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GOVERNMENT OF ORISSA
Political and Services Department.

MEMORANDUM.

63(24)/Gen. Dt. 3.1.1962.

To: All Departments of Government.

Subj: Rule relating to power of the State Government to dispense with or relax the requirements of any rule relating to conditions of service of State Government servants for dealing with any case in a just and equitable manner.

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The undersigned is directed to invite reference to Home Department memorandum No. 16418/A., dated 30.9.55 and the notification No. 16359/A., dated 30.9.55 under which a rule was promulgated empowering the State Government to dispense with or relax the requirements of any rule regulating the conditions of service of the State Government servants for the purpose of dealing in a just and equitable manner with particular cases in which the normal operation of the rule may involve undue hardship. (Copies of references enclosed for convenience) The question was raised whether this rule which was promulgated in 1955 permits relaxation of rules regulating recruitment, promotion, retirement or reemployment etc., for conferring benefit on a particular individual to the exclusion of all other similarly placed persons and, if so, whether the rule can be considered to be constitutionally in order.

2. The question has been examined and after obtaining legal advice Government have reached the conclusion that the rule as promulgated in 1955 is constitutionally in order. It permits relaxation of those rules only which regulate conditions of service, e.g., T.A. Rules, Leave Rules, etc., Consequently, it cannot be utilised to relax, for conferring benefit on an individual, the requirements of the rules which cannot be covered by the expression "Conditions of Service", e.g., the rules relating to recruitment, promotion, grant of extension of service or reemployment.

3. The above clarification is issued to all Departments for their information with the suggestion that they should satisfy themselves that the above rule issued in Home Department notification referred to above providing for relaxation etc., of rules is restricted in its wording and operation as explained above.

501- P. M. Mahapatra
30.12.61

501 D. M. Senapati
G. A. S.