

①
⑨

Copy of Office Memorandum No.170/51-Ests., dated 21st October, 1952 from Government of India, Ministry of Home Affairs, to all Ministries of the Government of India etc....

.....

Subject:- Applications of Central Government servants for employment elsewhere - Principles to be observed in considering the question of forwarding.

The Government Servants' Application for posts (Central Services) Rules, 1943, provide that a Government servant who is an Applicant for appointment to a post under the Central Government shall not be eligible for it unless he has applied with the permission of the Ministry/Head of Department in which he may be serving. The Rules also provide that permission to apply for appointment or transfer to a post in another Department or office shall not be granted except in such cases and in such circumstances as may from time to time be specified by the Government. The current orders issued under the Rules in this Ministry's Office Memoranda noted in the margin lay down that the

Home Deptt. O.M.No.127/45-Ests.,	dated the 24th November, 1944.	Administrative authorities should ordinarily not refuse to forward applications submitted by Government servants serving under them for employment elsewhere, which are in response to advertisements issued by the Union Public Service Commission or requests officially received from other Departments or where the applicant is temporary Government
Home Deptt. O.M.No.497/45-Ests.,	dated the 5th January, 1946.	
Home Deptt. O.M.No.20/55/44-Ests(S)	(Para 6) dated the 4th Nov. 1944.	
Home Deptt. O.M.No.20/25/44-Ests(S)	dated the 8th December, 1945.	

servant and is likely to obtain permanent employment elsewhere. Applications in such cases may be withheld only where the public interest demands it. In cases not covered by the above description, the forwarding of applications is entirely in the discretion of the competent authority.

2. The question of formulating specific instructions for the guidance of the administrative authorities in dealing with the applications of the Government servants applying for posts and appointments elsewhere has been under consideration for some time past. The conclusion reached is that no hard and fast rules can be laid down in the matter and that the final decision whether a particular application should be forwarded must rest with the authority through whom the application has to be forwarded. In taking the decision the authority has to balance the interests of the State against the necessity of avoiding hardship to the individual. The general principles to be observed in dealing with such applications are stated below:-

(i) Applications from permanent Government servants:- When a person has been offered and has voluntarily accepted a permanent post or

permanent appointment to a regular service, which offers him the chance of an honourable career with prospects of earning promotion on merits; under a moral obligation to devote his energies whole heartedly to performance of his duties in that post or service and not to divide his attention and efforts in search for employment elsewhere. He cannot justly complain of hardship or harsh treatment if his application for any other post or employment is withheld.

(ii) Applications from purely temporary employees:- A temporary employee, who has no reasonable prospects of being made permanent, can hardly be blamed if he is on the look out for better and longer lasting employment. Withholding of his application would result in hardship. Applications from such employees should therefore be readily forwarded unless there are compelling grounds of public interest for withholding them.

(iii) Applications from temporary employees who may have good prospects of being made permanent in due course:- An employee of this type falls somewhere between the types mentioned under (i) and (ii) above, and an application from him should therefore be dealt with on its own merits, with reference to the circumstances in each case.

(iv) Applications of employees who have been given some special technical training at Government expense after commencement of service:- The State is justified in demanding that, in return for the training given to him at State expense, an employee of this category should continue to give his service to the State, in the post or service in which such training was given. He cannot justifiably complain of hardship if he is not allowed to capitalise the special qualifications so gained by seeking other better employment. Withholding of application in such a case is therefore justifiably.

(v) Applications of Government servants for employment in private business and industrial firms, etc:- The Rules quoted do not specially deal with applications of this category. On general grounds, however, it is highly improper for a Government servant to apply without permission for employment in a private business or industrial firm etc. Where a Government servant seeks permission to apply for such employment, he should first offer to resign or retire from Government service. He cannot complain of hardship if he is not granted permission to apply for such employment or if his application is withheld. While a person remains in Government service, the State can legitimately refuse to surrender its claim on his service in favour of a private employer.

(vi) Notwithstanding anything contained in the preceding paragraph, in a case in which a particular employee cannot be spared without serious detriment to important work in hand, public interest should justify withholding of his application even if otherwise the application would have been forwarded.

3. It may be added for information that where for good and sufficient reasons, an application is withheld, no infringement of any Constitutional right is involved.