

**Minutes of the 13<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 04.04.2018.** *(Pertaining to Public Works (R&B) Department)*

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

1. The following officers attended the meeting:-

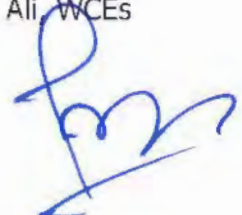
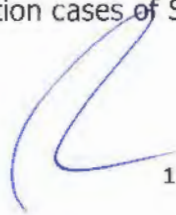
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| 1. Principal Secretary to Government, Finance Department.                 | Chairman<br>Empowered Committee | ✓ |
| 2. Director Codes   | Member Secretary                | ✓ |
| 3. Additional Secretary to Government, Public Works (R&B) Department.     | 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 Public Works (R&B) Department had submitted proposals of left out DRWs as per following details;

- I. Fresh Cases: 7 (including regularization case of Sh. Baldev Singh, SWP No. 2180/2002, LPASW No. 73/2010).
- II. Review cases: 2
- III. Regularization cases of Sh. Tashi Namgyal and Ayoub Ali, WCEs



#### 4. Fresh cases

4.1/ While examining the case files of the incumbents in terms of provisions contained in the Jammu and Kashmir Daily Rated Workers/Work Charged Employees (Regularization) Rules, 1994 notified vide SRO 64/1994 read with Government order No. 26-F of 1994 dated 31.01.1994, the Committee cleared and approved creation of **3** posts of "Helper" in the pay scale of 2550-3200 (Pre-revised) for regularization of as much number of DRWs from the dates shown against each detailed in the below matrix:-

#### **R&B Special Sub-Division Marwah**

S.No.	Name/Parentage/Address of DRW	Date of Engagement	Due date of Regularization
1.	Ghulam Hussain S/o Lassa Shah R/o Patimhal, Kishtwar.	27.04.1991 as per IEO	01.04.1999.

#### **R&B Division Ramban**

S.No.	Name/Parentage/Address of DRW	Date of Engagement/ Status	Due date of Regularization
2.	Mool Raj S/o Lofi Ram R/o Batote.	04/93 as per continuation order	01.04.2001.
3.	Ab. Hamid Shan S/o Mohd. Ramzan Shan R/o Gool.	1993	01.04.2001.

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

- (i) The Department shall verify HRs/MRs of first ten months of the incumbents to establish genuineness of their claims.
- (ii) Genuineness of MRs/engagement orders is certified by the concerned HoD.
- (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, condoned 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) In respect of S. No. 3 the department shall issue a speaking order under seal and signatures of HoD concerned, inter-alia, certifying therein that the incumbent was engaged as DRW prior to 31.01.1994.
- (vi) The incumbents are eligible for regularization and fulfill all conditions as laid down in SRO 64/1994.



- (vii) The Department shall verify their date of birth and Permanent Residence Certificate, prior to issuance of regularization orders.
- (viii) Relaxation of age/qualification, wherever required, shall be considered by the Department with prior approval of the Competent Authority.
- (ix) Regularization orders shall be issued by the concerned HOD after formal orders for creation of posts are issued by the Administrative Department.
- (x) The post shall cease to exist on death/retirement/resignation/termination of the incumbent or his adjustment against any hierarichical post.
- (xi) 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.

4.3/ Case detailed in below matrix has been found incomplete and deficiency as observed is shown as under:-

S.No.	Name/Parentage/Address of DRW	Decision
1.	Mohd. Iqbal Naik S/o Jamal din Nail R/o Gool.	The department shall:- i. Consult all records and ascertain the actual status of the incumbent as Casual Labour or DRW. ii. Clarify whether the incumbent has been paid wages for the period 07.01.1994 to 28.02.1994, if so, amount paid, CV No. & date may be furnished.

4.4/ The department shall furnish the desired information as early as possible, so as to enable Empowered Committee take decision on the issue and make recommendations.

