

To,

Date: 24-04-2016

1. Hon'ble Lt. Governor of Delhi, GNCTD
2. Hon'ble Chief Minister of Delhi, GNCTD
3. Hon'ble Dy. Chief Minister of Delhi, GNCTD
4. Hon'ble Transport Minister of Delhi, GNCTD
5. Hon'ble Health Minister of Delhi, GNCTD
6. Hon'ble Minister, Women & Child, GNCTD
7. Hon'ble Minister, Tourism, GNCTD
8. Hon'ble Minister, Food & Supply, GNCTD
9. Pr. Secretary (Finance), GNCTD
10. Secretary-cum-Commissioner (Labour), GNCTD
11. Chief Secretary of Delhi, GNCTD
12. Secretary (H&FW) & DGHS, GNCTD

Subject: Defaulter Chief Secretary, Delhi is custodian of erroneous Cabinet Decision No. 2323 Dated 22-03-2016 Results Harassment of HODs/Secretaries

Respected Sir,

In reference to **letter No. F.3/3/2016/GAD/CN/dsgadiii/1516-1526 Dated 30-03-2016 CABINET DECISION NO. 2323 DATED 22-03-2016** regarding "Payment to Contractual/Outsourced Workers in different Departments/Organizations under GNCTD" issued by Sh. K.K. Sharma, Secretary to the Cabinet is not up to the mark and have grievous fallacies which may result Govt revenue loss along with Financial loss & mental harassment of Contractual/Outsourced Workers for whom this Cabinet Decision is taken and implemented.

Unfortunately, Chief Secretary of Delhi had **either** misguided Hon'ble Chief Minister of Delhi & Assembly councils **OR** not explained the facts **OR** not provided factual report of Late payment / Non-payment to Contractors by various Departments/Organizations.

I being **WHISTLE BLOWER** could not stop my self to produce the facts in interest of Contractual/Outsourced Workers. I know very well that the Cabinet Decisions are always taken by the Govt in public interest and this Cabinet Decision was also taken in Public interest, keeping in view of benefits of Contractual/Outsourced Workers. No doubt, effort of Govt. is appreciable.

FACTUAL REPORT OF THE CASE

Departments/Organizations hire contractual/outsourced Workers through own tenders following General Finance Rules (GFR). The tenders are done by Departments for various services like security, sanitation & housekeeping, Data entry operators, Nursing orderlies, etc and Contractors of different firms apply the tenders and awarded firm deploy their workers in Departments.

All most all outsource service tenders are framed in view of strict enforcement of Labour Law; ESI Act, 1948; EPF & MP Act, 1952; Service taxes; etc., and to maintain the work justice with contractual/outsourced Workers and curb the arbitrary of the contractors. There are certain essential common Terms and Conditions as well as Terms of Payment in tenders for contractors.

Most Essential **Terms and conditions** are -

1. Contractor shall be liable and responsible to provide all the benefits to the personnel deployed by it such as Provident Fund, ESI, Bonus, Gratuity, leave etc.
2. Contractor shall pay the monthly wages to the personnel through ECS and submit the details/proof of payment along with the bill.
3. Contractor shall ensure that no amount by way of commission or otherwise is deducted and recovered from the wages.
4. There are other conditions like, uniform, identity cards, work performance, quality of services especially in sanitation services, etc which the contractor should comply.

Likewise, **Terms of Payments** are as follows which contractors should comply strictly during **submission of bills in the department:**

1. Proof/ Certificate of deposit of all mandatory / statutory levies like EPF/ ESI etc. with a list of individual names and amount deposited in their accounts.
2. Proof/ Certificate of payment to the sanitation staff for the jobs completed during the previous month.
3. Copy of Attendance Register

Why Terms & Conditions and Terms of Payment are Essential to pass the bills and Departments / Organizations not pass the bills in time?

Contractors often try to bypass the Terms and Conditions to earn more profit through crushing the rights of poor outsource workers by different ways which are as follows:

1. Contractors often avoid ECS transactions of wages to workers, deduct the wages, don't provide allocated MINIMUM WAGES, and get sign on higher amount paid.
2. Contractors often escape to open saving bank Account, EPF Account and ESI of their workers and even outsourced workers don't know their ESI & EPF Number because contractors adjust their hard earn money for their profit.
3. Contractors try to dodge the departments through producing a challan receipt of deposit of lum sum amount in EPF office and submit as proof in departments without providing the name of the workers. However Govt. provides 13.36% and 12% deducted from the salary of workers.
4. Contractors get Govt. benefit of ESI amount of 4.75% per worker and deduct 1.75% from the wages of worker and not sure whether they deposit it or not.
5. Contractors also avoid to produce last payment of Service Tax of 14.5% and forced the departments to clear their bills.
6. Contractors usually try to save expenditure on uniform and identity cards to workers.
7. Bonus, Gratuity and leaves are remains the dream of workers.

