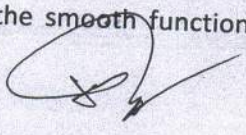


OFFICE MEMORANDUM = 289/2015

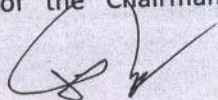
DATED: AUGUST 19, 2015

1. To begin with the regularization of the employees appointed by the then Chairman, Public Services Tribunal is under consideration. The matter was placed before the Full House of the Tribunal. After a long deliberation, they have authorized the undersigned to proceed with the matter in accordance with law and the rules framed by the State Government in the year 2013 namely Daily Wages, Work-charged, Contractual Basis, Fixed Pay and Ad-hoc Appointed Employees Regularization Rules, 2013 or any other suitable mode which the undersigned deems proper.
2. At the outset I would like to mention that the employees submitted the representation dated 25.04.2015 to me that their services may be regularized and they had met me personally about their grievance as they are not going to be regularized. I also pointed out to them that the maximum number of employees have been appointed on the promotional pay scale and according to law they cannot be regularized on the post on which they have been appointed. In such a situation I also inquired to them what should be the course of regularization. The employees have not given any answer to the said query and they only requested anyways they should be regularized as their 13 years' services may not be rendered infructuous. Their representation may be considered very sympathetically.
3. Before proceeding with the regularization process, I called each and every employee who was on a d-hoc basis in the Tribunal in Dehradun as well as in Nainital and also asked if he had been appointed on the promotional post, how he can be regularized on the promotional post, to show any Rule, Regulation and law and sufficient time was given to individual employee to make out his case for regularization on the promotional post. But nobody could put any Rule, Regulation, Law or any material before me to substantiate the fact that the ad-hoc employee, who had been appointed on the promotional post, can be granted regularization on the promotional post. They only requested anyways they should be regularized by virtue of the said 2013 Niymawali.
4. Before proceeding with the regularization of the employees, it would be better to appreciate that how the employees were appointed by the then Chairman of the Tribunal for the smooth functioning of the Court. The Court work is



specialized work and it requires judicial/administrative acumen as well as discipline and knowledge in the day-to-day working of the Court. A person, who is a fresher, cannot discharge the work of the Reader, Munsarim as well as Cause List Section. All the departments working in the Tribunal are of specialized nature and it requires knowledge for the same. Keeping in view of the above fact, if these appointments would have been made in the State of U.P., so it would have been considered a flagrant misuse of the power conferred upon the then Chairman. The State of Uttarakhand was carved out on 09.11.2000 and immediately thereafter all the constitutional and institutional functionaries started to function in the State. At the same time there was no sufficient allocation of the employees by the Central Government for all the constitutional functionaries situated at Dehradun and Nainital and other places. I would like to mention that the State Government was installed on 09.11.2000. Very few employees were available in the State Government also. I have noticed that the officers instead of writing letters or making proper communications, were calling the H.O.D's on phone through senior officer to call the employees in the different departments. Hon'ble High Court also started functioning after the inauguration of the Hon'ble High Court on 11.11.2000 and the Court also started judicial functioning by the same date; only six or seven employees were allotted to the High Court and it was not possible to cope with the work of the High Court by these handful employees so the Hon'ble High Court also called immediately officers/ officials from different districts and even on oral directions to the District Judges. In such a situation these two mighty organizations were also feeling difficulty in their functioning, so ad-hoc arrangements for deputing the officers/ officials from the district level were adhered to, though the rules for the appointment in the Secretariat and in the High Courts are different. When the State Government started functioning anyway, the different statutory authorities were established hurriedly. The State Government as well as the statutory authorities had no required paraphernalia and basic structure to start the work properly. No sufficient books and rules were initially available in the State. The officers posted in the Uttarakhand, anyway, with zeal and courage, started the functioning of the State and now the State has taken the shape as an ideal State.