4.5/ The following incumbents have been found ineligible for regularization under SRO 64/1994 being initially engaged after ban imposed vide Government Order No. 26-F of 1994 dated 31.01.1994:-

S.No.	Name/Parentage/Address of DRW	Decision
1.	Pervaiz Ahmad Wani S/o Saif-ud-din Wani R/o Alinbass Banihal.	Not eligible for regularization under provisions of SRO 64/1994 being engaged as casual labour.
2.	Mohd. Amin S/o Noor Mohd. R/o Harog Ramban.	The case does not attract provisions of SRO 64/1994 being engaged on casual basis.

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## 5. Regularization case of Sh. Baldev Singh.

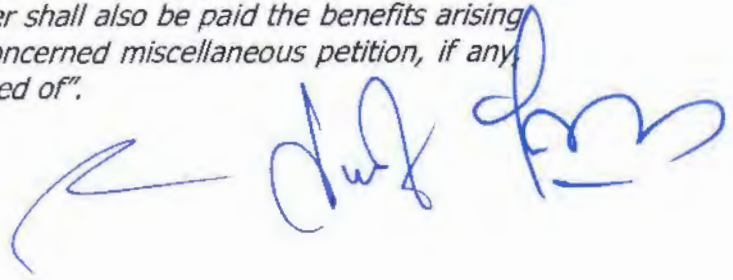
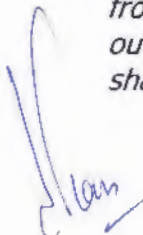
5.1/ Sh. Baldev Singh was initially engaged as daily wager in 07/1988 and subsequently his services alongwith other similar persons were terminated by the department on abolition of erstwhile project. The other persons were re-engaged in the year 1993 but statedly, name of the applicant was inadvertently excluded from the re-engagement order. On court directions, the petitioner was also re-engaged in the year 2001. The petitioner invoked judicial intervention seeking regularization from 01.04.1995 i.e from the date his counterparts came to be regularized. The operative part of Hon'ble Court order passed in SWP No. 2180/2002 reads as under:-

*"It is not dispute that the petitioner was aware of the regularization order passed by the respondents in the year 1995. He did not choose to seek this relief from the court in the writ petition filed by him, which was decided on 06.03.2000. Other contention of the petitioner is that as per the recommendations made by the Chief Engineer his name was inadvertently deleted. He is seeking parity with those Daily Wagers, who were re-engaged in the year 1993. The petitioner should have sought this relief in the earlier writ petition, which he has not done.*

*The stand of the respondents is that the petitioner cannot seek parity with the persons who have been regularized in the year 1995. They were continuing uninterruptedly and have fulfilled the eligibility criteria of SRO 64/1994, which is not the case of the petitioner. He cannot claim his regularization in the service from the date, he was not in service. His regularization would be effected from the date he completed 7 years continuous engagement as a daily wager."*

5.2/ The petitioner filed LPASW No. 73/2010 which was disposed of by the Hon'ble Court on 03.03.2016 with the following direction:-

*"..... therefore, in view of the above, we decline the claim of the appellant for his regularization from 01.04.1995 i.e the date when the services of other ten persons came to be regularized. However, since the Chief Engineer PW(R&B) Department Jammu has himself admitted in his communication dated 18.02.1998 that the name of writ petitioner, was anadvertently excluded from the re-engaged order, therefore, we direct the writ respondents to also count the service of writ petitioner, which he had performed when he was initially appointed as a Daily Wager in the year 1998, for the purpose of regularization of his services on completion of seven years. Let the regularization order be passed within a period of three months from today. The writ petitioner shall also be paid the benefits arising out of such regularization. Concerned miscellaneous petition, if any, shall accordingly stand disposed of".*





5.3/ The Chief Engineer concerned has issued a speaking order wherein, interalia, it is laid down that the petitioner has not physically worked in the department from date of dis-engagement to date of re-engagement viz 25.04.1989 to 01.06.2001, thereby leading to break in service. There is break of 12 years 01 month and 5 days between date of dis-engagement & re-engagement. There is no documentary evidence available to establish wages prior to dis-engagement have been drawn. There is countinuity certificate for the period after re-engagement and wages statement from 06/01 to 08/08.

