

Minutes of the 14th 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 Forest 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
Empowered Committee |
| 2. Director General (Codes),
Finance Department. | Member Secretary |
| 3. Special Secretary to Government,
Department of Law, Justice & P.A. | Member |
| 4. Additional Secretary to Government,
Forest Department | Member |
| 5. Deputy Secretary to Government,
General Administration Department. | Member |

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

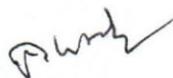
- i. PHE/I&FC Department.
- ii. Forest Department.
- iii. Department of Rural Development & P.R
- iv. Agriculture Production Department.
- v. Revenue Department.
- vi. Food, Civil Supplies & CA Department.
- vii. Health and Medical Education Department.

3. The Forest Department had submitted proposals of left out DRWs as per following details;

I. Review Cases: 2

II. Court Cases:

- a) SWP No. 1928/2006 titled Nawab Din Vs State and others.
- b) COA(SW) No. 7/2016 in SWP No. 3/2007 titled Sajjad Ahmad Wani Vs State and others.
- c) SWP No. 740/2006 titled Mohammad Ayoub Vs State and others.



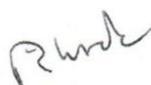
4. In addition cases of 25 DRWs with regard to withdrawal of condition of condonation of breaks were enlisted for recommendations/decision.
5. Cases of below mentioned 2 incumbents of Forest Division Shopian which were deferred in previous meeting of Empowered Committee held on 07.12.2015 due to some deficiencies and resubmitted by the department were placed before the Empowered Committee.
- 5.1. 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 it was observed that the department has removed the deficiencies. The Committee cleared and approved creation of **2** posts of "Helpers" 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:-

S.No.	Name/Parentage/Address of DRW	Date of Engagement	Break(s)	Due date of Regularization
1.	Surrinder Kumar S/o Som Nath R/o Rajpora.	11.05.1993	-	01.04.2001.
2.	Mohd. Amin Dar S/o Mohd. Jabbar Dar R/o Zaban Kulgam.	22.07.1993	-	01.04.2001.

- 5.2. The above recommendations are subject to following conditions:-
- The Department shall verify records/MRs of first ten months of the incumbents to establish genuineness of their claims.
 - Genuineness of MRs/engagement orders is certified by the concerned HoD.
 - Continuous working from the date of initial engagement and payment of wages at notified rates shall be established/certified by the concerned HoD.
 - The department shall get breaks, if any, other than those certified and verified by the department to be due to non-availability of budget, condoned from the Competent Authority and the breaks subsequent to the date of regularization, if any, shall be seen and verified by the department and no arrears of salary shall be drawn for the period wages have not been paid.
 - The incumbents are eligible for regularization and fulfill all conditions as laid down in SRO 64/1994.
 - The Department shall verify the date of birth and Permanent Residence Certificate of the DRW's, prior to issuance of regularization orders.



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- (vii) Relaxation of age/qualification, wherever required, shall be considered by the Department with prior approval of the Competent Authority.
- (viii) Regularization orders shall be issued by the concerned HOD after formal orders for creation of posts are issued by the Administrative Department.
- (ix) The posts shall cease to exist on death/retirement/resignation/termination of the incumbents or their adjustment against any hierarchical post.
- (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.

6. SWP No. 1928/2006 titled Nawab Din Vs State and others.

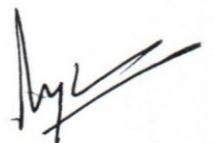
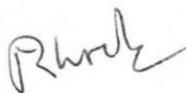
- 6.1. Sh. Nawab Din S/o Ghulam Nabi R/o Fazalabad Poonch has approached the Hon'ble court for regularization of his services. The Hon'ble Court has disposed of the writ petition on 04.06.2012 with the following direction:-

"This writ petition, therefore, succeeds. It is, accordingly, allowed with costs quantified at Rs. 10,000/- (Rupees Ten thousand). A direction shall issue to the State respondents to pass requisite orders for petitioners regularization in service with effect from the date he became entitled thereto after completion of seven years of continuous daily wage service. Remaining arrears of salary, if any, be released forthwith in his favour."

