

NO 28036/8/87-ESTT.(D)
GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS
DEPARTMENT OF PERSONNEL & TRAINING

New Delhi, the 30th March, 1988.

OFFICE MEMORANDUM

Sub: Ad-hoc appointment - Revision of instructions on.

The undersigned is directed to say that instructions have been issued from time to time by the Department of Personnel & Training requesting all Ministries/Departments to fill all posts only in accordance with the prescribed procedure and Recruitment Rules on a regular basis. Consequently, Ministries/Departments are required to ensure that all appointments made on an ad-hoc basis are limited to posts which cannot be kept vacant until regular candidates become available. However, it has been noted that appointments continue to be made on an ad-hoc basis and proposals are being received in this Department for regularisation of these appointments on the grounds that the persons concerned have been working against these posts for a long time. This has led to instances where Courts and Tribunals have directed the Government to fix seniority after taking into consideration the period of service rendered on an adhoc basis. This unintended benefit of adhoc service has, therefore, been bestowed to a number of persons whose adhoc promotions have been made on the basis of seniority-cum-fitness, even though the Recruitment Rules for the post may have prescribed promotion by selection.

2. In view of the position explained above, it has been decided that the Ministries/Departments may not make any appointment on an adhoc basis including appointments by direct recruitment, promotion, transfer on deputation etc. The procedure to be followed in circumstances when adhoc appointments are presently frequently being resorted to, is explained below :-

(i) ABSENCE OF RECRUITMENT RULES:

Adhoc appointments are frequently resorted to on the grounds that Recruitment Rules for the post are in the process of being framed. In this Department's O.M. No.39021/5/83-Estt.(B) dated 9th July, 1985, all Ministries/Departments have been advised that if there are overriding compulsions for filling any Group A or Group B post in the absence of Recruitment Rules, then they may make a reference to the Union Public Service Commission (UPSC) for deciding the mode of recruitment to that post. Further action to fill the post may be taken according to the advice tendered by the UPSC. All such appointments will be treated as regular appointments. In the case of Group C and D posts which are outside the purview of UPSC, powers to frame Recruitment Rules without consulting the Department of Personnel

and Training, have already been delegated to the Administrative Ministries vide this Department's O.M. No. CD-14017/1 Estt.(RR) dated 21st March, 1985. Therefore, no appointment may be made to any post on an adhoc basis on the ground that no Recruitment Rules exist for the same

(ii) REVISION OF RECRUITMENT RULES:

Adhoc appointments are also frequently resorted to on the ground that proposals are under consideration to amend the existing Recruitment Rules. The legal position in this regard is that posts are to be filled as per eligibility conditions prescribed in the rules in force at the time of occurrence of the vacancies unless the amended Recruitment Rules are brought into force with retrospective effect. In fact, the practice has been to give effect to amendments in the Recruitment Rules only prospectively, except in rare cases. Hence, regular appointment/promotions may be made in all such cases in accordance with the Recruitment Rules in force at the time when the vacancy arises. No adhoc appointments/promotions may be made on the grounds that the Recruitment Rules are being revised or amended.

(iii) REVISION OF SENIORITY LIST:

Another reason for making adhoc arrangements and delaying regular promotions is that the seniority position of the officer holding the post in the feeder grade is disputed. In all such cases regular DPCs may be held based on the existing seniority list. In case such disputes are pending before a Court/Tribunal, unless there is an injunction/stay order against making regular promotions, the appointing authority may convene the DPC and make promotions on the basis of the existing seniority list. However, while issuing the orders in such cases it should be stipulated that these promotions are provisional and subject to the final decision of the Court/Tribunal. Subsequently, when the directions of the Court/Tribunal become available, a Review DPC may be held and the necessary adjustments made in the promotions of officers based upon the revised seniority list. In case any of the officers provisionally promoted do not figure in the list approved by the Review DPC they may be reverted to the posts held by them earlier.

(iv) SHORTAGE IN DIRECT RECRUITMENT QUOTA:

Adhoc appointments are also made on the consideration that adequate number of qualified candidates are not available for filling the vacancies through the direct recruitment quota prescribed in the Recruitment Rules. In some cases, even though, the required number of candidates are recommended by the Union Public Service Commission / Staff Selection Commission, some of them do not join or they join and to resign thereafter.

According to the instructions contained in this Department's O.M. No. 24012/34/80-Estt.(B) dated 20th February, 1981, while notifying vacancies to recruiting agencies, especially the SSC, the appointing authority is expected to compute

the total number of vacancies taking into consideration the likely vacancies during the period beginning from the date of announcement of the examination in question upto the date of announcement of the subsequent examination so that the total number of posts to be kept vacant may be very few.

Inspite of this, if some vacancies still remain unfilled, the following measures may be adopted:-

- (a) Wherever feasible, the posts may be allowed to remain vacant until qualified candidates become available at the next examination.
- (b) Wherever the Recruitment Rules for the posts provide alternative methods of recruitment i.e. not only by the direct method but also by transfer on deputation, efforts may be made to fill those vacancies which cannot be held over (until candidates of the next examination become available), by the alternative methods i.e. by transfer on deputation etc.
- (c) However, in cases where direct recruitment is the only method provided in the Recruitment Rules, Ministries/Departments have been advised vide O.M. No. 14017/8/84-Estt.(RR) dated 19th June, 1986, that the Rules may be amended to provide for transfer on deputation as an alternative method to fill short-term vacancies in the direct recruitment quota. In case the rules have not been amended the Ministries/Departments may take steps to do so immediately so that the shortage of qualified candidates against the DR quota, may be met by filling the vacancies through transfer on deputation for short periods.
- (v) Whenever short-term vacancies are caused by the regular incumbents proceeding on leave for 45 days or more, study leave, deputation etc. of less than one year duration, they may be filled by officers available on an approved panel. Such a panel may be maintained taking into account not only the actual but also the vacancies anticipated over a period of 12 months in accordance with the existing instructions of holding DPCs. Wherever an officer is not available on an approved panel the post may be kept vacant, as far as possible.