5.4/ The Committee after thread-bare discussions approved creation of one post of Helper in the pay scale of 2550-3200 (pre-revised) w.e.f 01.04.2008 for regularization of the petitioner subject to following conditions:-

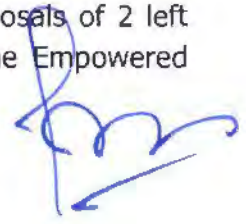
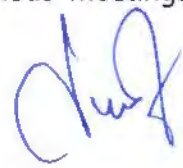
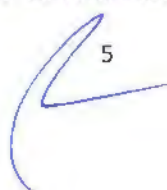
- (i) The Department shall verify the records to establish genuineness of the claim.
- (ii) Continuous working and drawal of wages at notified rates shall be established/certified by the concerned HoD.
- (iii) The department shall get break from 25.04.1989 to 01.06.2001 condoned from the Competent Authority 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.
- (iv) The petitioner is eligible for regularization and fulfills all conditions as laid down in SRO 64/1994.
- (v) The Department shall verify his date of birth and Permanent Residence Certificate, prior to issuance of regularization orders.
- (vi) Relaxation of age/qualification, if required, shall be considered by the Department with prior approval of the Competent Authority.
- (vii) Regularization orders shall be issued by the concerned HOD after formal orders for creation of posts are issued by the Administrative Department.
- (viii) The post shall cease to exist on death/retirement/resignation/termination of the incumbent or his adjustment against any hierarchical post.
- (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.

## 6. Review cases

6.1/ The Public Works (R&B) Department had re-submitted proposals of 2 left out DRWs which were deferred in previous meetings of the Empowered Committee due to some deficiencies.



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6.2/ The proposals were earlier discussed and it was observed that records of the concerned Divisions have reportedly gutted in fire incidents. The Committee had advised the department to dig out collateral evidence whatsoever available and to prove that the incumbents have drawn wages prior to cut-off date viz 31.01.1994.

6.3/ The Committee was informed that the department has reported that:-

- a) Records of R&B Division Pulwama have gutted in fire incident in 05/95 and there is no record of CV/TV No. & date with regard to payment of wages prior to 04/95 for which FIR has been lodged in concerned police station. The DRW exist at S. No. 107 in the list of DRW (PDL/TDL) and WC staff statement submitted by concerned Executive Engineer to the authorities during the year 1994, vide letter No. 4151-53 dated 29.03.1994, which is the only collateral evidence available that the incumbent was existing in the Division prior to 31.01.1994. The concerned HoD has already certified that the incumbent was engaged as DRW in 07/92 and fulfills all conditions as laid down in SRO 64 of 1994.
- b) Records of concerned Division have gutted in fire incident in 03/94. The incumbent was working in R&B Division Sopore as DRW from 08/1988 to 10/2011 and is still continuing his services as DRW in newly created R&B Division Sumbal. The DRW exist at S. No.7 of the list of DRWs of the Sopore (R&B) Division who were reportedly due for regularization. The incumbent has drawn wages continuously from 07/94. The DRW has also invoked judicial intervention and the Hon'ble High Court has disposed of SWP No. 353/2012 on 15.11.2012 with the following direction:

*"The writ petition is disposed of with a direction to respondents to accord consideration to the petitioner's regularization and take a decision in the matter within 12 weeks from the date the copy is served on the respondents."*

6.4/ The Committee considered the proposals and approved creation of two posts of Helper in the pay scale of 2550-3200 (pre-revised) for regularization of following DRWs from the date shown against each:-

1. Mohd. Sabir Ganie S/o Gh. Hassan Ganie R/o Pinglish, Tral: 01.04.2003.
2. Ab. Majeed Kaloo S/o Gh. Qadir Kaloo R/o Sumbal: 01.04.2002.

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

- a. The DRWs stand engaged and paid wages prior to cut off date i.e 31.01.1994 .
- b. DRWs are working continuously from the date of engagement.
- c. They have been paid wages regularly as per rates notified by the Government from time to time.

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6 *[Handwritten signatures]*



- d. The department shall seek condonation for production of records of gutted period from the Competent Authority.
- e. The incumbents are eligible for regularization and fulfill all conditions as laid down in SRO 64/1994.
- f. 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 drawn.
- g. The Department shall verify their date of birth and Permanent Residence Certificate, prior to issuance of regularization orders.
- h. Relaxation of age/qualification, wherever required, shall be considered by the Department with prior approval of the Competent Authority.
- i. Regularization orders shall be issued by the concerned HOD after formal orders for creation of posts are issued by the Administrative Department.
- j. 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.

