

GOVERNMENT OF KERALA

Public (Services D) Department

No.81345/SD-5/67/PD

Trivandrum, 14th March 1968

From

The Secretary to Government

To

The Secretary to the Government of India,
Ministry of Home Affairs,
New Delhi.

Sir,

Sub:- Recruitment to certain vacancies in Class III and Class IV posts under the Central Government from among the State government employees- Recommendations of the Second Pay Commission- Modifications proposed in the scheme- Accepted.

Ref:- That Ministry's letter No. 6/1/64-Ests (A) dated 16-9-1967 and 7-10-1967.

I am directed to invoice reference to the letters cited. The modifications proposed by the Government of India to the original scheme are accepted by this Government.

Yours Faithfully,

G.HARIHARASUBRAMONIA IYER,

For Secretary to Government

Copy with copies of the letters under reply forwarded to:-

All Heads of Departments.

The Secretary, Kerala Public Service commission (with C.L)

The Registrar, Univeraity of Kerala (with C.L)

The Registrar, High Court, Ernakulam (with C.L)

The Secretary, Kerala State Electricity Board (with C.L)

The General Manager, Kerala State Road Transport Corporation (with C.L)

The Secretary, Vigilance Commission (with C.L)
The Advocate General, Ernakulam (with C.L)
The Secretary to the Governor.
All Departments (all sections) of the Secretariat including Law, Finance and
Legislature.
The Private Secretaries to the chief Minister and other Ministers.
The Stenographer to the Chief Secretary in continuation of government
Memorandum No. 90671/SD-5/63/PD dated 12-11-1963.

Annexure I

Copy of Letter No. 6/1/64-Ests (A) dated 16-9-1967 from the Government of India, Ministry of Home Affairs.

Sub:- Recruitment to certain vacancies in Class III and Class IV posts under the Central Government among the State Government employees- Recommendations of the Second Pay commission- Modifications Proposed in the Scheme.

I am directed to refer to this Ministry's O.M.No.6/4/59 – Ests (A) dated 28th October, 1963 forwarded to the State Government along with this Ministry's letter dated 28th October, 1963 (copy at Annexure I) and to state that the scheme laid down therein has been reviewed in the light of certain legal pronouncements in regard to reservations for special categories in the vacancies available for “ direct recruitment” to Public Services. The changes proposed to be made in the scheme as a result of this review are indicated in paragraph 2 below.

2. (1) *percentage of reservation of vacancies for state Government employees and coverage of the Scheme.*

Prior to 4th December, 1963 according to the ‘Carry forward rule’ followed in respect of reservation of vacancies for Scheduled Caste and Scheduled tribes in the Central Services , if a sufficient number of suitable candidates belonging to these communities eligible for the reserved vacancies were not available from the respective classes in a particular year, such vacancies were to be treated as unreserved vacancies during that year: and such short-fall in the number of Scheduled Caste and Scheduled tribes was to be carried forward up to the subsequent two years. Since this rule did not provide for any restriction on the number of vacancies reserved for these communities being carried forward to the two successive years, there were instances where the number of reserved vacancies even exceeded 50 % of the vacancies available during the year.

From the observation made by the Supreme court in T. Devadasan Vs Union of India (AIR 1964 Supreme court 179) it would appear that the “ Carry forward rule” as it was in force at that time was capable of offending the provisions of Article 16 (1) and 16 (2) of the Constitution , as it can lead to excessive reservation , practically denying the members of other communities a reasonable opportunity of employment. Although the constitution does not specifically restrict the extent to which the power conferred by Article 16 (4) of the constitution should be exercised, the power has to be exercised in such a manner as to keep intact the grantees provided under Article 16 (1) and (2) of the Constitution. In other words, Article 16 (4) being a special provision cannot be utilized in a manner which has the effect of over-riding the provisions of Article 16 (1) and 16 (2) . In the light of the observations of the Supreme Court, the Government of India decided and issued instructions in their O.M.No. 2/24/63-Estt (D) dated 4th December , 1963, (Copy At Annexure II) to the effect that on no occasion or recruitment the number of normal reserved vacancies and the ‘ Carried forward’ reserved vacancies for the candidate belonging to Scheduled Caste and Scheduled tribes shall together exceed 45 % of the total number of vacancies filled by direct recruitment. Again, having regard to the above mentioned legal pronouncement, the government of India , while deciding the reserve 20 % of the permanent vacancies in Class IV posts and 10 % of the permanent vacancies in Class III posts under the Central Government for ex-servicemen , issued the instructions in their O.M.No 14/26/64-Est (D) dated 4th July, 1966 (copy at Annexure III) to the effect that in any one recruitment year, the total number of vacancies reserved for ex-servicemen, Scheduled Caste and Scheduled tribes taken together should not exceed 45 % of the vacancies to be filled in that year.

