

Copy of Reso. No. 14 (H-10) 138

ITEM NO. 14 (H-10)

of  
Ordinary Meeting  
27-8-2014

1. Name of the subject/project.

Grant of pay & allowances to all remaining categories appointed on contract basis on the analogy of pay & allowances granted to Medical Officers/Non- Teaching Specialists on contract basis.

2. Name of the Department.

Personnel Department

3. Brief History of the subject/project:

The Personnel Department has been engaging the various categories of employees on contractual basis in NDMC. In NDMC, the contractual employees were being engaged on contract basis as per functional requirement to overcome the shortage of staff in various department/branches.

NDMC has adopted the Resolution No. 10(H-02) dated 20.06.2014 vide which all the contractual Medical officers and Specialists of different systems of medicine were allowed the minimum of the pay scale attached to the post and benefits of NPA, Dearness Pay, Dearness allowances, CCA, Transport Allowances, Conveyance Allowances, PG Allowances (Medical Officers), Contingency Allowances and house Rent Allowances etc w.e.f. 19.12.2007. (Annexure -'A' See pages 142 - 148 )

This decision has been taken on the basis of the Govt. of NCT of Delhi vide order No. 8/11/2001/HW dated 25.07.2001 and further circular No. 70/38/2005-11&FW/7030 dated 15.10.2009 and NDMC vide Resolution No. (H-15) dated 19.12.2007 and present Resolution no. (H-13) inter alia granting the same scale of pay allowances, DA, increment, medical facilities and also other benefits of services conditions to Medical officers/Specialists appointed on contract basis as are applicable to other medical officers regularly appointed.

The contractual employees appointed in different categories had been making representations time and again for granting the same benefits, which are granted to regular employees of different categories in NDMC. The representationists have placed the reliance on the findings of the CAT PB on OA incorporated vide para 15 of the decision directing the respondent to grant the applicant salary and other benefits as given to other contractual employees under the Govt. of NCT of Delhi. They shall also be granted other benefits like Earned leave (Medical leave and Paternity Leave), Health Card facility, Transport Allowances, HRA, Bonus, LTC, Child Care Leave, etc.. However, arrears arising out of the aforesaid direction shall be given to them from 14.07.2011 i.e. the date of filling the present O.A.

The aforesaid judgment of the CAT was delivered in-rem. Therefore, keeping in view of the decisional law laid down by the Apex Court In the matter of Amrit Lal Berry v/s Collector of Central Excise &Ors. - AIR 1975 SC/538.

"We may, however, observe that when a citizen aggrieved by the action of Govt. Department has approached the Court and obtained a declaration of Law in his favor, others in like circumstances should be able to rely on the sense of responsibility of the department concerned and to accept that they will be given benefit of this declaration without the need to take their grievances to the Court" (Abstract of judgment as Annexure 'B' See pages 149 - 150)

Further, it was accepted by the Council while approving the aforesaid resolution No. 10 (H-03) that "there is possibility of receiving of similar demands from the other categories of contractual employees of NDMC and if similar

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demands of other categories of contractual employees are received, the same will be examined separately on merits.

Not only this, after conclusion of the formal agenda item, Mrs. Meenakshi Lekhi, Presiding Officer, while laying out the road map for various development works to be expedited and discernible progress to be shown in 45 days, mentioned that NDMC should evolve a General Amnesty Scheme for regularization of all non-regular employees including Engineers and Technical staff, as a one-time measure.

While this process may take considerable time, as an immediate measure, we may at least consider granting the benefits of pay and allowances and other benefits to all the remaining categories appointed on contract basis on the analogy of similar benefits granted to Medical Officers/Non-Teaching Specialists appointed on contract basis on the principle of "Equal Pay for Equal Work" and also on the analogy to the cases referred to above.

Financial implications involved will be met out from the budget allocation of concerned department under the salary head and if necessity arises, the fund will be get re-appropriated by allotting the additional funds out of savings under the other heads.