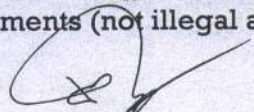
5. The Public Services Tribunal was also created on 28.03.2001 and the appointment of the Chairman was made and it came into existence



immediately without any infrastructure. The record reveals that even the Chairman had no staff till 04.07.2001. First Government Order creating certain staff was issued on 04.07.2001. This order also depicts the Government was not aware of the Uttar Pradesh Rajya Lok Sewa Adhikari & Anya Karmchari Sewa Niymawali 1999 (hereinafter referred to as Rules 1999). I am mentioning this fact here so that the U.P. Re-organization Act, 2000 clearly indicates that the rules applicable in the U.P., would apply to the Uttarakhand mutatis mutandis and the State Government has the power either to amend or to rescind those. The State Government had not modified these rules, hence these rules were applicable on the date when the notification No. 326/Nyay Vibhag/2001 dated 04.07.2001 was issued. Even the posts had not to be created under Rule made under Article 309 of the Constitution. The Government Order, even does not contain the name of the rules while issuing the Government order. It had not modified the rules but it had issued the order creating certain posts. I am not blaming the Government because it was a time when everybody was busy in process to build up the State to give the shape to it in accordance with law. As a matter of fact there was no need to create the posts separately under these rules. If the rules are available, then the Government Order issued under Article 162 has no meaning.

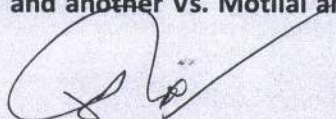
6. The said Government Order was not issued pursuant to the above Uttar Rules 1999 and it did not indicate anywhere in the said rules the posts were created but in the said Government Order it did not mention as to how these are to be filled up. In the light of the above Government Order it seems that the then Chairman assuming the fact that these posts are of direct recruitment, filled up those by direct recruitment process. As I have pointed out earlier that on the ground of the suitability, all the officials have been appointed without no fault of the employees on the different promotional posts.
7. In the case of **Secretary State of Karnataka Vs. Uma Devi (2006) 4SCC 1** the Court has taken a sympathetic consideration that those employees, who were duly qualified persons and appointed on duly sanctioned posts and had continued to work for 10 years, but without the intervention of the Court's order or Tribunal, such employees could have been considered on merit on the principle settled by the Court in the cases. In Para 53 in Uma Devi Hon'ble Apex Court has held as under:-

"One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V.



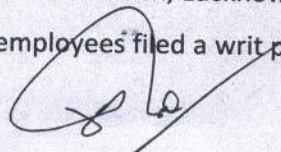
NARAYANAPPA (supra), R.N. NANJUNDAPPA (supra), and B.N. NAGARAJAN (supra), and referred to in paragraph 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, 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 have worked for ten years or more in duly sanctioned posts but not under cover of orders of courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not subjudice, need not be reopened based on this judgment, but there should be no further by-passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme”

8. It was further directed in the aforesaid judgment that the Government would make a scheme to regularize such employees immediately. Pursuant to the above directions, the State Government has promulgated Daily Wages, Work-charged, Contractual Basis, Fixed Pay and Ad-hoc Appointed Employees Regularization Rules, 2013. In the Public Services Tribunal all the employees have been appointed against a vacancy and there is no such Court order regarding any employee to continue in the service. The employees have completed 10 years services though the rule which has been promulgated by the State Government, is, required continuous service for five years. The sanctioned strength and work strength of the employees has been shown in a chart which is annexed along with this order.
9. The U.P. Re-organization Act, 2000 and the Uttar Pradesh Rules 1999 provides that there are certain posts which can only be filled up by promotion. These posts have also been shown in the chart annexed with this note. The question arises as to whether the regularization can be made against the promotional post or not? The Hon'ble Apex Court has held that the direct appointment to an exclusively promotional post, even if continued for a considerable period, held, does not entitle regularization therein. The said view has been laid down by the Hon'ble Apex Court in Para-9 in the case of **Union of India and another Vs. Motilal and others (1996) 7 SCC 481** which is as under:-



"So far as the first question is concerned, on examining the relevant provisions of the rules as well as the administrative instructions issued by the Railway authorities, we are of the considered opinion that it is not permissible to appoint a person directly as a mate and it is only a promotional post from Class IV post of gangman and keyman. These gangmen and keymen can be promoted to the post of mate in Class III subject to their suitability and efficiency being tested through trade test. It is no doubt true that these respondents under certain circumstances had been appointed directly as casual mates and they continued as such and further by virtue of their continuance they acquired temporary status but by itself does not entitle them to be regularized as mates since that would be contrary to the rules in force. In our considered opinion the respondents did not acquire a right for regularization as mates from mere fact of their continuance as casual mates for a considerable period."-