Under Para 2 (C) of this Ministry’s O.M.No.6/4/59/Ests.(A) dated 28th October 1963, recruitment of State Government employees in Class III and Class Iv posts under the Central government (where ever the scheme has been made applicable) is to be made up to 33 1/3 % of the permanent direct vacancies. The Government of India have been advised that the recruitment of State Government employees in accordance with this Scheme would amount to reservation for a special category of persons and it should not be correct to call such appointments transfers. Having regard to the fact that any such recruitment would attract Article 16 of the Constitution and the legal pronouncement referred above, the total reservation in favor of Scheduled Caste and Scheduled tribes, Ex-servicemen and State Government employees exceeding half of the vacancies

for direct recruitment would be unconstitutional. Accordingly, with the existing provisions for reservation of vacancies for Scheduled Caste / scheduled Tribes and for ex-servicemen, it will not always be possible to ensure the recruitment of State government employees up to 33 1/3 % of the permanent direct recruitment vacancies, thus defeating the whole object of the Scheme.

It is, therefore, proposed that instead of prescribing the quota for State Government employees as up to 33 1/3% of permanent direct recruitment vacancies, the reservation for State Government employees can be prescribed separately as a percentage of the total number permanent vacancies in Class III and Class IV services/ posts and the remaining permanent vacancies can be allotted to promotion or direct recruitment rules. 10% of all permanent vacancies in a particular service/ post (which carries a larger coverage than the quota reserved under the scheme in force in the direct recruitment vacancies) and that should only in posts for which direct recruitment is made can be said to be an adequate substitute for 33 1/3% of permanent direct recruitment vacancies prescribed in the existing scheme. The remaining 90 % of the permanent vacancies, as already pointed out, would be filled by promotion and / or direct recruitment or any other mode of recruitment. The ceiling of 45% which applies to reservation for those treated as direct recruits will not be attracted in this case, because the recruitment of State government employees will, under the new proposals, be by 'transfer method'. The recruitment rules for Class III and IV posts at the Centre, except for certain specific exemptions so listed will have to be amended suitably to provide for recruitment to suitable State Government employees to the extent of 10% of the totals number of vacancies as a separate source of recruitment, in addition to direct recruitment and other sources, if any. As in the exiting scheme, it is not the intention to reserve a quota in purely temporary vacancies for State government employees, since therefore are practical difficulties in doing so both from the point of view of the state Government employees and from the administrative point of view.

2. Fixation of seniority of State Government employees:

The existing scheme provides that all the State government employees recruited in any year will be placed in the seniority list above the direct recruits recruited during the year. Under the revised Scheme, since the State Government employees would be treated as 'transfers', the seniority of such employees will have to be fixed in accordance with the provisions contained in

para 7 of annexure to this Ministry's O.M.9/11/55-RPS dated 22nd December, 1959 (copy at annexure IV)

3. Exemption of certain services and posts from the purview of the scheme:

(a) As already decided and mentioned in para 3 of this Ministry's O.M.No.6/4/59-Estt (A) dated 28th October, 1963 the scheme does not apply to class IV posts in the Central Secretariat and attached officers in Delhi. If however there are branches of the Central Secretariat or any attached officers outside Delhi for which recruitment is made locally, the scheme will cover such Offices.

(b) The Post of L.D. Cs and other excluded Class III posts like Statistical Assistants, Technical Assistants, Librarian, etc, in the Central Secretariat and attached Officers in Delhi are exempted from the operation of the scheme.

© In view of the practical difficulties involved in applying the scheme to the Civilians Defense Service, it is proposed not to extend the scheme to these services. Regarding the Indian Audit and Accounts Department and Postal and telegraphs Department, a Separate reference, after consulting these two departments, will follow.

