

Government of Jammu and Kashmir  
General Administration Department

Subject:- Policy relating to ad hoc appointments

Reference: Cabinet decision No. 27/2 dated 25-1-2004.

Government Order No : 168 -GAD of 2004  
Dated : 09 - 2 - 2004

1-  
ordered that:-

Whereas vide GO No.1220-GAD of 1989 dated 11.9.1989 it was, *interalia*

- (i) all adhoc appointees to non-gazetted posts recruited from time to time upto 29.12.1988 who were still in service were to be treated to have been appointed on regular basis on probation or trial with effect from the date of issue of the order dispensing with reference of posts held by them to the selection agencies;
- (ii) adhoc appointments made by various departments during the period falling between the issuance of the ban viz.29.12.1988 and the date of issue of Government notification No. SRO 291 dated 28.7.1989 amending Rule 14 of the J&K Civil Services( Classification, Control and Appeal) Rules 1956 and were continuing without break on the date of issue of order dated 11.9.1989 were to be submitted to the Chief Minister for orders through General Administration Department with detailed reasons for making such appointments in disregard of the ban imposed; and

2. Whereas vide Notification No. SRO 291 dated 28.7.1989 Rule 14 of the J&K Civil Services (Classification, Control and Appeal) Rules was substituted as under:-

*Temporary appointment: (1) Where it is necessary in the public interest owing to an emergency which has arisen and could not have been foreseen, to fill immediately a vacancy in a post borne on the cadre of service, class or category and the making of an appointment to such vacancy in accordance with these rules would involve undue delay, excessive expenditure or, appoint a person otherwise than in accordance with these rules temporarily with the prior approval of the Chief Minister in Co-ordination until a person is appointed in accordance with these rules but such temporary appointment shall in no case exceed three months on each occasion and not more than nine months in all.*

- (2) *A person appointed under sub rule(1) shall be replaced as soon as possible by a member of the service or a candidate qualified and considered fit to hold the post under these rules.*

(3) A person appointed under sub-rule (1) shall not be regarded as a probationer in such service, class or category or be entitled by reason only of such appointment to any preferential claim to future appointment to such service, class or category, and

3- Whereas a number of ad hoc appointments have been made after 28-7-1989 by various authorities including by those who were not competent to issue orders under rules and have been continued beyond the permissible limit in contravention of rule 14 of the CCA rules; and

4- Whereas in the year 2001 the State Government considered the issue relating to adhoc appointments and vide Government Order No. 1285-GAD of 2001 dated 6-11-2001 it was ordered that all adhoc appointments made till the issuance of the aforesaid Government order shall be considered for regularization after completion of seven years of continuous service with out reference of posts held by them to Service Selection Board subject to certain conditions mentioned in the said Government order; and

5- Whereas, some more adhoc appointments came to be made by the Government after issuance of aforesaid Government order No. 1285-GAD of 2001 dated 6-11-2001; and

6- Whereas, a number of these adhoc appointees approached the Hon'ble High Court for regularization/ continuation of their services and obtained interim directions for their continuation or for their regularization in terms of Government Order No. 1285-GAD of 2001 dated 6-11-2001; and

7- Whereas, in April, 2000 the Hon'ble Supreme Court of India in the case titled Suraj Prakash Gupta Vs. State of Jammu and Kashmir and Ors. *inter alia* directed the State Government to ensure that basic recruitment rules are followed and not flouted by granting relaxation of rules governing direct recruitment as also requiring consultation of Public Service Commission/ Departmental Promotion Committee/ Recruitment in appointments by transfer; and

8- Whereas, the Hon'ble High Court vide its judgement dated 10-10-2002 in SWP No. 1699/91 and identical writ petitions titled Mohammad Sikander Dar Vs. State of J&K and Others while interpreting Government Order No. 1285-GAD of 2001 dated 6-11-2001 observed that the said Government order will not come to the aid of those adhoc appointees who have not been appointed by the competent authority under rules and directed the State Government to refer all posts held by the petitioners to the concerned recruiting agencies for proper selection and while doing so the selection agencies shall take into consideration their experience gained by adhocces viz-a-viz their respective posts; and

9- Whereas, the Hon'ble High Court vide another decision dated 28-5-2002 in clubbed LPAs titled Ashok Kumar and Ors Vs. State and Ors observed that the category of employees who are adhoc and were placed at pedestal lower than Daily Rated Workers/ Work charged employees are entitled to the benefits of Government order No: 1285-GAD of 2001 dated 6-11-2001; and

Whereas, in SWP No.316/2001 titled Daleep Singh V/S State of Jammu and Kashmir and other the Hon'ble Court vide its judgment dated 15-11-2003 held that the petitioners were entitled to regularization in terms of Government Order No. 1285-GAD of 2001 dated 6-11-2001 after completion of seven years of adhoc service; and

