

No. 49019/1/2006-Estt©
Govt. of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)

New Delhi, dated the 11th December, 2006

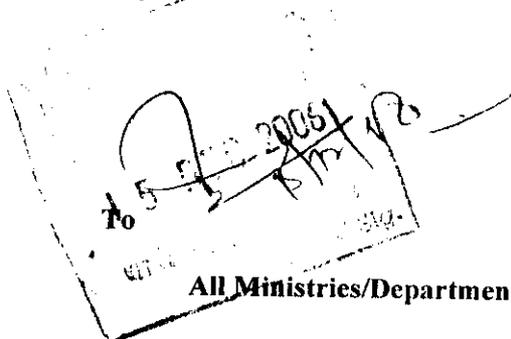
OFFICE MEMORANDUM

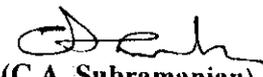
Subject: Regularisation of qualified workers appointed against sanctioned posts in irregular manner.

The undersigned is directed to say that the instructions for engagement of casual workers enunciated in this Department's OM No. 49014/2/86 Estt.(C) dated 7th June, 1988 as amplified from time to time, inter-alia provided that casual workers and persons on daily wages should not be recruited for work of regular nature. They could be engaged only for work of casual or seasonal or intermittent nature, or for work which is not of full time nature for which regular post can not be created. Attention is also invited to this Department's OM No. 28036/1/2001-Estt. (D) dated 23rd July, 2001 wherein it was provided that no appointment shall be made on ad hoc basis by direct recruitment from open market.

2. A Constitution bench of the Supreme Court in civil appeal No. 3595-3612/1999 etc. in the case of Secretary State of Karnataka and Ors. Vs. Uma Devi and others has reiterated that any public appointment has to be in terms of the Constitutional scheme. However, the Supreme Court in para 44 of the aforesaid judgement dated 10.4.2006 has directed that the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one time measure the services of such irregularly appointed, who are duly qualified persons in terms of the statutory recruitment rules for the post and who have worked for ten years or more in duly sanctioned posts but not under cover of orders of courts or tribunals. The Apex Court has clarified that if such appointment itself is in infraction of the rules or if it is in violation of the provisions of the Constitution, illegality cannot be regularized.

3. Accordingly the copy of the above judgement is forwarded to all Ministries/Departments for implementation of the aforesaid direction of the Supreme Court.




(C.A. Subramanian)
Director

All Ministries/Department of the Govt. of India etc.