All the other categories working on contractual basis are rendering their services in various departments/branches equivalent to the regular employee but they have the uncertainty regarding further renewal of their contract which not only affects their efficiency/concentration/devotion to their work but is also not conducive to overall management of valuable human resources. In the present circumstances, they cannot be made regular or permanent in NDMC, therefore in order to manage the volume of work and various departments/branches it would be better if the contract is given for a long term in the services instead of short terms contract for a period of six months or one year with multiple renewals or till the post are filled on regular basis. This measure is being suggested in view of the persistence genuine demand of contractual employees to mitigate the monetary loss caused to them and to ensure that the request of personnel in various department is fulfilled without any break and disruptions.

The matter has been examined in detail and it has been found that there are approximately 892 officials working in 38 categories/posts. This does not include approximately 59 Doctors/Specialists who have already been granted similar benefits. The Chairman has also agreed "In principle" to consider the genuine demand of the contractual employees after the case of GDMOs/Specialists is considered by the Council.

**4. Financial implications of the proposed project/subject.**

All the Contractual employees of various Departments and branches will be given Annual Increment, Leave encashment, Medical Facility etc. in addition to the benefits being already provided to them. This will entail financial implication, which will be met from out of the budget of Personnel Department by re-appropriation or by allotting additional funds.

**5. Implementation schedule with timelines for each stage including internal proceeding:**

Immediately after approval of the Council.

**6. Comments of the Finance Department on the subject:**

In view of "in principle" approval of Chairperson, the department may place the Draft Agenda for consideration and decision of the Council.

**7. Legal implications of the subject:-**

NIL

8. Details of previous Council Resolutions, existing law of Parliament and Assembly on the subject.

The Council vide its resolution No. 10 (H-02) dated 20.06.2014 has decided to allow to all the contractual Medical Officers and Specialists of different systems of medicine the minimum of the pay-scale attached to the post and benefits of NPA, Dearness Pay, Dearness allowances, CCA, Transport Allowances, Conveyance Allowances, PG Allowances (Medical Officers), contingency Allowances and House Rent Allowances.

9. Comments of the law Department on the subject:-

Extending the benefit of Pay & Allowances to the remaining Categories of contractual employees on the same analogy as has been given to the Contractual Doctors and Medical Officer, is an administrative matter. An Administrative decision may be taken. No legal issue is involved at this stage.

10. Comments of the Department on the comments of the law Department.  
No.

11. Certification by the department that all the Central Vigilance Commission (CVC) guidelines have been followed while processing the case.

Till date there are no specific guidelines of the Central vigilance commission in this case.

12. Recommendation:-

It is recommended that all the remaining categories of employees on contract basis may be granted:-

- a) The pay & allowances on the analogy of Pay & allowances granted to the medical officers appointed on contract basis if they fulfill the conditions prescribed in the RRs of the relevant posts on which they are appointed on contract basis.
- b) The term of contract employees may also be extended to five years or till their regularization or attaining the age of 60 years whichever is earlier on the analogy of contractual medical officers subject to the condition that they have been appointed against sanctioned posts. In case of other contractual employees, the term of contract will remain six month or one year, as decided by the Competent Authority from time to time. For such employees, the respective HOD will initiate the process of getting permanent post sanctioned as per their functional requirements.
- c) A Committee consisting of Director (P), Joint Director (CGIT), A.O. (Establishment) and Law Officer will scrutinize the cases of all the contractual employees regarding their education qualification etc with reference to the recruitment rules of the relevant course before giving them the benefits proposed at Para-1 above.
- d) Above proposal may be made subject to the condition that the above benefits will not confer on them any right or claim whatsoever for regular appointment, Seniority, Promotion, etc in NDMC. In order to provide benefit of the inter se seniority as per their services in NDMC to different categories of NDMC

employees in their respective cadre, for granting benefits and to avoid the chances of any anomaly, they may be allowed the benefits of pay fixation on notional basis from the date of their appointment on contractual basis. No arrears of pay and allowances will, however, be payable.

COUNCIL'S DECISION

Resolved by the Council to accord approval to the proposal of the department as detailed in para 12 of the Preamble.

11/8/14  
For Secretary  
New Delhi Municipal Council  
Connaught Place, New Delhi