

WORK-CHARGED EMPLOYEES INSTRUCTIONS

Serial No.	Reference No.	Date	Subject
(1)	(2)	(3)	(4)
1.	Resolution No. 9488/94	18-06-1974	Formulation of instructions Governing Recruitment and Conditions of Service of Work-charged employees.
2.	Circular No. 12465 (Gen.)	25-04-1989	Age of superannuation of post-Clarification regarding.
3.	Circular No. 22107 (Gen.) (Oriya)	19-07-1989	Privilege of holding Green Cards by the Work-charged employees.

No. 9488/94

**GOVERNMENT OF ORISSA
POLITICAL & SERVICES DEPARTMENT
RESOLUTION**

The 18th June 1974

(Published in the *Orissa Gazette* on the 16th August 1974)

Subject – Formulation of instructions governing Recruitment and Conditions of Service of Work-charged employees.

The question of formulation of uniform set of instructions to regulate the recruitment and conditions of service of the employees under the work-charged establishments under different Departments of Government has been engaging the attention of Government for some time past. The need for early formulation of such instructions has been felt not only because the different Departments are following different principles in such matters but also because the number of work-charged employees has substantially increased due to expansion of development activities.

Government after careful consideration have framed a set of instruction (a copy of which is enclosed) to regulate the recruitment and conditions of service of work-charged employees and order that the concerned Departments shall follow the instructions in future.

Order – Ordered that the Resolution be published in the *Orissa Gazette*.

Ordered also that copies of the Resolution should be forwarded to all Departments of Government/all Heads of Departments/all Collectors/Accountant-General, Orissa for information and necessary action.

**By order of the Governor
S. K. PALIT
Additional Secretary to Government**

INSTRUCTIONS TO REGULATE APPOINTMENT AND CONDITIONS OF SERVICE OF THE ORISSA WORK-CHARGED EMPLOYEES

Short Title and commencement and scope.

1. (1) These instructions may be called the Orissa Work-charged Employees (Appointment and Conditions of Service) Instruction, 1974.

¹[(2) The said instructions should come into force with effect from the date of issue of this.]

(3) These Instructions shall be applicable to those employees whose pay and allowances are debitable to the concerned item of work for which they are employed :

Provided that these Instructions shall not be applicable to those employees borne on a regular establishment notwithstanding the fact that their pay and allowances are charged to the item of work for which they are employed for the time being.

Provided further that these Instructions shall not operate to the disadvantage of any workman who is covered by any labour laws or terms of any award, agreement or contract of service and in such event the relevant provisions of such labour laws or terms of any award agreement or contract of service shall be applicable to him.

1. Substituted vide G. A. Department Notification No. 13703, dated the 19th August 1974.

Definitions

2. (1) In these Instructions unless there is anything repugnant in the subject or context.
- (a) "Appointing authority" means
 - (i) The authority who appointed a work-charged employee before the commencement of these Instructions or,
 - (ii) the authority not below the rank of Executive Engineer who is in-charge of the execution of the work, or
 - (iii) such other authority as may be notified from time to time by the Government.
 - (b) "Approved Service" means continuous service including authorized leave.
 - (c) "Chief Engineer" means a Chief Engineer under the control of any of the Departments mentioned in item (g) below :
 - (d) "Employer" in case of a work-charged establishment which is treated as an industry for the purpose of Industrial Dispute Act, 1947 means such authority as prescribed by the State Government or where no authority is prescribed, the Head of the Department concerned.
 - (e) "Employees" means work-charged employees
 - (f) "Establishment" means work-charged establishment
 - (g) "Executive Engineer" means an Executive Engineer under the administrative control of Works Department or Water Resources Department or Energy Department or Rural Development Department or Housing and Urban Development Department.
 - (h) "Government" means the State Government of Orissa
 - (i) "Heads of Department" means the Government servants mentioned in Appendix 3 of Orissa Service Code.
 - (j) "Pay" means an amount drawn monthly by an employee for the post held by him in the work-charged establishment and excludes dearness allowance and other temporary additions to the emoluments granted by Government from time to time.
 - (k) "Post" means a work-charged post
 - (l) "Prescribed qualification" for recruitment to any work-charged post shall be the same qualifications as prescribed for a corresponding post in the regular

establishment. Where there is no corresponding post in the regular establishment, the qualification will be prescribed by the appointing authority.

