

**Minutes of the 5<sup>th</sup> meeting of Empowered Committee (constituted vide Government Order No. 139-F of 2015 dated 19.8.2015) held under chairmanship of Commissioner/ Secretary to the Government, Finance Department on 18.03.2016.**

The following officers attended the meeting:-

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|----|---------------------------------------------------------------------------|---------------------------------|
| 1. | Commissioner/Secretary to Government,<br>Finance Department.              | Chairman<br>Empowered Committee |
| 2. | Director Codes                                                            | Member Secretary                |
| 3. | Special Secretary to Government,<br>Home Department.                      | Member                          |
| 4. | Additional Secretary to Government,<br>General Administration Department. | Member                          |
| 5. | Additional Secretary to Government,<br>Department of Law, Justice & P.A.  | Member                          |

Proposal of Home Department relating to regularization Sh. Mushtaq Ahmad Malik in addition to 502 cases of left out DRWs of various departments was on agenda of the meeting.

The incumbent was initially engaged as 'Cook' on consolidated pay of Rs. 300/- per month w.e.f 11.06.1990 by the Superintendent of Police, Baramulla. The incumbent has been paid wages at consolidated rate of Rs. 300/- upto 11/90 and thereafter at daily wage rates as notified by the Government from time to time. The incumbent sought intervention of HHC by way of SWP No. 434/2011 which, vide order dated 23.10.2013 was disposed of the case with following direction to the respondents:-

*"It appears that the petitioner appointed as Daily Wager way back in 1990 vide order 25.08.1990 by SP Baramulla and enrolled as Cook, has not been considered for regularization of his services. He figures among 29 Daily Rated Workers, who were left out for consideration for one reason or the other. This position emerges from the Government Order dated 18.07.2007 in terms of of 65 posts of Helpers were created for regularization of similar number of*

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*per* *duf*

*Daily Rated Workers. 13 posts of Helpers were similarly created in terms of Government Order No. Home-280(P) of 2007 dated 22.06.2007 for regularization of 13 Daily Rated Workers of Police Department. The Policy is State being liberal in relaxing the conditions for regularization of similarly situated Daily Rated Workers, the Objections raised by the State and the petitioner engaged as Cook on temporary basis does not qualify for regularization does not hold good.*

*The petition is accordingly disposed of by providing that the respondents shall consider the case of the petitioner for regularization in accordance with the rules governing the field. The consideration order shall be passed within a period of two months from the date copy of this order is served upon them. ”*

In compliance to the said court order, the Department issued a consideration order and rejected the claim of the petitioner, vide Government Order No. 504 of 2014 dated 29.10.2014 on the pretext that the petitioner has been engaged on consolidated basis. The petitioner again approached the Hon'ble Court through SWP No. 414/2015, CMP NO. 657/2015. The operative part of the court order, dated 12.08.2015, reads as under:-

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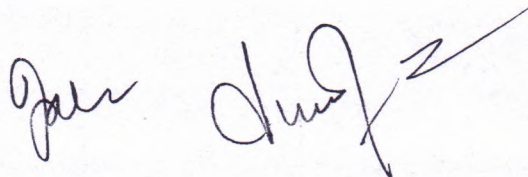
*“The opinion of Finance Department or other respondent that the petitioner has been engaged on consolidated basis is totally illegal, unwarranted and shall be ignored.*

*The position of the petitioner falls within the ambit of definition of ‘Daily Rated Worker’ as defined in Rule 2 of the Jammu and Kashmir Daily Rated Workers/Work Charged Employees (Regularization) Rules 1994. The order impugned denying the benefit of regularization to the petitioner, as such, is quashed. Respondent authorities at their respective levels shall simultaneously initiate and take all necessary steps so as to ensure regularization of services of the petitioner within a period of six weeks from today.*

*Petition allowed with costs which are quantified as Rs. 20,000/- (Twenty thousand) only, to be paid to the petitioner by the Finance Department, which is mainly responsible for having dragged the petitioner by raising unnecessary and unfounded objections.*

*Disposed of as above along-with all connected CMPs.”*

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While conducting an inquiry into the matter, the department established that the petitioner has been enrolled as Cook on consolidated basis and the engagement order has been forged. In the above quoted judgement, Hon'ble Court has passed strictures against the respondent authorities and has allowed costs of Rs. 20,000/- to be paid to the petitioner by the Finance Department which has rejected regularization of the petitioner. The case has reached contempt stage as well.

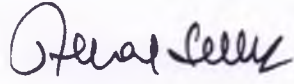
After thread-bare discussuioon, the committee recommended that the department shall consider regularization of the petitioner against a post of 'Follower' in the pay scale of 2550-3200 (Pre-revised) w.e.f. 01.04.1998 available with the department.

The above recommendations are subject to the following conditions:-

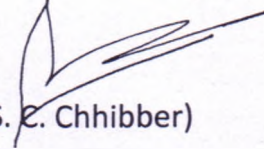
- (i) The Department shall verify records to establish genuineness of the claim.
- (ii) Continuous working from the date of initial engagement and drawal of wages at notified rates shall be established/certified by the concerned HoD.
- (iii) The incumbent is eligible for regularization and fulfills all conditions as laid down in SRO 64/1994.
- (iv) Relaxation of age/qualification, if any, shall be considered by the Department with prior approval of the Competent Authority.
- (v) Arears from date of regularization to the date of issue of regularization order shall be paid in five equal annual instalments after projecting the same under Annual Budget Estimates of the Department.

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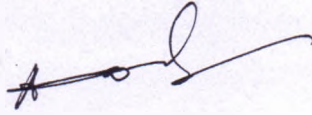




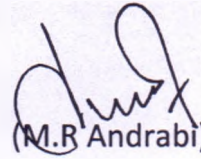
(Achal Sethi)  
Additional Secretary,  
Department of Law,  
Justice & P.A.  
(Member)



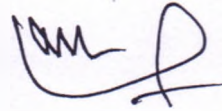
(S. C. Chhibber)  
Additional Secretary,  
Gen. Admn. Department.  
(Member)



(Arshid Ayub)  
Special Secretary,  
Home Department.  
(Member)



(M.R. Andrabi)  
Director Codes,  
(Member Secretary)



(Navin K. Choudhary), IAS,  
Commissioner/Secretary,  
Finance Department  
(Chairman)