

No.39021/5/83-Estt.(B)
Government of India

Ministry of Personnel and Training, Administrative
Reforms and Public Grievances and Pension
(Department of Personnel & Training)

...
New Delhi, the 9th July, 1985

OFFICE MEMORANDUM

Subject: Adhoc appointments in Groups A, B, C and D posts -
need for effective control.

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In terms of Regulation 4 of the Union Public Service Commission (Exemption from Consultation) Regulations, 1958, it shall not be necessary to consult the Commission in regard to Selection for a temporary or officiating appointment to a post if -

- (i) the person appointed is not likely to hold the post for a period of more than one year; and
- (ii) it is necessary in the public interest to make the appointment immediately and a reference to the Commission will cause undue delay.

Provided that -

- (a) such appointment shall be reported to the Commission as soon as it is made;
- (b) if the appointment continues beyond a period of 6 months, a fresh estimate as to the period for which the person appointed is likely to hold the post shall be made and reported to the Commission; and
- (c) if such an estimate indicates that the person appointed is likely to hold the post for a period of more than one year from the date of appointment the Commission shall immediately be consulted in regard to the filling up the post.

2. The provisions in the above Regulation clearly stipulate that consultation of UPSC need not be made only if, at the time when the temporary or officiating appointment is made, the person appointed is not likely to hold the post for a period of more than one year. Obviously, therefore, if the vacancy that has arisen is of such a nature that it is likely to last for more than a year, appointment should not be made except in consultation with UPSC.

3. Further, the interpretation of proviso(b) to Regulation 4 can only be that even if the initial assessment has been that the person appointed, without consulting UPSC, will hold the post for a period less than one year, then a fresh review of the situation will have to be made by the Ministries/Departments concerned after expiry of 6 months from the date of initial appointment. If, on such fresh assessment, it is found that the person appointed, without consulting UPSC, will have to hold the post for a further period exceeding 6 months, i.e., a total period exceeding one year from the date of initial appointment, then a request will have to be made to UPSC to fill the post on regular basis. There is, thus, no provision for approval by UPSC for any appointment initially made without consulting them. It is accordingly, clarified that the objective behind reporting of ad-hoc appointments to the UPSC under Regulation 4 is not to secure their concurrence to continuance of ad-hoc appointment beyond one year but to enable the Commission to discharge their constitutional responsibility to bring to the notice of the Parliament, through their Annual Report, the cases in which the Government have not followed the constitutional provision of making regular appointment through UPSC.

4. In order to enable the Commission to exercise a close check on ad-hoc appointments, the Ministries/Departments are requested to comply strictly with the following instructions:-

- (1) A monthly report of all ad-hoc appointments should continue to be submitted to the Commission in terms of this Department's O.M. No. 23/27/68-Extt (B) dated 26.12.68
- (11) A six monthly review of all ad-hoc appointments in terms of Regulation 4 should be made by all the Ministries/ Departments and the results thereof should be reported every month to the Commission.

A format of the monthly report prescribed in this Department's O.M. dated 26.12.68 has been revised and a copy of the revised format is attached. While information regarding ad-hoc appointments made during the month is to be furnished in part-I of the report, the results of review of all ad-hoc appointments continuing beyond a period of six months will be reflected in part-II. If the Commission find that any ad-hoc appointment was not included in the statement, a special mention of all such cases is proposed to be made by the Commission in their ANNUAL Report; the Ministry concerned will be required to fix responsibility on the officer concerned for not reporting such cases.

5. The situations in which the ad-hoc appointments are made may be of two types:

- (a) Where the Recruitment Rules exist for the posts, and
- (b) Where the recruitment Rules for the posts do not exist.

* Reproduced on pages 187 - 192 of Hand Book on Recruitment Rules.

