

GOVERNMENT OF PUDUCHERRY
DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS
(PERSONNEL WING)

* * *

No.A.12016/2/2018/DPAR/GC/U.III(PF)

Puducherry, dated 14.12.2022

I. D. NOTE

Sub: Public Services – Resorting to illegal or irregular appointments / engagement of Casual Labourers in violation of Rules – Instructions – Issued.

- Ref: (1) This Department's I.D. Note of even number dated 23.02.2018.
- (2) This Department's G.O.Ms. No.15, dated 04.02.2021.
- (3) Order dated 21.11.2022 of the Hon'ble High Court of Judicature at Madras in W.P.No.14339 of 2016 and W.M.P.No.12519 of 2016.

--oo0oo--

Attention is invited to the I.D. Note first cited of this Department, wherein, following the Orders of the Hon'ble High Court of Judicature at Madras dated 22.11.2017 in W.P. No.24492/2010, strict instructions have been issued to all Administrative Departments, Public Sector Undertakings, Autonomous Bodies, etc to ensure that no illegal / irregular appointments in violation of Recruitment Rules are made under any circumstances.

2. Reference is also invited to the G.O. second cited, wherein guidelines have been issued with regard to Project / Scheme based engagement of Casual Labourers in all Government Department, Quasi-Government Organizations / Institutions / Societies / Committees and Local Bodies for strict compliance by all concerned, as per the direction of the Hon'ble High Court of Judicature at Madras dated 11.07.2016 in W.P.No.18561/2015.

3. Now, the Hon'ble, High Court, Madras in W.P.No.14339 of 2016 and W.M.P.No.12519 of 2016 has strongly deprecated the practice of illegal and irregular engagement of Casual Labourers and passed the following orders on 21.11.2022:

“12. This Court is of the considered opinion that the State at no circumstances, commit irregularity or illegality in the matter of providing public employment. Equal opportunity in public employment is the constitutional mandate and the State is bound to ensure that all appointments are made only under constitutional schemes and by following the procedures established. Even for temporary engagements in Government related projects or State organizations or societies, the procedures contemplated are to be followed for the purpose of engaging daily rated employees or temporary employees in order to ensure equal opportunity.

13. The Hon'ble Division Bench of this Court has already directed not to make illegal or irregular appointments in violation of the recruitment rules in force. While so, the Government may take a stand that, in respect of time projects, they are compelled to recruit temporary employees. In such circumstances, they have to recruit the temporary employees / labourers through Employment Exchange concerned or by inviting applications from open market and by following the procedures established. At the outset, uniform procedure is to be followed even for making temporary engagements to implement Government projects,

...2/-

schemes in Government institutions, undertakings etc., At all circumstances, the Government should ensure that the citizens are treated equally and that everyone will get an opportunity based on their own merits, eligibility, suitability and through the rule of reservation.

14. Thus, violation in this regard is to be construed as a failure on the part of the State in implementing the constitutional mandates and thus, the Government would be answerable and accountable.

15. The grievances of the writ petitioner is that several directions were earlier issued by the Court and in spite of those directions, the respondents are violating the procedures established and the rules in force. Irregular and illegal engagements are made in large scale, more specifically, during election times. Therefore, he is forced to move the present writ petition.

16. In view of the undertaking now given by the respondents in the present writ petition, this Court is of an opinion that all regular appointments against sanctioned post and temporary engagements in society, institutions or to implement Government projects etc., the engagement of temporary employees / labourers are to be made either through Employment Exchange or through open competitive process by issuing notification widely in newspapers and by inviting applications and thereafter, by following the procedures established. In the event of any violation hereinafter by the respondents, the same is to be viewed seriously and such violations if committed, would not only be construed as unconstitutionality, but the Government commits such unconstitutionality intentionally and wilfully. In such circumstances, the authorities competent must be held accountable and answerable for all the consequences.

17. In view of the facts and circumstances, this Court is inclined to pass the following orders:

(1) In view of the undertaking given by the respondents, they are directed to follow the procedures as contemplated and the rules in force as the case may be, even for engagement of temporary employees / labourers for the purpose of implementing the Government projects, in Government Department, institutions or societies or in Government organizations etc.,

(2) In the event of filling up the regular sanctioned post, then the recruitment rules as applicable are to be followed scrupulously and selection must be conducted in a transparent manner and by affording equal opportunity to all the eligible candidates through open competitive process.

(3) The respondents are directed to follow the recruitment rules / established procedures for recruitments through open competitive process or through Employment Exchange even in public sector undertakings under the Union Territory of Puducherry.

(4) In the event of any violation of recruitment rules or established procedures for recruiting persons in public employment, then the said act of the authorities would be construed as contempt of this Court and any person aggrieved from and out of such illegal appointments or otherwise, is at liberty to approach this Court by filing an appropriate petition for contempt of Court".

...3/-

4. All the Administrative Departments / Public Sector Undertakings, Autonomous Bodies, Societies, Corporations, etc., are instructed to take note of the above directions of the Hon'ble High Court, Madras for guidance and strict compliance, without any deviation. It may be noted that violation, if any, will not only invite contempt of court proceedings but also severe disciplinary action against the authorities concerned.

/ BY ORDER OF THE CHIEF SECRETARY

14.12.22

(V. JAISANKAR)

UNDER SECRETARY TO GOVERNMENT

To

1. The Commissioner-cum-Secretary to Government / All Secretaries to Government / Special Secretaries to Government, Puducherry.
2. All Heads of Departments / Public Sector Undertakings / Autonomous Bodies / Societies / Corporations, Puducherry.
3. The District Collector, Karaikal.
4. The Regional Administrator, Mahe / Yanam.

Copy to:

1. The Secretary to Lieutenant Governor, Puducherry
2. The OSD to Chief Minister / Home Minister / Public Works Minister, Puducherry.
3. The Private Secretary to Speaker / All Ministers, Puducherry.
4. The Private Secretary to Chief Secretary, Puducherry.
5. Stock File / C.R.B.