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GENERAL ADMINISTRATION DEPARTMENT

NOTIFICATION

The 13th September 1990

S. R. O. No. 398/90—In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Orissa hereby makes the following rules to regulate recruitment to the State Civil Services and posts as a measure of rehabilitation assistance, namely :—

Short title
and
Commence-
ment.

1. (1) These rules may be called the Orissa Civil Service (Rehabilitation Assistance) Rules, 1990.

(2) They shall come into force on the date of their publication in the Orissa Gazette.

Definitions.

2. In these rules, unless the context otherwise requires—

(a) 'Deserving case' means a case where the appointing authority is satisfied, after making such enquiry as may be necessary :—

(i) that the death or incapacitation of the employee has adversely affected his family financially because the family has no other alternative mode of livelihood ; or

(ii) that there is existence of indigent conditions in the family after death or invalid retirement of the employee ; and

(iii) that none of the family members of the employee who has died or has suffered form permanent disability while in service, is already in the employment of Government/Public or private sector, or engaged in independent business with an earning up to Rs. 12,000 a year ; and

(iv) that the family does not have adequate income from the immovable properties to earn its livelihood.

(b) 'Family Members' shall mean and include the following members in order of preference.

(i) Wife/Husband

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above

- (ii) Sons or step sons or sons legally adopted through a registered deed,
- (iii) Unmarried daughters and unmarried step daughters,
- (iv) Widowed daughters if they reside with the affected family, and
- (v) Unmarried or widowed sister permanently residing with the affected family.
- (c) 'Government' means the Government of Orissa.
- (d) 'Invalid retirement' means the retirement of a Government servant under rules 54 to 59 of the Orissa Pension Rules, 1977 as amended from time to time.
- (e) 'Rehabilitation assistance' means the assistance provided under these rules to the family member of a Government servant who dies or suffers any permanent disability while in service.
- (f) 'Year' means the calendar year.

Applicability

3. The assistance shall be applicable to a member of the family of a Government servant who dies while in service or retires under the provisions of the Orissa Pension Rules, 1977 on the grounds of permanent incapacitation.

Objective of the scheme

4. The rehabilitation assistance is conceived as a compassionate measure of saving the family of a Government servant from immediate distress when the Government servant suddenly dies or is permanently incapacitated. The concept is based on the premises that in case of sudden incapacitation or death, the Government servant or his family would not face starvation. The scheme has a direct relationship, therefore, with the economic condition of the family of the Government servant. Appointment of the family member of the Government servant under these rules shall be subject to the provisions contained in rule 9 and cannot be claimed as a matter of right.

Appointment to be made in deserving cases.

5. In deserving cases, a member of the family of a Government servant who is permanently incapacitated or who dies while in service may be appointed to any Class-III or Class-IV post by the appointing authority of that Government servant provided he/she possesses the requisite minimum educational qualification prescribed for the post without following the procedure prescribed for recruitment to the post either by statutory rules framed under the proviso to Article 309 of the Constitution or otherwise irrespective of the fact that recruitment is made by notification of vacancies to the Employment Exchange or through recruitment examination under relevant cadre rules. At the time of notifying such vacancies to the Employment Exchange or the examining authority, the employer shall clearly mention that the vacancy is proposed to be filled up under rehabilitation assistance scheme and so, sponsoring of candidates by the Employment Exchange or the examining authority is not necessary.

Authority competent to make compassionate appointment.

6. The authority competent to make substantive appointment to the post shall be the competent authority to make appointment under these rules.

Posts to which such appointment can be made.

7. Appointment under these rules shall be made against Class IV or Class III posts excluding the posts which are specially declared gazetted.

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8. (1) (a) Application for an appointment shall be made in the form prescribed in Annexure 'A' to these rules to the appointing authority under whom the deceased or disabled Government servant last worked.

- (b) On receipt of the application the appointing authority shall send a requisition to the Collector of the district in which the family ordinarily resides calling for a report as to whether the family is in financial distress.
- (c) On receipt of a requisition from the appointing authority under Rule 8 (b), the Collector of the district concerned shall cause an enquiry into the matter and furnish his report to the appointing authority within one month from the date of receipt of the requisition.
- (d) The appointing authority, upon receipt of the report, consider the same and in case of favourable report, appoint the applicant in a suitable available vacancy under his control. If a vacancy does not exist under his administrative control, the appointing authority may forward the application to the Head of the Department with suitable recommendations. The Head of the Department shall locate vacancies in other offices under his administrative control and direct the head of the office where there is a vacancy to appoint the applicant. If no vacancy is immediately available the application shall be considered for the immediate subsequent vacancy. In cases arising in offices of Heads of Departments, the Head of the Department shall appoint the candidate in his office or in the offices subordinate thereto.
- (e) In the case of the Departments in the Secretariat or the attached offices, the appointing authority, on receipt of application refer the case to the concerned Collector for enquiry and report as specified in Clauses (b) & (c) above and on receipt of the report of the Collector under Clause (i) of sub-rule (1) shall follow the procedure as specified hereunder, namely :—
 - (i) The concerned Department may appoint the candidate against any post available under its control in the Department not being one in common cadre of the Secretariat.
 - (ii) In case of non-availability of suitable post, the Department may direct the Heads of Departments under its control to appoint the candidate against any suitable post under their control.
 - (iii) If it is proposed to appoint the candidate against a post in any common cadre of the Secretariat administered by the Home Department, the Administrative Department may forward the application with suitable recommendations to the Home Department who shall take steps to appoint the candidate against a suitable post in the common cadre.

