

No. AB-14017/12/97-Estt(RR)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

New Delhi 110001
September 24, 1997

Office Memorandum

Subject:- Consideration of seniors in cases where juniors are considered - revision of guidelines for framing amendment/relaxation of Recruitment/Service Rules - Clarification regarding -

The undersigned is directed to refer to this Department's Office Memorandum of even number dated March 25, 1996 on the above-mentioned subject. The question whether the benefit of shortfall in qualifying service should be applicable to promotees also was under consideration in consultation with the Union Public Service Commission. The matter has since been decided and it is clarified that the 'Note' to be incorporated in the relevant Recruitment Rules/Service Rules is for maintaining the seniority in an Organised Service/Post as far as possible. Thus, the invocation of this provision can be at the entry level or even at a higher level and would apply in cases of both direct recruits and promotees, who are included in the Eligibility List as distinct from Seniority List.

2. It is further clarified that in its judgement of March 8, 1988 in the case of R. Prabhadevi and others vs Union of India and others the Supreme Court has specifically held as follows:-

"Seniority in a particular cadre does not entitle a public servant for promotion to a higher post unless he fulfils the eligibility condition prescribed by the relevant rules. A person must be eligible for promotion having regard to the qualifications prescribed for the post before he can be considered for promotion. Seniority will be relevant only amongst persons eligible. Seniority cannot be substituted for eligibility nor it can over-ride it in the matter of promotion to the next higher post."

3. Ministry of Finance etc. are, therefore, requested to take a conscious decision to amend the relevant Recruitment Rules/Service Rules where such a provision has not been incorporated, in the light of the foregoing clarification(s). This would help in the maintenance of proper cadre management and obviate the need for seeking relaxation of Recruitment Rules/Service Rules.


(K.K. JHA)
Director
Tel 3011479

All Ministries/Departments of the Government of India
(As per standard mailing list)

Copy to:

1. Comptroller and Auditor General of India, 10 Bahadur Shah Zafar Marg, New Delhi 110002.
2. Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi 110011 with reference to their letter No.F.1/1/93-S.II dated 27.8.1997.


(K.K. JHA)
Director