

**Minutes of the 14<sup>th</sup> 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 21.08.2018.**

***(Pertaining to Health & Medical Education Department)***

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

1. The following officers attended the meeting:-

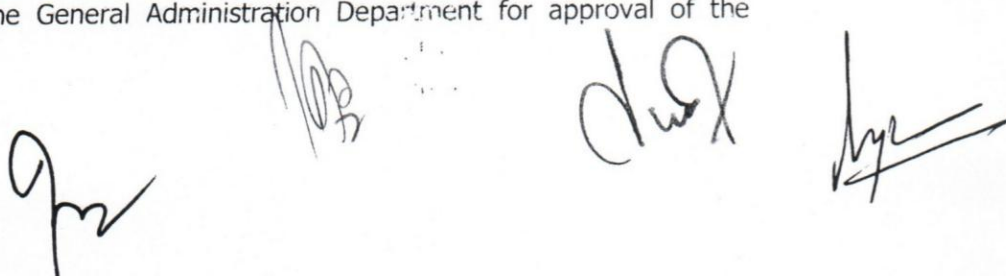
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| 1. Principal Secretary to Government,<br>Finance Department.             | Chairman<br>Empowered Committee |
| 2. Director General (Codes),<br>Finance Department.                      | Member Secretary                |
| 3. Director Finance,<br>Health & Medical Education Department.           | Member                          |
| 4. Special Secretary to Government,<br>Department of Law, Justice & P.A. | Member                          |
| 5. Deputy Secretary to Government,<br>General Administration Department. | 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. Revenue Department.
- vi. Food, Civil Supplies & CA Department.
- vii. Health & Medical Education Department.

3. Proposal of Health & Medical Education Department includes regularization of Sh. Phulial Chand in pursenace to judgement of the Hon'ble court passed in SWP No. 1190/2014.

4. The Empowered Committee in its 22<sup>nd</sup> meeting held on 24.08.2011, found Sh. Phulial Chand eligible for regularization in terms of the Jammu & Kashmir Civil Services (Special Provisions) Act, 2010 and the resultant recommendations were conveyed to the Health & Medical Education Department for issuance of orders, vide OM NO. PS/DC/Misc/1396 dated 10.12.2011. Accordingly, the department forwarded the case of the incumbent to the General Administration Department for approval of the



Hon'ble Chief Minister. The General Administration Department observed as under:-

*"The attention of the department is invited to Section 6(1) of the J&K Civil Services Special Provisions Act, 2010. Sh. Phulial Chand was engaged on a stop gap arrangement and was actually over aged as on 01.01.1993, hence was not eligible for such engagement under the rules in vogue at the relevant point of time. As a corollary to this, he is not eligible for regularization in terms of provisions of the aforesaid Act unless his age had been relaxed by the competent authority at the time of his initial engagement. Therefore, the department is advised to clarify the position in this regard."*

5. The Director Health Services, Jammu has clarified that the incumbent was within age limit in terms of Article 37(3) of the J&K CSRs being Scheduled Caste Category as he is having age of 36 years 2 months and 21 days in the calendar year at the time of his initial engagement. The department had considerably delayed submission of the case to the General Administration Department after the recommendations of the Empowered Committee. Meanwhile, the incumbent crossed the age to serve the Government and it became impractical for the department to revisit the General Administration Department along with clarification received from the Director Health Services, Jammu.

6. The incumbent filed a writ petition seeking directions to the respondents to regularize his services in terms of SRO 64 of 1994, which came to be disposed of on 20.10.2016. The operative part of the judgement reads as under:-

*"It is stated that the Empowered Committee has not taken any decision till date, with regard to the claim of the petitioner for regularization. With the consequences of learned counsel for the parties, the petition is disposed of with a direction to the respondents to determine the eligibility of the petitioner for his regularization under SRO 64 of 1994 in terms of the communication dated 16.12.2013 read with communication dated 22.12.2011.*

*The regularization if ordered shall be given effect from the date the petitioner had completed seven years of service.*

*Let an appropriate order be passed positively within period of three months from the date copy of this order is served upon the respondents through petitioner."*

7. In light of the above judgement, the case was again placed before the Empowered Committee in its 61<sup>st</sup> meeting held on 25.04.2018 and the Committee resolved to forward the case to relevant Empowered Committee tasked to screen regularization cases in terms of SRO 64 of 1994.

8. The Committee observed that the petitioner was engaged as Safaiwalla on 24.09.1993 in the pay scale of 750-940 by the Director Health Services

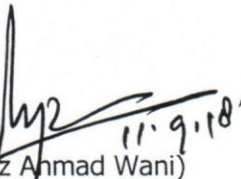


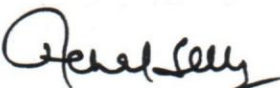


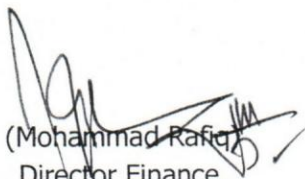
Jammu for a period of 89 days on stop-gap basis and after thread-bare discussion approved creation of one post of Helper in the pay scale of 2550-3200 (pre-revised) w.e.f 01.04.2001 for regularization of the petitioner subject to following conditions:-

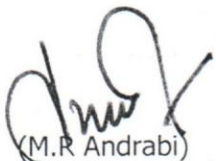
- i. Petitioner has worked continuously from the date of engagement and was paid remuneration at the rates not less than notified daily wage rates from time to time.
- ii. The post shall cease to exist from the date following the date of superannuation of the petitioner.
- iii. Arrears from date of regularization 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.
- iv. Orders are issued with the approval of the Competent Authority.


**9. The Chairman Empowered Committee urged upon all Departments to desist from referring such cases to Finance Department, as are required to be considered in light of court orders but do not fall within the mandate of the Empowered Committee which examines the cases of those Daily Rated Workers only whose status is recorded as Daily Wager in records and have been engaged prior to 31.01.1994 only. In such cases, where court orders have assumed finality, the department should take appropriate action at their level for implementation of the orders of the Hon'ble Court in consultation with the Department of Law, Justice and Parliamentary Affairs.**

  
(Reyaz Ahmad Wani)  
Deputy Secretary,  
General Administration Department.  
(Member)

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

  
(Mohammad Rafiq)  
Director Finance,  
Health & Medical Education Deptt.  
(Member)

  
(M.R. Andrabi)  
Director General (Codes),  
Finance Department.  
(Member Secretary)

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