

MOST IMMEDIATE
BY Speed Post

No.11030/24/2008-AIS-II
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

North Block, New Delhi-110001
Dated, the 16th June, 2014.

To

The Chief Secretaries of all State Govts/UTs

Subject: Creation of Ex-Cadre posts by State Governments beyond the permissible limit- Violation of Rules of Indian Administrative Service.

Sir/Madam,

It has come to the notice of this Department that many State Governments/UT Administrations are creating ex-cadre posts as a parallel cadre for manning long-term vacancies either in the cadre or in ex-cadre equivalent posts. This has been viewed strictly by this department. I am, therefore, directed to say that as per Government of India Instruction under Rule 4 (1.6) of IAS (Cadre) Rules, 1954, ex-Cadre posts are meant to be a cushion to the State Government for its temporary and unforeseen demands which are required temporarily for short periods and which do not qualify for inclusion in the IAS cadre.

2. Creation of as many ex-cadre posts, as in the case of many States, is a clear violation of Rule 8(2) of IAS (Cadre) Rules, 1954 which states that "A Cadre officer shall not hold an ex-cadre post in excess of the number specified for the concerned State", i.e. a State can create only 25% of ex-cadre posts out of the Senior Duty Reserve. It should not, in any case, exceed the permissible limit. Rule 9(7) of IAS (Pay) Rules, 2007 stipulates that "At no time the number of members of the Service appointed to hold posts, other than cadre posts referred to in sub-rule (1) and sub-rule (4), which carry pay of Rs.80000/- per mensem and which are reckoned against the State Deputation Reserve, shall except with the prior approval of the Central Government, exceed the number of cadre posts at that level of pay in a State cadre or, as the case may be, in a Joint Cadre.

3. It has also come to the notice from the proposals received from various State Governments that many cadre posts at all levels are being kept in abeyance. In lieu, the State Government operate ex-cadre posts.. Such appointments mean a departure from the Pay Rules and result in a distortion of the cadre structure. As per rule cadre posts cannot be kept in abeyance for a period exceeding six months without the approval of the Central Government.

4. In this regard, I am directed to invite your kind attention to the Order dated 27.09.2013 passed by the Hon'ble High Court of Andhra Pradesh in W.P.No.14387/2009 in the case of State of Andhra Pradesh & Ors Vs. Md. Shafiq Zaman & Ors which reads as under:

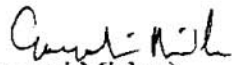
"The 1st respondent contends that action on the orders passed by this Court on 14.6.2013, the Writ Petitioners i.e. the Government had created ex-cadre posts far exceeding the number of cadre posts. He placed reliance upon the judgment of the

Hon'ble Supreme Court in Union of India Vs. R.S.Chopra and others (20026)Supreme 381). As a matter of fact, in the order dated 14.6.2013, we made it clear that the petitioners, while taking steps under 4(2) of the IAS (Pay) Rules, shall act strictly in accordance with rule 9(7) of the Rules.

In view of the said judgment of the Hon'ble Supreme Court, we direct that the petitioner shall not create ex-cadre posts exceeding the number of cadre posts."

6. Thus, in view of the facts pointed out in the above paras, all the State Governments/UT Administrations are requested to strictly comply with the Rules framed by this department, any deviation of which shall be seriously viewed, by this department.

Yours faithfully,


(Gayatri Mishra)
Director (AIS)