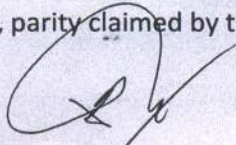
10. Thus, in view of the above the question is to be decided by the committee as to whether the regularization to the higher promotional post can be done or not.
11. The next question arises that some of the employees have been regularized adopting certain criteria in the year 2012 under the Daily Wages, Work-charged, Contractual Basis, Fixed Pay and Ad-hoc Appointed Employees Regularization Rules, 2011. The employees' contention is that they should be given parity with those employees who had already been regularized. Whether the parity can be given or not, this is the question to be considered. In the case of **State of U.P. Vs. Neeraj Awasthi 2006(1) SCC 667** the marketing committee of the Mandi Samiti made appointments in excess to the sanctioned strength. A resolution was passed by the Board proposing regularization of the services of those employees who had completed a stipulated period. The State Government issued direction regarding the regularization of services of such employees who had been irregularly appointed during the period from 01.04.1996 to 30.10.1997, be cancelled on the last come first go basis. Pursuant thereto in all furtherance, in such direction issued by the State Government, services of number of employees were terminated on 30.03.1999. Questioning the aforesaid direction, employees filed different writ petitions before the Hon'ble High Court of Allahabad and the Lucknow Bench, Lucknow. There was conflict of decisions of the High Court. The employees filed a writ petition before a Ld. Single Judge of



Hon'ble Allahabad High Court, who allowed the same holding that the termination order issued pursuant to the order of the State Government was illegal. Similar writ petition filed by other employees, was dismissed by the Division Bench of the Hon'ble High Court of the Lucknow Bench but put the seal of approval of the judgment of Ld. Single Judge rendered at Allahabad in a writ petition by the Division Bench of the Hon'ble Allahabad High Court. Ld. Single Judge of the Hon'ble Allahabad High Court while allowing the writ petition had also held that the principle of natural justice has been ignored in terminating the services of the employees. Thus, the order of terminating the services of the employees is bad in the eyes of law. Then the matter came up before the Hon'ble Apex Court and it was held from the very inception the provisions of the Act and Regulation framed thereunder had been given a complete go-by. The provisions of the Act and Regulation mandate that the Board and the Market Committee of the Mandi Samiti were bound by the Act, Rules and Regulations framed thereunder. While making the appointments, the statutory provision and the constitutional requirement was required to be complied with and the appointments made by Mandi Samiti were in flagrant violation of the Constitution, the Act and Regulation. The Hon'ble Apex Court further held that if all the appointments have been made without following the procedure, then the services of the some persons appointed, have been regularized in the past; the Hon'ble Apex Court further held that it cannot be said to be a normal mode which must receive the seal of the Court. Past practice is not always the best practice. If illegality has been committed in the past, it is beyond comprehension as to how this can be allowed to perpetuate. The Hon Apex Court in Para 75 has held as under:-

"The fact that all appointments have been made without following the procedure or services of some persons appointed have been regularised in past, in our opinion, cannot be said to be a normal mode which must receive the seal of the court. Past practice is not always the best practice. If illegality has been committed in the past, it is beyond comprehension as to how such illegality can be allowed to perpetrate. The State and the Board were bound to take steps in accordance with law. Even in this behalf Article 14 of the Constitution of India will have no application. Article 14 has a positive concept. No equality can be claimed in illegality is now well- settled."

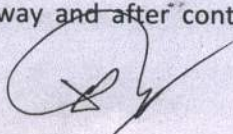
12. In view of the above, parity claimed by the employees cannot be granted.



13. In this Tribunal the appointments against different posts have been made by the then Chairman. After the perusal of Rules 1999, it is apparent that most of the employees have been appointed against the promotional post. It is also clear that the promotional post and the feeder posts belong to the same Class-C category of the employees. I am also repeating the fact that the Government order when issued, did not disclose that this order has been issued under the Rules, 1999 and no qualification has been so far prescribed in the said Government order dated 04.07.2001. Perusal of the notification does not indicate that the Rules, 1999 are applicable to the said posts. Under the Re-organization Act it was an option of the Government either to follow the rules or to rescind or modify the said rules, thus, it seems that confusion arose due to the issuance of the said Government order and it might be possible that the then appointing authority would have thought that these appointments are to be made by way of direct recruitments. I would like to mention one more Government order which was issued at a very later stage bearing No. 13-Ek(4)/Nyay Vibhag/2003 dated 05.07.2003, in which the post of the Deputy Registrar was created and that post too did not find place in the said rules. The qualification and eligibility have not been indicated in the said notification, only it is mentioned that it should be filled up by direct recruitment. We have also sent communication to the Government as to whether what should be the qualification for the same so that necessary regularization procedure may be adopted in his case and whether the Regularization Rules, 2013 are applicable in the post of Deputy Registrar or not. In view of the above there seems to be some confusion.