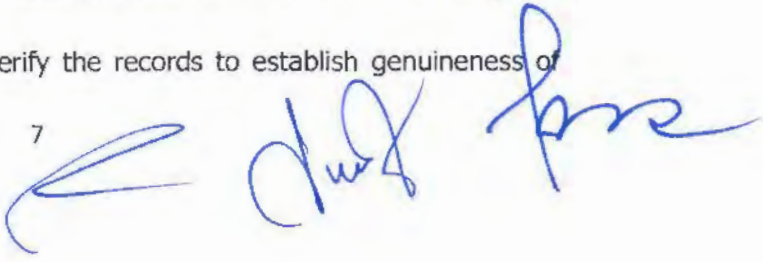
## **7. Regularization of Sh. Tashi Namgyal and Ayoub Ali, WCEs.**

7.1/ Sh. Tashi Namgyal S/o Sonam Norphel R/o Kunguam, Leh was appointed as 2<sup>nd</sup> Operator in the pay scale of 630-940 on work charged establishment for a period of 89 days against available post in Mechanical Division Leh by the then Superintending Engineer, vide Order No. PW-82 of 1992 dated 07.10.1992. The concerned SE regularized his engagement as work charged employee. Besides his Service Book has been prepared, the department has allowed him annual increments, DA & Compensatory Allowance and benefit of revision of pay scales from time to time.

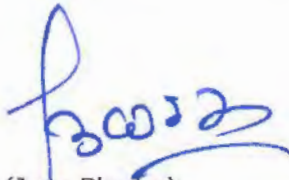
7.2/ Sh. Ayoub Ali S/o Mussa Rahim R/o Kargil was appointed as Sweeper in the pay scale of 630-940 with effect from 01.09.1992 by the then Superintending Engineer, PWD, Leh vide Order No. PW-71 of 1992 dated 30.09.1992 on work charge establishment against available post of Sweeper in Circuit House Leh. He has been allowed annual increments, DA & Compensatory Allowance and benefit of revision of pay scales from time to time.

7.3/ The Committee after examining the cases in terms of provisions contained in the Jammu and Kashmir Daily Rated Workers/Work Charged Employees (Regularization) Rules, 1994 notified vide SRO 64/1994 read with Government order No. 26-F of 1994 dated 31.01.1994, recommended regularization of the incumbents against the posts held by them on work charge basis w.e.f 01.04.2000 subject to following conditions:-

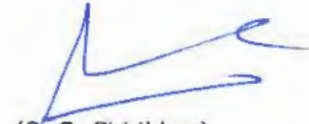
- i. The Department shall verify the records to establish genuineness of the claim.



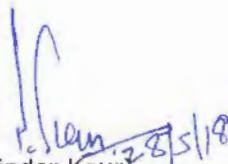
- ii. The department shall get break, if any, condoned from the Competent Authority.
- iii. Continuous working and drawal of salary/wages at notified rates shall be established/certified by the concerned HoD.
- iv. The incumbents are eligible for regularization and fulfill all conditions as laid down in the relevant rules.
- v. The Department shall verify their date of birth and Permanent Residence Certificate, prior to issuance of regularization orders.
- vi. Relaxation of age/qualification, if required, shall be considered by the Department with prior approval of the Competent Authority.
- vii. Regularization orders shall be issued by the concerned HOD after formal orders for creation of posts are issued by the Administrative Department.
- viii. 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.



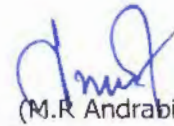
(Jang Bhadur)  
Additional Secretary,  
Department of Law, Justice & P.A.  
(Member)



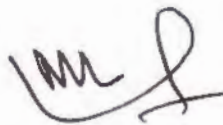
(S. C. Chhibber)  
Additional Secretary,  
General Administration Department.  
(Member)



(Harvinder Kour)  
Additional Secretary,  
PWD(R&B)Deptt.  
(Member)



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



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