- 6.2. Case of the petitioner for regularization under provisions of SRO 64 of 1994 was placed before the Empowered Committee in its meeting held on 31.03.2016 for recommendations/decision. The case was found deficient and the department was advised to furnish certain information.
- 6.3. The department, vide UO No. FST/Lit/237/SF/2017 dated 23.04.2018, has furnished the necessary documents and recommended regularization of the petitioner in terms of SRO 64 of 1994. The Committee was informed that the petitioner has been engaged as Labour in 02/1994 and paid wages for the period 01.02.1994 to 20.02.1994, 08/1994 to 02/1995 and 04/1995 to 02/2018.
- 6.4. The Committee came to conclusion that the petitioner has been engaged after ban i,e 31.01.1994, the case falls under SRO 520 of 2017 and should be processed as such by the department. The department should issue consideration order accordingly.



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7. **COA(SW) No. 7/2016 in SWP No. 3/2007 titled Sajjad Ahmad Wani Vs. State and Others:**

7.1 Case of Sh. Sajjad Ahmad S/o Gh. Hassan R/o Bankoot for regularization under provisions of SRO 64 of 1994 was placed before the Empowered Committee in its 6th meeting held on 31.03.2016 for recommendations/decision. It was observed that the case is not supported by copy of engagement order or MR on which initial wages have been drawn and wages statement from date of engagement to 10/2010. Accordingly the following observation was conveyed to the department:-

"A person having never been paid upto 10/10, it cannot be concluded that he has been engaged as DRW and paid wages prior to 31.01.1994."

7.2. The incumbent has approached the Hon'ble court for regularization of his services. The department, vide UO No. FST/Lit/SF/14/2018 dated 23.04.2018, has furnished the necessary documents and recommended regularization of the petitioner in terms of SRO 64 of 1994.

7.3 While examining the case 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 it was observed that the petitioner has been engaged as casual Labour in 10/1990. The Committee after thread-bare discussion and taking into cognizance judgement of the Hon'ble Court, resolved that cases of casual labourers do not fall within the mandate of this Committee and the department is required to take appropriate action in the matter at its level for implementation of orders of the Hon'ble Court and if need arises, approach the State Administrative Council for implementation of the orders of the Hon'ble Court in consultation with the Department of Law, Justice and Parliamentary Affairs.

8. **SWP No. 740/2006 titled Mohammad Ayoub Vs State State & others:**

8.1. Sh. Mohammad Ayoub was engaged as DRW on 01.07.1991 and brought on regular establishment w.e.f 01.04.1999 vide Forest Order No. 75 of 2004 dated 28.02.2004 after being cleared by the Empowered Committee in its 182th meeting held on 20.10.2003. The incumbent approached Hon'ble Court through medium of a writ petition praying therein for quashing Forest Order No. 75 of 2004 dated 28.02.2004 in so far it provides regularization of the petitioner notionally from 01.04.1999 and regularizing the petitioner w.e.f 1.3.1993/1.4.1994 and consider his claim for further promotion. The



Hon'ble High Court passed a judgement on 15.02.2017 and the operative part of which reads as under:-

"In the above background the writ petition is allowed and by writ of certiorari, the Forest Order No. 75 of 2004 dated 28.02.2004 is quashed so far it provides regularization of petitioner notionally w.e.f 01.04.1999.

By writ of mandamus, respondents are directed to consider the case of petitioner for regularization with effect from 1.3.1993/1.4.1994 in accordance with the rules if otherwise eligible.

The consideration shall be effected and decision taken within four months from the date copy of this order is served on respondents."

8.2. The Committee was informed that the department has not furnished any supporting document except report of the HoD concerned wherein it has been reported that:-

- a) The petitioner was engaged as DRW on 01.07.1991 and regularized w.e.f 01.04.1999.
- b) The petitioner has provided a copy of order dated 21.08.1997 issued by the authority under payment of Wages Act, District Srinagar deciding the delayed period from 01.04.1986 to 30.06.1991 and directing respondent No. 4 to deposit the amount of Rs. 17910/- and interest Rs. 12240/- in the Court.
- c) It could not be established whether the petitioner has received wages for the period 1986 to 1991 as records of the Division were washed away in floods of 2014.

