

Minutes of the 13th meeting of Empowered Committee (constituted vide Government Order No. 139-F of 2015 dated 19.8.2015) held under chairmanship of Principal Secretary to the Government, Finance Department on 04.04.2018. (Pertaining to Food, Civil Supplies & CA Deptt.)

Subject:- Creation of posts of "Helper" for regularization of left over DRWs.

1. The following officers attended the meeting:-

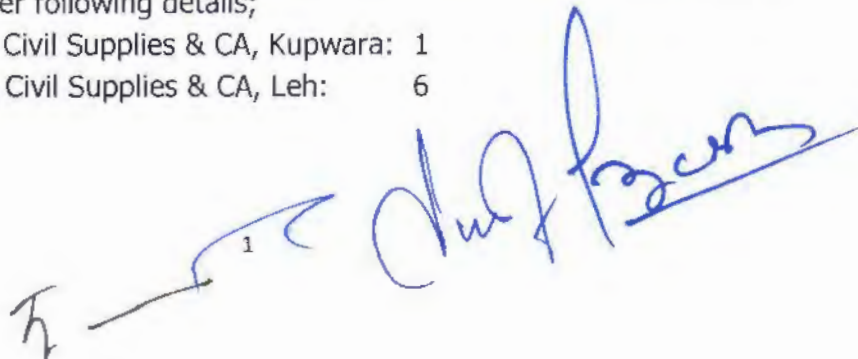
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| 1. Principal Secretary to Government,
Finance Department. | Chairman
Empowered Committee |
| 2. Director Codes | Member Secretary |
| 3. Additional Secretary to Government,
Food, Civil Supplies & Department. | Member |
| 4. Additional Secretary to Government,
General Administration Department. | Member |
| 5. Additional Secretary to Government,
Department of Law, Justice & P.A. | Member |

2. Proposals relating to regularization of left out DRWs of following Departments were on agenda of the meeting:-

- i. PHE/I&FC Department.
- ii. Forest Department.
- iii. Department of Rural Development & P.R.
- iv. Agriculture Production Department.
- v. Public Works (R&B) Department.
- vi. Food, Civil Supplies & CA Department.
- vii. Animal & Sheep Husbandry Department.
- viii. Floriculture, Gardens and Parks Department.
- ix. Tourism Department.
- x. Social Welfare Department.
- xi. ARI & Trainings Department.

3. The Food, Civil Supplies & CA Department had submitted proposals of left out DRWs as per following details;

- I. Food, Civil Supplies & CA, Kupwara: 1
- II. Food, Civil Supplies & CA, Leh: 6

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- 3.1/ Proposal of Food, Civil Supplies & CA Department relating to preponement of date of regularization in favour of Smt. Davinder Kour was also included in the agenda.

4. Regularization of Mohd. Sidiq Ganie.

- 4.1/ Sh. Mohd. Sidiq Ganie S/o Sonallah Ganie R/o Lolab Kupwara working as DRW was disengaged for his alleged involvement in mis-appropriation case of Batnar in 04/1983. After the police investigation, the incumbent challenged the case in the court of Session Judge Kupwara. The Hon'ble Court on 15.12.1995 disposed of the case acquitting the accused from all the charges. The then Director Food Supplies, Kashmir with the approval of the concerned Administrative Department, re-engaged the incumbent prospectively treating the case not technically a new but reviving an old case, vide Order No. 133-DFSK of 1997 dated 17.06.1997.
- 4.2/ The department has sought concurrence of Finance Department to the regularization of the incumbent against a post of Depot Assistant in the pay band of 4440-7440+GP 1300 lying vacant in District Kupwara. Neither initial engagement order/MR under which initial wages have been drawn nor wages drawn statement from date of initial engagement to the date of disengagement are available as, statedly, the same got damaged in Direction Office due to floods. Statement of wages drawn from 17.06.1997 to 05/2017 and continuity certificate for the same period have been furnished. Copy of order, dated 24.08.1983, issued by the then Director Food & Supplies, Kashmir wherein the concerned Store-Keeper and the DRW were placed under suspension consequent to the theft incident at Batnar Centre, has also been made available.
- 4.3/ The Committee decided to consider the period of seven years from the month TV/Wages statements are available i.e 06/97 and recommended regularization of the petitioner as "Helper" against the available Class-IV post (Depot Asstt.) in the pay scale of 2550-3200 (Pre-revised) from 01.04.2005 subject to following conditions:-
- i. The incumbent was initially engaged as DRW and paid wages prior to cut-off date viz 31.01.1994.
 - ii. The department shall issue an administrative order for condonation of break period from the date of disengagement to the date of re-engagement without payment of wages to maintain continuity in daily wage service.
 - iii. The department shall seek condonation for production of records damaged in floods from the Competent Authority.