Most common reason for Non-payment of bills is not fulfillment of codal formalities by the contractors and it is only to EARN MORE PROFIT THROUGH CRUSHING THE RIGHTS OF WORKERS. Contractors often fail to deposit the bills due to incomplete codal formalities and produce artificial chaos among their workers and start defamation for not passing the bills by the departments. The contractors who comply terms and conditions and providing all assigned facilities to their workers as committed in the agreement of the tender never face the problem of late bill payment. Corruption is also a factor of late payments but it is not common in all Departments.

EXAMPLE OF EMPLOYEE PROVIDENT FUND (EPF) SCANDAL

Here is an example of Aruna Asaf Ali Govt. Hospital, GNCT of Delhi where the bills of contractors were passed without completing codal formalities. **OFFICE OF REGIONAL PROVIDENT FUND COMMISSIONER-II, EMPLOYEES PROVIDENT FUND ORGANIZATION, (Ministry of Labour, Govt. of India) Sub-Regional Office, DSIIDC, Facility Center Building, Flatted Factory Complex, Jhilmil Industrial Area, Delhi-110095 issued Order No. DL-S/Jhilmil/Compl-IV/DL/21294 & 34988 Dated 19-08-2015 in favor of Aruna Asaf Ali Govt. Hospital (AAAGH), Delhi-110054 Under section 8F of the EPF & MP Act, 1952.**

Regional/Assistant P.F. Commissioner (Delhi) stated in the said order that **M/s Shivalik Housekeeping & Shree Balajee Enterprises** registered with EPFO vide code No. DL/21294 & 34988 has **failed to pay the Provident Fund dues for the period 03/2005 to 03/2013** to the tune of **Rs. 4,00,32,686/-** and has defaulted in its payment till date.

It means, above both firms have not deposited EPF and the **corrupt officers/officials of AAAGH have passed their bills without restrictions.** I have already exposed multiple cases of corruption in outsourced services of AAAGH but no action taken by authorities of Delhi govt. till date. **NO ACTION IS PROMOTING CORRUPTION.**

WHAT ARE THE DEFICITS IN THE CABINET DECISION NO. 2323?

1. Probably the decision taken on behalf of one sided complaints of contractors and outsourced workers for non-payment by the Departments in spite of submission of bills in time AND problem of Head of Departments are not consulted.
2. No where mentioned about ESI, EPF, Bonus, Gratuity, leave etc of Contractual / Outsourced Workers for their safeguard who are ready to work on much below the minimum wages fixed by the Govt due to poverty and unemployment. In absence of these important Acts and provisions, the Cabinet Decision No. 2323 Dated 22-03-2016 is incomplete.

What will be the impact of implementation of Cabinet Decision No. 2323?

1. Contractors will be the happiest person because without fulfillment of codal formalities, he will

- get payment in time and able to get much higher profit through axe the benefits of workers.
2. Contractual/Outsourced Workers will be looser because they will not get full salary/wadges and other facilities of Bonus, Gratuity, leave, ESI, EPF,etc for which they are entitled.
 3. Strictness of HODs compel the Contractors to complete all codal formalities in the benefit of Contractual / Outsourced Workers. Decision will Demoralize the HODs and injustice with HODs responsibilities who are working hard while performing their best services to the Govt.
 4. The HODs of departments i.e. deemed Employer in default will be booked to pay Provident funds dues to EPFO, if any, Under Section 8F of the EPF & MP Act, 1952.
 5. Imposition of penalty on HODs of 10% of basic pay of their salary is totally injustice and humiliation of Honest HODs of Departments for their hard work.

DISCUSSION

Cabinet Decision states that HOD/Secretary shall be responsible for the payment of wages for previous month latest by 15th of every month, they shall certify that all employees have been paid wages, certificate should reach Chief Secretary by 5 P.M. On 20th day of each month and Chief Secretary shall submit a report on 22nd day of each month to the Chief Minister.

Why chief Secretary of Delhi should not submit Certificate himself that Chief Secretary of Delhi will take responsibility for all dues not paid by the contractors under this Cabinet Decision? Is Chief Secretary of Delhi ready to pay **Rs.4,00,32,686/- dues on AAAGH** from his salary and savings?

If Chief Secretary of Delhi is not ready to pay Rs. 4,00,32,686/- from his own then Please let me know ----- *How this amount will be adjusted with EPF Organization? From whom this amount will be recovered? How many days he require to take action against the corrupts of AAAGH who passed the bills without verification of codal formalities? Do you have any plan to recover this amount?*

Chief Secretary of Delhi has not taken any action against certified corrupts like Dr. S.B. Srivastava (former M.S. of AAAGH), Dr. Ashok Jaiswal (former M.S. of AAAGH) and Dr. Surender Singh (CMO NFSG) in about 3 years then How one can expect that he will take action further for recovery of **Rs.4,00,32,686/- dues on AAAGH.**

In compliance of Cabinet Decision, if any Department passes the bill without getting EPF submission proof, etc then who will be responsible for non-payment of EPF dues? Whether chief Secretary of Delhi will do payment to EPFO?

