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**Secretary**

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No.NC-JCM-2021/48<sup>th</sup> NC

July 30, 2021

The Secretary,  
Department of Personnel & Training,  
North Block,  
New Delhi

Sub:- Regularization of the legal Strike period in the Industrial Establishments

Dear Sir,

The Undersigned has forwarded 26 items for discussion in the National Council – JCM meeting vide our letter No.NC-JCM-2021/NC Meeting dated 16/03/2021. However out of the 26 items only 9 items were taken up for discussion in the 48<sup>th</sup> National Council – JCM meeting held on 26/06/2021. The remaining 17 items are not yet discussed with the Staff Side for settlement. One of the important left out agenda points was the above subject matter. The staff side brief on this agenda is given below for your kind ready reference:-

In accordance with the provisions of Industrial Dispute Act 1947 and the recognition rules of the Trade Unions in Defence, the Trade Unions of Defence civilian employees follow all the laid down procedures and observe strike in support of their genuine demands. However the Industrial establishments under the Ministry of Defence in violation of the provisions of FR 17 –A impose “dies – non” for regularizing the strike period. This is an illegal action since FR17-A can be invoked only when the strike is declared as illegal. When the strike is legal the absence from duty due to participation in a strike cannot be construed as unauthorized absence. The Head of the Establishments does not have the power to declare the strike period as Dies Non . Once the employees have followed all the due procedures by giving a strike notice fourteen days prior to the date of strike as prescribed under Sec.22(1)(c) of the Industrial Dispute Act, then the authorities cannot evoke the provision of FR 17-A . Due to this illegal decision of the authorities, the employees are subjected to undue hardship such as postponement of increment, promotion, MACP, etc., It is pertinent to mention here that in the case of CGHS employees the Delhi High Court (All India Central Government Health Scheme Employees Association(Delhi Branch) Vs union of India & others (ILR (2009) V Delhi 771) has ordered that dies – non cannot be imposed on the employees for the strike period. This has been implemented by the Ministry of Health also.

Sir, in accordance with FR 17-A strike period can be treated as dies-non only if the strike is declared as illegal. In so far as Ministry of Defence is concerned all the strikes were legal and no Labour Court has declare the strike illegal. Therefore it is automatic that the strike

period has to be treated as "No Work No Pay" and by counting the legal strike days as qualifying service for all purpose. Since the Defence Civilian employees are being subjected to undue hardship due to illegal imposition of dies-non by the Administration of Defence Industrial Establishments, DOP&T may intervene and kindly arrange to issue instructions in this regard to the Ministry of Defence. A copy of your instruction may please be endorsed to this office.

This issue was also raised by the Staff Side in the Standing Committee meeting held on 26/02/2021 (Ref speech point No.3.15 of the minutes of the meeting)

Thanking you,

Yours faithfully,

  
(Shiva Gopal Mishra)  
Secretary