- (m) "Skilled employees" are those employed in posts notified as "skilled" from time to time by Government.
- (n) "Sub-divisional Officer" means a Sub-divisional Officer under the administrative control of any Department mentioned in items (g) above.
- (o) "Superintending Engineer" means a Superintending Engineer under the administrative control of any Department mentioned in item (g) above.
- (p) "Unskilled employees" are employees other than those notified as "Skilled".
- (q) "Work-charged Establishment" means an establishment where the pay and allowances of the employees are charged to the item of work for which they are employed.

Tenure and condition of appointment.

2. (1) Work-charged Establishment shall consist of employees of two categories, namely (1) those employed for actual execution of work and (2) those for general supervision of a specific work or of sub-works of a specific project or subordinate supervision of departmental labour, stores and machinery in connection with such work or sub-work. When employees borne on regular establishment are employed on work of this nature, their pay and allowances should be charged direct to the work. If the entertainment of work-charged establishment is contemplated for supervision in connection with any work. The cost should be invariably shown as a separate sub-head of the estimate for that work. Pay and allowances of those employed for the actual execution of work should be debited to the concerned item of work.

(2) The employment of a person appointed under the work-charged establishment for a particular work will cease on completion of the work or it can be terminated earlier at any time without assigning any reason.

(3) the whole time of a work-charged employee is at the disposal of Government and no over time allowance can be claimed on any account.

4. (1) No person below 18 years age shall be appointed to the work-charged posts.

NOTE – Of the vacancies 16.25 per cent is reserved for Scheduled Castes and 22.50 per cent for Scheduled Tribes subject to the conditions that they satisfy the minimum standard of suitability for appointment to the posts.

(2) Retrenched and skilled employees may be given preference for appointment by the appointing authority.

(3) No person shall be appointed either directly or by promotion to a post if he does not possess the qualifications and experience required for the post prescribed by the appointing authority.

(4) No person shall be appointed to a post without a medical certificate of fitness from a Medical Officer of the State Government not below the rank of Civil Assistant Surgeon.

(5) The appointing authority shall satisfy himself as to the character and antecedent of the persons appointed to the work-charged establishment.

Pay and increment.

5. ¹[(1) All employees shall be appointed on the scale of pay as may be prescribed for the post unless otherwise decided by Government :]

Provided that in the case of skilled or experienced employees, who was drawing pay at rate higher than the minimum on the date of appointment in any Government, Semi-Government or Public Sector Undertakings or Corporations, the Head of the Department may fix the initial pay of the employee at a higher stage in the time scale by allowing advance increments up to two in the maximum :

Provided further that the Head of the Department is satisfied that more than two such advance increments are justified he shall obtain prior sanction of Government in the administrative Department.

(2) Increment in the time scale of pay shall be drawn subject to satisfactory service.

(3) Service in any post carrying higher scale of pay and leave other than extraordinary leave

will count for increment in the post held by the incumbent.

Leave and Leave Salary.

6. (1) Any leave as admissible under these instructions may be granted by the appointing authority.

(2) Leave cannot be claimed as a matter of right. When exigencies of public service so require discretion to refuse or revoke such leave is reserved to the appointing authority.

(3) Subject to the approval of the Sub-divisional Officer a person belonging to the work-charged establishment may avail of casual leave up to a maximum of 10 days in a calendar year. The Sub-divisional Officer may in his discretion grant special casual leave to an employee up to a maximum of 5 days in a calendar year. Casual leave can be combined with special casual leave or a Gazetted public holiday or off-day as admissible but the total period of absence of an employee on casual leave, special casual leave, holidays and off-days shall not exceed 10 days at a time.

(4) Leave may not be granted to a member of such establishment except after the production of a medical certificate signed by a medical practitioner with qualifications not less than those of Assistant Surgeon. It must be certified therein that the applicant is unfit for duty on account of ill health and the period for which leave is recommended must be definitely stated.

1. Substituted vide G. A. Department Notification No. 21962, dated the 4th September 1979.

(5) Leave may be granted up to one month for each year of approved service under Government, subject to a maximum of three months at any one time, provided that no leave may in any case be granted unless the applicant has rendered approved service under Government for at least three years continuously.