4. It is requested that the State government may kindly communicate their concurrence to the modifications proposed in Para 2 above by 15th October, 1967 so that necessary instructions may be issued to all the Ministries / Departments of the Government of India.

5. The receipt of this letter may kindly be acknowledged.

Annexure I

Copy of letter No. 6/4/59-Ests.(A) dated 28-10-1963, from the government of India, Ministry of Home affairs.

Sub:- Second Pay Commission's recommendations regarding recruitment to Some of the vacancies in Class III and Class Iv posts under the Central Government Departments from among the employees of Sate Governments on transfers.

I am directed to refer to the correspondence resting with the state Government's letter cited above and to forward herewith a copy of this Ministry's Office Memorandum of even number and date containing instructions regarding the scheme which

has been involved consultation with the State government and the Ministers of the Government of India to give effect to the Second Pay commission's recommendations on the above subject.

2. The receipt of this letter may kindly be acknowledged.

Copy of Office memorandum No. F.6/4/59-Estt (A) dated 28th October 1963 from the Government of India, Ministry of Home affairs.

Sub:- Second Pay commission's recommendation regarding recruitment to some of the vacancies in Class III and Class IV posts under the Central Government from among the employees of the State governments on transfer – Scheme for the implementation of.

The undersigned is directed to refer to paragraphs 17 and 18 in chapter VI of the report of the Second Pay Commission in which they have endorsed for the consideration of the Government a scheme of recruitment to non-gazetted post under the Central Government Departments by transfer of selected Personnel from the appropriate services of the State /government s. In the pay commission's view, such a scheme would be suitable in respect of certain but not all, groups of class III and class IV posts and should be limited to classes of appointments which do not carry all-India transfer liability. The commissions have also made certain reservations and suggestions for the working of this scheme which may be summarized as follows:-

- (a) The Selections should be made by the employing authorities and not by the authorities of the State government.
 - (b) The selection should be confined to State Government employees below 35 years of age.
 - (c) The existing promotion prospects of the Central government employees should not be affected.
 - (d) The State Government employees on their transfer to the Central Government service should not claim credit for their service under the State government in the determination of their seniority vis-à-vis persons recruited from other sources ; and
 - (e) The best arrangement would be one in which recruitment to vacancies in a 'Zone ' is made form among the States comprised in the ' Zone ' on the basis on the respective populations of those States or in the basis of the numbers of their employees.
2. The implications of the scheme proposed by the Pay commission have been examined carefully in consultation with the state government and Ministers / Departments of the government of India. As a result of these Consultations , a scheme of recruitment to

Class III and Class IV posts under the Central Government by transfer of selected personnel from the services of the State Government has been evolved on the broad principle enumerated below:-

- (a) Recruitment of State Government employees should be made only at the point of direct entry and not against the posts which are earmarked for the promotion of existing Central Government employees.
- (b) The higher age limit prescribed for the open market candidates may be relaxed in favor of the State Government employees / It would be desirable to fix the higher age limit in their case at 35 years so that persons who may have acquired the sense of belonging to State government services may generally feel that anew avenue of advancement has been opened to them. Only such candidates, as have put in a minimum service of 5 years under a State Government should be eligible for recruitment under the proposed scheme. The minimum period of five year's service may include temporary service also, provided the State governments are permanent at the time of recruitment to the Central government service.
- (c) It would not be sufficient merely to allow State government employees to compete, up to the higher age limit, along with the outsiders, for all the vacancies on the basis of merit,. Such an arrangement should not provide an assured opening to the State employees. Persons who have been in service for many years may also fail to do well at written examinations designed for younger persons. The reservation of a certain proportion of

Vacancies for the State employees is, therefore, essential Recruitment in the special manner recommended may be made .Recruitment in the special manner recommended may be made up to 33 1/3% of the direct recruitment vacancies. If the required number of suitable State Government employees is not available to fill this quota for any particular recruitment, the balance of the vacancies may be filled by recruitment as usual from the open market. If any candidate belonging to the Scheduled Caste or Scheduled Tribes are recruited under the proposed scheme, their number should be taken into account as against the usual reservation quotas fixed so such candidates and to that extent the number of reserved vacancies for recruitment from the open market should be reduced.

