

V.IV/551/10/2014
Government of India
Ministry of External Affairs
(PSP Division)

Patiala House Annexe,
Tilak Marg, New Delhi
Dated: 29th July, 2019

Office Memorandum

Subject: - Protest/ Strike notice given by All India Passport Staff Association, Patna

The undersigned is directed to refer to the Notice dated 23.07.2019 received from All India Passport Staff Association (recognized), Patna whereby they have intimated that the members of staff will lodge their protest by way of tying black ribbon (on 29.07.2019 and 30.07.2019); observing lunch time demonstration (on 05.08.2019 and 06.08.2019); work to rule (from 19.08.2019 onwards); one day token strike on 29.08.2019.

2. The methods of protest mentioned in the notice to redress the grievances tantamount to strike. Therefore, attention is invited to the provisions of Government of India (Ministry of Home Affairs) OM No. 25/23 / 66-Estt (A), dated 09.12.1966 (reproduced as G.I. decision No. 2 below Rule 7 of CCS (Conduct) Rules 1964), which inter-alia provides that under Rule 7 (ii) of rules ibid, a Government servant shall **NOT** resort to or in any way abet any form of strike in connection with any matter pertaining to his/her service or the service of any other Government employees. If any Government servant resorts to any action in violation of 7 (ii) of CCS (Conduct) Rules 1964, **disciplinary action would have to be taken against him/her.**

3. Attention is also invited to proviso to FR 17 (1) according to which any employees who is absent from duty without permission shall not be entitled to any pay and allowances during the period of absence. Further, unauthorised absence shall be deemed to cause an interruption for breaking service of the employee under FR 17 (A).

4. In this regard, the following decision of the Supreme Court may also be brought to the notice of the employees under your administrative control. The Supreme Court has held in the case of T.K. Rangarajan Vs. Govt. of Tamil Nadu (2003 (6) SLR) that no right exists with the Govt. employees to strike, whether

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fundamental, statutory or an equitable right. In All India Bank Employees Association Vs. National Industrial Tribunal & Ors., (1962 (3) SCR 269) the Constitution Bench of the Supreme Court specifically held that even very liberal interpretation of sub-clause (C) of Clause (1) of Article 19 of the Constitution cannot lead to the conclusion that the trade unions have a guaranteed right to strike, either as part of collective bargaining or otherwise. There is no statutory provision empowering the employees to go on strike. The Supreme Court also agreed that going on strike is a grave misconduct under the Conduct Rules and that misconduct by Government Employees is required to be dealt with in accordance with law. Hence, once it is proved that an employee has committed the misconduct of going on a strike in any form, the Supreme Court has held in Bank of India Vs. TS Kelawala (1990 (4) SLR 249) that he will have to face the consequences which may include deduction of wages and even dismissal from service.

5. In this context, it is clarified that '**strike**' means refusal of work or stoppage or slowing down of work by a group of employees acting in combination and includes:

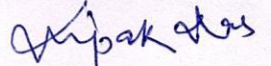
- (i). mass abstention from work without permission which is wrongly described mass Casual Leave.
- (ii). refusal to work on overtime where such overtime is necessary in public interest.
- (iii). resort to practice or conduct which is likely to result in or results in the cessation or substantial retardation of work in any organization. Such practice include what are called, 'go-slow', 'sit-down', 'pen-down', 'stay-in', 'token', 'sympathetic' or any other similar strike as also absence from work for participation in a 'Bandh' or similar movements.

6. Further, it is stated that holding of meetings/ demonstrations within the office premises (including the office compound) without permission is strictly prohibited in terms of provisions of Rule 7(i) of CCS (Conduct) Rules, 1964 and any violation of this rule would attract disciplinary action against the Govt. employee.

7. Accordingly, Casual Leave or any other kind of leave, if applied for, should not be sanctioned, except in genuine emergency, to the officers and employees during the period of proposed strike, and **it should be ensured by all the Passport Officers that the striking activities are not allowed inside and around the office premises.** It may also be ensured that the employees, who intend to attend their office work despite the call for the strike, are not prevented from attending the office by the striking employees. Suitable contingency plan may be worked out for carrying out the various functions.

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8. The above instructions may be brought to the notice of all employees. In case employees go on strike, all Head of Offices are requested to forward a report indicating the number and details of employees, who are absent from duty on the day of strike.
9. This issues with the approval of the competent authority.



(Dipak Das)

Administrative Officer (PV-IV)

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To

All Passport Officers.

Copy for information to:-

1. Secretary (CPV & OIA),
2. JS(PSP) & CPO,
3. Director (EAMO),
4. DS(FSO)
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