(6) Leave salary shall be equal to half the pay drawn at the time of taking leave, provided that in the case of a person to whom the Workmen's Compensation Act, 1932 applies the amount of leave salary payable under this clause shall be reduced by the amount of compensation payable under Section 4 (1) D of the said Act.

(7) Before returning to duty the employee shall be required to produce a medical certificate, signed by a medical practitioner with qualifications not less than those of Assistant Surgeon stating that he is fit to return to duty.

(8) Maternity leave may be granted to women employees up to a maximum of 6 weeks provided that leave salary for the period of maternity leave shall be at the rate equal to half the pay last drawn at the time of proceeding on such leave.

(9) The sanctioning authority may not insist on production of medical certificate in the case of casual leave, ¹[(Special casual leave)] or maternity leave.

Weekly off.

7. All employees are eligible for one off-day full pay in a week either on a Sunday or on any other day in the week to be reckoned from Monday, in lieu thereof. They will also be eligible to avail of Gazetted holidays not exceeding 15 days in a calendar year as detailed below, provided, however that the authority sanctioning leave may refuse an employee permission to avail of any such holiday in the exigencies of public service. In such cases, the employees may be allowed an off-day on some other day according to the discretion of such authority -

1.	Makar Sankranti	...	One day
2.	Republic Day	...	One day
3.	Siva Ratri	...	One day
4.	Moharrum	...	One day
5.	Holi	...	One day
6.	Ganesh Puja	...	One day
7.	Biswakarma Puja	...	One day
8.	Durga Puja and Dashahara	...	Four days
9.	Mahatma Gandhi's Birthday	...	One day
10.	Kumar Purnima	...	One day
11.	Diwali	...	One day
12.	Prathamastami	...	One day

Savings

8. Employees, whose conditions of service, leave etc. are regulated by specific enactments like the Industrial Disputes Act or Factories Act shall be governed by the relevant provisions of

those Acts. Paragraphs 6 and 7 of these instructions will be applicable only to those employees, who are not covered under specific enactments.

Travelling Allowance.

9. Travelling allowance may be granted to an employee who is transferred in the exigencies of public service. Such allowance shall be limited to actual traveling expenses the amount of which shall be determined by the appointing authority, but in no case such actual traveling expenses shall exceed the amount admissible under Orissa T. A. Rules.

Advances

10. The employees may be allowed bicycle and festival advances by the appointing authority in his discretion who will also determine the terms and conditions of such advances according to individual circumstances but in no case such terms and conditions shall be more liberal than those for temporary Government servants.

Contribution to Provident Fund.

11. All employees covered under the Employees Provident Fund Scheme shall contribute regularly to the Employees Provident Fund after completing one year of service. Such of the employees who are not covered by the Employees, Provident Fund Scheme shall contribute regularly to the Contributory Provident Fund after completion of one year of service.

1. Substituted vide G. A. Department Notification No. 9039, dated the 30th April 1983.

Maintenance of Service Rolls.

12. Service Rolls of the employees shall be maintained in the forms as will be prescribed.

13. Free medical aid shall be given to all employees who may also be given reimbursement of the cost of medicines to the extent to be determined by the appointing authority in individual case.

Retirement.

¹[14. The work-charged employees shall ordinarily be retained in service up to the age of 58 years :-

Provided that a Grade – D employee shall or an artisan workman who is working in the work-charged establishment but he is at par with Grade – D employee shall retire on attaining the age of 60 years.

Provided further that the work-charged employees can be required by the appointing authority in public interest to retire at any time before attaining the age of superannuation on a month's notice or a month's pay in lieu thereof.]

Gratuity.

15. The employees shall be allowed gratuity at the rate of half a month's pay for every completed year of service subject to the maximum of 15 months' pay on retirement, invalidation except where it is caused by intemperance and death while in service subject to the condition that this concession shall be allowed only to the employees rendered continuous service for a minimum period of 10 years. Pay for this purpose shall be the pay last drawn :

Provided that employees whose service conditions are governed by special enactment or labour laws would be entitled to gratuity as provided under such special enactment or laws, and not under the above instructions.

²[Provided further that an employee who after having rendered continuous service for a minimum period of 10 years is absorbed under the regular establishment, shall be entitled to gratuity admissible under these instructions for the period of service under the work-charged establishment, if the appointing authority gives a certificate that the employee would have continued to serve in the work-charged establishment on or after 19-8-1974 but for his absorption in the regular establishment. In such cases, the gratuity admissible will be paid to the employee at the time of retirement, invalidation or death while in service along with pension and or gratuity for the period of service under the regular establishment.]