In the cases falling in the first category, in respect of anticipated vacancies on account of factors like superannuation or promotion to the higher rank, the Ministries/Departments concerned should be able to make reference to the Commission at least 4 months prior to the dates on which vacancies are expected to arise. Where recruitment rules are available and an unanticipated vacancy occurs on account of factors like death, resignation or compulsory/voluntary retirement, and the vacancy cannot be allowed to remain unfilled even for a period of 3 to 4 months, then adhoc promotions/appointments can be made by Ministries/Departments, strictly in accordance with the recruitment rules and after observing the procedure for promotion/appointment laid down in the rules, but without consulting UPSC. Simultaneously with such ad-hoc appointment an indent will have to be forwarded to UPSC for regular appointment. It is only then that it can be ensured that ad-hoc appointments are, in fact, adhoc in nature, for a purely temporary period, till regular appointment is advised by UPSC.

6. In so far as the appointments in the second category are concerned, hithertofore a view had been taken in terms of para 10 of the Ministry of Home Affairs O.M. dated 26.12.68* that in the absence of recruitment rules laying down definite mode of recruitment for a post, the normal procedure should be that the post is filled up by competitive selection through the Commission. It has been provided in this O.M. that when for some unavoidable reasons delay is anticipated in finalising the recruitment rules for a post, recruitment for that post should be entrusted to the Commission as soon as the post is sanctioned and it is decided to fill it, to enable the Commission to take necessary action for filling it up by competitive selection.

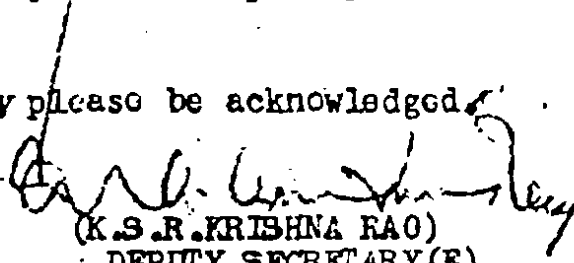
* Reproduced on page 191 of Hand Book on Recruitment Rules.

In accordance with this procedure, in the absence of recruitment rules the only type of regular appointment made was by open advertisement and selection through the Commission. In the absence of recruitment rules, appointment by promotion or transfer on deputation was not being considered and the posts were continued to be filled on ad-hoc basis and with the delay in finalising the recruitment rules such ad-hoc appointments continued beyond the period of one year. Para 5 of the Ministry of Home Affairs O.M. No.69021/35/78-Estt(B) dated 15/25.11.79[@] provides that when new posts are created and no recruitment rules have been framed, consultation with the Commission is all the more necessary before appointments are made and that the Ministries always should consult the Commission before making such appointments. The Commission have observed that it should be possible to fill such posts by transfer on deputation or by promotion also in consultation with the Commission even if the recruitment rules are yet to be framed. It has been decided that in these cases the Ministries/Departments should make an immediate reference to the Commission for deciding the mode of recruitment to the post alongwith their suggestions. On receipt of such a reference, the Commission will advise on the mode of recruitment. Where the Commission advise direct recruitment, the post will be advertised by the Commission; where the Commission advise the filling of the post by transfer on deputation or by promotion from lower grade or short-term contract, the Ministry will take further action as per advice of the Commission and fill the post in consultation with the Commission accordingly. Since the appointment by transfer on deputation/short-term contract/promotion will be made in accordance with the advice given by the Commission, it will be treated as regular appointment. In other words, where recruitment rules have not been framed, there shall not be any ad-hoc appointment and there will only be regular appointment in consultation with UPSC.

However, simultaneously, steps to frame recruitment rules should be taken by the Ministry and the rules finalised in consultation with this Department and the Commission as expeditiously as possible so that they could be made applicable to the future vacancies.