3. If the prescribed instructions and procedures are strictly adhered to, it may be seen that there will be very few cases where appointments need to be made on an adhoc basis. Such circumstances may be -

- (i) where there is an injunction by a Court/Tribunal directing that the post may not be filled on a regular basis and if the final judgement of the Court/Tribunal is not expected early and the post also cannot be kept vacant.
- (ii) where the DR quota has not been filled and the RRs also do not provide for filling it up by transfer or deputation temporarily and the post cannot also be kept vacant.
- (iii) In short term vacancies due to regular incumbents being

on leave/deputation etc., and where the posts cannot be filled as per para 2(v), and cannot also be kept vacant.

4. In such exceptional circumstances adhoc appointments may be resorted to subject to the following conditions:-

- (i) The total period for which the appointment/promotion may be made, on an adhoc basis, will be limited to one year only. The practice of giving a break periodically and appointing the same person on an adhoc basis may not be permitted. In case there are compulsions for extending any adhoc appointment/promotion beyond one year, the approval of the Department of Personnel and Training may be sought at least two months in advance before the expiry of the one year period. If the approval of the Department of Personnel & Training to the continuance of the adhoc arrangements beyond one year is not received before the expiry of the one year period the adhoc appointment/promotion shall automatically cease on the expiry of the one year term.
- (ii) If the appointment proposed to be made on an adhoc basis involves the approval of the Appointments Committee of the Cabinet, this may be obtained prior to the appointment/promotion being actually made.
- (iii) Where adhoc appointment is by promotion of the officer in the feeder grade, it may be done on the basis of seniority-cum-fitness basis even where promotion is by selection method as under :-
 - (a) Adhoc promotions may be made only after proper screening by the appointing authority of the records of the officer.
 - (b) Only those officers who fulfil the eligibility conditions prescribed in the recruitment rules should be considered for adhoc appointment. If, however, there are no eligible officers, necessary relaxation should be obtained from the competent authority in exceptional circumstances.
 - (c) The claims of Scheduled Castes and Scheduled Tribes in adhoc promotions shall be considered in accordance with the guidelines contained in the Department of Personnel & A.R. Office Memorandum No.36011/14/83-Estt.(SCT) dated 30.4.1983 and 30.9.1983.
- (iv) Where adhoc appointment by direct recruitment (which as explained above should be very rare) is being done as a last resort, it should be ensured that the persons appointed are those nominated by the employment exchange concerned and they also fulfil the stipulations as to the educational qualifications/experience and the upper age limit prescribed in the Recruitment Rules.

Where the normal procedure for recruitment to a post is through the employment exchange only, there is no justification for resorting to adhoc appointment.
- (v) Where the appointing authority is not the Ministry, the

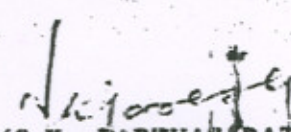
authorities competent to approve adhoc appointments may be decided by the Administrative Ministries themselves. The competent authority so authorised by the Ministry should be one level higher than the appointing authority prescribed for that post.

Adhoc promotions with respect to officers whose cases are kept in a sealed cover in accordance with OM No.22011/2/86-Estt.(A), dated 12.1.1988, will however, continue to be governed by these special instructions. Similarly, adhoc promotions of officers belonging to the Central Secretariat Service (CSS) to posts of Under Secretary/Deputy Secretary under the Central Staffing Scheme, will continue to be regulated by special instructions contained in O.M.NO. 31/16/82-EO(MM) dated 28.9.1983.

6. All adhoc appointments including adhoc promotions shall be reviewed on the basis of the above guidelines. In exceptional circumstances, wherever such appointments are required to be continued beyond the present term, the decision thereon may be taken by the authority prescribed in para (4)(v). However, it may be noted that the continuance of such adhoc appointments including adhoc promotions will be subject to the overall restriction of one year from the date of issue of these instructions.

7. All Ministries/Departments are requested to take action in accordance with the above mentioned instructions in respect of both Secretariat as well as non-Secretariat offices under them.

The receipt of this O.M. may kindly be acknowledged.


(S.K. PARTHASARATHY)

JOINT SECRETARY TO THE GOVERNMENT OF INDIA.

To

All the Ministries/Departments of Government of India
(Secretary by Name)

Copy to:

1. Ministry of Railways, New Delhi.
2. Department of Atomic Energy, New Delhi.
3. Department of Electronics, New Delhi.
4. Department of Space, New Delhi.
5. Union Public Service Commission, New Delhi.
6. Staff Selection Commission, New Delhi.
7. Lok Sabha Secretariat, New Delhi.
8. Rajya Sabha Secretariat, New Delhi.
9. President's Secretariat, New Delhi.
10. Comptroller & Auditor General of India, New Delhi.

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11. All attached offices under the Ministry of Personnel, Public Grievances & Pensions.
 12. All officers and Sections in the Department of Personnel & Training.


(S.K. PARTHASARATHY)
JOINT SECRETARY TO THE GOVERNMENT OF INDIA.