14. I have pointed out that the posts were available, the appointments were made and there is no order of the Court on judicial side to continue them in the said post. Indisputably these posts have been filled up in utter violation of the Rules, 1999.

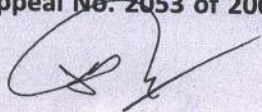
15. In the above scenario I have also to analyze the legal proposition to resolve this controversy as to whether the employees can be regularized on the promotional post or their claim for the regularization could be rejected out rightly or they can be regularized on the feeding cadre in which they should have been appointed. To consider the said controversy, I have to go to the different judgments of the Hon'ble Apex Court. In the case of Moti Lal (supra) the Railway Department directly appointed as casual Mates in Class -III posts in Northern Railway and after continuous working for more than 120 days,



they acquired a temporary status as Mate. The temporary status was conferred in view of the judgment of the Hon'ble Apex Court rendered in **Ram Kumar Vs. Union of India (1988) 1 SCC 306** and their seniority was also drawn up. While they were continuing as such they were regularized against the post of Gangmen Class-IV. Gangman was a lower cadre and the feeding cadre of the Mate in Class-III. The matter was challenged before the Central Administrative Tribunal. The Tribunal after considering respective stand of the parties, came to the conclusion, since respondents have worked all these 20 to 25 years as Mates right from the inception, it would not be appropriate to regularize them against the lower post as Gangman and accordingly directed that they be regularized against the post of Mate. The matter came up before the Hon'ble Apex Court. The Hon'ble Apex Court held that it is not permissible to appoint a person directly as Mate and it is only a promotional post from Class-IV post of Gangman and Keyman. Thus only the Gangman and Keyman can be promoted to the post of Mate subject to their suitability and efficiency being tested. It was further held that by virtue of their long continuance, they acquired a temporary status, the writ petitioner could not acquire any right of regularization as Mate on the said ground. It was further held that the question of conferment of temporary status as Mate does not ipso facto entitle the person concerned to regular absorption as Mate. Thus, the findings of the Hon'ble Apex Court was totally against the regularization in the higher promotional post. The Hon'ble Apex Court upheld the stand of the Railways that they can be regularized in the feeding cadre.

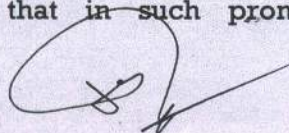
16. While on the sympathetic view, the Hon'ble Supreme Court held that the appellants were working for more than 22-25 years and to ask to regularize them in the junior cadre would be inequitable. The Hon'ble Apex Court also held that the Tribunal was not justified in directing the regularization of the respondents as Mate. However, the Hon'ble Supreme Court by its own order regularized the services of the Mates but at the same time at the last of the judgment it has been observed that the direction will not be treated as precedent. So, by virtue of this clause Hon'ble Supreme Court has assumed jurisdiction under Article 141 & 142 of the Constitution. So, this precedent cannot be taken to regularize the employees of the Tribunal in view of this judgment.

17. Thereafter in the case of **Pinaki Chatterjee & others Vs. Union of India & others in Civil Appeal No. 2053 of 2009**, ^{(2009 S.C.(5) 193} a similar matter came up before the



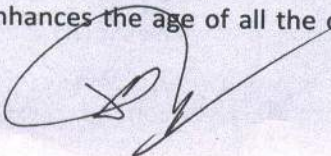
Hon'ble Apex Court. In this case the petitioners, except one, were directly appointed on the post of T.C.M., Electrician Fitter, W/Driver in Grade 'C' post. Indisputably, the writ petitioners were appointed against the promotional post and they also acquired temporary status in the Railway Department. Indisputably the writ petitioners were appointed as daily rated casual labours for the project work and the respondents also committed flagrant violation of the rules making direct recruitment on the said posts. Even there was no post available for them when they were appointed. Indisputably the above posts, which the petitioners were holding, were to be filled 50% from the direct recruitments quota meant for holding the post of permanent Mistri, 25% vacancies have been earmarked to be filled up through limited departmental competitive examination from amongst the Gangman/ Keyman and Mates with the qualification of 10+2 with science & math and having put minimum of 3 years regular service; shortfall of any be made good from amongst Gangman/Keyman/Mates having the qualification of matriculation/HSLC with 3 years regular service and further shortfall, if any, to be added up to the direct recruitment. Indisputably these posts of the petitioners, for which they have been appointed, were promotional posts. The writ petitioners filed two original applications before the Central Administrative Tribunal when they were not regularized by the respondents and sought the direction to finalize their regular absorption in the Grade 'C' service post against the sanctioned strength. The said applications were allowed in part directing the respondents that the appellant claimed to be regularized in Group 'C', is not acceptable instead they acquire to be regularized in the feeder cadre in Group 'D' post by providing pay protection 'C' post. Feeling aggrieved by the said judgment the writ petitioners preferred the writ petition before the Hon'ble Jharkhand High Court in which the Hon'ble Court dismissed the writ petition observing as follows in Para 4:-

