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Minutes of the 3rd meeting of the Advisory Committee under the Andhra Pradesh Reorganisation Act, 2014 held on the 8th May 2014

The 3rd meeting of the Advisory Committee for State Government employees was held at 2.00 p.m. on the 8th May, 2014 in the Conference Hall, Ministry of Home Affairs, New Delhi. The following members attended the meeting:

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| 1) Sri C.R. Kamalanathan | Chairperson |
| 2) Dr P.K Mohanty | |
| 3) Smt. Archana Varma | |
| 4) Sri V. Nagi Reddy | |
| 5) Dr P.V. Ramesh | |
| 6) Sri Jayesh Ranjan | Member Secretary |

Dr Rajiv Sharma, IAS, Special Secretary, Ministry of Home Affairs, Government of India and Special Representative of the Government of India to the Governor of A P attended as a special invitee.

The following were the items of agenda listed for discussion at the meeting.

- 1) Recording of the minutes of the first and second meetings of the Advisory Committee (with copy of approved Principles for Provisional Order to Serve)
- 2) Note on amendments to the Terms of Reference of Advisory Committee
- 3) Implications of term substantive holders of posts used in Section 77(1)
- 4) A.P. Reorganisation Act, 2014 Schedule IX and X institutions
- 5) Note on draft final Allocation Guidelines for allotment of State cadre employees (with revised draft Guidelines)
- 6) Allocation of personnel under the A.P Reorganisation Act. Implication of Article 371-D and the A.P. Public Employment Order 1975
- 7) Note on preparatory steps to be taken before the appointed day

Supplemental Agenda:

- 8) Note on the representation dated 01-05-2014 of the Joint Action Committee.

Smt. Archana Varma J.S informed the Committee that the Guidelines relating to Provisional Order to Serve the State of Telangana was under consideration of the PM and that orders are awaited any time now on the basis of which the State government could proceed to send proposals for provisional orders to serve for approval of the Central Government, which could be issued after the election process concludes.

The items on the agenda were taken up for discussion and decision.

Before formal items on the agenda were taken up for consideration Chief secretary brought to the notice of the committee four representations he received from the employees associations, and emphasized the demand for issue of provisional orders to serve on the personnel in the field belonging to the categories in the State wide Services also, so that those belonging to Andhra in Telangana and vice versa could be ordered to serve in their native States. Having regard to the fact that the Guidelines pending approval of the Central Government does not provide for this, it was noted that in isolated cases persons in these services in the field could be transferred, before the appointed day by the State government, which is however not free from the likelihood of being criticized as they are being proposed on the eve on the appointed day. Alternatively supplementary guidelines will have to be framed after the appointed day to enable this being done, which may also be questioned on the ground that this will delay the commencement of final allocation process. It was decided to examine the matter further.

Smt Archana Varma also mentioned about a delegation of the Joint Action Committee meeting the Union Home secretary and presenting him a memorandum, which has been suggested to be placed before the Committee. It has been suggested that "the issue of one time repatriation of those who are native to one Successor State and working in another successor State after entering into service through the open category either in the local/district/zonal/multi-zonal cadres would probably need to be considered" Chairman stated that the matter is already before the committee as a supplementary item of agenda slated for discussion today.

Referring to the criticism in the memoranda submitted to the Union Home Secretary and the Chief Secretary that the Committee has not given enough opportunity to the associations to present their case before the Advisory committee, Chairman suggested that the committee may once again give an opportunity to the employees associations to present their case for consideration of the committee in the course of framing guidelines for the final allocation of employees.

There after the items on the agenda were taken up for consideration as follows.

Agenda No.1: Recording of the minutes of the first and second meetings of the Advisory Committee (with copy of approved Principles for Provisional Order to Serve)

The minutes of the first and second meetings together with guidelines relating to the Principles for Serving Provisionally in the State of Telangana under sub-section (1) of Section 77 of the A.P. Reorganisation Act, 2014 were recorded.

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Agenda No.2: Note on Amendments to the Terms of Reference of Advisory Committee

Drawing attention to the detailed reasons indicated in the note on the Terms of Reference, the Chairman proposed that the Central Government may be requested to consider amending the orders issued by them constituting the Advisory Committee for the reasons stated in the note. The Chairman emphasized the extraordinary delay and complications that are likely to arise in the matter of allotment of employees if the procedure suggested in the second term of reference relating to determination of cadre strength and subdivision thereof into different categories viz., direct recruitment quota, promotion quota, unreserved and reserved posts with specific mention of reservation for SCs, STs, BCs, minorities and women, sportsperson and physically handicapped persons are followed. In his view the matter should be left to the State governments to sort out after the new States come into being, because the administrative set up, rosters for recruitment and promotions and percentages of reservations including rosters for reservations would undergo changes upon bifurcation.

The C.S. indicated that it should not be difficult for the State Government to furnish the cadre strength and its composition as mandated in the Terms of Reference which was concurred in by the other State representatives. Smt Archana Varma also favoured publication of the cadre strength as mandated and pointed out the difficulty in proposing any modification of the terms of reference of the Advisory Committee.

