *Orders under (1) above*]. The policy has further been reviewed in the light of the judgment of the CAT, Principal Bench, New Delhi, delivered on 16-2-1990, in the Writ Petition filed by Shri Raj Kamal and others v. Union of India and it has been decided that while the existing guidelines contained in OM, dated 7-6-1988, may continue to be followed, the grant of temporary status to the casual employees, who are presently employed and have rendered one year of continuous service in Central Government offices other than Department of Telecom, Posts and Railways may be regulated by the Scheme as appended.

2. Ministry of Finance, etc., are requested to bring the scheme to the notice of appointing authorities under their administrative control and ensure that recruitment of casual employees is done in accordance with the guidelines contained in OM, dated 7-6-1988. Cases of negligence should be viewed seriously and brought to the notice of appropriate authorities for taking prompt and suitable action.

APPENDIX

Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularization) Scheme

1. This scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993".

2. This scheme will come into force with effect from 1-9-1993.

3. This scheme is applicable to casual labourers in employment of the Ministries/Departments of Government of India and their Attached and Subordinate Offices, on the date of issue of these orders. But it shall not be applicable to casual workers in Railways, Department of Telecommunication and Department of Posts who already have their own schemes.

4. *Temporary status.*—(i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).

(ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.

(iii) Conferment of temporary status on a casual labourer would not involve and change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.

(iv) Such casual labourers who acquire temporary status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.

5. Temporary status would entitle the casual labourers to the following benefits:—

- (i) Wages at daily rates with reference to the minimum of the pay scale for a corresponding regular Group 'D' official including DA, HRA and CCA. [Special Compensatory Allowance or Compensatory (City) Allowance or Composite Hill Compensatory Allowance, etc., i.e., only one of the compensatory allowance, more beneficial to them, can be taken into account for the purpose of calculating their wages.—O.M. No. 3 (2)/95-E.II (B), dated the 15th January, 1996.]
- (ii) Benefits of increments at the same rate as applicable to a Group 'D' employee would be taken into account for calculating pro rata wages for every one year of service subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 days week) in the year from the date of conferment of temporary status.
- (iii) Leave entitlement will be on a pro rata basis at the rate of one day for every 10 days of work. Casual or any other kind of leave, except maternity leave, will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularization. They will not be entitled to the benefits of encashment of leave on termination of service for any reason or on their quitting service.
- (iv) Maternity leave to lady casual labourers as admissible to regular Group 'D' employees will be allowed.
- (v) 50% of the service rendered under temporary status would be counted for the purpose of retirement benefits after their regularization.
- (vi) After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group 'D' employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance, Flood Advance on the same conditions as are applicable to temporary Group 'D' employees, provided they furnish two sureties from permanent Government servants of their Department.
- (vii) Until they are regularized, they would be entitled to Productivity-Linked Bonus/*Ad hoc Bonus* only at the rates applicable to casual labourers.

6. No benefits other than those specified above will be admissible to casual labourers with temporary status. However, if any additional benefits are admissible to casual workers working in industrial establishments in view of provisions of Industrial Disputes Act, they shall continue to be admissible to such casual labourers.

7. Despite conferment of temporary status, the services of a casual labourer may be dispensed with by giving a notice of one month in writing. A casual labourer with temporary status can also quit service by giving a written notice of one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work.

8. *Procedure for filling up of Group 'D' posts.*—(i) Two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant Recruitment Rules and in accordance with the instructions issued by Department of Personnel and Training from amongst casual workers with temporary status. However, regular Group 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In case of illiterate casual labourers or those who fail to fulfil the minimum qualification prescribed for the post, regularization will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labourer

9. On regularization of casual worker with temporary status, no substitute in his place will be appointed as he was not holding any post. Violation of this should be viewed very seriously and attention of the appropriate authorities should be drawn to such cases for suitable disciplinary action against the officers violating these instructions.

10. In future, the guidelines as contained in this Department's OM, dated 7-6-1988, should be followed strictly in the matter of engagement of casual employees in Central Government offices.

11. Department of Personnel and Training will have the power to make amendments or relax any of the provisions in the scheme that may be considered necessary from time to time.

[G.I., Dept. of Per. & Trg. O.M. No. 51016/2/90-Est. (C), dated the 10th September, 1993.]

8. Clarifications to OM, dated 10-9-1993, regarding grant of temporary status and regularization of casual workers

References are being received from various field formations seeking clarifications regarding orders issued by the D.P. & Trg. in connection with