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- iv. Breaks subsequent to date of regularization shall be seen and verified by the department and no arrears of salary shall be drawn for the period wages have not been paid.
- v. Continuous working and drawal of wages at notified rates shall be established/certified by the concerned HoD.
- vi. The incumbent is eligible for regularization and fulfills all conditions as laid down in SRO 64/1994.
- vii. The Department shall verify his date of birth and Permanent Residence Certificate, prior to issuance of regularization orders.
- viii. Relaxation of age/qualification, if required, shall be considered by the Department with prior approval of the Competent Authority.
- ix. Regularization orders shall be issued by the concerned HOD.
- x. Arrears 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.

5. **Regularization of Feroz Ahmad:**

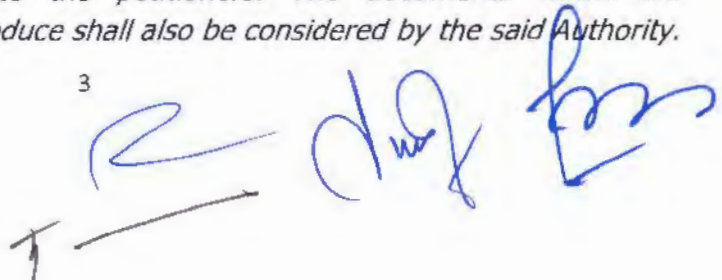
- 5.1/ Sh. Feroz Ahmad was engaged as Daily Wager in Food, Civil Supplies & CA Department on 12.01.1993. Regularization of the DRW could not be considered by the department till date due to his alleged involment in shortage of food grains and other essential commodities worth Rs.9,77,230.85. The department has not lodging FIR or conducted any enquiry in the matter, but dropped him from the regularization process. The incumbent invoked judicial intervention contending therein that he has not been afford any opportunity of being heard and neither any FIR was lodged against him nor any departmental enquiry was ordered only for the purpose of giving benefit to some blue eyed persons. The Hon'ble High Court disposed of the writ petition titled Phuntsog Namgial and anr. Vs State & ors. on 21.07.2015 with the following directions:-

"The allegation is that the petitioners were daily wagers, have allegedly misappropriated the food grains and other essential commodities and huge amount has been found outstanding against them on this score.

The contention of learned counsel for the petitioners is that petitioners have not been afforded opportunity of hearing.

The respondents shall have to afford opportunity of hearing to the petitioners.

This writ petition along with connected CMP(s) is disposed of and the respondent-Assistant Director, CAPD, Leh is directed to give post decision hearing to the petitioners. The documents which the petitioners may produce shall also be considered by the said Authority.

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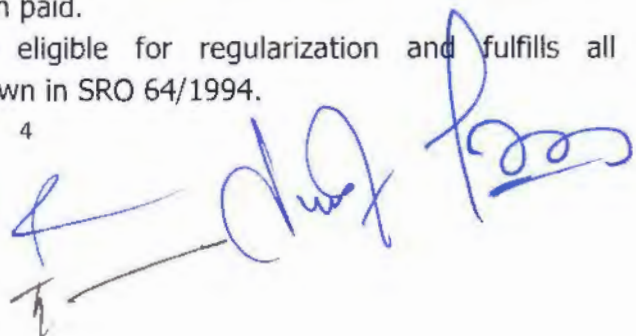
The said Authority is further directed either to maintain the earlier order passed or pass fresh orders. The petitioners will appear on 10th August, 2015 before the Assistant Director, CAPD, Leh. The said Authority to consider and pass orders as aforesaid within two weeks from 10th August, 2015. The recovery shall stay till the decision is taken."