Why Monitoring is handed over to Chief Secretary of Delhi?

Are the other competent Authorities of Delhi are incompetent to handle the issue of Payment to Contractual/Outsourced Workers in different Departments/Organizations under GNCTD and therefore, the responsibility of Monitoring of cabinet decision is handed over to Chief Secretary? Chief Secretary of Delhi is the same authority who failed to comply the duty of

CVO (Chief Vigilance Officer) assigned by Central Vigilance Commission (CVC) in corruption cases in the departments of Delhi Govt. and Corruption is the root cause for enforcing Cabinet decisions time to time to eliminate/curb corruption and improve the system.

1. Chief Secretary/CVO of Delhi has not taken action on the complaints (**CVC complaint no. 4726/13/10**) of undersigned WHISTLE BLOWER since 26-09-2013 (date on which CVC forwarded complaint to CVO, Delhi). CVO also failed to take action in other uncounted corruption complaints of undersigned Whistle blower.
2. Identity of undersigned Whistle blower was disclosed by Dr. Ashok Jaiswal, former Medical Superintendent of AAAGH and CVO has not taken any action against the culprits.
3. **Transfer** of Dr. Avinash Kumar, WHISTLE BLOWER was done **on the direction of Chief Secretary of Delhi** from AAAGH to Babu Jagjivan Ram Memorial Hospital, Delhi-33 just after disclosure of identity of Whistle blower. This information is given by H & FW Deptt in an RTI.
4. CVO is totally silent even informing him about harassment of Whistle blower by Sh. S.C.L. Das. It is the duty of CVO to hear grievances or harassment faced by Whistle blower.
5. CVO has not submitted the enquiry report of corruption of AAAGH to CVC till date.
6. Chief Secretary/CVO of Delhi has not given even a single opportunity to hear the undersigned Whistle blower.
7. CVO has never send a letter of assurance of any kind till date to undersigned Whistle blower.
8. No action in corruption cases by Chief Secretary/CVO of Delhi and quietly watching the harassment of Whistle blower is clearly directing that Corruption is going on in Delhi Govt and is flourishing under leadership of Chief Secretary of Delhi.
9. **Silence of Chief Secretary on the corruption complaints of WHISTLE BLOWER since 22-09-2013 is confirming the allegations against CVO of Delhi.**
10. The above said circumstances creating doubt, if Cabinet Decision will be implemented, then Chief Secretary of Delhi will utilize his extra ordinary power against so called defaulters (HOD/Secretaries) and he may misuse it against HOD/Secretaries for corruption.

SUGGESTION:

I believe that the solutions for this problem are simple and can be obtained from experienced Medical Superintendents of the hospitals, if opportunity may provided them in healthy and positive atmosphere.

PRAYER:

1. Delhi Govt. should bring Amendment in the said Cabinet Decision to provide maximum benefit to the hard working poor Contractual / Outsourced Workers for whom the Decision was taken by the govt., not in the benefit of Contractors only.

2. Delhi Govt should bring Cabinet Decision against Corruption with clause that CVO must submit the enquiry report within stipulated time period, failing which **penalty shall be imposed on CVO equal to deduction of pay up to 10% of his basic salary in each case. I'm sure thereafter a drastic fall in corruption will be noticed in all Departments/Organizations of Delhi Govt.**
3. **Chief Secretary of Delhi being CVO must SUBMIT A CERTIFICATE every month to Chief Minister of Delhi & CVC that Action has been taken in all corruption complaints and No corruption complaint is pending. Automatically, corruption will be finished from Delhi Govt. departments.**

This letter is issued in the benefit of poor employees/workers of contractors to provide them their rights, prevent them from mental & financial harassment, prevent corruption and request for amendment in the cabinet decision in public interest.

Whistle blower Complainant

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Download all the concerned documents as evidence from the following link of website <http://www.corruptionfile.com/articles-details.aspx?sno=36> as “Defaulter Chief Secretary, Delhi is custodian of erroneous Cabinet Decision No. 2323 DATED 22-03-2016” .

1. Download copy of Cabinet Decision
2. Download copy of EPFO letter of recovery sent to AAAGH
3. Download copy of complaint of CVC letter
4. Download status of complaint
5. Download Copy of RTI filed in Office of CS
6. Download copy of Reply of RTI

COPY TO:

All competent authorities of all over India, investigating agencies, Employees of Central and Delhi Govt, Media personnel and others.