

No.18011/2/88-Estt(D)
Government of India
Ministry of Personnel, Public Grievances
and Pensions
Department of Personnel & Training

New Delhi, the 9 August, 1988.

OFFICE MEMORANDUM

Subject:-Erroneous confirmation of Government servants-
Revision of instructions.on.

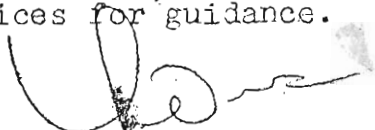
OM No. 12/2/67-
Estt.
(D) dt.
21.3.68

Attention of the Ministries/Departments is invited to the marginally noted instructions laying down the procedure for cancellation of orders relating to confirmation of Government servants, which are later on found to be erroneous.

OM No. 12/3/69-
Estt(D)
dt.
18.7.70

2. According to the instructions contained in this Department's OM dated 21.3.1968, if the order of confirmation was made in contravention of executive or administrative instructions, it cannot be set aside as cancellation of confirmation in such cases would amount to reduction in rank without any fault on the part of the officer confirmed. The position in this respect has been reexamined in the light of the recent decisions of the courts and it has been decided that there is no objection to the competent authority passing an order rectifying the earlier erroneous confirmation order of the official, which was passed in contravention of the existing Rules/ instructions whether statutory or administrative/executive, as otherwise it would amount to perpetuation of the mistake and would be detrimental to the larger interests of Government. However, in these cases, the principles of natural justice should be complied with by giving the Government servant a show-cause notice and opportunity to be heard before passing any order affecting him.

3. All the Ministries/Departments are requested to bring the above position to the notice of all concerned, including those in the attached and subordinate Offices for guidance.


(M.V. KESAVAN)
Director

To

All the Ministries/Departments of the Government of India.

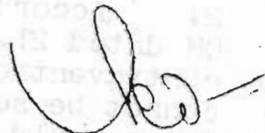
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Copy to:

1. The Comptroller and Auditor General of India.
2. President's Secretariat/Vice-President's Secretariat.
3. Lok Sabha/Rajya Sabha Secretariat.
4. Central Vigilance Commission/Election Commission.
5. All Union Territory Administration.
6. Secretary, National Council (Staff Side).
7. All Members of Staff Side of the National Council.
8. All Attached and Subordinate Offices of the Department of Personnel & Training.
9. All officers and Sections in the Department of Personnel and Training.



(M.V. KESAVAN)

Director



(M.V.M.)
Direct