- (d) A State Government employee who is transferred to a Central Government department should be kept on probation for the usual period like the open market recruit. It would be open to the Heads of the Central Government departments to revert to the State Government concerned any employee who appears during the period of probation to be incapable of making the grade in Central Government service. During the period of probation the State government employees should retain liens on their posts under the State government.
- (e) The position of those who enter Central Government service directly should be safeguard. So it would not be reasonable to grant to State government employees on their transfer to Central Government department's seniority higher than that warranted by the date of their appointment in the Central Government departments. The State Government employees recruited in any year should, however, all be placed in the seniority list above the direct recruits recruited during the same year.
- (f) The scheme may be made applicable to as many Class III and class IV posts as possible (including those in the technical categories), provided they do not carry all – India transfer liability.
- (g) Since under the proposed scheme the state Government employees are to be transferred not for a short tenure but permanently, it would not be correct to grant them adaptation allowance and to allow them to retain their own State scales of pay. Their pay should be fixed in the Central pay scales with due regard to ,a and protection for , the emoluments (ie. pay plus dearness allowance) in the State Government service, but without counting service under the State government towards increments in the Central Government scales of pay.
- (h) Service rendered under the State Government should be allowed to count towards pension in accordance with the pension rules of the Central government. The pensionary liability in respect of State government employees recruited under the proposed scheme should be appointed between the Central Government and the State government in the usual manner.
- (i) Uniform procedure should be followed in implementing the scheme, while inviting applications the recruiting authority in the Central Government department concerned should clearly set out the special terms of recruitment and appointment which would be

applicable to the State Government employees. The State government concerned should forward applications of their employees in sufficient numbers having regard to the number of vacancies reserved for their employees. From the names thus made available the recruiting authority of the Central Government department should select persons according to their suitability for appointment to the post concerned. The forwarding applications for recruitment under the proposed scheme should be centralized at the State Government level. The Central Government recruiting authorities should indicate to the centralized at the State government concerned the number of vacancies to be filled by the employees the State government in the Zone of recruitment. The State government should thereupon forward to the Central Government recruiting authority a panel of suitable applicants. The Statement will be required to furnish to the Central Government recruiting vacancies in a recruitment authority a panel containing three to five times the number of vacancies in a recruitment zone , when that zone consist of only one state. Where there are two States in a Zone, each State will be required to submit a panel of names equivalent to twice the number of vacancies to be filled. Where there are more than two States in a Zone, each State government may send as many name as there are vacancies in the zone.

(j) Recommendation should be invited from the Governments of all the States which are within the jurisdiction or area of operations of the recruiting Central Government authority concerned. These 'Zones' would not necessarily by the same for all the Central government departments and may often differ from the political zones which came into existence after the recognition of States . the scheme should be implemented in such a way that the employees of those States which do not have many Central Government offices within their boundaries can also get a real opportunity to be transfer to Central Government departments.

(k) If the territories of more than one state are included in one 'zone' of recruitment for a Central service, the applications for recruitment should be called for from all the States falling within the zone . there should be no allocation of quotas to the different States in that zone and the selection should be made from among the applications on the basis of merit.

3. It has been decided by the Government of India that the above scheme should be implanted subject to the following conditions:-
- (1) The governments of Maharashtra and Madras have not agreed to participate in the scheme, but these State Governments will be free to join the scheme when they wish to do so. The government of Gujarat are expected to participation the scheme form 1964 so far Class III employees are concerned. The recruiting authorities in the Central government departments concerned may kindly consult the government of Gujarat whether they would be able to spare their class III employees before 1964, when they resort to recruitment of State government employees under the scheme. The vacancies vacancies which night have gone to the employees under the scheme. The vacancies which night have gone to the employees of these States, but for their participation may be made available to the employees of the other States in the recruitment Zones concerned.
 - (2) The scheme will not apply to Class IV posts in the Central Secretariat and Attached Offices in Delhi. If however, there are branches of the Central Secretariat or any Attached Officers outside Delhi for which recruitment is made locally, the scheme will cover such offices.
 - (3) The Post of L.D.C's and other excluded Class III posts like Statistical Assistance. Technical Assistants, Librarians, etc. in the Central Secretariat and Attached Offices in Delhi will be exempted from the operation of the Scheme.
 - (4) For the present, the scheme will not be made applicable to the civilian service under the Ministry of Defense. In so far as the office, under the control of the Ministry of Railways, the Departments of the Posts and Telegraphs and the Indian Audit and Accounts Department are concerned, the scheme will be made applicable to such of the Class III and Class IV services/ posts as may be decided upon by these Departments in consultation with the Ministry of Home Affairs.
3. It is requested that wherever necessary, suitable action may kindly be taken by the authorities concerned for making changers in the existing recruitment rules in respect of Class III and Class IV posts under the Central Government departments concerned, as a consequence of this scheme.

