



GOVERNMENT OF THE PUNJAB
SERVICES & GENERAL ADMINISTRATION
DEPARTMENT (REGULATIONS/O&M WING)

Dated Lahore the 29th January, 2021

NOTIFICATION

No. SO(ERB)5-44/2019/WC-DW-Policy. Pursuant to the approval of Provincial Cabinet through circulation among the Provincial Ministers under Rule 25(1)(b) of the Punjab Government Rules of Business 2011 and in terms of Rule 27 and Rule 28(15) of the Punjab Government Rules of Business 2011, the Policy for workcharged/contingent paid and daily wage employees is hereby notified as under:

POLICY FRAMEWORK FOR WORK CHARGED EMPLOYEES, DAILY WAGERS AND CONTINGENT PAID STAFF

1. LEGAL POSITION

- i. The Chapter titled "Fundamental Rights" of the Constitution of Pakistan guarantees equality of citizens and safeguard against discrimination in services. Article 25 of the Constitution treats all citizens as equal before law and entitles them to equal protection of law while Article 27 provides that no citizen otherwise qualified for appointment in the service of Pakistan shall be discriminated against.
- ii. The Supreme Court of Pakistan in its judgment dated 19.01.993 in Human Rights Case No.104 of 1992 stated that recruitments, both *ad hoc* and regular, without publicly and properly advertising the vacancies, violate fundamental rights. As such, no post can be filled in without proper advertisement, even on *ad hoc* or contract basis.
- iii. The Hon'ble Supreme Court of Pakistan has directed the Government that a policy instrument be formulated for work-charged employees, vide Order dated 11.12.2018, in CP No 3340-3344/2018. Hence, in pursuance of the Hon'ble Supreme Court of Pakistan's direction referred to above, these policy guidelines are laid down. Besides, work-charged employees, the matter of daily wagers and contingent paid staff shall also be disposed of in the light of this policy framework.

2. CURRENT HIRING PRACTICES


- i. Different departments hire work-charged employees, daily wagers and contingent paid staff without following any uniform legal framework or providing equal opportunity to all citizens. In Communication & Works Department, Buildings & Roads Code is relied upon while Irrigation Manual is followed in Irrigation Department for the purpose. Housing, Urban Development & Public Health Engineering Department (HUD&PHE), Specialized Healthcare & Medical Education Department (SHC&ME), and Primary & Secondary Healthcare Department (P&SHC) make such hiring without following any codified procedure or legal mechanism. Thus Departments have followed inconsistent practices thereby creating a lot of anomalies.
- ii. The work-charged, daily wage and contingent paid employees should be hired for a short time to execute a specific work. However, quite a large number of such employees have been working for indefinite time spans stretching over years. Given the lengths of service actually rendered by them, these posts have been construed to be of permanent nature. These employees obtain relief from Labour Courts under The West Pakistan Industrial & Commercial Employment (Standing Orders) Ordinance, 1968 and from Superior Courts under Article 199.
- iii. Implementing Authorities have misinterpreted decisions/orders by Labour Courts, Labour Appellate Tribunals and Superior Courts regarding such employees. Orders/judgments passed in terms of The West Pakistan Industrial & Commercial Employment (Standing Orders) Ordinance, 1968 have been misconstrued and work-charged employees regularized as civil servants.
- iv. Departments also use terms of "work-charged employees", "daily wage employees" and "contingent paid staff" interchangeably. Thus, besides work-charged employees, the issue of daily wagers and contingent paid staff also needs to be addressed.

3. STATUS OF WORK CHARGED EMPLOYEES, DAILY WAGERS & CONTINGENT PAID STAFF

- i. According to Section 2 (b) of Punjab Civil Servants Act, 1974, a person who is employed on work-charged basis, or who is paid from contingencies or who is a worker or workman as defined in the Factories Act, 1924 (XXV of 1934) or the Workmen's Compensation Act, 1923 (VIII of 1923) are excluded from the definition of 'civil servant'. Hence, the status of civil servant is beyond their scope.

ii. In order to regulate the services rendered by existing work-charged and such other employees, their status needs to be clarified. The Hon'ble Supreme Court of Pakistan in its judgment in Civil Petition No.708/13 (2013 SCMR No.1547) has determined the status of work-charged employees. It has been held by the august Supreme Court of Pakistan that service of a daily wage employee shall be governed by the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 and he shall be considered as a permanent workman if he is performing his duties continuously for more than 9 months. Hence, in such cases, where the Labour Courts have passed such direction to regularize the services of the daily wage / work charge employees, they may be declared as 'Permanent Workman' only, in light of Punjab Industrial & Commercial Employment Standing (Orders) Ordinance 1968.

iii. As per Industrial & Commercial Employment (Standing Orders) Ordinance, 1968 1 (b) / The Punjab Industrial & Commercial Employment (Standing Orders) Ordinance, 1968:



A "permanent workman" is a workman who has been engaged on work of permanent nature likely to last more than nine months and has satisfactorily completed a probationary period of three months in the same or another occupation in the industrial or commercial establishment, including breaks due to sickness, accident, leave, lock-out, strike (not being an illegal lock-out or strike) or involuntary closure of the establishment [and includes a badli who has been employed for a continuous period of three months or for one hundred and eighty-three days during any period of twelve consecutive months].

iv. Section 2 (c) (ii) of Industrial & Commercial Employment (Standing Orders) Ordinance, 1968 / The Punjab Industrial & Commercial Employment (Standing Orders) Ordinance, 1968 defines an employer as under:-

(c) "employer" means the owner of an industrial or commercial establishment to which this Ordinance for the time being applies, and includes

(ii) in any industrial establishment under the control of any department of the [Federal] or any Provincial Government, the authority appointed by such Government in this behalf, or where no such authority is so appointed, the head of the

department;

Thus a government organization may also hire a workman. However, work-charged establishment by the very nature of their duties cannot be treated as permanent government employees. As such they are not entitled to pensionary or other benefits admissible to government employees.

