

Copy of Govt. letter No: 50403/Rules-1/82/GAD, General Admini. (Rules) Department, Trivandrum dated 8-5-1985

C I R C U L A R M E M O R A N D U M

Sub: - Public Services - Probationers in Service - Need for timely action for declaration, extension of probation etc.

- Ref:-
1. Circular Memorandum No: 70695/Rules/70/PD dt. 31.8.70
 2. Circular Memorandum No: 87135/Rules/72/PD dt. 17.1.73
 3. Circular Memorandum No: 55792/Rules-1/79/GAD dt 29.8.79

The special Rules for various services, state and subordinate prescribe, among other things, the probation to be under gone in each service, class or category of posts covered by the Rules. In regard to posts which are not covered by the special Rules, probation is prescribed by executive orders. Under General Rules 19,20 and 21 in Part II of the Kerala State and Subordinate Services Rules, 1958 the following duties are vested in the Appointing Authority in regard to probationer s, Viz:-

- i) To declare satisfactory completion of probation in cases where it is considered fit to do so after the prescribed period of probation or extended period of probation has been completed
- ii) To extend period of probation in cases where:
 - a) the probationer has not acquired the special qualification or passed the obligatory tests during the prescribed period of probation, or
 - b) the work and conduct of the probationer has to be watched for some more time after he has completed the prescribed period or extended period of probation before a decision is taken as to his suitability to become a full member.
- iii) To terminate the probation where the work and conduct of probationer has been found to be unsatisfactory.

In the case coming under items (ii) and (iii) above viz. extension of probation and termination of probation, it is necessary under General Rule 19 to issue notice of the proposed action before Completion of the prescribed period or extended period of probation. Where the probationer has completed the prescribed period of probation has not been extended before the period is over any action to extend/terminate the probation is possible only at Government level in relaxation of rules taking advantage of the provision in General Rule 20 A. Delay in taking timely action thus denies to the Appointing Authority on opportunity to assess the suitability of the probationer to become a full member of the service, class or category and pass suitable orders as the case may be. In the interest of efficiency of the service it is necessary that such matters are settled at the level of the appointing Authority in the normal course without having to resort to the extraordinary step of moving Government for orders in relaxation or rules. To enable this, the Appointing Authority should assess the work and conduct of the

probationers in sufficient time before completing the prescribed period of probation or extended period of probation and arrive at appropriate conclusion. In case where the probationers are found fit to become full members of the service, class or category their probation should be declared immediately after the prescribed period of the extended period is over. Probationers who have not acquired the special qualification or pass the obligatory tests during the period of probation is to be resorted to should be issued show cause notice, their reply received and orders passed by the Appointing Authorities extension/ terminating the probation before completing prescribed period or extended period of probation.

2) General Rule 21 empower the Appointing Authority to extend the prescribed period of probation up to the maximum of one year in cases where the prescribed tests have not been passed by the probationers. Extension of probation beyond one year in such cases would require approval of Government in relaxation of rules. In actual practice, however, it has been found that due to absence of timely assessment by Appointing Authorities probationers continue for a considerably long period of time without acquiring the special qualifications/passing the obligatory tests and the Government are moved for sanction for extension of probation after they become fully qualified. At that stage it will be hard to deny sanction for extension of probation. The need for avoidance of such action has been pointed out to circulars memorandum No. 55792/- Rules 1-79/GAD dated 29-8-1979. But inspite of this such instance are still coming up for sanction.

3) In order to set matters right, it is necessary for the Appointing Authority to keep a careful watch in respect of the probationers in service and to facilitate this the Appointing Authority will maintain a probation register in the form given in the Appendix in which relevant particulars of all probationers will be incorporated as and when the appointments/promotions are made. They will inspect register every month, assess the work and conduct of those who are to complete their probation within two months and take suitable action as mentioned in Para 1 above. Maintenance of the proposed register and its periodical inspection by Appointing Authorities will be included as one of the items of inspection of subordinate offices by Heads of Departments. Maintenance of the register in the office of the Heads of Department will be looked into during inspection, by the Secretary to Government in the Administrative Department.

4) In many cases the Appointing Authorities may have to resort to provisional appointments because of disputed seniority list, directions from the court non-availability of select list prepared by the Departmental promotion committees, etc. These provisional appointments are regularised much later with retrospective effect when the circumstances which led to the provisional appointments no longer existed. There is a possibility that in such cases of regularisation with retrospective effect the probationer would have completed the prescribed period of duty on the date of passing the order of regularisation. The question has been considered whether in such cases where the proscribed period of duty has been completed the Appointing Authority is bound to declare the satisfactory completion of probation irrespective of whether the work and conduct of the probationer have been satisfactory or not. General Rule 20 A lays down that any delay in the issue of an order discharging a probationer under clause (ii) of Sub Rule (a) of General rule 19 or clause (i) or (ii) of sub Rule (b) of that rule or Sub rule (c)

of General Rule 20 shall not entitle him to be deemed to have satisfactorily completed his probation. The Rule imposes an estoppel against deemed satisfactory completion of probation and the probationer in such delayed causes can be discharged only by relaxation of the provisions of General Rules 19 and 20 by the Government in the individual cases reported. The Government can as well take a lenient view and extend the period of probation in cases of regularisation of provisional appointments with retrospective effect also the Appointment Authorities should make a proper assessment of the work and conduct of the probationers and only those found fit should be declared to have satisfactorily completed the period of probation. In regard to rest they should seek the orders of the Government in relaxation of General Rules 19 and 20 taking advantage of the provision in General Rule 20 A on an appropriate recommendation made in each case after a proper assessment of the work and conduct.

5) The Appointing Authorities are informed that a strict enforcement of the Rules and instructions in the matter of probation is absolutely necessary for the maintenance of efficiency of the services and that there should not be any laxity on their part in this respect. They are also informed that cases of non-observance of the rules and instructions will be viewed seriously by Government

6) The receipt of this circular Memorandum should be acknowledged forthwith.

M.DANDAPANI
COMMISSIONER & SECRETARY

To

All Heads of Departments and Offices

APPENDIX

Sl. No.	Name	Date of Appointment Promotion	Order No: and date	Date of Completion of probation	Order No & date
1	2	3	4	5	6

Endt. on E6-20428/85 dated 22-5-1985

Copy forwarded to all sub officers for necessary action
Copy to E1, E2, E3, E5 and E8 in office for necessary action
Copy to all Chief Conservator of Forests and Administrative Officer
Senior Supdt (E) Section Administrative Asst

Sd/-
Chief Conservator of Forests

//True Copy//

For Conservator of Forests