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सूचना का अधिकार

भारत सरकार
मानव संसाधन विकास मंत्रालय
स्कूल शिक्षा और साक्षरता विभाग
शास्त्री भवन
नई दिल्ली – 110 115
GOVERNMENT OF INDIA
MINISTRY OF HUMAN RESOURCE DEVELOPMENT
DEPARTMENT OF SCHOOL EDUCATION & LITERACY
SHASTRI BHAWAN
NEW DELHI-110 115

ACSSE
CFMS No. 8023 Date 9.3.17
Mark to DEE

D.O. No. 10-8/2012-EE-5(MDM-1-2)
03rd March, 2017

CFMS 9233 DEE
DATED 14/3/17

Dear Sh. Das.

It has been observed that a number of Writ Petitions have been filed in various High Courts by cooks-cum-helpers of Mid-day Meal demanding pay under the Minimum Wages Act 1948; supply of uniforms; social security measures like insurance cover; issue of appointment letters; permanent status as Group 'D' employees of State Government, medical and maternity leave and other better service conditions.

DEE (Busy) 10-3-17

2. In this connection, it may be mentioned that the Central Government has prescribed norms for engagement of CCHs as follows. One CCH for schools up to 25 students; two CCHs for schools with 26 to 100 students; and one additional CCH for every addition of up to 100 students. The Central Government has also prescribed the amount of honorarium to CCH @ Rs.1000 per CCH per month payable for 10 months. The States can however give more amount of honorarium from their own resources.

AD(A) GM 15/3

3. Apart from the above, it is for the State Governments to engage the CCHs under their own terms and conditions. In other words, the engagement and service conditions of CCHs come under the purview of the State Governments only. In view of this, the writ petitions filed by the CCHs have to be defended by the State Governments if the demand is for more honorarium and other better service conditions.

15/3

4. As regards the demand for minimum wages to CCHs under the Minimum Wages Act 1948, they are being paid honorarium as they are part-time workers only. In view of this, they cannot be paid wages for the whole day under the said Act. In this regard, it is pertinent to refer to the Judgment of Hon'ble Punjab and Haryana High Court in the CWP No. 14796 of 2003 of Avtar Singh vs. State of Punjab and others delivered on 11.11.2011. Relying upon its earlier judgment in CWP No. 9760 of 2012 of the Class IV Employee Union of Education Department (Cooks) engaged by Punjab Government, the Hon'ble High Court of Punjab & Haryana has decided that in cases of cooks who are getting honorarium under Mid-day Meal Scheme, they are employed under a contract which is governed by the terms and conditions of the service of that contract and as such, they cannot

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claim equal pay on the basis of equal work. This is a part time job as only one mid-day meal has to be cooked on a school day. Therefore, the cook-cum-helpers cannot be paid honorarium equivalent to the minimum wages given to labourers. This Ministry has already brought the above judgement to the attention of all States/UTs *vide* letter of even number dated 11th September 2012 requesting them to rely in defending the cases filed by CCHs. (copy enclosed).

Encl: as stated

With Kind Regards,

Yours sincerely,

(Ajay Tirkey)

Shri P.K.Das I.A.S
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सत्यमेव जयते

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SHASTRI BHAVAN
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D.O. No.10-8/2012-EE.5 (MDM-1-2) 11th September, 2012

Dear Colleagues,

This Ministry is observing that many Cooks and their Unions have moved to various High Courts either claiming pay under Minimum Wages Act, payment of honorarium for 12 months, adoption of norms in engaging cooks and pay at par with class IV employees. Union of India has to file replies in these cases.

2. The Ministry has recently come across the judgement of Hon'ble Punjab and Haryana High Court in the case of Avtar Singh vs State of Punjab and others (CWP No.14796 of 2003) delivered on 11thNovember 2011 which has been relied upon by the same High Court in its judgement in CWP 9760 of the Class IV Employees Union of Education Department(Cooks) engaged by Punjab government and has decided that in the cases of Cooks who are getting honorarium under Mid Day Meal Scheme, they are employed under a contract which is governed by the terms and conditions of service of that contract and cook-cum-helpers cannot claim equal pay on the basis of equal work.

3. This is a part time job as only one meal has to be cooked on a school day. Therefore, the cook-cum-helpers cannot be paid honorarium equivalent to the minimum wages given to labourers.

4. It is, therefore, advised that in future while dealing with Court cases on the above subject the judgements delivered by the Punjab and Haryana High Court as quoted above may be relied upon in defending such cases.

With regards,

Yours sincerely,

(Rita Chatterjee)

All Secretaries of Education looking after MDMS

All Directors MDMS

मध्याह्न भोजन योजना
Mid Day Meal Scheme