

MINUTES

Subject: Minutes of the meeting taken by ADG(S&P) on 17-07-2017 regarding regularization of deceased workmen and matters regarding the Judgement of Hon'ble Supreme Court dated 28-04-2017 in respect of Double OTA

After welcoming all the participants in the meeting the following issues were discussed :-

- (i) Regularization matters of deceased workmen who were covered under this Directorate's letter no. 19/176/2004-EC-X dated 11-03-2011 for regularization w.e.f. 11-12-2006 but died before March, 2011 when their regularization orders were issued by this Directorate.
- (ii) Calculation of financial implication w.r.t. the judgement dated 28-04-2017 in SLP(C)No. 14929/2016 and SLP (C) No. 14930/2016 regarding payment of double overtime wages to the Work Charged and Regular Classified employees of CPWD.

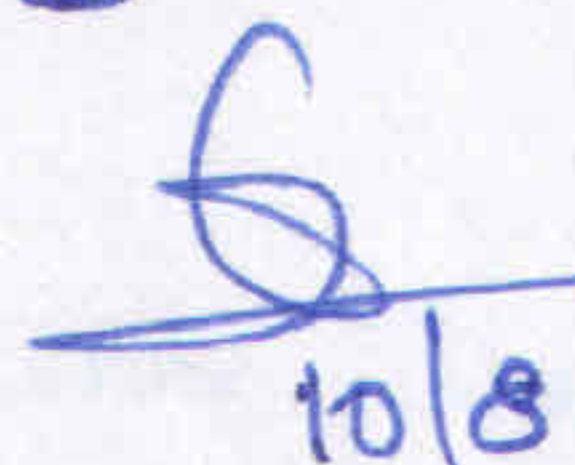
Agenda (i) After deliberation with all the participants, in the light of various pending court cases and Judgement dated 24/01/2017 of the Hon'ble High Court of Delhi in W.P.(C) 4323/2016 & CM 18168/2016 in respect of Anita Devi Vs/ Union of India (copy enclosed), it was decided that the deceased Work Charged Employees who could not be regularized before their death, but otherwise covered under the DOPT scheme called Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993 and in respect of the deceased persons who were covered under DOPT OM No. 49019/1/2006-Estt.C dated 11-12-2006 as per this Directorate Letter no. 19/176/2004-EC-X dated 11-03-2011 may be treated as deemed regularized subject to their eligibility and availability of vacancy. Post regularization benefits will be admissible as per DOPT O.M.No. 49014/2/2014-Estt.(C) dated 28-07-2016(copy enclosed). All similar cases pending in the Courts shall be settled accordingly so as to reduce unnecessary litigation.

(Action : All CEs/EC-X)

All EBs to take action

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Please calculate double
overtime w.e.f. 2006 and
intimate

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Agenda (ii) After going through the Judgement of Hon'ble Supreme Court dated 28-04-2017, it was decided to call for information regarding likely financial implication in case the Apex Court Orders are in favour of implementation of payment of Double OTA beyond 2003. All participants were requested to furnish the likely expenditure to be incurred in respect of all pending claims to this Directorate within a week. **(Action : All CEs/EC-X)**

The meeting concluded with thanks to the chair and all the Participants.

The list of participants is at **Annexure-I**.

Annexure-I

List of participants in the meeting taken by ADG(S&P) on 17-07-2017 regarding regularization of deceased workmen and matters regarding the Judgement of Hon'ble Supreme Court dated 28-04-2017 in respect of Double OTA

| S.No. | Name & Designation(S/Shri) | Phone No. |
|-------|-------------------------------------|------------|
| 1 | Harnam Singh, DDG(HQ) | 9478663111 |
| 2 | Rabindra Kumar, CE(NDZ-VIII) | 9810257544 |
| 3 | Bijendra Kumar, CE(NDZ-V/VII) | 8800633200 |
| 4- | Sugan Lal Meena, CE(NDZ-VI/II) | 9874216611 |
| 5 | Ramesh Chandra, CE(NDZ-IV) | 9818857377 |
| 6 | P.K.Singh, CE(NZ-II) | 9899034680 |
| 7 | S.P.Chaudhary, CE(NDZ-I) | 9871512727 |
| 8 | Sanjeev Rastogi, Dir(P&WA)PWD | 9818930840 |
| 9 | Rajeev Sharma, SE(DCEC-VII) | 882679206 |
| 10 | Gagendra Kumar, SE(DCC-VII) | 9013925290 |
| 11 | B.K.Pati, Dir(Admn-II) | 971741085 |
| 12 | Sanjeev Aggrawal, EE(EI.) Coord(NR) | 9968670605 |
| 13 | Gyani Ram, EE,Div'S' | 9717671519 |
| 14 | Sunil Parashar, EE(HQ)(NDZ-V) | 9971808899 |
| 15 | Ashok Kumar, EE(HQ)(NDZ-VII) | 8800652228 |
| 16 | P.K.Srivastava, EE(E)EMD(W, PWD) | 9910067630 |
| 17 | M. Dabur, DD/HD-VI | 9810876003 |
| 18 | V.P.Singh, DD(Hort.)/Div-1 | 9818229269 |
| 19 | Virinder Kumar, DD(E) PWD | 9650559764 |
| 20 | Shyam Gulani, LDC, Coord.NR | 9899286669 |