5.2/ The Committee was informed that the department has recommended regularization of the petitioner against a Class IV post available in Leh and also directed concerned HOD to hold a detailed departmental enquiry on misappropriation of food grains at Sku-Markha. Records of the concerned office have gutted in fire incident in 10/94. TV/wages drawn statements from 10/95 to 03/09 are available which include breaks for the period 02/96 to 09/96, 08/97, 09/97, 01/98, 07/98, 08/98, 02/99 to 04/99, 08/99 to 10/99, 05/2000 to 09/2000, 03/01 to 06/01, 02/02 to 06/06, 08/07 to 02/08, 06/08 to 12/08 & 04/09. The department has issued a speaking order under seal and signatures of concerned HoD certifying therein that:-

- a) The incumbent has been engaged on 12.01.1993 and has completed more than seven years service.
- b) The incumbent has rendered service to the department for the period no wages have been paid to him due to non-availability of funds.
- c) The incumbent fulfills all the eligibilities as required for regularization under Rule 4 of SRO 64 of 1994.
- d) The incumbent is eligible for regularization against available post of Class-IV (Orderly) in Food, Civil Supplies & CA, Leh.

5.3/ The Committee decided to consider the period of seven years from the month TV/Wages statements are available i.e 10/95 and recommended regularization of the petitioner as "Helper" against the available Class-IV post in the pay scale of 2550-3200 (Pre-revised) from 01.04.2003 subject to following conditions:-

- i. The DRW has been engaged prior to cut-off date viz 31.01.1994.
- ii. The department shall seek condonation for production of records of gutted period from the Competent Authority.
- iii. Continuous working from the date of initial engagement and drawal of wages at notified rates shall be established/certified by the concerned HoD.
- iv. The department shall get breaks, if any, other than paucity of funds from the Competent Authority and the breaks subsequent to the date of regularization shall be seen and verified by the department and no arrears of salary shall be drawn for the period wages have not been paid.
- v. The incumbent is eligible for regularization and fulfills all conditions as laid down in SRO 64/1994.



- vi. The Department shall verify his date of birth and Permanent Residence Certificate, prior to issuance of regularization orders.
- vii. Relaxation of age/qualification, if required, shall be considered by the Department with prior approval of the Competent Authority.
- viii. Regularization orders shall be issued by the concerned HOD.
- ix. Arrears 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.
- x. Recovery of shortage in food grains, if misappropriation is established.

6.1/ The department has sought concurrence to the regularization of the Sh. Konchok Delex, Sonam Angchuk R/o Leh, Sonam Angchuk R/o Sumoor Nobra, Dorjey Namgyal and Tsering Namgial, DRWs in terms of SRO 64 of 1994. Statedly, the issue is pending in the department since 1999 and the department has allowed the incumbents minimum of the pay scale from the year as early as 1998 & 2000 in pursuance to Order No. 71-DFSK/Actt/1452-59 dated 03.07.1995.

6.2/ As per Government Order No. 71-FST of 1994 dated 10.10.1994, 1129 posts of Helper including 65 posts for Leh District have been created for regularization of as much number of DRWs. The department has created these posts with concurrence of the Finance Department conveyed vide No. A/55(94)-658 dated 09.08.1994. As reported by the concerned Assistant Director vide letter dated 26.02.2018, against these 65 posts regularization order in respect of these 5 DRWs have not been issued so far. Records of the concerned office have gutted in fire incident in 10/94.

6.3/ The Committee was of the view that posts of Helper for regularization of these 5 DRWs stand already created by the department and recommended regularization of these DRWs against the posts already created by the department vide Government Order No. 71-FST of 1994 dated 10.10.1994 from the date shown in below matrix against each. However, seven years service has been computed from the date CV/TV statement are available:-

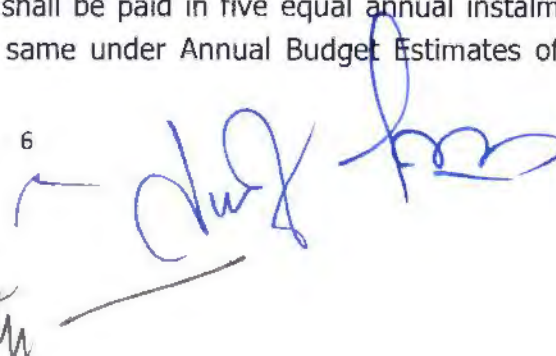
S. No.	Name/Parentage/ Address of DRW	Date of engagement / Status	Breaks, if any	Due date of Regularization
1.	Konchok Delex S/o Sonam Tundop R/o Lamyuru	01.11.1988 (DRW) as per IEO	10/97, 09/98, 01/99 to, 01/2000	01.04.2004.

