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GOVERNMENT OF ORISSA

POLITICAL-& SERVICES DEPARTMENT

RESOLUTION

The 18th June 1974

SUBJECT—Formulation of instructions governing recruitment and conditions of Service of Work-charged employees.

The question of formulation of a uniform set of instructions to regulate the recruitment and conditions of service of the employees under the work-charged establishments under different Departments of Government has been engaging the attention of Government for some time past. The need for early formulation of such instructions has been felt not only because the different Departments are following different principles in such matters but also because the number of work-charged employees has substantially increased due to expansion of developmental activities.

Government after careful consideration have framed a set of instructions (a copy of which is enclosed) to regulate the recruitment and conditions of service of work-charged employees and order that the concerned Departments shall follow the instructions in future.

ORDER—Ordered that the Resolution should be published in the *Orissa Gazette*

Ordered also that copies of the Resolution should be forwarded to all Departments of Government/all Heads of Departments/all Collectors/Accountant-General, Orissa for information and necessary action.

By order of the Governor

S. K. PALIT

Additional Secretary to Government

INSTRUCTIONS TO REGULATE APPOINTMENT AND CONDITIONS OF SERVICE OF THE ORISSA WORK-CHARGED EMPLOYEES

1. (1) These Instructions may be called the Orissa Work-Charged Employees (Appointment and Conditions of Service) Instructions, 1974.

(2) These Instructions shall come into force on such date as may be notified by Government in the official Gazette.

(3) These Instructions shall be applicable to those employees whose pay and allowances are debitible to the concerned item of work for which they are employed :

Provided that these Instructions shall not be applicable to those employees borne on a regular establishment not with standing the fact that their pay and allowances are charged to the item of work for which they are employed for the time being :

Provided further that these Instructions shall not operate to the disadvantage of any workman who is covered by any labour laws or terms of any award, agreement or contract of service and in such event the relevant provisions of such labour laws or terms of any award agreement or contract of service shall be applicable to him.

Definitions

2. In these Instructions unless there is any thing repugnant in the subject or context

(a) "Appointing authority" means

(i) The authority who appointed a work-charged employee before the commencement of these Instructions or,

(ii) the authority not below the rank of Executive Engineer who is in-charge of the execution of the work, or

(iii) such other authority as may be notified from time to time by the Government

(b) "Approved Service" means continuous service including authorised leave

(c) "Chief Engineer" means a Chief Engineer under the control of any of the Department mentioned in item (g) below.

(d) "Employer" in case of a work-charged establishment which is treated as an industry for the purpose of Industrial Dispute Act, 1947 means such authority as prescribed by the State Government or where no authority is prescribed, the head of the Department concerned.

(e) "Employee" means work-charged employee

(f) "Establishment" means work-charged establishment

(g) "Executive Engineer" means an Executive Engineer under the administrative control of works Department or Irrigation and Power Department or Rural Development or Urban Development Department.

(h) "Government" means the State Government of Orissa

(i) "Head of Department" means the Government servants mentioned in Appendix 3 of Orissa Service Code.

(j) "Pay" means an amount drawn monthly by an employee for the post held by him in the work-charged establishment and excludes dearness allowance and other temporary additions to the emoluments granted by Government from time to time.

(k) "Post" means a work-charged post

(l) "Prescribed qualification" for recruitment to any work-charged post shall be the same qualifications as prescribed for a corresponding post in the regular establishment. Where there is no corresponding post in the regular establishment, the qualification will be prescribed by the appointing authority.

(m) "Skilled employees" are those employed in posts notified as "Skilled" from time to time by Government.

* substituted vide G.O. No. 13,703 dt. 19-08-74

- (f) "Subdivisional Officer" means a Subdivisional Officer under the administrative control of any Department mentioned in items (g) above.
- (g) "Superintending Engineer" means a Superintending Engineer under the administrative control of any Department mentioned in item (g) above.
- (p) "Unskilled employees" are employees other than those notified as "Skilled"
- (q) "Work-charged Establishment" means an establishment where the pay and allowances of the employees are charged to the item of work for which they are employed.

Tenure and condition of appointment.

2. (1) Work-charged Establishment shall consist of employees of two categories, namely (1) those employed for actual execution of work and (2) those for general supervision of a specific work or of sub-works of a specific project or subordinate supervision of departmental labour, stores and machinery in connection with such work or sub-work. When employees borne on regular establishment are employed on work of this nature, their pay and allowances should be charged direct to the work. If the entertainment of work charged establishment is contemplated for supervision in connection with any work, the cost should be invariably shown as a separate sub-head of the estimate for that work. Pay and allowances of those employed for the actual execution of work should be debited to the concerned item of work.

