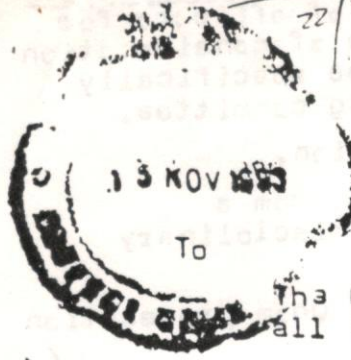
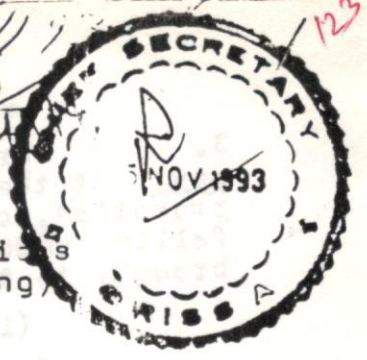


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No.20011/12/92-AIS(II)  
Government of India  
Ministry of Personnel, P.G. & Pension  
(Department of Personnel & Training)



New Delhi, the 5 October, 1993.

The Chief Secretaries of  
all the State Governments.

NOV 1993

Subject: Promotion of All India Service officers against whom disciplinary/criminal proceedings are pending - procedure to be followed.

Sir,

I am directed to say that instructions in regard to the procedure for promotion or confirmation to be followed, in respect of the members of the All India Services who are under suspension, or against whom disciplinary/criminal proceedings are pending or contemplated, have been issued from time to time. In this respect, attention is especially invited to the Department's letters No.6/3/72-AIS(III) dated 24th July, 1975, No.11030/20/75-AIS(II) dated 27th December, 1975 and No.11030/22/87-AIS(II) dated 7th September, 1987. The Government of India have reviewed these instructions carefully and have also taken note of the judgement dated 27th August, 1991 of the Supreme Court in the matter of Union of India etc. Vs. K.V. Jankiraman, etc. (AIR 1991-SC 2010). As a result of the review and in supersession of earlier instructions on this subject, the procedure to be followed in respect of members of All India Services in such cases will be as follows hereafter:-

2. Confirmation in the Service:

Rule 3 of the IAS (Probation) Rules, 1954 and analogous rules for the IPS and IFS lays down the period of probation of persons appointed to the IAS through different sources of recruitment. Rule 3.A ibid provides that a probationer who has completed his period of probation to the satisfaction of the Central Government, shall be confirmed in the service at the end of this period of probation. A probationer who is under suspension or against whom disciplinary proceedings have been instituted or against whom a criminal case is pending in a court, cannot be considered to have completed the period of probation to the satisfaction of the Central Government and as such, he cannot be confirmed in service before such proceedings are dropped or concluded in his favour.

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3. Promotion of officers to the various scales/grades of pay: At the time of consideration of the cases of officers for promotion, details of such officers in the zone of consideration falling under the following categories should be specifically brought to the notice of the concerned screening committee.

- (i) Government servants under suspension.
- (ii) Government servants in respect of whom a charge-sheet has been issued and disciplinary proceedings are pending; and
- (iii) Government servants in respect of whom prosecution for criminal charge is pending.

4. The Screening Committee shall assess the suitability of the officers coming within the purview of the circumstances mentioned in para 3 above, along with other eligible candidates, without taking into consideration the disciplinary case/criminal prosecution which is pending. The assessment of the Screening Committee including "Unfit for Promotion" and the grading awarded by it will be kept in a sealed cover. The cover will be superscribed "FINDINGS REGARDING THE SUITABILITY FOR PROMOTION TO THE SCALE/GRADE OF ..... IN RESPECT OF SHRI..... (Name of the officer)". "NOT TO BE OPENED TILL THE TERMINATION OF THE DISCIPLINARY CASE/CRIMINAL PROSECUTION AGAINST SHRI.....". The proceedings of the Screening Committee need only contain the note "The findings are contained in the attached Sealed Cover".

5. The same procedure outlined in para 4 above will be adopted by the subsequent Screening Committees concerned till the disciplinary case/criminal prosecution against the officer concerned is concluded.

6. On the conclusion of the disciplinary case/criminal prosecution, the sealed cover or covers shall be opened. In case the officer is completely exonerated, the due date of his promotion will be determined with reference to the findings of the screening committee kept in the sealed cover/covers and with reference to the date of promotion of his next junior on the basis of such findings. The Government servant may be promoted, if necessary, by reverting the junior-most officiating person. He may be promoted notionally with reference to the date of promotion of his junior.

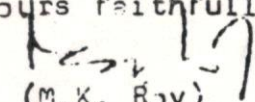
In the cases of complete exoneration, the officer will also be paid arrears of salaries and allowances. In other cases, the question of arrears will be decided by the Central Government by taking into consideration all the facts and circumstances of the disciplinary/criminal proceedings, but where the government denies arrears of salary or a part of it, the reasons for doing so shall be recorded.

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7. If any penalty is imposed on the Government servant as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the sealed cover/covers shall not be acted upon. His case for promotion may be considered by the next Screening Committee in the normal course and having regard to the penalty imposed on him.

8. It is necessary to ensure that the disciplinary case/criminal prosecution instituted against any officer is not unduly prolonged and all efforts to finalise expeditiously the proceedings should be taken so that the need for keeping the cases of officers in a sealed cover is limited to the barest minimum. It has, therefore, been decided that the appointing authorities concerned should review comprehensively the cases of Government servants, whose suitability for promotion to a higher grade has been kept in a sealed cover on the expiry of 6 months from the date of convening of the first Screening Committee which had adjudged his suitability and kept its findings in the sealed cover. Such a review should be done subsequently also every six months. The review should, inter alia, cover the progress made in the disciplinary proceedings/criminal prosecution and further measures to be taken to expedite their completion.

9. An officer who is recommended for promotion by the Screening Committee but in whose case any of the circumstances mentioned in para 3 above arise after the recommendations of the Screening Committee are received but before he is actually promoted, will be considered as if his case had been placed in a sealed cover by the Screening Committee. All the subsequent committees shall assess the suitability of such officers along with other eligible candidates and place their assessment in a 'sealed cover'. The sealed cover(s) will be opened on conclusion of the disciplinary case/criminal prosecution. In case the officer is completely exonerated, he would be promoted as per the procedure outlined in para 6 above and the question of grant of arrears would also be decided accordingly. If any penalty is imposed upon him as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the sealed cover in his case shall not be acted upon.

Yours faithfully,  
  
(M.K. Raje)  
Director(S).

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Copies to:-

1. Ministry of Home Affairs (IPS Section).
2. Ministry of Environment & Forests, CGO Complex, New Delhi.
3. Ministry of Home Affairs (UT Section).
4. Accountants General of all the State Governments.
5. All Ministries/Departments of the Government of India.

*Serial Encl. in Annex II.*

*(Handwritten Signature)*  
 (M.K. Roy)  
 Director (S)

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*(Faint mirrored text from reverse side)*  
 Yours faithfully,  
 (M.K. Roy)  
 Director (S)