7. The Prime Minister has directed, on more than one occasion, that resorting to ad-hoc appointments, in anticipation of recruitment rules or otherwise, should be checked firmly and that timely action should be taken for filling up of post-s on regular basis in terms of the duly notified recruitment rules. Strict observance of the procedures outlined above should enable the Ministries/ Departments to obviate the need to make ad-hoc appointments or to continue these beyond the limit envisaged in Regulation 4. Further, the Ministries/Departments are requested to review all cases of ad-hoc appointments on date and take appropriate action to bring them in conformity with the policy outlined above.

Receipt of the O.M. may please be acknowledged.

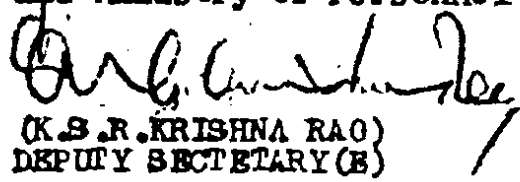


(K.S.R. KRISHNA RAO)
DEPUTY SECRETARY (E)
Tele: 3011225

To

All Ministries/Departments of Govt. of India.

- 2. U.P.S.C.
- 3. S.S.C.
- 4. Election Commission of India.
- 5. Office of the Registrar General of India.
- 6. Department of Space.
- 7. Department of Electronics.
- 8. Department of Atomic Energy.
- 9. Department of Parliamentary Affairs.
- 10. President Sectt/Vice President's Sectt.
- 11. P.M's Office.
- 12. Planning Commission.
- 13. Office of C & AG.
- 14. All attached and subordinate offices of the Ministry of Home Affairs and Ministry of Personnel & Training etc.



(K.S.R. KRISHNA RAO)
DEPUTY SECRETARY (E)

-7-

STATEMENT SHOWING APPOINTMENTS TO GROUP
A & B SERVICES/POSTS IN THE MINISTRY AND
ITS ATTACHED AND SUBORDINATE OFFICES

MINISTRY _____ MONTH _____

P A R T - I

Adhoc appointments made during the month
under Regulation 4 of UPSC (Exemption from
Consultation) Regulations, 1958.

1. Particulars in respect of
the post filled

- (a) Name of the post.
- (b) Pay scale and qualification
- (c) Is the post permanent/temporary or a tenure post? If temporary, state period for which sanctioned and if this period is likely to be extended.
- (d) Is the vacancy regular or short-term? If short term, state how it has been caused and its duration.
- (e) Whether recruitment rules framed, if not, reasons therefor.
- (f) If the recruitment rules exist, the number and date of Commission's letter approving the rules.
- (g) Indicate how the vacancy is required to be filled, as per the recruitment rules and roster.

2. Particulars in respect of the
person appointed:

- (a) Name
- (b) Date of appointment
- (c) Whether appointment made by direct recruitment/transfer on deputation/promotion etc.

- (c) Whether the appointment is in accordance with the recruitment rules, if not, state reasons and quote authority under which appointment is made.
- (e) Appointment, if any, held under Govt. prior to the present appointment:
 - (i) Name of post
 - (ii) Pay scale and qualification
 - (iii) Whether held on substantive/regular/ad-hoc basis
 - (iv) Number and date of Commission's letter if the appointment was made in consultation with the Commission.

P A R T - II

*Results of review made during the month of ad-hoc appointments continued beyond a period of six months under proviso (b) to Regulation 4.

- (a) Number of cases where ad-hoc appointments were continued beyond a period of six months.
- (b) Number of cases, where fresh estimate as to the period to which the present appointee is likely to hold the post, was made.
- (c) Reasons for not making fresh estimate in the remaining cases.
- (d) Whether the results of review reported to the Commission and if so, indicate the number and date.

- (e) Number of cases in which the estimate indicated that the present appointee is likely to hold the post for a period of more than one year.
- (f) Number of such cases (as in (e)) where the Commission has been consulted for filling up the post on regular basis.
- (g) Reasons for not consulting the Commission for making regular appointment in other cases if any.

Signature _____

Designation _____

Tele.No. _____

NOTE:* Attach a separate statement furnishing relevant particulars of individual cases.