(2) The employment of a person appointed under the work-charged establishment for a particular work will cease on completion of the work or it can be terminated earlier at any time without assigning any reason.

3. The whole time of a work-charged employee is at the disposal of Government and no overtime allowance can be claimed on any account.

4. (1) No person below 18 years age shall be appointed to the work-charged posts.

NOTE—Of the vacancies 16 per cent is reserved for Scheduled Caste and 24 per cent for scheduled Tribes subject to the conditions that they satisfy the minimum standard of suitability for appointment to the posts.

(2) Retrenched and skilled employees may be given preference for appointment by the appointing authority.

(3) No person shall be appointed either directly or by promotion to a post if he does not possess the qualifications and experience required for the post prescribed by the appointing authority.

(4) No persons shall be appointed to a post without a medical certificate of fitness from a Medical Officer of the State Government not below the rank of Civil Assistant Surgeon.

(5) The appointing authority shall satisfy himself as to the character and antecedents of the persons appointed to the work-charged establishment.

Pay and Increment

* 5. (1) All employees shall be appointed on the minimum of the scale of pay prescribed for the post.

Provided that in the case of skilled or experienced employees, who was drawing pay at rate higher than the minimum on the date of appointment in any Government, Semi-Government or Public Sector undertaking or Corporations, the head of the Department may fix the initial pay of the employee at a higher stage in the time scale by allowing advance increments upto two in the maximum;

Provided further that when the head of the Department is satisfied that more than two such advance increments are justified he shall obtained prior sanction of Government in the administrative Department.

(2) Increment in the time scale of pay shall be drawn subject to satisfactory service.

(3) Service in any post carrying higher scale of pay and leave other than extra-ordinary leave will count for increment in the post held by the incumbent.

Leave and Leave Salary.

5. (1) Any leave as admissible under these instructions may be granted by the appointing authority.

(2) Leave cannot be claimed as a matter of right. When exigencies of public service so require discretion to refuse or revoke such leave is reserved to the appointing authority.

* See stipulated vide G.A. 0024. Notification no. 21962 dt. 4-9-79

(3) Subject to the approval of the Subdivisional Officer a person belonging to the work classed establishment may avail of casual leave upto a maximum of 10 days in a calendar year. The Subdivisional Officer may in his discretion grant special casual leave to an employee upto a maximum of 5 days in a calendar year. Casual leave can be combined with special casual leave or a Gazetted public holiday or off day as admissible but the total period of absence of an employee on casual leave, special casual leave, holidays and off-days shall not exceed 10 days at a time.

(4) Leave may not be granted to a member of such establishment except after the production of a medical certificate signed by a medical practitioner with qualifications not less than those of assistant, surgeon. It must be certified therein that the applicant is unfit for duty on account of ill health and the period for which leave is recommended must be definitely stated.

(5) Leave may be granted upto one month for each year of approved service under Government, subject to a maximum of three months at any one time, provided that no leave may in any case be granted unless the applicant has rendered approved service under Government for at least three years continuously.

(6) Leave salary shall be equal to half the pay drawn at the time of taking leave, provided that in the case of a person to whom the Workmen's Compensation Act, 1932 applies the amount of leave salary payable under this clause shall be reduced by the amount of compensation payable under section 4 (1) D of the said Act.

(7) Before returning to duty the employee shall be required to produce a medical certificate, signed by a medical practitioner with qualifications not less than those of Assistant Surgeon stating that he is fit to return to duty.

(8) Maternity leave may be granted to women employees upto a maximum of 6 weeks provided that leave salary for the period of maternity leave shall be at the rate equal to half the pay last drawn at the time of proceeding on such leave.

(9) The sanctioning authority may not insist on production of medical certificate in the case of casual leave, [special leave] or maternity leave.

Weekly off 7. All employees are eligible for the day off full pay in a week either on a Sunday or on any other day in the week to be reckoned from Monday, in lieu thereof. They will also be eligible to avail of Gazetted holidays not exceeding 15 days in a calendar year as detailed below, provided, however that the authority sanctioning leave may refuse an employee permission to avail of any such holiday in the exigencies of public service. In such cases, the employees may be allowed an off day on some other day according to the discretion of such authority.

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|------------------------------|--------------|
| 1. Makarsankranti | .. One day |
| 2. Republic Day | .. One day |
| 3. Siva Ratri | .. One day |
| 4. Muharam | .. One day |
| 5. Holi | .. One day |
| 6. Ganesh Puja | .. One day |
| 7. Biswakarma Puja | .. Four days |
| 8. Durga Puja and Dasahara | .. One day |
| 9. Mahatma Gandhi's Birthday | .. One day |
| 10. Kumar Purnima | .. One day |
| 11. Diwali | .. One day |
| 12. Prathamastami | .. One day |

Savings 8. Employees, whose conditions of service, leave, etc. are regulated by specific enactments like the Industrial Disputes Act or Factories Act shall be governed by the relevant provisions of those Acts. Paragraphs 6 and 7 of these instructions will be applicable only to those employees, who are covered under specific enactments.

