

Copy of Letter No. 33295/ Rules-1/77/GAD dated 10-3-1977 from the spl. Secretary to Government, General Administration (Rules) Department, Trivandrum to All Heads as Department .

Sub:- Public Service s- Deviation from rules in fixing seniority of direct recruits-Complaint-stay ordered.

Ref:- Representation dated 1-3-1977 from the Chairman, joint Council of state service organizations.

In the representation cited the Joint Council of State Service Organizations has raised the following points for consideration of Government.

- (1) Seniority has been assigned giving undue weight age to direct recruitments in preference to those appointed by transfer/ promotion in departments like Agricultural Income Tax and Sales Tax Public works Department, public Health Engineering, Co-Operation Labour etc.
- (2) Under General rule 5 (b) of Kerala State and subordinate services Rules 1958, direct recruitment can be made only against substantive vacancies. Between the years 1961 and 1967 appointments by promotion/ transfer came to be made in vacancies which were not substantive in character. The direct recruits cannot, under these rules, legitimately claim these vacancies which would not become available to them. The directions of the Government to assign ranks to the direct recruits against vacancies (which were not substantive) that arose between 1961 and 1967 by applying a fixed ratio cuts across the very statutory provision regulating the subject.
- (3) The direct recruits appointed to service on the advice of the Public Service Commission can under general rule 27 (c) claim seniority only with reference to the dates of their advice.
- (4) The transferees/promotees have a vested statutory right in having their seniority reckoned with reference to the order of their appointment when once they are so appointed. This statutory right accruing to them cannot be arbitrarily taken away by a whimsical action of the Government.
- (5) If direct recruitment based on the prescribed percentage or ratio did not take place at the relevant time the shortfall can be made good in a variety of ways.

The above representations are under the consideration of Government, pending disposal of the representation, the alleged proposals for giving seniority to direct recruits with effect from a date earlier to the date of advice or entry in service in deviation of the existing rules, over and above those promoted from the Department, are stayed.

Endt.on E7. 16464/77/F.Dis. DATED 23-3-1977.

Copy forwarded to all subordinate Officers for information and attention.

Copy to all section heads in Office and Branch officers.

Copy to all seats in Establishment section.

For Chief Conservator of Forests.

Office of the Chief Conservator of
Forests, Trivandrum.