- v. In case of work-charged employees no statutory rules exist; hence they may be construed within the meaning of permanent workman if employed for more than 9 months as laid down by the Supreme Court of Pakistan in 2013 SCMR 1547.
- vi. A permanent workman shall be entitled to rights admissible under Industrial & Commercial Employment (Standing Order) Ordinance, 1968 and the Workman Compensation Act, 1923.
- vii. In future, all work-charged employees, daily wagers and contingent paid staff shall be treated as workmen within the meaning of workman under Industrial & Commercial Employment (Standing Orders) Ordinance, 1968.

4. POLICY GUIDELINES FOR WORK-CHARGED EMPLOYEES, DAILY WAGERS & CONTINGENT PAID STAFF.

As regards management of the work-charged employees, daily wagers and contingent paid staff employees currently working with various departments, following policy provisions are laid down:

- i. The cases where services of work-charged, daily wage and contingent paid employees have already been regularized as civil servants through wrong interpretation of court judgments MAY be reconsidered in the light of relevant laws under which such judgments were passed. As the matter involves interpretation of court rulings, the opinion from the Law & Parliamentary Affairs Department would be obtained in each such case. If, after proper scrutiny of the case, it transpires that the regularization of work-charged services as civil servants was not warranted by Court decisions/orders, fresh orders shall be issued strictly in accordance with the terms decided by Courts.
- ii. The cases already decided by the Higher Courts or Labour Courts which have attained finality shall be disposed of accordingly.
- iii. All those employees who have completed 09 months or more may be considered for status of permanent

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workmen in terms of Industrial & Commercial Employment (Standing Orders) Ordinance, 1968 / The Punjab Industrial & Commercial Employment (Standing Orders) Ordinance, 1968. They shall be entitled to all the rights and benefits of permanent workmen.

- iv. The work-charged, contingent paid and daily wage workers who possess requisite skill sets / qualification may be considered for the status of permanent workmen. However, where no hiring criteria have been formulated, they may be framed in the first instance.
- v. Thereafter, the cases of the work-charged employees who have completed 09 months as such may be considered on case to case basis keeping in view requisite skill set / qualification.
- vi. Cases of work-charged employees may be initiated for consideration after confirmation through departmental scrutiny. Each Administrative Department concerned shall constitute scrutiny committee to consider the cases of their work-charged, daily wage and contingent paid employees as per these policy guidelines.
- vii. If a person does not have the requisite skill set / qualification for a particular job/task, he may not be recommended for permanent status of workman. However, he may continue on work-charged basis till the completion of the specific work.
- viii. In future, work-charged establishment meant for specific work(s) on the development side, may be hired for not more than 90 days, following which they may not be granted extension beyond 90 days and may be relieved forthwith.
- ix. The hiring authorities not relieving the work-charged personnel beyond stipulated time of 90 days shall be liable for overpayment to and overstay of the personnel, in addition to disciplinary action against them.
- x. In case of extreme necessity, the extension to work-charged employees shall be made through speaking orders containing reasonable justifications after obtaining approval. Such approval shall be accorded by the authority next higher to the hiring authority before the expiry of 90 days period of their first hiring, provided that extension to work-charged hiring shall not be made

in any case for more than two times.

- xi. Administrative Departments shall safeguard the government interest in the courts where litigation of work-charged, daily wage and contingent paid staff employees is pending. The claims not covered under the provisions of this Policy may be assailed effectively and vigilantly within the limitation period.
- xii. Hiring of work-charged, daily wage and contingent paid employees shall be made sparingly and only in the case of genuine and dire needs. In the process of hiring, the concept of equal job opportunity for all citizens and transparency shall be ensured.
- xiii. The Departments may also consider outsourcing of such services to reduce burden on the public exchequer.
- xiv. The wages of work-charged, contingent paid and daily wage employees after assuming the status of permanent workmen shall be determined in consultation with Finance Department.


(AHMAD ALI KAMBOH)
SECRETARY REGULATIONS, S&GAD

NO. & DATE EVEN

A copy is forwarded to the:

- i. Senior Member, Board of Revenue, Punjab.
- ii. Chairman, Planning & Development Board, Punjab.
- iii. All the Administrative Secretaries in the Punjab.
- iv. Secretary Provincial Assembly, Punjab.
- v. Secretary Punjab Public Service Commission, Lahore.
- vi. Registrar, Lahore High Court, Lahore.
- vii. Registrar, Punjab Service Tribunal, Punjab.
- viii. All Divisional Commissioners in the Punjab.
- ix. All Deputy Commissioners in the Punjab.
- x. All Heads of Attached Departments in the Punjab.
- xi. All Heads of Autonomous Bodies in the Punjab.
- xii. All Heads of Special Institutions in the Punjab.
- xiii. PSO to Principal Secretary to the Governor of the Punjab.
- xiv. PSO to Principal Secretary to the Chief Minister, Punjab.
- xv. PSO to the Chief Secretary Punjab.

- xvi. PSO to the Additional Chief Secretary Punjab.
- xvii. PS to Secretary Services, Government of the Punjab, S&GAD.
- xviii. PS to Secretary (I&C), Government of the Punjab, S&GAD w.r.t. the letter No. SO(CAB-III)1-2/2021(Circulation) dated 07.01.2021.
- xix. Superintendent, Punjab Printing Press, Lahore with the request to publish the notification in next official gazette under intimation to this Department.


(MUHAMMAD AFZAL) 29.1.2021
DEPUTY SECRETARY (ERB)