

Ministry of Personnel, Public Grievances and Pensions(Department of Personnel & Training)

O.M.No. 40011/6/2002-Estt(C)
dated 6 June, 2002

(XXIX)

Subject: Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Govt. of India, 1993-Clarifications.

The Undersigned is directed to say that the Casual Labourers (Grant of Temporary Status & Regularisation) Scheme of Government of India, 1993 formulated in pursuance of the CAT,Principal Bench judgement dated 16th February, 1990 in the case of Raj Kamal & Others Vs. Union of India and circulated vide this Department's OM no.51016/2/90-Estt(C) dated 10th September, 1993, inter alia stipulate the following conditions for grant of temporary status to the persons recruited on daily wage basis in the Central Government Offices:-

(i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of the OM (namely 10-9-93);

(ii) Should have rendered a continuous service of at least one year,which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing five days a week); and

(iii) Conferment of temporary status on casual labourer would not involve any change in his duties and responsibilities and the engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.

2. Various Benches of the CAT and some High Courts have been taking the view that the scheme is an ongoing affair and that any casual employee who is engaged for 240 days or more (206 days in case of five days a week offices) acquired a right to temporary status. The Supreme Court has finally decided the matter in SLP (Civil) No. 2224/2000) in the case of Union of India& Anr. Vs. Mohan Pal etc. etc. The Supreme Court has directed that:-

"The Scheme of 1-9-93 is not an ongoing Scheme and the temporary status can be conferred on the casual labourers under that Scheme only on fulfilling the conditions incorporated in clause 4 of the scheme, namely, they should have been casual labourers in employment on the date of the commencement of the scheme and they should have rendered continuous service of at least one year i.e. at least 240 days in a year or 206 days (in case of offices having 5 days a week). We also make it clear that those who have already been given 'temporary' status on the assumption that it is an ongoing Scheme shall not be stripped of the 'temporary' status pursuant to our decision"

3. The Supreme Court in the above case have also considered the question as to whether the services of casual labourers who had been given 'temporary status could be dispensed with as per clause 7 as if they were regular casual labourers and observed that-

"The casual labourers who acquire 'temporary' status cannot be removed merely on the whims and fancies of the employer. If there is sufficient work and other casual labourers are still to be employed by the employer for carrying out the work, the casual labourers who have acquired 'temporary' status shall not be removed from service as per clause 7 of the Scheme. If there is serious misconduct or violation of service rules, it would be open to the employer to dispense with the services of a casual labourer who had acquired the 'temporary' status"

4. All Ministries/Department are requested to bring the above judgment / observations to the notice of all concerned for strict observance. The existing guidelines in the matter of engagement of casual workers in Central Government offices contained in OM No. 49014/2/86-Estt.(C) dated 7-6-88 may also be observed scrupulously while making engagement of casual labourers.

**Sd/-(Smt. Pratibha Mohan)
Director**