Annexure I

Copy of O.M.No. 2/24/63-Estt (D) dated 4th December, 1963 from the Government of India, Ministry of Home Affairs.

Sub:- Measures for securing the increased representation of scheduled Castes and Schedules Tribes in the Central Services- Review of the “carry forward” rule.

The undersigned is directed to refer to Para II of this Ministry’s Office Memorandum No. 2/11/55-RPS dated 7th may, 1955 laying down the “ carry forward “ rule , according to which if a sufficient number of suitable candidates belonging to Scheduled Caste and Scheduled Tribes eligible for the reserved vacancies is not available from the respective classes in a particular year, such vacancies are to be treated as unreserved during that year; and such shortfall in the number of Scheduled Caste and Scheduled Tribes is to be carried forward up to two subsequent recruitment before the reservation is finally treated as lapsed. Since this rules does not provide for any restriction on the number of vacancies reserved for Scheduled Caste and Scheduled Tribes, being carried forward to the two successive years, there have been instances where the number of reserved vacancies has even exceeded 50% of the vacancies available during the year. Thus the ‘carry forward’ rule the capable of offending against the provisions of Article 16(1) and (2) of the Constitution as it can lead to excessive reservation, practically denying to members of other communities a reasonable opportunity of employment. Although the Constitution does not specifically restrict extent to which the power conferred by Article 16 (1) and (2) of the Constitution. In other words, Article 16 (4) being a special provision, cannot be utilized in a manner which has the effect of overriding the provisions of Article 16(1) and (2).

2. The Government of India have, therefore revised their policy and decided as follows:-

If a sufficient number of suitable candidates eligible for reserved vacancies is not available for the appropriate classes on any vacation of recruitment, such v vacancies may be treated and filled as unreserved vacancies but shall be carried forward for subsequent occasions of

recruitment. However, on no such subsequent occasions shall the number of normal reserved vacancies and the 'carried forward' reserved vacancies together exceed 45 per cent of the total number of vacancies. Nevertheless, if there be only two vacancies, one of them may be treated as a reserved vacancy. But if there be only one vacancy, it shall be treated as unreserved.

The allocation of the 'carried forward' vacancies within this limit among the Scheduled Caste / Scheduled Tribes candidates shall be in proportions to the total 'carried forward' reserved vacancies of the two classes.

The surplus above 45% shall be carried forward to the subsequent occasions of recruitment, subject, however, to the condition that the particular vacancies carried forward do not become time barred due to their becoming more than two years old.

4. The instruction contained in this Minister's office Memorandum dated 7th May, 1955 referred to above should be deemed to be superseded to the extent indicated above. These orders will take effect from the date of issue and all appointments to be made hereafter will be made subject to the provisions of this O.M

Annexure III

Copy of O.M.No.14/26/64/Estt (D) dated 4th July, 1966 from the Government of India, Ministry of Home Affairs

Sub:- Reservation of vacancies for ex-servicemen in Class III and Class IV posts

Under the Central Government.

The problem of rehabilitation of the large number of ex-servicemen in the country who have not been able to resettle themselves in civil life has been engaging the attention of the Government of India for some time. The number of such ex-servicemen is quite considerable and with the further releases of personnel who had been kept in service beyond their normal tenures due to the emergency is likely to add to that number in the near future. The Government of India considers that this is a national problem, which should be tackled as such. In line with the policy for keeping a relatively young army, servicemen are released generally between the ages of 30 and 40 years. During their tenure in the Defense Service, they require the qualities of discipline,

leadership and man management which make the specially suitable material for employment in several categories of the civil service. This manpower resource should be utilized in the national interest to the maximum extent extent feasible.