Misconduct.

16. The acts and omissions mentioned below by an employee shall constitute misconduct and shall be punishable under these instructions :-

- (1) Wilful insubordination or disobedience either individually or in combination with another or other to any lawful order of a superior.
- (2) Striking work or inciting others to strike work with another or others in contravention of any law or any rule having the force of law.

- (3) Stay-in strike.
 - (4) Adoption of slowtacts or abatement or instigation thereof.
 - (5) Theft, fraud or dishonesty in connection with the establishment's work or property or property of the employees.
 - (6) Taking or giving bribe or any illegal gratification whatsoever or indulging in corrupt practices.
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1. Substituted vide G. A. Department Notification No. 3562, dated the 19th February 1997.
2. Inserted vide G. A. Department Notification No. 8072, dated the 5th April 1978.
- (7) Habitual late attendance.
- (8) Habitual breach of any standing orders or any other rules of the establishment.
- (9) Negligence or neglect of duty malingering or sleeping during duty hours.
- (10) Sabotage or wilful damage to or causing loss of the establishment's goods or property or any irresponsible action resulting in damage to any goods or property of the establishment.
- (11) Drunkenness, disorderly, insolent or indecent behaviour or any acts subversive of discipline, on the premises of the establishment or at the place of employment or in course of performance of duty.
- (12) Conviction by a court of law for a criminal offence involving violence or moral turpitude.
- (13) Loitering during duty hours.
- (14) Unauthorised absence from the place of duty.
- (15) Acceptance of gifts or presentation exceeding Rs. 20 in value from other excepting close relations of the family without permission of the Head of office.
- (16) Borrowing money from subordinate employees.
- (17) Unauthorised use or unauthorized occupation of the Government quarters or land.
- (18) Gambling within the establishment's premises.
- (19) Quarrelling and fighting in the establishment's premises.
- (20) Smoking in non-smoking areas of the Establishment's premises.
- (21) Furnishing false information regarding one's name father's name, age, qualification previous service and address etc. at the time of employment and in course of normal work.
- (22) Failure to carry out work in accordance with the instructions given by the officers of the establishment or through delegated authorities.
- (23) Hiding away or attempting to hide away any articles or materials of the establishment.
- (24) Failure to report at once to his superior any defect which the employee may notice in any equipment connected with his work.
- (25) Refusal to accept charge-sheet, order or any other official communication issued by a competent authority.

- (26) 'Gherao', 'Dharana', hunger strike, protest, fast work to rule.
- (27) Mass casual leave or earned leave.
- (28) Approaching Government and any higher authority without permission of the appointing authority in connection with the terms of his employment, non-employment, transfer, promotion demotion or disciplinary action.
- (29) Association with or being a member of any political or communal party or organization or subscribing in aid of or assisting in any other manner any political or communal movement or activity.
- (30) Canvassing or interfering or participating otherwise than by voting in election to Parliament, Legislative Assembly or local authorities in which he has a right to vote.
- (31) Except with the previous sanction of the head of office, owing wholly or in part, conducting or participating in editing or managing of any newspaper periodical or publication, radio broadcasts, or contributing any article or writing a letter to any newspaper or periodical provided that no such sanction shall be necessary if such contribution to any newspaper or periodical is on a purely literary, artistic or scientific subject and of occasional character.
- (32) Engaging directly or indirectly in any trade or business or undertaking any employment with the exception of honorary work of a social or charitable nature or occasional work of literary, artistic or scientific character.
- (33) Acquiring or disposing of any immovable property by lease, mortgage, purchase, sale, gift or otherwise either in his own name or in the name of any member of his family or a benamidar without the Previous sanction of the Head of the Department when any such transaction is conducted otherwise than through a regular or reputed dealer.
- (34) Entering into any transaction by way of purchase, sale or otherwise concerning any property exceeding in value of Rs. 200 otherwise than through a reputed dealer, without prior permission of the Head of office.
- (35) Failure to furnish true and complete declaration of assets in accordance with prescribed instructions.
- (36) Misuse or careless use of amenities provided for him by the establishment to facilitate discharge of his duties.
- (37) Wilful absence from duty after expiry of leave.
- (38) Any other act or omission, which, in the opinion of the appointing authority offend against the norms of decency, normality, discipline or loyalty to the Union or the State Government.
- (39) Furnishing false information in the application for post on the basis of which he is appointed.
- (40) Joining a lightening strike or acting in furtherance of such a strike.

