

No 14 G.A.C/G = 138
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Government of Orissa,
General Administration Department.

OFFICE MEMORANDUM

Bhubaneswar, dated the 4.7.95

Sub:- Promotion of Government Servants against whom disciplinary/criminal proceedings are pending- Procedure to be followed.

The procedure to be adopted by the D.P.C., while selecting Employees for promotion to the next higher grade when any Disciplinary/Criminal Proceedings is pending has been laid down in G.A. Department Office Memorandum No.3928/Gen., dt:18.2.94. It has come to the notice of the Government that difficulties are being experienced in the cases where disciplinary proceedings/Criminal prosecutions against the Government Servants are pending for a long period without being disposed of. This delay is unfairly depriving of such Government Servants from getting promotions to the next higher grades.

2. The Government, after careful consideration of all the aspects and in partial modification of the instructions contained in G.A. Department Office Memorandum No.3928/Gen., dt.18.2.94 referred to above, have been now pleased to decide as follows.

i) The disciplinary authorities, while framing charges against a delinquent Government Servant, should carefully consider the circumstances while deciding whether the delinquency merit framing of charges u/r 15 or u/r 16 of O.C.S.(CCA) Rules, 1962. In the cases, where a minor penalty proceedings have been drawn up u/r.16 of O.C.S.(CCA) Rules, 1962, the "Sealed Cover" procedure shall not be applicable.

ii) Where, the major penalty proceedings have been drawn up u/r.15 of O.C.S.(CCA) Rules, 1962, the procedure envisaged in G.A. Department Office Memorandum No.3928 dtd.18.2.94 should be followed.

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iii) In the cases, where criminal prosecution/disciplinary cases against the delinquent Government employees, have not come to an end even after the expiry two years from the date of the meeting of the first Departmental Promotion Committee, the Appointing Authority may review the withheld promotion cases (provided the delinquent Government employees are not under suspension) to consider the desirability of giving the adhoc promotion keeping in view the following aspects.

- (a) Whether the promotion of the employee will be against the public interest.
- (b) Whether the charges are grave enough to warrant continued denial of promotion.
- (c) Whether there is any likelihood of the case coming to a conclusion in the near future.
- (d) Whether the delay in the finalisation of the proceedings, departmental or in a Court of Law, is not directly or indirectly attributable to the employee concerned.
- (e) Whether there is any likelihood of misuse of the Official position, that the employee may occupy after adhoc promotion, which may adversely affect the conduct of the departmental case/criminal prosecution.

3. In case the Appointing Authority considers that it would not be against the public interest to allow adhoc promotion to the employee concerned, his case should be placed before the next D.P.C. to be held in the normal course to decide whether the employee is suitable for promotion on adhoc basis. If the employee is considered suitable, on the basis of the totality of his record of service, without taking into account the pending disciplinary case/criminal prosecution against him, an order of promotion may be issued making it clear that :-

- (i) the promotion is being made purely on adhoc basis and the adhoc promotion will not confer any right for regular promotion; and
- (ii) the adhoc promotion shall survive until further orders.
- (iii) It should also be indicated in the orders that the Government reserve the right to cancel the adhoc promotion at any time and revert the employee to the post from which he was promoted without assigning any reason therefor.

All other conditions contained in the aforesaid Office Memorandum remain unchanged.

S.K.
Santosh Kumar

Special Secretary to Government

Memo No. 14641 /Gen.,Dt. 4.7.95

Copy forwarded to all the Departments of Government/
All the Heads of Departments/All the Collectors for
information and necessary action.

S.K.
Special Secretary to Government

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