

F.No.A-12033/4/2007-Ad.VII
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, dated 18th Nov.2008.

To,

All the Chief Commissioner of Income Tax(CCA)
The Director General of Income Tax(CCA)

Subject:- Regularization of qualified workers appointed against sanctioned post in irregular manner as well as casual workers in Non-statutory Canteens/Tiffin Rooms located in Central Govt. offices-Regarding.

Sir,

I am directed to refer to the Deptt of Revenue's endorsement dated 3.1.2007 forwarding therewith a copy of Ministry of Personnel Public Grievances & Pensions/DOP&T's O.M. No. 49019/1/2006-Estt (C) dated 11.12.2006 and Board's letter F.No. A-12033/4/2007-Ad.VII dated 3.6.2008 forwarding therewith a copy of Department of Revenue's O.M. No. 12/28/2008-Coord. Dated 15.5.2008 enclosing thereto a copy of O.M. No. 3/1/2007-Dir (C) dated 21.4.2008 received from Ministry of Personnel, Public Grievances & Pensions/DOPT on the above mentioned subject. In this connection copies of DOP&T O.M. No. 3/1/2007-Dir (C) dated 21/4/2008 and DOP&T O.M No. 49019/1/2006-Estt (C) dated 11/12/2006 are enclosed for ready reference.

2. The Department of Personnel & Training has not brought out any scheme or procedure for implementation of the Supreme Court's Judgment. Further, the Department of Revenue (Hqs.), who had collected data in respect of all the filed formations, have also not issued any further direction in the matter.

3. Keeping in view all these developments and that there has been considerable delay in implementation of the Supreme Court's direction, the Cadre Controlling Authorities are advised to take appropriate action for implementation of the Supreme Court's judgment in terms of the instructions issued by the DOP&T.

Yours faithfully,

Sd./

Encl:- As above

(R.P. Singh)

Under Secretary to the Govt. of India.

Copy to:-

- (1) ITEF
- (2) DIT(System)(Shri Dhiraj Kumar, Addl. DIT)-with a request to display this letter on the Official web site of the Income Tax Department.

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.

Sd./-
(C.A. Subramanian)
Director

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

No. 3/1/2007-Dir (C)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel and Training

Room No. 361 (3rd Floor),
Lok Nayak Bhavan, Khan Market,
New Delhi, dated 21/4/2008

OFFICE MEMORANDUM

Subject:- Casual workers in Non-Statutory Canteens/Tiffin Rooms located in Central Government Offices-Regularisation of qualified workers-reg.

The undersigned is directed to refer to this Department's O.M. of even number dated 24.1.2007 on the above subject and to say that in the said O.M. Ministries/Departments were requested to submit the information showing the number of casual workers working in their Departmental Canteens (being paid from canteen funds). In response, 24 Ministries/Departments have submitted the information. The matter has further been examined in consultation with the Establishment (C) Desk of this Department in regard to regularization of the qualified workers appointed in the Departmental Canteens against the sanctioned posts in irregular manner. Earlier, Estt. (C) Desk of this Department had issued an O.M. NO.49019/1/2006-Estt.(C) dated 11th December, 2006 (copy enclosed) requesting all the Ministries/Departments to implement the direction of the Hon'ble Supreme Court to regularize the qualified persons appointed against the sanctioned posts as a one time measure.

2. Since, the canteen employees have been declared Govt. employees w.e.f. 1.10.1991 on the basis of the Hon'ble Supreme Court judgement and the Departmental Canteens have become part and parcel of the office from where it has been functioning and all the CSS Rules are applicable to the Canteen employees, the direction, issued by the Hon'ble Supreme Court in Civil Appeal No. 3595- 3612/1999 etc., in the case of Secretary, State of Karnataka and Others v/s Uma Devi and Others has to be implemented in the case of canteen employees also. Ministries/Departments are requested to examine the whole issue of regularizing the qualified casual workers

engaged in irregular manner in their departmental canteens in terms of the statutory recruitment rules for the post and who have worked for 10 years or more in duly sanctioned posts but not under cover of orders of Courts or Tribunals, as a one time measure on priority basis.

Sd./-
(Lal Singh)
Director (Canteens)
Tel: 24624893

To

All the Ministries/Departments of the Govt. of India
(as per mailing list)