Penalties.

17. (1) The following penalties may be imposed by the appointing authority on an employee for misconduct as defined in paragraph 16 -

- (i) Fine,
- (ii) Censure,
- (iii) Withholding of increments or promotion,
- (iv) Recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of orders.
- (v) Suspension,
- (vi) Reduction to a lower service, grade or post or to a lower time-scale or to a lower stage in time scale.
- (vii) Compulsory retirement

- (viii) Removal from service which shall ordinarily be a disqualification for future employment.

(2) When the appointing authority is satisfied that there is *Prima facie* evidence of any allegation detailed in Paragraph 16 of these Instructions against a work-charged employee he shall frame charge of such allegation against the delinquent and shall communicate a copy thereof together with the copies of the documents if any, on which the charge is based asking for the explanation in writing of the delinquent within a period of not less than 15 days from the date of receipt of such charge.

After due consideration of such explanation as the delinquent may offer the appointing authority may, if he finds the delinquent guilty of the charge, come to a tentative decision as to the punishment to be imposed on the delinquent and shall issue notice to the delinquent to show cause within a period of not less than 15 days from the date of receipt of such notice as to why the tentative decision shall not be made absolute. After careful consideration of the cause shown, if any by the delinquent, the appointing authority shall take the final decision in the matter of punishment to be imposed on the delinquent :

Provided that if any oral evidence is required to be taken the same shall be taken in presence of the delinquent.

(3) The services of an employee may also be terminated by the appointing authority in the following cases :-

- (a) on his attaining superannuation
- (b) for continuous absence on grounds of ill health for one year or more
- (c) on an employee being declared medically unfit

(4) The services of an employee appointed as a substitute against a suspensioner/leave vacancy may be terminated at any time during such period by giving 7 days notice or 7 days pay in lieu thereof, irrespective of whether the principal employee has or has not returned to duty :

Provided that no such notice or pay in lieu of such notice shall be given when an appointment of a substitute is for a specific period and is terminated in terms of orders of appointment or on the expiry of the specified period of appointment, as the case may be.

(5) The services of employees who are governed by special enactments are liable to be terminated otherwise than by way of punishment as provided in such enactment in addition to the special sub-Paras. (1, 2 & 3) above.

Appeal.

18. (1) No appeal shall lie against any order made by the appointing authority imposing the penalty of fine or censure.

(2) Appeal against orders imposing penalties other than those of fine and censure shall lie before the authority next higher to the appointing authority and the decision of such authority shall be final.

No. 12465/Gen.

GENERAL ADMINISTRATION DEPARTMENT

The 25th April 1989

From

Shri Binoy B. Mishra,
Joint Secretary to Government

To

The Accountant-General
Orissa, Bhubaneswar.

Subject – Age of superannuation of post – Clarification regarding.

Sir,

With reference to your letter No. Pen. 9 – Irrigation – 338, dated 25th November, 1988 on the subject noted above, I am directed to say that the age of superannuation of a particular post is always determined according to classification of posts under Orissa Civil Services (Classification, Control and Appeal) Rules, 1962. This classification has been made in consideration of the job prescribed for the post. The scale of pay of the post held by an employees should not be taken into account in the context of the age of his superannuation. It appears from this Department notification No. 13973, dated 27-7-1968 that the post of Work Sarkar and Amin have been classified as Class III posts whereas the post of Patrol has been classified as Class IV. Hence, the age of superannuation of the post of Patrol should be 60 years according to rule. But in cases of Work Sarkar and Amin, the age of superannuation should be 58 years.

It is further clarified that the age of superannuation of an employee first appointed as Work-charged staff and subsequently brought over to the regular establishment prior to his retirement shall be at par with that of the employee already appointed to work under regular establishment.

This is issued in consultation with Finance Department.

Yours faithfully,

BINOY B. MISHRA

Joint Secretary to Government.

O. G. P. - MP-II-42 (G. A.) - 1, 000-28-6-2002