8.3. After thread-bare discussion the Committee came to conclusion that there is no documentary evidence which could prove that the petitioner was engaged in 1986 and paid wages for the period from 04/1986 to 06/1991 and the department has not categorically certified the same. In absence of documentary evidence no considered view can be taken. The Committee resolved that the department shall take appropriate action at its level for implementation of the orders of the Hon'ble court after establishing whether the amount under payment of Wages Act has been deposited in the Hon'ble court.



9. Waiver of condition of condonation of breaks:

9.1. Forest Department, vide OM No. FST/NG/DRW/96/2017 dated 26.03.2018, has requested withdrawal of condition of condonation of breaks in favour of the following 25 DRWs of Forest Division Ramban who have been cleared by the Empowered Committee in its meeting held on 13.09.2017 on the grounds that wages have not drawn in their favour due to paucity of funds but they remained working continuously during the said break periods and the General Administration Department on similar issue has advised the department as under:-

"Upon examination of the proposal, it has been observed that the departmental notes give an impression that there have been no breaks in the services of these daily rated workers (DRWs) and simultaneously the breaks have been shown caused due to the non-availability of funds. If these DRWs were working in the department continuously and there were actually no breaks, therefore, the department would required to re-examine over withdrawal of the condition of "breaks" after due verification with reference to records in consultation with the Finance Department."

S. No.	Name of the DRW	Breaks	Date of Regularization
1.	Mushtaq Ahmad S/O Gh. Rasool Tantray R/O Nowgam Banihal.	01/94 to 02/95, 03/96 to 12/96, 7/97, 03/06.	01.04.2003.
2.	Gulzar Ahmad S/O Hassan Rather R/O Danar Banihal.	01/94 to 07/94, 10/94 to 11/94, 03/95, 03/96, 08/96, 02/97, 03/06.	01.04.2002.
3.	Mohd. Sharief S/O Sanaullah Naik R/O Kaskoot Banihal.	01/94 to 02/94, 04/94 to 02/95, 03/96, 10/96, 01/97, 03/06.	01.04.2004.
4.	Mohd. Akbar S/O Gh. Mohd. Tantray R/O Nowgam Banihal.	01/94 to 02/95, 04/95 to 06/95, 11/95 to 03/96, 11/96, 03/06.	01.04.2003.
5.	Javad Ahmad S/O Assadullah Wani R/O Kaskoot Banihal	01/94 to 07/94, 09/94 to 03/95, 08/96, 02/97, 03/06.	01.04.2003.
6.	Manzoor Ahmad S/O Ahadullah Wani R/O Kaskoot Banihal.	01/94 to 02/94, 04/94 to 06/94, 08/94 to 11/94, 03/95, 03/96, 10/96, 01/97, 09/98 to 12/98, 03/06.	01.04.2002.
7.	Late Om Singh S/O Tara Chand R/O Marog, Ramban. (Expired on 27.11.2007)	01/94 to 03/94, 08/94 to 03/95, 03/96, 10/96, 01/97, 03/2000, 03/06, 12/06 to date of death	01.04.2002.
8.	Mohammad Amin S/O Abdul Gani Naik R/O Chachihal, Banihal.	01/94, 03/94 to 06/94, 09/94 to 07/95, 11/95 to 03/96, 08/96, 02/97, 03/06.	01.04.2003.
9.	Chain Singh S/O Jager Nath R/O Neera, Ramban.	01/94 to 03/94, 08/94 to 03/95, 10/95, 03/96, 10/96, 01/97, 03/06.	01.04.2002.
10.	Manzoor Ahmad Mattoo S/O Samad Mattoo R/O Chachihal.	01/94 to 03/94, 08/94 to 03/95, 01/96 to 03/96, 12/98, 03/06.	01.04.2002.

