

Government of Odisha
General Administration and Public Grievance Department

No. 7210(e) /Gen., Bhubaneswar dated the **3rd March, 2021.**
GAD-SC-GCS-0169-2020

From
Sri Ganesh Chandra Patra, OAS (SS),
Special secretary to Government.

To
All Departments of Government,
All HoDs,
All RDCs./ Collectors.

Sub.: - **Regularisation of Contractual employees- the matters regarding.**

A good number of instructions have already been issued on regularization of Contractual appointments/ engagements after examining the individual cases as per the parameters prescribed therein. The said instructions have also prescribed the procedure to be adopted for consideration of such regularization.

In spite of these detailed instructions, proposals for consideration of regularization of contractual appointments/engagements have often been received in this Department which were initiated either as per orders of different Courts of Law or representation filed by the concerned contractual employee or otherwise without examining the admissibility of the said appointments/engagements as per the prescribed stipulations. Such references not only increase the workload of this Department but also consume a lot of time and sometimes give the scope to the applicant to take shelter of the Courts of Law on the ground of pendency of his application for consideration.

In order to differentiate the types of contractual appointments/engagements i.e. which type of cases deserves consideration for regular appointment and which does not merit for consideration, a checklist in diagram form consisting of all the relevant resolutions / instructions / circulars and the Law decided by the Hon'ble Supreme Court of India in Uma Devi case is enclosed for reference of all concerned.

It is accordingly, impressed upon all concerned authorities to examine the case of regularization of the contractual appointments/ engagements on the basis of the checklist enclosed and only the deserving case need be sent to this Department for consideration.

Ganesh
3-3-2021
Special Secretary to Government

Memo No. 7211 /Gen., Bhubaneswar dated, the **3rd March, 2021.**

Copy forwarded to the Secretary, OPSC/ Secretary, OSSC/Secretary, OSSSC/ Registrar, Odisha High Court for information and necessary action.

Ganesh
3-3-2021
Special Secretary to Government

CHECKLIST FOR EXAMINATION OF REGULARISATION OF CONTRACTUAL EMPLOYEES

TYPES OF CONTRACTUAL EMPLOYEES
(Two Types)

<p>(A) Those who are engaged as per 2013 RULES* They are being/will be regularized after 6 years of contractual service as provided in the 2013 RULES</p>	<p>(1) Engaged in Govt., establishments directly (Two sub-types)</p>	<p>(2) Engaged in Govt., establishments through outsourced Service Provider Agencies Since they are employees of Service Provider Agencies, there is no Employee-Employer relationship between them and Government. HENCE THEY CANNOT BE REGULARISED AT ALL.</p>
<p>(B) Those who are engaged NOT as per 2013 RULES (Since 2013 RULES is not applicable to them, they cannot be regularized as per the 2013 RULES)</p>	<p>Some of them can be regularized as per JMA DEVI Judgment of Supreme Court (See Note 1 below)</p>	<p>The remaining CANNOT BE REGULARISED AT ALL. Though they cannot be regularized, the 2013 RULES categorises them as Category-I and Category-II existing contractual employees and provides for some special provisions for them in future recruitments (Upper age limit relaxation upto 45 years of the age and one percent additional mark for each completed year of service, upto a maximum of 15 percentage). With these relaxations, they have to compete against others. (See Note 3 below)</p>
<p>* (1) Odisha Group 'C' and Group 'D' Posts (Contractual Appointment) Rule, 2013 (G.A. & P.G. Department Notification dated 12.11.2013) (2) Odisha Group 'B' Posts (Contractual Appointment) Rules, 2013 (G.A. & P.G. Department Notification dated 17.01.2014) # (1) Regular appointment of existing Contractual Group-C and Group-D employees (G.A. & P.G. Department Resolution dated 17.09.2013 read with Resolution No. 1066 dated 16.1.2014) # (2) Regular appointment of existing Contractual Group-B employees (G.A. & P.G. Department Resolution dated 15.02.2014)</p>	<p>Some others can be regularized as per RESOLUTION *, if their engagement satisfies the mandatory conditions contained in the RESOLUTION (See Note 2 below)</p>	<p>↓</p>

* (1) Odisha Group 'C' and Group 'D' Posts (Contractual Appointment) Rule, 2013 (G.A. & P.G. Department Notification dated 12.11.2013)
(2) Odisha Group 'B' Posts (Contractual Appointment) Rules, 2013 (G.A. & P.G. Department Notification dated 17.01.2014)
(1) Regular appointment of existing Contractual Group-C and Group-D employees (G.A. & P.G. Department Resolution dated 17.09.2013 read with Resolution No. 1066 dated 16.1.2014)
(2) Regular appointment of existing Contractual Group-B employees (G.A. & P.G. Department Resolution dated 15.02.2014)

Note 1 :-Gist of UMA DEVI Judgment of Supreme Court (dated 10.4.2006)

(a) Illegal appointment: If appointment had been made against a non-sanctioned post or when the person appointed against a sanctioned post did not have the essential qualification (prescribed for the post) at the time of such appointment.

(b) Irregular appointment: If appointment had been made against a sanctioned post and the person so appointed possessed the educational qualification (prescribed for the post) at the time of such appointment; but the appointment was made not as per the due recruitment procedure.

(c) Regularization:

(i) Illegal appointment cannot be regularized at all.

(ii) Irregular appointment also cannot be regularized at all. (excepting an one-time relaxation admissible as per Uma Devi Case).

(iii) However, as an one-time relaxation measure, the Supreme Court have directed for regularization of such irregular appointees who had been continuing in such appointment for at least 10 years as on the date of judgment (i.e. 10.04.2006), without protection of any court order.

(iv) The ratio of Judgment in Uma Devi Case shall not apply to the Contractual appointments/ engagements made after 11.4.1996 and the cases of Contractual appointments/ engagements which are not continuous for 10 years as on 10.4.2006.

Note 2:- (a) The 3 mandatory conditions for regularization [“As per G.A. & P.G. Department Resolution Dated 17.09.2013 (Group C and D) and 15.02.2014 (Group B)"]

- > Contractual appointment must have been made with prior concurrence of Finance Department
- > Due recruitment procedure prescribed for the corresponding regular post must have been followed
- > Reservation of vacancies as per ORV Rules must have been followed while making such appointment

(b) Approval of the HPC (High Power Committee) under the chairmanship of the Secretary of the Administrative Department is mandatory in case of Group-C & Group-D Contractual employees.

(C) Regularisation w.e.f. the date of issue of the Resolution (i.e.17.09.2013 for Group-C and Group-D and 15.02.2014 for Group-B) or completion, of six years of contractual service, whichever is later.

Note 3:- Applicability of special provisions: As per the 2013 Rules, then existing contractual employees (whose contractual appointment could

not have been regularized as per the applicable 2013/2014 GA& PG Department Resolutions) were categorized into Category-I and Category-II contractual employees and provided with some special provisions. **It has been clarified by GA & PG Dept., vide its letter No.26611 Dated 26.11.2020 addressed to all Departments/HODs/ Collectors, that:-**

- (a) Category-I and Category -II contractual employees, engaged after commencement of the 2013 Rules, shall not be eligible to get the benefits of the special provisions contained in the 2013 Rules.
- (b) Category-I and Category -II contractual employees, engaged before commencement of the 2013 Rules, shall be eligible to get the benefits of the special provisions contained in the 2013 Rules (i.e. one percent additional mark) till commencement of these 2013 Rules. They shall not be eligible for any additional mark for the duration of their contractual service rendered after commencement of these

2013 Rules.