2. Keeping in view all the above considerations, Government have decided to accord the following concessions to ex-servicemen for purpose of their Employment in civil posts:

(i) Reservation in civil posts at the Centre:- 20% of permanent vacancies in Class IV post and 10% of permanent vacancies in class III posts at the Centre are reserved for ex-servicemen , in the first period of two years with effect from Ist July, 1966, subject to the condition that in any one recruitment year the total number of vacancies reserved for ex-servicemen , scheduled Caste and Scheduled Tribes together does not exceed 45 % of the Vacancies to be filled in that year.

(ii) Age concession:- At present de-mobilized ex-servicemen enjoy are concession of 3 years in addition to the periods of service rendered by them in Defense services vide this Ministry's O.M. 71/11/51-DGS , dated 10the May 1951. This age concession will also be admissible to released ex-servicemen for appointment to the reserved vacancies mentioned in (1) above.

(iii) Educational Qualifications:- For post of Peons, Daftry, Jamadar and Record- sorter the demobilized ex-servicemen are exempted from the prescribed educational qualifications provided they have put in 3 years service before demobilization vide this Ministry's O.M.No. 13/1/51 NGS-1, dated in 10th October 1952. This concession will also be admissible to released ex-servicemen for purposes of appointment to reserved vacancies in Class IV posts of Peons, Deftry, Jamadar and Record Sorted.

3. Ministry of finance etc, are requested to issue suitable instructions to the offices under their administrative control accordingly and action taken intimated to this Ministry. Recruitment Rules for Class III and IV posts under the Central government are being amended by this Ministry in pursuance of the above decision.

4. This issue with the concurrence of the C&A.G in so far as post under C. A.G are concerned.

Annexure IV

Copy of O.M No 9/11/55- RPS dated 22-12-1959.

Sub:- General Principles of determining seniority of various categories of persons

Employed in Central Services.

As Ministries of Government of India are aware instructions have been issued from time to time regarding the principles to be observed in and the method of determining seniority vide office memorandum cited below:-

- (i) Office Memorandum No. 30/44/48. Apps , dated 22nd June , 1949.
- (ii) Office Memorandum No. 65/28/49-DGS *(Apps) dated the 3rd February 1950 and other subsequent Office Memorandum regarding fixation Of seniority of Ex-employees of the government of Burma.
- (iii) Office Memorandum No. 31/223/50-DGS dated the 27th April 1951 and Other subsequent Office Memorandum regarding fixation of seniority of displaced Government Servants.
- (iv) Office Memorandum No. 9/58/56 RPS, dated 4th August 1956.

The instructions contained in this Ministry's Office Memorandum No. 30/44-48 Appts.,. Dated the 22nd June, 1949n were issued in order to safeguard the interests of displaced Government Servants appointed to the Central Service after partition. As it was not possible to regulate the seniority of only displaced government servants by giving them cited for previous service the instructions made applicable to all categories of persons appointed to Central Services, the principles contained in the 22nd June, 1949, orders were extended to –

- (i) Ex- Government servants of Burma appointed to Central services, and
- (ii) The employees of former Part'B' states taken over to the Centre as a result of Federal financial Integration.

The instructions contains in this Ministry's Office Memorandum No. 32/10/49-CS dated the 31st March, 1950 and No.32/49-CS © dated the 20th September, 1952 similarly regulate the seniority of candidates with war service appointed to the Central Service.

2. The question has been whether it is necessary to continue to apply the instructions contained in the Office Memorandum cited above Displaced Government

servants have by and large been absorbed in the various Central Services and their seniority has been fixed with reference to the previous service rendered by them. Similarly, the seniority of ex-employee of the government of Burma and of Part 'B' States as well as of candidates with war service has already been determined in accordance with the instructions cited above. As the specific objects underlying the instructions cited above have been achieved, there is no longer any reason to apply the instructions in preference to the normal principles for determination of seniority. It has, therefore, been decided in consultation with the Union Public Service commission, that hereafter the seniority of all persons appointed to the various Central Services after the date of these instructions should be determined in accordance with the General principles annexed hereto.