"No doubt, the petitioners were casually employed in Grade-C initially and thereafter they acquired temporary status, but the fact remains, and the finding of the fact by the Tribunal is, that the selections of the petitioners were not regular selections. It is, no doubt, true that they had taken a trade test when they were recruited, though casually in Grade-C. But that would not make their selection regular selection. In our view, the ratio of decision of the Supreme Court that in such promotional posts, there should not be



regularization and the regularization could only be in the lower grade, is clearly applicable to the case on hand. We are satisfied that the Tribunal has correctly come to the conclusion that the petitioners in the case on hand could be regularized only in Group-D posts, though protecting their pay and not in Grade-C posts. On going through the order of the Tribunal, we are not satisfied that it suffers from any error apparent on the face of the record justifying our interference. Nor can we accept the argument that the decision is unjust since they pay of the petitioners stood protected, notwithstanding the fact that they are sought to be regularized in a lower post. In this situation, we see no reason to interfere."

18. The matter came up before the Hon'ble Apex Court. The Hon'ble Apex Court following the judgment of the Moti Lal (supra) dismissed the appeal. The Hon'ble Apex Court also maintaining the judgment of the Tribunal, in which the direction was given that the writ petitioners cannot be regularized in Class-'C' as being a promotional post but they can be regularized in the feeding cadre as a regular post. In view of the above decision, we feel that following the above judgments of Hon'ble Apex Court, we should start the process of regularization in the lowest feeding cadre.
19. Deputy Registrar will prepare the eligibility list of the Class-III & Class -IV employees accordingly cadre wise and for regularization at the lowest feeding cadre immediately.
20. I have also considered the case of Sri Mahendra Kumar Verma which is said to had 40 years at the time of his appointment. After due consideration of the note submitted by the office; the representation submitted by Sri Verma; the fact that he was appointed by the then Chairman after considering a notification of the Government under which he had been granted the relaxation; it was pointed out Sri Verma during his personal hearing that once the appointing authority had granted relaxation and he has joined the services and thereafter he has worked for several years, the said issue cannot be reopened by the appointing authority again; the fact that the then Chairman had appointed him after giving benefit of the OBC though not entitled; the fact that Sri Verma has also given a copy of the notification of the State of U.P. dated 21.01.2000 which was issued by the State Government of U.P. before the creation of the State of Uttarakhand; the fact that this notification clearly enhances the age of all the candidates who are to be appointed in the State



services from 32-35; this notification is also applicable for the persons are to be appointed in the Public Services Tribunal by virtue of this Rules; the fact that Sri Verma has also pointed out that Section 7 of the Niymawali, 2013 in which power of relaxation has been given under Section 7; he further pointed out that this Niymawali gives the power to relax the age at the point of entry; Sri Verma has also filed a copy of the judgment rendered by Hon'ble Mr. Justice Sudanshu Dhulia, Uttarakhand High Court in writ petition No.936 (S/S) of 2014 in which the above assertion of Sri Verma has been approved by the Hon'ble Court and the writ petitioners, who had crossed the age of 35 years, were granted relaxation. Sri Verma may be enlisted in the seniority list and may be placed before the Committee for the regularization for taking its decision.