Regarding the 2nd issue of publication of the cadre strength on the website of the State Government, it was felt that it would be enough if the cadre strength of the different Departments is uploaded for general information as and when ready, in the event of there being undue delay. It would however be desirable to publish the cadre strengths of various categories of posts in different departments all at the same time.

The 3rd issue related to whether the intention of the Central Government was to indicate the shortages in the cadre strength in so far as they relate to vacancies only or whether shortages meant also those in the direct recruitment and promotion quota and in the reservation quotas for the different sections. On behalf of the DoPT it was clarified that the intention was only to indicate the vacancies in the respective regions while allocating the cadre strength.

The matter was decided accordingly.

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Agenda No.3: Implications of term substantive holders of posts used in Section 77(1)

The Committee noted that the term "serving on substantive basis" in the Act was absent in the Bill. The provision was included in view of a judgment of the High Court of Bihar. In this context, it was noted that this stipulation of allocation of substantive holders was not there in the earlier Acts. The note circulated posed the issues as to whether the use of the above term mandated limiting allocation of personnel only to those who are serving on substantive basis, leaving out all those who serve on an officiating or temporary basis; and as to what would happen to those who are working on ad hoc / temporary basis without holding any post on substantive basis. The question also related to whether a person officiating in a higher capacity but holding a lower post in regular capacity has to be allocated both in the officiating category and the regular category. It was felt that a situation where a person is allotted in the substantive category to one State and officiating category to the other should not be allowed to rise.

The issues are

- 1) whether only substantive holders of posts would be allotted
- 2) whether there is any prohibition in allocating adhoc holders or those officiating in higher post, and
- 3) whether the allocation would have to be in both substantive post and the officiating post.

The Committee noted that the requirement of the Act was not feasible of compliance as the practice in the State Government in relation to conferment of substantive status was at variance with what the Act stipulates. Substantive posts have been declared by the General Rules as posts which have been in existence for 5 or more years, the remaining being temporary posts. The State Government have given up the concept of confirmation of employees in substantive posts in every category held by an officer and has limited it to substantive appointment in the category in which he entered service. It was also noted that there are a large number of holders of posts in ad hoc capacity among the employees in the State. Further the Committee noted that there is a demand by employee unions of Telangana that allocation should be done only of those serving on substantive basis. Unless this position is clarified Chairman was of the view that the allocations are likely to be challenged in Courts of Law. The committee considered that substantive as also officiating / temporary holders of posts also should be allocated. He suggested that the State and Central Governments should examine this issue duly taking legal opinion in the matter and take recourse to removal of difficulties under Section 108 or invoke the powers to give directions under Section 81 of the A.P. Reorganisation Act, 2014, as is warranted in order to allocate all those serving in connection with the affairs of the State.

After detailed discussions it was decided that the State Government should explain the prevailing rules and the current practice in relation to making of posts permanent, and

conferment of the status of being holders of substantive posts on employees of the State government, including the factual data/ position in so far as substantive holders and officiating/ temporary appointees in the State, and the difficulties the State Government and the employees would face in the context of the present stipulation and whether this difficulty could be removed legally by amendment to rules. In this context the C.S. indicated that it would be difficult to amend the rules at this juncture. It was decided therefore that the matter would be referred to the Central Government for careful consideration in consultation with Department of Legal Affairs for removal of difficulties under Section 108 or to give directions to the State Government under Section 81 of the Act.

Agenda No.4 Schedule IX and X of the Act

Chief Secretary indicated that matter relating to the Scheduled institutions has been gone into in depth by committees appointed by the State government and that in the light of the recommendations there on it is proposed to move the Centre to delete certain institutions presently included in the Schedule X as they happen to be offices of heads of departments, and to add certain other institutions, which have been omitted presently, to the list. Chairman requested the Chief Secretary to make copy of the report available to the Committee to study the matter in the light of the committee's findings and recommendations.

The subject was accordingly deferred for consideration after study of the Report.

Supplementary item: Note on the representation dated 01-05-2014 of the Joint Action Committee.

The representation of the Joint Action Committee dated 01.05.2014 was taken up point by point. The committee's views on the points discussed are as follows:

- i) The representation that the options should be called only after the location of the capital is decided. This is materially not relevant to the allocation of employees under section 77 (2) of the Act.
- ii) The demand that population criteria should not be a criteria for determination of cadre strength was noted. Wherever appropriate, the principle of workload is being considered based on empirical evidence.

The discussion on the subject was inconclusive. The matter will be placed for further consideration along with a further note on the representations made to the Chief Secretary.

The remaining items shown below were postponed for consideration at the next meeting

for want of time and a meeting in the Cabinet secretariat.

- Allocation of personnel under the A.P Reorganisation Act. Implication of Article 371-D and the A.P. Public Employment Order 1975
- Note on preparatory steps to be taken before the appointed day
- Note on draft of Final Allocation Guidelines for allotment of State Cadre employees (with revised draft Guidelines)

The meeting ended with vote of thanks from and to the Chair.


(Jayesh Ranjan)


(Archana Varma)


(Dr P.V. Ramesh)


(V. Nagi Reddy)


(Dr P.K. Mohanty)


(C.R. Kamalanathan)