

No.49014/2/2014-Estt (C)
Government of India
Ministry of Personnel, Public Grievances and PG
Department of Personnel and Training
Establishment Division

New Delhi, North Block,
February 26th, 2016

OFFICE MEMORANDUM

Subject: Casual Labourers with temporary status-clarification regarding contribution to GPF and Pension under the old pension scheme

Undersigned is directed to refer to this Department's OM No. 51016/2/90-Estt (C) dated the 10th September, 1993 vide which a scheme for grant of temporary status to the casual employees was framed. The scheme applied to those casual labourers who were in employment on the date of the issue of the OM and had rendered one year of continued service in Central Government offices, which meant that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week). The scheme did not apply to Departments of Telecom & Posts and Ministry of Railways.

2. As per the scheme, after rendering three years' continuous service after conferment of temporary status, the casual labourers were to be treated at par with temporary Group 'D' employees for the purpose of contribution to the General Provident Fund. Further, after their regularisation, 50% of the service rendered under temporary status would be counted for the purpose of retirement benefits.

3. As per para 8 of the scheme, two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by Department of Personnel and Training from amongst casual workers with temporary status. However, regular Group 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In case of illiterate casual labourers or those who fail to fulfill the minimum qualification prescribed for post, regularisation will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labourer.

4. Vide the O.M. No.49014/1/2004 -Estt (C) dated the 26th April, 2004, the above scheme was reviewed in the light of introduction of New Pension Scheme in respect of persons appointed to the Central Government service on or after 1.1.2004 as under:

(i) As the new pension scheme is based on defined contributions, the length of qualifying service for the purpose of retirement benefits has lost its relevance, no credit of casual service, as specified in para 5 (v), shall be available to the casual labourers on their regularisation against Group 'D' posts on or after 1.1.2004.

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(ii) As there is no provision of General Provident Fund in the new pension scheme, it will not serve any useful purpose to continue deductions towards GPF from the existing casual employees, in terms of para 5 (vi) of the scheme for grant of temporary status. It is, therefore, requested that no further deduction towards General Provident Fund shall be effected from the casual labourers w. e. f. 1.1.2004 onwards and the amount lying in their General Provident Fund accounts, including deductions made after 1.1.2004, shall be paid to them.

2. The existing guidelines contained in this Department's OM No. 49014/2/86-Estt.(C) dated 7.6.88 may continue to be followed in the matter of engagement of casual workers in the Central Government Offices.

5. The OM dated 26th April, 2004 has been quashed by various benches of CAT/High Courts who have decided that the scheme could not be modified retrospectively. The SLPs filed in the Hon'ble Supreme Court have been dismissed by the Apex Court in *UOI & Ors v Rameshwar Singh*, CC 1829/2014, *UOI & Ors v Ramsaran & Ors*, SLP (C) No. 25360-25362 of 2008, SLP 17358/2008, SLP 25360-62/09, *Union of India etc v Ajay Kumar & Ors*, SLP No.19673-19678/2009.

6. The position has been reviewed in the light of the Court judgements in consultation with the Department of Expenditure. It has now been decided that the casual labourers who had been granted temporary status under the scheme, and have completed 3 years of continuous service after that, are entitled to contribute to the General Provident Fund.

7. 50% of the service rendered under temporary status would be counted for the purpose of retirement benefits in respect of those casual labourers who have been regularised in terms of para 8 of the OM dated 10.09.1993.

8. It is emphasised that the benefit of temporary status is available only to those casual labourers who were in employment on the date of the issue of the OM dated 10th September, 1993 and were otherwise eligible for it. No grant of temporary status is permissible after that date. The employees erroneously granted temporary status between 10.09.1993 and the date of Hon'ble Supreme Court judgement in *Union Of India And Anr vs Mohan Pal*, 2002 (3) SCR 613, delivered on 29 April, 2002, will however be deemed to have been covered under the scheme of 10.09.93.

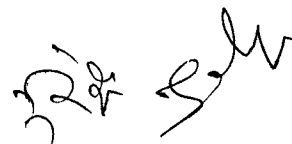
9. Ministries/Departments are also requested to identify cases where temporary status has been granted wrongly to those not covered under the OM dated 10.09.1993 and fix responsibility for the same.


(Mukesh Chaturvedi)
Director (E)

To
All Secretaries of Ministries/ Departments.

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2. Vice-President's Secretariat, New Delhi
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6. The Registrar General, the Supreme Court of India, New Delhi
7. The Registrar, Central Administrative Tribunal, Principal Bench, New Delhi
8. Comptroller and Auditor General of India, New Delhi.
9. The Secretary, Union Public Service Commission, New Delhi.
10. Central Vigilance Commission, New Delhi
11. Central Bureau of Investigation, New Delhi.
12. All Union Territory Administrations
13. Secretary, Staff Side, National Council (JCM), 13-C, Ferozeshah Road, New Delhi
14. ADG (M&C), Press Information Bureau, DoP&T.
- ✓ 15. NIC cell with request to upload it under OMs and Orders, Establishment, Daily Wage Casual Labour, and also 'What is new'.


(Mukesh Chaturvedi)
Director (E)