Most Important

Himachal Pradesh
Public Works Department
No.PWE-133-11/ES-III- 1463 - 1500 **Dated:-** 19-04.2016
From:

Engineer-in-Chief.

To

The Engineer-In-Chief (QC&D), HP-PWD, Shimla-I
All the Chief Engineers in HP.PWD.
All the Superintending Engineers in HPPWD.
All the Executive Engineers in HP.PWD.
All the Land Aequisition Qfficers in HP-PWD.

Subject:- ***Work-Charged Employees-Clarification thereof.***

I am to enclose herewith a copy of letter ***No. Fin (Pen) a (3)-18/2010 dated 27th January, 2016 as*** received from Addl. Chief Secretary (Finance) to the Government of Himachal Pradesh on the subject cited above for information and necessary action.

Encl: As above.

Registrar,
Himachal Pradesh,PWD,
Shimla- 171002

Copy forwarded for information and necessary action to:-

1. The Chief Engineer(S), (PMGSY),(NH),(SRP),HP-PWD, Shimla.
2. The Chief Architect HP-PWD, Shimla.
3. *Nodal Officer(IT), in this office alongwith copy of above letter and its enclosures. He is requested to display above letter on the official website of department at the earliest.*
4. All Head of branches.
5. Assistant 4,5,6&7 in ES-III in this office.
6. *Guard file.*

Encl: As above.

Registrar,
Himachal Pradesh-171002.
Shimla- 171002

are made for execution of specific work. From the very nature of their employment, their services automatically come to an end on completion of the works for which they are employed.

3. In this regard, the Hon'ble Apex Court in State of Rajasthan Vs. Kunji Raman (1997)2 SCC 517 at pp 520-527 has distinguished the work-charged establishment and a regular establishment, which follows as under :-

> "A work charged establishment thus differs from a regular establishment which is permanent in nature. Setting up and continuance of a work-charged establishment is dependent upon the Govt. undertaking a project or a scheme or a work and availability of funds for executing it. So far as employees engaged in work-charged establishment are concerned, not only their recruitment and service conditions but the nature of work and duties to be performed by them are not the same as those of the employees of the regular establishment. A regular establishment and work-charged establishment are two separate types of establishments and the persons employed on those establishments thus from two separate and distinct classes. For that reason, if a separate set rules are framed for the persons's engaged in the work-charged establishment and the general rules applicable to persons working on the regular establishment are not made applicable to them, it cannot be said that they are

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Most Impor

No. Fin (Pen) A (3)-18/2010
Govt. of Himachal Pradesh
Finance (Pension) Department
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From

The Addl. Chief Secretary (Finance) to the
Govt. of Himachal Pradesh, Shimla-2.

To

1. All Administrative Secretaries to the Govt. of Himachal Pradesh.
2. All Heads of Departments in Himachal Pradesh.

Dated: Shimla-171002 **27th January, 2016**

Subject: **Work -Charged Employees- Clarification thereof.**

Sir,

I am directed to refer to the subject cited above and to say that references have been received from various quarters in the Finance Department seeking clarification on the issue of conferment of work-charged status to the daily waged persons in different Govt. departments and grant of retirement benefits to such employees, on the analogy of work-charged establishment in Public Works Department and I&PH Department.

2. The matter has been examined in the Finance Departme .. The concept of work charged establishment is different from the permanent establishment in other Govt. departments. A work charged establishment means an establishment in which expenses including wages and allowances of the staff are chargeable to works. The pay and allowances of employees who are borne on a work -charged establishment are generally shown as a separate sub-head of the estimated cost of work. The work charged establishment employees are engaged on a temporary basis and their appointments

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treated in an arbitrary and discriminatory manner by the Govt. it is well settled that the Govt. has the powers to frame different rules for different classes of employees."

In view of law laid down by the Hon'ble Supreme Court of India in "State of Rajasthan Vs. Kunji Raman", the provision relating to work-charged establishment cannot be made applicable to any daily waged employee of the State Govt. department, which does not have a work-charged establishment.

4. Besides, the High Court of Himachal Pradesh in Judgment dated 28-7-2010 passed in CWP No. 2735/2010 titled as "Rakesh Kumar and Ors. Vs. State of H.P. and etc. has held that question of conferment of work-charged status does not arise in case the establishment ceases to be a work charged establishment and hence the conferment of the work-charged status does not arise, after the abolition of the work charged establishment.

5. Therefore, after examination of the matter in Finance Department, keeping in view the Apex Court Rulings in State of Rajasthan Vs. Kunji Raman (1997) 2 SCC 517 at pp 520-527, Jaswant Singh & Ors. Vs. Union of India & Ors (1979) 4 SCC 440 pp 521-522, State of Maharashtra Vs. Purshottam & Ors. (1996) 9 SCC 266 pp 269 and Judgment dated 28-7-2010 of the High Court passed in CWP No. 2735 of 2010 titled "Rakesh Kumar & Ors. Vs. State of H.P., it is clarified that the cases of conferment of work charged status to the daily waged persons in Govt. departments will be regulated in accordance with the following :-

(a) The department should have work charged establishment.

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(b) Persons should be working on a specified work as has been held by the Hon'ble Supreme Court in 'Jaswant Singh Ors. Vs. Union of India & Ors'and State of 'Rajasthan Vs. Kunji Raman'.

(c) In Govt. departments, where there is no work charged establishment, the DoP policy to regularize daily wagers (issued from time to time) will be applicable.

Yours faithfully,

Special Secretary (Finance) to the
Government of Himachal Pradesh.
Dated: 27th January, 2016

Endst. No. Fin (Pen) A (3)18/2010
Copy forwarded for information to:-

1. All the Divisional Commissioners/Deputy Commissioner, in Himachal Pradesh.
2. The Principal Accountant General (Audit), Himachal Pradesh, Shimla-3.
3. The Accountant General (A&E), Himachal Pradesh, Shimla-3.
4. The Resident Commissioner, Himachal Bhawan, 27-Sikandra Road, New Delhi-110001.
5. The Director, H.P. Institute of Public Administration, Mashobra, Shimla-171012.
6. The Resident Commissioner, Pangi at Killar, Distt. Chamba, H.P.
7. The Registrar General, H.P. High Court , Shimla-1.
8. All Universities/Corporations/Boards & Public Sector Undertakings.
9. All District and Session Judges in Himachal Pradesh.
10. The Secretary, H.P. Vidhan Sabha/HP PSC/HP SSSB/HPSERC , Shimla.
11. All District Treasury Officers/Treasury Officers in H.P.
12. All Controllers/Joint Controllers/Dy. Controllers (F&A)/Asstt. Controllers (F&A)/Section Officers (F&A) under the control of Treasury & Accounts Organization.

Special Secretary (Finance) to the
Government of Himachal Pradesh