11.	Mushtaq Ahmad S/O Fatha Khan R/O Tethar, Banihal.	02/94 to 03/95, 03/96, 03/06.	01.04.2001.
12.	Shakeel Ahmad S/O Wali Mohd. R/O Kundi, Ramban.	01/94 to 10/94, 02/95 to 03/95, 02/96 to 03/96, 11/96 to 12/96, 03/06.	01.04.2003.
13.	Mohammad Ishaq S/O Gh. Mohi-ud-din R/O Neel Banihal.	01/94 to 09/94, 12/94 to 03/95, 12/95 to 03/96, 09/96 to 10/96, 03/06.	01.04.2003.
14.	Mohammad Yousuf Mir S/O Satar Mir R/O Karwa, Banihal.	08/94 to 03/95, 01/96 to 03/96, 12/98, 03/06.	01.04.2002.
15.	Yar Mohd. S/O Mohd. Yaseen R/O Halla Ramban.	01/94 to 03/94, 01/95 to 03/95, 02/96 to 03/96, 05/98, 08/99, 03/06.	01.04.2002.
16.	Mohd. Ashraf S/O Gh. Mohd Tantray R/O Seri, Ramban.	02/94 to 03/94, 07/94 to 12/95, 08/96 to 12/96, 01/99 to 03/99, 03/06.	01.04.2003.
17.	Bansi Lal S/O Krishan Lal R/O Gyti Ramban.	03/94 to 05/94, 07/94, 09/94 to 07/95, 03/96, 10/96, 01/97, 03/06.	01.04.2002.
18.	Qasim Bakerwal S/O Ahmad Bakerwal R/O Seri Ramban.	01/94 to 03/94, 08/94 to 03/95, 03/96, 03/06.	01.04.2002.
19.	Musarat Iqbal S/O Noor Mohd Wagay R/O Raloo Banihal.	07/94 to 09/94, 02/95 to 03/95, 07/95, 03/96, 03/06.	01.04.2002.
20.	Javed Iqbal S/O Mohd Ayoub R/O Khoura, Banihal.	01/94 to 03/94, 01/95 to 03/95, 08/95, 12/95 to 03/96, 03/06.	01.04.2002.
21.	Mohd Sharief S/O Abdullah Beig R/O Kaskoot Banihal.	02/94 to 07/94, 10/94 to 09/95, 11/95 to 03/96, 03/06.	01.04.2003.
22.	Amandeep Singh S/O Thaker Singh R/O Bhaderwah.	02/94 to 05/94, 12/94, 04/95 to 11/95, 02/96 to 03/96, 09/97, 03/06.	01.04.2001.
23.	Kuldeep Singh S/O Balak Ram R/O Kanthi Ramban.	01/94 to 03/94, 11/94 to 02/95, 03/96, 04/97, 03/06.	01.04.2002.
24.	Late Suram Chand S/O Mohar Singh R/O Karol Ramban. (Expired on 27.06.12)	01/94 to 03/96, 10/96, 01/97, 03/06.	01.04.2003.
25.	Som Dutt S/O Kripa Ram R/O Maitra, Ramban.	02/94, 04/94, 02/06 to 03/06.	01.04.2001.

9.2. The Committee decided that since the department has certified that these DRWs have continuously worked and their wages have remained unpaid for some period for want of budget allocation, these breaks in drawal of wages shall not be considered as breaks requiring condonation by the Competent Authority. However, no arrears of salary shall be drawn for the period wages have not been paid.

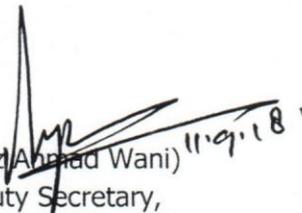
9.3. The condition that no arrears of salary shall be drawn for the period wages have not been paid shall also apply to 17 DRWs in whose favour condition of condonation of breaks was withdrawn by the Empowered Committee in

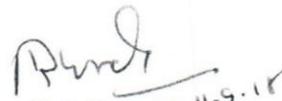
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its 13th meeting held on 04.04.2018 and conveyed to the department vide OM No. A/37(2015)-I-200 dated 31.05.2018.

10. ***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) 11.9.18
Deputy Secretary,
General Administration Department
(Member)


(P.R. Katoch) 11.9.18
Additional Secretary,
Forest Department.
(Member)


(Achal Sethi)
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Director General (Codes),
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(Navin K. Choudhary), IAS,
Principal Secretary,
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(Chairman)