3 The instructions contained in the various Office Memorandums cited in paragraph 1 above are hereby cancelled. Except in regard to determination of seniority of persons appointed to the various Central services prior to the date of this Office Memorandum. The revised General Principles embodied in the Annexure will not apply with retrospective effect, but will come into force with effect from the date of issue of any particular service/grade from which these revised principles are to be adopted for purposes of determining seniority has already been or is hereafter agreed to by this Ministry.

ANNEXURE

GENERAL PRINCIPLES FOR DETERMINATION OF SENIORITY IN THE CENTRAL SERVICE

1. (i) These principles shall apply to the determination of seniority in Central Civil Services and civil posts except such services and posts for which separate principles have already been issued may be issued hereafter by government.

Ministries or Departments which have made separate rules or issued instructions on the basis of instructions contained in the Ministry of Home Affairs Office Memorandum No. 30/44/48 Appts, dated the 22nd June, 1949 are requested to consider modification of those rules or instructions on the basis of these general principles. However, whenever it is considered necessary to follow principles different from those laid down in this

Memorandum, a specific reference would be made to the Ministry of Home Affairs who will consult the Union Public service commission. As regards individual cases, the Ministry of Home Affairs will decide the cases on which the advice of the commission should be obtained.

(iii) Notwithstanding anything contained in these general principles, the seniority of persons belonging to the following categories, will on their appointment to a Central Civil Service or a Civil post, continue to be determined by the instructions noted against each such category.

- | | |
|---|--|
| (a) Ex-Government servants
Penalized for their patriotic activities. | M.H.A.O No. 6-4-52
S&NG dated 29-5-1957 |
| (b) Central Government
Employees discharged
On account of affection
With T.B Pleurisy or
Leprosy. | O.M.No.37/1/52-DGS
dated 20-7-54 (Subsequently)
extended to ex-pleurisy/
Leprosy Patients vide O.M.
No. 13/4/56-RPS dt.29-9-1956
And 29-9-56 and 13/4/57-RPS
Dated 14-7-1958. |

2. Subject to the provision of Para 3 below, persons appointed in a substantive of officiating capacity to a grade prior to the issue of these general principles shall retain the relative seniority already assigned to these general principles shall retain the relative seniority already assigned to there or such seniority as may hereafter be assigned to them under the existing orders applicable to there cases and shall en-bloc to senior to all other in that grade.

Explanation :- For the purpose of these principles (a) persons who are confirmed retrospectively with effect from a date earlier than the issue of these general principles; and (b) persons appointed on probation to a permanent post substantively vacant in a grade prior to the issue of these general principles, shall be considered to be permanent officers of the grade.

3. Subject to the provisions of Para 4 below permanent officers of each grade shall be ranked senior to persons who are officiating in that grade,
4. Direct recruits:- Notwithstanding the provisions of para 3 above, the relative seniority of all direct recruits shall be determined by the order of merit in which they are selected for such appointment, on the recommendations of the union Public Service commission or other selecting authority persons appointed as a result of an earlier selection being senior to those appointed as a result of a subsequent selection :-

Provided that where persons recruited initially on a temporary basis are confirmed subsequently in an order different from the order of merit indicated at the time of their appointment seniority shall follow the order of confirmation and not the original order of merit.

- 5 Promotees-(i) The relative seniority of persons promoted to the various grade shall be determined in the order of their selection for such promotion.

Provided that where persons promoted initially on a temporary basis are confirmed subsequently in an order different from the order of merit indicated at the time of their promotion, seniority shall follow the order of confirmation and not the original order of merit.

- (ii) Where promotions to a grade are made from than one grade the eligible persons shall be arranged in separate lists in the order of their relative seniority in their respective grades. Thereafter, the departmental Promotion Committee shall be select persons for promotion from each list up to the prescribed quota and arrange all the candidates selected from different list in a consolidated order of merit which will determine the seniority of the persons on promotion to the higher grade.

(iii)

Note:- If separate quotas for promotion have not already been prescribed in the relevant recruitment rules the Ministers/ Departments may do so now, in consultation with The commission wherever necessary.

Relative seniority of Direct Recruitment and promotes.

The relative seniority of direct recruits and promotes shall be determined according to the rotation of vacancies between direct recruits and promotes which shall be based on the quotas of vacancies reserved for direct recruitment and promotion respectively in the Recruitment rules.