* Substituted vide C.A. Department Letter No. 9039 dt. 30-04-83

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- Travelling Allowance** 9. Travelling allowance may be granted to an employee who is transferred in the exigencies of public service. Such allowance shall be limited to actual travelling expenses the amount of which shall be determined by the appointing authority, but in no case such actual travelling expenses shall exceed the amount admissible under the Orissa T. A. Rules.
- Advances** 10. The employees may be allowed bicycle and festival advances by the appointing authority in his discretion who will also determine the terms and conditions of such advances according to individual circumstances but in no case such terms and conditions shall be more liberal than those for temporary Government servants.
- Contribution to Provident Fund.** 11. All employees covered under the Employees' Provident Fund Scheme shall contribute regularly to the Employees' Provident Fund after completing one year of service. Such of the employees who are not covered by the Employees' Provident Fund Scheme shall contribute regularly to the Contributory Provident Fund after completion of one year of service.
- Maintenance of Service Rolls.** 12. Service Rolls of the employees shall be maintained in the forms as will be prescribed.
13. Free medical aid shall be given to all employees who may also be given reimbursement of the cost of medicines to the extent to be determined by the appointing authority in individual cases.
- Retirement** * 14. The work-charged employees shall ordinarily be retained in service upto the age of 60 years: Provided that the work-charged employees can be required by the appointing authority in public grounds to retire at any time before attaining the age of 60 years on a month's notice or a month's pay in lieu thereof.
- Gratuity** 15. The employees shall be allowed gratuity at the rate of half a month's pay for every completed year of service subject to the maximum of 15 months' pay on retirement invalidation except where it is caused by intemperance and death while in service subject to the condition that this concession shall be allowed only to the employees rendered continuous service for a minimum period of 10 years. Pay for this purpose shall be the pay last drawn. Provided that employees whose service conditions are governed by special enactments or labour laws would be entitled to gratuity as provided under such special enactment or laws, and not under the above instructions.
- Misconduct** * 16. The acts and omissions mentioned below by an employee shall constitute misconduct and shall be punishable under these instructions.
- (1) Wilful insubordination or disobedience either individually or in combination with another or other to any lawful order of a superior.
 - (2) Striking work or inciting others to strike work with another or others in contravention of any law or any rule having the force of law.
 - (3) Stay-in strike.
 - (4) Adoption of slowtacts or abetment or instigation thereof.
 - (5) Theft, fraud or dishonesty in connection with the establishment's work or property or property of the employees.
 - (6) Taking or giving bribe or any illegal gratification whatsoever or including in corrupt practices.
 - (7) Habitual late attendance.
 - (8) Habitual breach of any standing orders or any other rules of the establishment.
 - (9) Negligence or neglect of duty, malingering or sleeping during duty hours.
 - (10) Sabotage or wilful damage to or causing loss of the establishment's goods or property or any irresponsible action resulting in damage to any goods or property of the establishment.
 - (11) Drunkenness, disorderly, insolent or indecent behaviour or any acts subversive of discipline, on the premises of the establishment or at the place of employment or in course of performance of duty.

* granted vide G.A. Deptt. notification no 8072 dt. 5-4-73 of G.A.