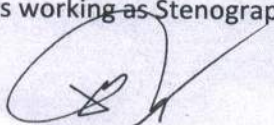
21. The office has reported that Sri Deepak Bhatt has not submitted his affidavit about the eligibility for being considered for regularization. The affidavit was called for from the employees as to whether they have the knowledge of Hindi and English typing as provided under the rules. His name be also placed before the Committee for its decision.
22. While preparing the eligibility list a difficulty arose before the Registry that the employees, who are proposed to be regularized on the basic post on their cadre to know as to whether they fulfill the minimum qualification as prescribed in उत्तर प्रदेश(उत्तराखण्ड) राज्य लोक सेवा अधिकरण अधिकारी और अन्य कर्मचारी सेवा नियमावली 1999 of Hindi and English Typing. The Rules provide (हिन्दी टंकण में न्यूनतम 25 शब्द प्रतिमिनट की गति) as minimum qualification, however the other qualifications can be adjudged by the certificate but this qualification cannot be adjudged by the certificate. There is no provision in the Rules to hold any test to find out as to whether the persons who are to be regularized, knew the above typing speed and the typing language. Thus, perusal of the Rules reveals that it is the subjective satisfaction of the competent authority, so an order was circulated among all the officials of Class-III as to whether they know the minimum qualification in typing in Hindi and in English as required under the Rules for the cadre of Junior Clerk. The employees have submitted affidavits to that effect that they had knowledge at the time of the appointment about the typing. Sri Deepak Bhatt has not submitted the revised affidavit to that effect. Regarding subjective satisfaction the affidavit will be taken as a conclusive proof of their knowledge of typing.



23. The officers posted in the Registry could not find out as to whether they know the typing or not or whether fulfill the qualification of typing prescribed in the Rules because they are not in direct touch of these officials while typing in the office. Now the question arises as to whether the persons who had been posted in the cadre of the Stenographer knows the stenography and take the dictation well or not will be ascertained by their experience in the Tribunal. I have also consulted my Brother Colleagues Hon'ble Vice Chairman (J), Hon'ble Vice Chairman(A) and Hon'ble Member (A) about the performance of all the persons posted in the Stenographer cadre because they have been working with all the officers. Hon'ble Vice Chairman (J), Hon'ble Vice Chairman(A) and Hon'ble Member (A) of the Tribunal also concur my following opinion about the Stenographers:

Smt. Vineeta Maini:- She daily sits in the Court in my Bench and she also takes dictation of the reserved judgments. It is found that she has a good knowledge of the shorthand as well as of the typing. She commits no mistake and sometimes very few mistakes which occurs in her typing, so she fulfills the minimum qualification of typing and shorthand. She has also filed her affidavit along with some documents of eligibility. She has stated that she has learnt from her own and it is revealed from the documents that she had worked as Typist in the chamber of Lawyer prior to joining this institution. She has also filed a certificate of Simran Typing Institution, Nehru Colony, Dehradun of having the knowledge of typing. Thus, she can be held to be eligible for consideration of regularization in the Stenographer Cadre.

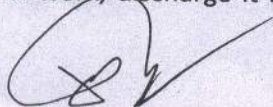
Sri Kheema Nand Pant:- After due consideration of his record I found that he was initially appointed as routine Clerk in the Institution on 20.7.2003; he was thereafter deputed to discharge the work as Stenographer and thereafter he was also given the pay scale of Stenographer vide order dated 16.01.2006. He also works with me as well as with all other Vice Chairmen & Member; he has good knowledge of shorthand as well as of English typing. He commits few mistakes and he can take dictation also of the Vice Chairmen & Member as well as of myself. He transcribes it correctly; the cadre of Stenographer is also a different cadre in the Class-III cadre and the classification of the post is different in the said cadre also. The basic post of Stenographer is not the promotional post from Class-III posts. Sri Pant has completed more than 5 years working as Stenographer and he has also given affidavit that he has the



knowledge of Typing and shorthand, therefore his name may also be considered for Stenographer.

Sri Birjesh Kumar Srivastav:- After due consideration of the record of Sri Brijesh Kumar who has been appointed as Stenographer; the fact that the appointment of Sri Brijesh was made in spite of the adverse note of the Registry in which it is specifically stated that the appointment has been banned and the regular appointment has to be made; the record reveals that he had been appointed on the regular basis as Stenographer at the initial stage; he is posted at Nainital; I usually hold the Benches for two weeks in Nainital; I have seen the performance of Sri Brijesh, he is not able to take the correct dictation and he cannot transcribe the dictation taken correctly. Sometimes in the Court even in the small orders he commits grave mistakes; if a long judgment is dictated to him, neither he can correctly transcribe it nor he refers the correct reference books dictated by the presiding Judge in the judgment, which creates confusion. If a Stenographer to a Judge could not transcribe the judgment in correct form, then the whole purpose of delivering justice fails. I also consulted Sri U.D.Chaube, Hon'ble Member (A), who sits at Nainital permanently, he is also of the same opinion that he should be regularized as Class-III employee like others. In spite of our best efforts and suggestions to improve his performance, he was not amenable to our advice also. If at a point of time he improves his performance, then his case for changing of the cadre may be considered in accordance with rules if it is so permitted.