Transferees—(i) The relative seniority of persons appointed by transfer to a Central Service from the subordinate offices in the Central Government or other departments of the Central or State Government shall be determined in accordance with the order of their selection for such transfer.

(ii) Where such transfers are effected against specific quotas prescribed in the recruitments rules therefore, the relative seniority of such transfers *vis-à-vis* direct recruits and promotes shall be determined according to the rotation of vacancies which shall be based on the quotas reserved for transfer, direct recruitment and promotion respectively in the recruitment rules.

(iv) Where a person is appointed by transfer in accordance with a provision in the recruitment rules therefore, rules providing for such transfer in the event of non-availability for a suitable candidate by direct recruitment or promotion such transfers shall be grouped with direct recruits, or promotes, as the case may be for the purpose of para 6 above. He shall be ranked below all direct recruits or promotes, as the case may be, selected on the same occasion.

8. Persons appointed *on ad hoc* basis to a grade without consultation with the U.P.S.C (Exemption from Consultation) Regulations, 1958 are to be replaced by persons approved for regular appointment by direct recruitment, promotion or transfer, as the case may be, Until they are replaced, such persons will be shown in the order of their *ad hoc* appointments and below all persons regularly appointed to the Grade.

EXPLANATORY MEMORANDUM

General Principle:- The Union Public service commission invariably indicate the order of preference at the time of selection and it will not, therefore, be difficult to determine the relative seniority of persons recruited through the Commission. In order to obviate difficulties in determining the relative seniority of direct recruits otherwise than through the U.P.S.C the selecting authority should indicate the order of merit at the time of selection.

General Principle 5 (i) Where promotions are made on the basis of selection by a D.P.C the seniority of such promotes shall be in the order in which they are recommended for such promotion by the committee. Where promotions are made on the basis of seniority subject to the rejections the unfit, the seniority of persons considered fit for promotions at the same time shall be the same as the relative seniority in the lower grade from which they are promoted. Where, however, a person is considered as unfit for promotion and is superseded by a junior, such person shall not, if he is subsequently found suitable and promoted, take seniority in the higher grade over the junior person who had superseded him.

General Principle 6m:- A roster should be maintained based on the reservation for direct recruitment and promotion in the Recruitment rules. Where the reservation for each method is 50% the roster will run as follows (1) Promotion, (2) Direct recruitment, (3) Promotion, (4) Direct recruitment and so on. Appointment should be made in accordance with this roster and seniority determined accordingly.

Illustration:- Where 75% of the vacancies are reserved for promotion and 25% for direct recruitment, each recruitment shall be ranked in seniority below 3 promotes. Where the quotas are 50% each, every direct recruit or a promote ceases to hold the appointment in the grade, the seniority list shall not be re-arranged merely for the purpose ensuring the proportion referred to, above.

General Principle 7 (1) The principle laid down in para 7 (1) will not present any difficulty where recruitment by transfer is made singly and at intervals but it will be found wanting in cases where two or more persons are selected from different sources on the same occasions and the selection is spread over a number of days. It will, therefore, be necessary for the authorities responsible for approving appointments by transfer to indicate the inter-se order of merit of the selected persons in such cases.

General Principle 8 :- While the seniority of persons appointed on an *ad hoc* basis will be determined as indicated as in indicated in para 8 of the Annexure, seniority List should clearly show that such persons are not eligible for promotion or confirmation.

Copy of letter No. 6/1/64-Ests (A) dated 7-10-1967 from the Government
Of India, Ministry of Home Affairs

Sub:- Recruitment to certain vacancies in Class III and Class IV posts under the
Central Government from among the State Government employees-
Recommendations of the Second Pay commission –Modifications proposed
In the scheme.

I am directed to refer to this Ministry's letter of even number dated 16th September, 1967, on the
above subject and to request that the last but one sentence beginning with the words “ 10% of all
permanent vacancies” on page 3 of the letter may be read as follows:

“10% of all permanent vacancies in a particular service/ post (which carries a larger
coverage than the quota reserved under the scheme in force in the direct recruitment is made) can
be said to be an adequate substitute for 33-1/3% of permanent direct recruitment vacancies
prescribed in the existing scheme”.