** substituted vide G.A. Deptt. notification no.

- (12) Conviction by a court of law for a criminal offence involving violence or moral turpitude
 - (13) Loitering during duty hours
 - (14) Unauthorised absence from the place of duty.
 - (15) Acceptance of gifts or presentation exceeding Rs. 20 in value from others excepting close relations of the family without permission of the Head of Office.
 - (16) Borrowing money from subordinate employees
 - (17) Unauthorised use or unauthorised occupation of the Government quarters or land
 - (18) Gambling within the Establishments premises
 - (19) Quarrelling and fighting in the Establishment's premises
 - (20) Smoking in non-smoking areas of the Establishment's premises
 - (21) Furnishing false information regarding One's name, fathers name, ago, qualification previous service address, etc. at the time of employment and in course of normal work.
 - (22) Failure to carry out work in accordance with the instructions given by the officers of the establishment or through delegated authorities.
 - (23) Hiding a way or attempting to hide away any articles or materials of the establishment
 - (24) Failure to report at once to his superior any defect which the employee may notice in any equipment connected with his work.
 - (25) Refusal to accept charge-sheet, order or any other official communication issued by a competent authority.
 - (26) 'Gherao' Dharna' hunger strike, protest, fast work to rule
 - (27) Mass casual leave or earned leave
 - (28) Approaching Government and any higher authority without permission of the appointing authority in connection with the terms of his employment, non-employment, transfer, promotion, demotion or disciplinary action.
 - (29) Association with or being a member of any Political or communal party or organisation or subscribing in aid of or assisting in any other manner any political or communal movement or activity.
 - (30) Canvassing or interferred, or participating otherwise than by voting in election to parliament, legislative assembly or local authorities in which he has a right to vote.
 - (31) In contravention with the previous sanction of the head of office, owing wholly or in part, conducting or participating in editing or managing of any newspaper, periodical or publication, radiobroadcasts, or contributing any article or writing an letter to any newspaper or periodical.
- Provided that no such sanction shall be necessary if such contribution to any newspaper or periodical is, on a purely literary, artistic or scientific subject and of occasional character.
- (32) Engaging directly or indirectly in any trade or business or undertaking any employment with the exception of honorary work of a social or charitable nature or occasional work of literary, artistic or scientific character.
 - (33) Acquiring or disposing of any immovable property by lease, mortgage, purchase, sale, gift or otherwise either in his own name or in the name of any member of his family or a benamidar without the previous sanction of the Head of the Department when any such transaction is conducted otherwise than through a regular or reputed dealer.
 - (34) Entering into any transaction by way of purchase sale or otherwise concerning any property exceeding in value of Rs. 200 otherwise than through a reputed dealer, without prior permission of the Head of office.

- (35) Failure to furnish true and complete declaration of assets in accordance with prescribed instructions.
- (36) Misuse or careless use of amenities provided for him by the establishment to facilitate discharge of his duties.
- (37) Wilful absence from duty after expiry of leave
- (38) Any other act or omission, which, in the opinion of the appointing authority, offend against the norms of decency, normality, discipline or loyalty to the Union or the State Government.
- (39) Furnishing false information in the application for post on the basis of which he is appointed.
- (40) Joining a lightening strike or acting in furtherance of such a strike

Penalties

17. (1) The following penalties may be imposed by the appointing authority on an employee for misconduct as defined in paragraph 16—

- (i) Fine,
- (ii) Censure,
- (iii) Withholding of increments or promotion,
- (iv) Recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of orders,
- (v) Suspension,
- (vi) Reduction to a lower service, grade or post or to a lower time-scale or to a lower stage in a time scale,
- (vii) Compulsory retirement,
- (viii) Removal from service which shall ordinarily be a disqualification for future employment,
- (ix) Dismissal from service which shall ordinarily be a disqualification for future employment.

(2) When the appointing authority is satisfied that there is *prima facie* evidence of any allegation detailed in Paragraph 16 of these Instruction against a work-charge employee he shall frame charge of such allegation against the delinquent and shall communicate a copy thereof together with the copies of the documents if any on which the charge is based asking for the explanation in writing of the delinquent within a period of not less than 15 days from the date of receipt of such charge.

After due consideration of such explanation as the delinquent may offer the appointing authority may, if he finds the delinquent guilty of the charge, come to a tentative decision as to the punishment to be imposed on the delinquent and shall issue notice to the delinquent to show cause within a period of not less than 15 days from the date of receipt of such notice as to why the tentative decision shall not be made absolute. After careful consideration of the cause shown, if any by the delinquent, the appointing authority shall take the final decision in the matter of punishment to be imposed on the delinquent.

Provided that if any oral evidence is required to be taken the same shall be taken in presence of the delinquent.

(3) The services of an employee may also be terminated by the appointing authority in the following cases:—

- (a) on his attending superannuation,
- (b) for continuous absence on grounds of ill health for one year or more,
- (c) On an employee being declared medically unfit.

(4) The services of an employee appointed as a substitute against a suspension leave vacancy may be terminated at any time during such period by giving 7 days notice or 7 days pay in lieu thereof, irrespective of whether the principal employee has or has not returned to duty.

Provided that no such notice or pay in lieu of such notice shall be given when an appointment of a substitute is for a specific period and is terminated in terms of orders of appointment or on the expiry of the specific period of appointment, as the case may be.

(5) The services of employees who are governed by special enactments are liable to be terminated otherwise than by way of punishment as provided in such enactment in addition to the special sub-paras. (1, 2 & 3) above.

Appeal

18. (1) No appeal shall lie against any order made by the appointing authority imposing the penalty of fine or censure.

(2) Appeal against orders imposing penalties other than those of fine and censure shall lie before the authority next higher to the appointing authority and the decision of such authority shall be final.