Km. Renu :- She was appointed as Junior Clerk on 22.7.2003 and thereafter she has been asked to work as Stenographer according to the note of the Registry dated 24.10.2005 and she was given the pay scale of Rs.4000-6000/- of the Stenographer on 26.10.2005. She does not know English shorthand as well as English Typing. She is not affluent in taking dictation in Hindi and is not affluent in transcribing in Hindi. The Bench comprising of myself and Hon'ble Vice Chairman (A) specifically asked her in the Court as to whether she can take dictation in English, she stated in the open Court that she cannot take dictation in English and she cannot transcribe it in English. This fact reveals that she does not possess the minimum required qualification of Stenographer. The Chairman, Vice Chairmen & Member who discharge the judicial work, discharge it in English in this Tribunal. She is not eligible to be



regularized in the cadre of Stenographer according to rules. At present she may be considered for regularization in the cadre of Junior Clerk, Class-III. In case she improves and learns English and Hindi shorthand and English and Hindi Typing as required under rules, she can be considered for the change of the cadre in Stenographer in accordance with Rules if so permits.

I specifically make mention of the Stenographer because when the Vice Chairman (J), Vice Chairman (A) or other Members sit in the Court and dictate the judgment, if the judgments are not written properly, it not only irritates the Judges but it becomes a very difficult task to deliver the judgment; in these circumstances the above observations regarding the subjective satisfaction of the qualification has been given. The competent authority has to assess it by way of subjective satisfaction so we have adopted this method because we have not to take any test of the same.

Sri Suresh Singh Rawat:- He was initially appointed as Class-IV employee against the promotional post of Orderly in Class IV cadre on 16.10.2003 and he discharged the work as such till 16.01.2006. Thereafter the Registry put a note that he should be promoted as Class-III employee and he was promoted as such. It is relevant to mention that Sri Suresh Rawat has been shown as promoted and he has not been appointed directly in Class-III cadre, so Sri Rawat has been given benefit of promotion on ad-hoc basis. Therefore, his regularization in view of the above judgment, cannot be considered as Class-III employee on promotional post and he will be considered in the cadre of Class-IV.

24. In view of the above this order be promulgated to the Registry. Registry is directed to prepare the list according to cadre of the employees and accordingly upload the same according to Rules in the website of the Tribunal as well as it should be circulated among the employees according to Rules immediately.



(JUSTICE J.C.S.RAWAT)
CHAIRMAN

माननीय अध्यक्ष महोदय के आदेश सं० 345 /2015 दिनांक 11-09-2015 के अनुपालन में कर्मचारियों के विनियमितकरण हेतु, दैनिक वेतन, कार्यप्रभारित, संविदा, नियत वेतन, अंशकालिक तथा तदर्थ रूप से नियुक्त कार्मिकों का विनियमितीकरण नियमावली, 2013 के नियम -6 के उपनियम (v) के अंतर्गत तैयार अंतिम संवर्गीय सूची।

लिपिकीय संवर्ग

क्रम सं०	कर्मचारी का नाम	कार्यालय आदेश की तिथि	कार्यभार ग्रहण करने की तिथि	प्रस्तावित विनियमितकरण हेतु पोषक वर्ग
1.	श्री महेन्द्र कुमार वर्मा	20.12.2001	20.12.2001	कनिष्ठ लिपिक (3050-4590)
2.	श्री अमित बत्रा	20.12.2001	20.12.2001	कनिष्ठ लिपिक (3050-4590)
3.	श्री दीपक मट्ट	04.03.2002	04.03.2002	कनिष्ठ लिपिक (3050-4590)
4.	मो० रिजवान खान	01.05.2002	01.05.2002	कनिष्ठ लिपिक (3050-4590)
5.	श्री सुन्दर सिंह	01.05.2002	01.05.2002	कनिष्ठ लिपिक (3050-4590)
6.	श्री विकास वर्मा	01.05.2002	02.05.2002	कनिष्ठ लिपिक (3050-4590)
7.	श्री कपिल तिवारी	15.11.2002	15.11.2002	कनिष्ठ लिपिक (3050-4590)
8.	श्री दीपक घिल्डियाल	10.07.2003	14.07.2003	कनिष्ठ लिपिक (3050-4590)
9.	श्री शोभित शुक्ला	10.07.2003	14.07.2003	कनिष्ठ लिपिक (3050-4590)
10.	श्री स्वामी प्रसाद शर्मा	18.07.2003	19.07.2003	कनिष्ठ लिपिक (3050-4590)
11.	श्री विनोद उनियाल	22.07.2003	01.08.2003	कनिष्ठ लिपिक (3050-4590)
12.	कु० रेनु देवी	22.07.2003	21.08.2003	कनिष्ठ लिपिक (3050-4590)
13.	श्री बृजेश कुमार	23.04.2004	23.04.2004	कनिष्ठ लिपिक (3050-4590)