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2.	Sonam Angchuk S/o Sonam Pajjore R/o Leh	01.12. 1987 (DRW) as per IEO	08/96, 09/96, 03/99 to 05/99, 08/99 to 08/2000	01.04.2001.
3.	Sonam Angchuk S/o Stobagais	19.09. 1984 (DRW) as per EO	08/96, 09/96, 03/99 to 05/99, 08/99 to 07/2000	01.04.2001.
4.	Dorjey Namgyal S/o Rinchen Dorjey R/o Wanla.	01.04. 1988 (DRW) as per IEO	10/97, 02/98, 09/98, 01/99 to 01/2000	01.04.2004.
5.	Tsering Namgial S/o Nurboo Stobgias R/o Digar.	26.09. 1986 (DRW) as per IEO	-	01.04.2004. Subject to condition that the incumbent is not a retiree from any State or Central Government service or any Local Body, Public Sector Undertaking or Autonomous Body in or outside the State.

6.4/ The above recommendations are subject to following conditions:-

- i. The DRWs have been engaged and paid wages prior to cut-off date viz 31.01.1994.
- ii. The department shall seek condonation for production of records of gutted period from the Competent Authority.
- iii. Continuous working from the date of initial engagement and drawal of wages at notified rates shall be established/certified by the concerned HoD.
- iv. The department shall get breaks, if any, other than paucity of funds from the Competent Authority and the breaks subsequent to the date of regularization shall be seen and verified by the department and no arrears of salary shall be drawn for the period wages have not been paid.
- v. The incumbents are eligible for regularization and fulfill all conditions as laid down in SRO 64/1994.
- vi. The Department shall verify their date of birth and Permanent Residence Certificate, prior to issuance of regularization orders.
- vii. Relaxation of age/qualification, if required, shall be considered by the Department with prior approval of the Competent Authority.
- viii. Regularization orders shall be issued by the concerned HOD.
- ix. Arrears 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.

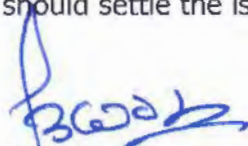


7. Pre-ponement of date of regularization of Smt. Devinder Kour:

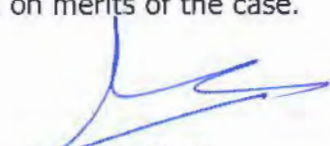
7.1/ Smt. Devinder Kour D/o Assa Singh R/o Gole Gujral, Jammu was engaged ad Daily Wager w.e.f 18.12.1991 by the then Director Food & Supplies, Jammu vide order No. 193-F&S of 1991 dated 18.12.1991. The said DRW alongwith another DRW has been regularized by the Director Food & Supplies, Jammu vide order No. 148- CAPD of 2005 dated 18.11.2005 against available post of Class-IV in the pre-revised pay scale of 2550-3200. The department has sought to the pre-ponement of date of regularization of the DRW from 19.11.2005 to 01.04.1999 against a Class-IV vacancy available with the department for the said period. Wages drawn statement and continuity certificate for the period under reference together with copy of engagement and regularization orders are available.

7.2/ The incumbent was engaged on 18.12.1991 and paid wages at notified rates upto 09/2005. Finance Department was not taken onboard at the time the incumbent was brought on regular establishment by the department.

7.3/ The Committee opined that since Empowered Committee/Finance Department was not consulted at the relevant point of time, the department should settle the issue at its level on merits of the case.



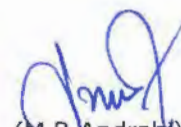
(Jang Bhadur)
Additional Secretary,
Department of Law, Justice & P.A.
(Member)



(S. C. Chhibber)
Additional Secretary,
General Administration Department.
(Member)



(J. K. Anand)
Additional Secretary,
Food, CS & CA Deptt. (Member)



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



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