11- Whereas, in terms of the judgements of the High Court dated 28-5-2002 read with 10-10-2002. the Government Order No. 1285-GAD of 2001 dated 6-11-2001 cannot be invoked for regularization of the adhoc appointees as it applies to the adhoc posts and were placed at pedestal lower than the Daily Rated Workers; and

12- Whereas the entire issue was considered by the Government in the light of the general directions of the Hon'ble Supreme Court of India in the case titled Suraj Prakash Gupta and Others, the directions passed by the Hon'ble High Court of Jammu and Kashmir in the cases referred to above and Rule 14 of Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956 vis-a-vis their implication and it was decided that the Government Order No. 1285-GAD of 2001 dated 6.11.2001 is to be revoked and a comprehensive policy laid down for settlement of these adhoc appointees.

Now, therefore, in supersession of Government Order No. 1285-GAD of 2001 dated 6.11.2001 it is hereby ordered as under:-

- (i) All adhoc appointments made after- 28.7.1989 onwards and which continued in service till the date of issue of this order shall be converted into contractual appointments w.e.f 1st February 2004, and these contractual appointments shall subsist till 31<sup>st</sup> December 2004 or till selections against these posts are made by the concerned selection agencies whichever be earlier;
- (ii) The contractual appointees, referred to in sub para (i) above shall be required to execute an agreement in accordance with the format appended to the Jammu and Kashmir Contractual Appointment Rules (notified vide SRO No.255 dated 5<sup>th</sup> August 2003) with the concerned Drawing and Disbursing Officer upto 25<sup>th</sup> February, 2004. Copies of the agreements shall be sent by the concerned Drawing and Disbursing Officer to the General Administration Department by or before 5<sup>th</sup> March, 2004;
- (iii) If any adhoc/contractual appointee referred to in this order fails to execute agreement in accordance with sub para (ii); he shall cease to be in the employment of the Government;
- (iv) All posts held by the adhoc appointees shall be referred by the concerned Administrative Departments to the competent selection agencies by or before 29<sup>th</sup> February, 2004, if such posts have not already been referred to the selection agencies, for selection in accordance with the rules;

- (v) The selection agencies shall consider the eligible candidates including the adhocces/contractual appointees referred to in this order as may apply before such selection agencies in accordance with the recruitment and reservation rules. Such of the adhocces/contractual appointees, who may have crossed the upper age limit prescribed for Government service and who may apply before the selection agencies shall also be considered by such selection agencies and their upper age limit shall be deemed to have been relaxed to the extent required for this purposes;
- (vi) A separate mechanism for selection of candidates against class IV posts held by the adhocces shall be put in place orders for which will be issued by the General Administration Department separately;
- (vii) Salary shall be released in favour of all adhocces subject to verification of attendance for the period they have worked by the controlling officers;
- (viii) The adhocces whose appointment would now be on contract shall be paid a consolidated salary equal to the minimum of the scale attached to the posts held by them with effect from 1<sup>st</sup> February, 2004;
- (ix) Such of the adhocces whose particulars are not submitted to the General Administration Department, in the proforma forwarded to the Departments vide General Administration Departments letter No. GAD(Adm)260/2003 dated 5<sup>th</sup> September, 2003 (copy enclosed) by or before 29<sup>th</sup> February, 2004 shall also be deemed to be out of employment and would forfeit the dispensation of upper age relaxation for purposes of consideration for selection by the selection agencies. The Drawing and Disbursing Officers of the Departments concerned shall be responsible for conveying the requisite particulars to the General Administration Department by the aforesaid date.

By order of the Government of Jammu and Kashmir.

Sd/-

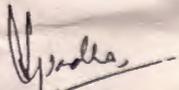
Principal Secretary to Government  
General Administration Department

No:GAD(MTG)RB-IV/17/2003

Dated: 9-2-2004

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3. Director General of Police, J&K, Jammu
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5. All Commissioner/ Secretaries to Government
6. Divisional Commissioner Jammu/ Kashmir
7. Secretary to H.E the Governor
8. All Heads of Departments
9. Resident Commissioner, J&K Government, 5-Prithviraj Road, New Delhi
10. Director Information, J&K, Jammu
11. All Deputy Commissioners
12. Director Estates
13. Secretary, J&K Public Service Commission/ Services Selection Board
14. Additional Secretary to Hon'ble Deputy Chief Minister
15. Additional Secretary (Services), General Administration Department
16. Private Secretaries to all Hon'ble Cabinet Ministers/ Ministers of State.
17. General Manager, Government Press Jammu/ Srinagar
18. PS to Chief Secretary
19. PS to Principal Secretary to Government, GAD

  
Under Secretary to Government  
General Administration Department