Prepared by- Deputy Registrar

Checked by- Joint Registrar

Finally Checked along with documents by- Registrar

माननीय अध्यक्ष महोदय के आदेश सं०.....³⁴⁵...../2015 दिनांक 11-09-2015 के अनुपालन में कर्मचारियों के विनियमितकरण हेतु, दैनिक वेतन, कार्यप्रभारित, संविदा, नियत वेतन, अंशकालिक तथा तदर्थ रूप से नियुक्त कर्मियों का विनियमितकरण नियमावली, 2013 के नियम -6 के उपनियम (1) के अंतर्गत तैयार अंतिम संवर्गीय सूची।

आशुलिपिकीय संवर्ग

कम सं०	कर्मचारी का नाम	कार्यालय आदेश की तिथि	कार्यभार ग्रहण करने की तिथि	प्रस्तावित विनियमितकरण हेतु पोषक वर्ग आशुलिपिक (4000-6000)
1.	श्रीमती विनीता मैनी	04.03.2002	04.03.2002	आशुलिपिक (4000-6000)
2.	श्री खीमानन्द पन्त	20.07.2003	07.08.2003	आशुलिपिक (4000-6000)

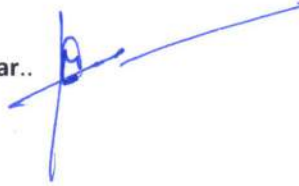
Prepared by- Deputy Registrar



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माननीय अध्यक्ष महोदय के आदेश सं० 345 / 2015 दिनांक 11-09-2015 के अनुपालन में कर्मचारियों के विनियमितकरण हेतु दैनिक वेतन, कार्यप्रभारित, संविदा, नियत वेतन, अंशकालिक तथा तदर्थ रूप से नियुक्त कार्मिकों का विनियमितीकरण नियमावली, 2013 के नियम -6 के उपनियम (1) के अंतर्गत तैयार अंतिम संवर्गीय सूची।

अनुसेवक संवर्ग

क्रम सं०	कर्मचारी का नाम	कार्यालय आदेश की तिथि	कार्यभार ग्रहण करने की तिथि	प्रस्तावित विनियमितकरण हेतु पोषक वर्ग
1.	श्री नितेन्द्र कुमार	01.12.2001	01.12.2001	चपरासी (2550-3200)
2.	श्री बसन्त बल्लम भट्ट	06.03.2002	06.03.2002	चपरासी (2550-3200)
3.	श्री बालम सिंह	06.03.2002	11.03.2002	चपरासी (2550-3200)
4.	श्री महादेव बाली	22.07.2003 कार्यालय आदेश दैनिक वेतन की तिथि	तदर्थ नियुक्ति के अनुमोदन की तिथि 01.02.2005 कार्यालय आदेश की तिथि 15.2.2005	चपरासी (2550-3200)
5.	सुरेश सिंह रावत	16.10.2003	17.10.2003	चपरासी (2550-3200)

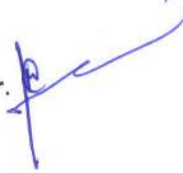
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माननीय अध्यक्ष महोदय के आदेश सं० 345 /2015 दिनांक 11-09-2015 के अनुपालन में कर्मचारियों के विनियमितकरण हेतु, दैनिक वेतन, कार्यप्रभारित, संविदा, नियत वेतन, अंशकालिक तथा तदर्थ रूप से नियुक्त कार्मिकों का विनियमितीकरण नियमावली, 2013 के नियम -6 के उपनियम (1) के अंतर्गत तैयार अंतिम संवर्गीय सूची।

वाहन चालक संवर्ग

क्रम सं०	कर्मचारी का नाम	कार्यालय आदेश की तिथि	कार्यभार ग्रहण करने की तिथि	प्रस्तावित विनियमितकरण हेतु पोषक वर्ग
1.	श्री महेन्द्र सिंह	16.02.2002	16.02.2002	चालक (3050-4590)
2.	श्री श्रद्धाराम	27.11.2002	09.12.2002	चालक (3050-4590)
3.	श्री मनोज कुमार	30.09.2004	01.10.2004	चालक (3050-4590)

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