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Smt Anita Devi Case

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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 24th January, 2017

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+ W.P.(C) 4323/2016 & CM 18168/2016

UNION OF INDIA

Through: Ms. Sangita Rai, Adv. Petitioner
versus

ANITA DEVI

Through: Ms. Rachna Aggarwal, Adv. Respondent
along with respondent in
person.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The petitioner has challenged the award of the Industrial Tribunal whereby learned Tribunal held that late Vinod Kumar be regularized in service as a mason from 11th December, 2006, the date when his juniors were regularized.
2. Late Vinod Kumar was engaged by the petitioner as a mason on 1st July, 1986 and he worked with the petitioner till his death on 25th January, 2009. The deceased worked for 22 years, 6 months and 24 days. The claim of the deceased with respect to non-regularization was referred to the Industrial Tribunal vide order dated 15th February, 2012. The deceased claimed regularization from 1st July, 1986 or the date when his juniors were regularized.
3. The petitioner contested the claim on the ground that the deceased was appointed on 1st July, 1986 after the imposition of ban on recruitment vide order dated 19th November, 1985. Thereafter,


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8982 posts were created by the department pursuant to the directions of the Supreme Court for regularization of eligible workers before the imposition of ban on 19th November, 1985. However, the workers were regularized from prospective dates and not from the dates of their initial engagement. The deceased was not considered for regularization since he was engaged on 1st July, 1986. However, after the judgment of the Supreme Court in *Secretary, State of Karnataka v. Uma Devi*, 2006(4) SCC 1 directing the State to take steps to regularize services of the employees who had rendered ten years of service as a one time measure, the case of the deceased was forwarded to the competent authority for regularization but he expired before the regularization of his service. The claim of compassionate appointment to the widow was denied by the petitioner as the deceased had not rendered the service as a regular employee.

4. The petitioner examined its Executive Engineer as MW-1 who proved the seniority list dated 13th July, 2006 as Ex.MW1/W1 in which name of the deceased, Vinod Kumar was shown at serial no.12. MW-1 admitted that Ramesh Kumar, Jeet Singh, Kalu Ram and Hriday Kumar shown at serial nos.13, 14, 15 and 16 in Ex.MW1/W1 have been regularized on 11th December, 2006. The Industrial Tribunal held that the deceased, Vinod Kumar would be regularized in service from the date when his juniors were regularized i.e. 11th December, 2006. The Industrial Tribunal further held that the widow of the deceased would not be entitled to appointment on compassionate grounds as the deceased was not a regular employee.

5. Learned counsel for the petitioner urged at the time of the

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(126)

hearing that the deceased workman expired well before the approval of his regularization. It is submitted that the deceased was not alive to fulfil the formalities of regularization when the approval of the competent authority was received for regularization. However, it is not disputed that the four persons junior to the deceased shown at serial nos.13, 14, 15 and 16 in Ex.MW-1/W-1 have been regularized on 11th December, 2006.

6. This Court is of the view that there is no infirmity in the finding of the Industrial Tribunal holding the deceased, Vinod Kumar to be regularized from 11th December, 2006 when his juniors were regularized especially when the petitioner itself had recommended the case of the deceased for regularization but the approval was received after his death.

7. There is no merit in this writ petition which is hereby dismissed. The pending application is disposed of.

8. The petitioner has deposited Rs.4,39,740/- with the Registrar General of this Court in terms of order dated 16th November, 2016.

The Registrar General is directed to disburse the aforesaid amount to the respondent by instructing UCO Bank, Delhi High Court Branch to discharge the FDR and keep Rs.4 lakh in 50 FDRs of Rs.8,000/- each from period 1 month to 50 months respectively in the name of respondent with cumulative interest.

9. The balance amount after keeping Rs.4 lakh in FDR be released to the respondent by transferring the same to her savings bank A/c 90192010157367 with Syndicate Bank, Nangalraya, New Delhi - 110046 (MICR Code: 110025033, IFSC : SYNB0009019).


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10. The original FDRs shall be retained by UCO Bank, Delhi High Court Branch. However, the photocopies of the FDRs shall be provided to the respondent.
11. The interest on the FDRs along with maturity amount of the FDRs shall be transferred to the aforesaid savings bank account of the respondent.
12. List for reporting compliance on 21st February, 2017.
13. Copy of this judgment be given *dasti* to counsel for the parties under the signature of the Court Master.

JANUARY 24, 2017
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Court Master
High Court of Delhi
New Delhi

sd/-
J.R. MIDHA, J.