(2) Notwithstanding anything contained in clause (b) of sub-rule (1) of the report of the Collector cannot be received within one month from the date of reference, the appointing authority may in case of death while in service, appoint the applicant subject to the condition that in case of adverse report made by the Collector, his services will be terminated without assigning any reasons therefor.

Conditions of
service.

9. (1) Appointment under these rules can be made only against the posts required to be filled up by direct recruitment and not against promotional posts.

(2) Subject to the provisions contained in sub-rule (3) applicants for appointment to a particular post under the rehabilitation assistance scheme must have the requisite educational qualifications as prescribed in the relevant recruitment rules/orders, etc.

(3) Where a widow of the deceased or disabled Government servant is appointed on compassionate ground against a Class IV post, she is not required to satisfy the educational qualification, provided the duties of the post can be satisfactorily performed without having the requisite educational qualification.

(4) Family of a Government servant who dies or becomes incapacitated during re-employment or extension of service shall not be eligible for such assistance.

(5) The family of a Government servant who has sought for retirement on the ground of invalidness within the last 5 years of his service before the date of his normal superannuation shall not be eligible for rehabilitation employment under these rules.

(6) Application for appointment under these rules shall be considered if it is received within one year from the date of death or disability of the Government servant.

(7) If at the time of death or invalid retirement of the employee there is a ward who is minor and who alone is available for employment, he/she shall apply for a job under these rules as soon as he attains the age of eighteen years and in no case beyond one year, from such date.

(8) The assistance shall not be available to the families of Government servants who died or retired before issue of Labour & Employment Department Resolution No. 17188, dated the 9th September 1976, in respect of posts which are filled up by reference to the Employment Exchange and before issue of G. A. Department Resolution No. 21684-Gen., dated the 9th September 1982, in respect of posts filled up in pursuance of provisions in the relevant service rules.

(9) In exceptional cases, the maximum age limit may be relaxed by the competent authority in accordance with the provisions of the Orissa service Code.

(10) Before issue of appointment order the appointing authority shall ensure the production of the following documents :—

- (i) Submission of Medical Certificate of Health,
- (ii) Verification of Character and antecedents in respect of appointments in Departments of Government and Heads of Departments.
- (iii) Character Certificate from two Gazetted Officers.
- (iv) Submissions of undertaking that he/she has only one spouse living, if he/she is married.

Termination
of service.

10. Suppression of correct information or furnishing of false information in the application shall render the applicant liable for removal from service in addition to other legal action to which he/she may be liable under the existing laws and this will also debar other members of his family from getting appointment under these rules.

11. (a) The facilities provided under these rules shall, *mutatis mutandis*, be applicable to the families of non-Government Primary School Teachers and teachers of aided institutions under Education & Youth Services Department. They shall be eligible for appointment to Class III or Class IV post under the Government including a post of Primary School Teacher/Teacher of aided institutions, as the case may be. These facilities are also applicable to the families of work-charged employees.

(b) These rules shall also be applicable to the Public Sector Undertakings under the State Government.

Repeal and Savings.

12. All instructions corresponding to these rules and in force immediately before the commencement of these rules are hereby repealed.

Notwithstanding such repeal any order passed or action taken under the instructions so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules.

13. Seniority of person, appointed under these rules, in the grade or cadre of the service or posts in which the appointment is made shall be fixed below the persons recruited and appointed in that grade or cadre in that year as per the provisions of the relevant recruitment rules framed under Article 309 of the Constitution and in other cases according to their date of joining in the post.

Interpretation

14. If any question arises relating to the interpretation of any provision of these rules, it shall be referred to the Government in General Administration Department for a decision.

Over riding effect.

15. The provisions of these rules shall have effect notwithstanding anything to the contrary in any other recruitment rules made under the proviso to Article 309 of the Constitution including the Orissa Ex-Servicemen (Recruitment to the State Civil Services and Posts) Rules, 198.

[No. 25585-Sc.—6-32/90-Gen.

By order of the Governor

C. NARAYANA SWAMY

Special Secretary to Government