GOVERNMENTOF ANDHRA PRADESH
ABSTRACT

Public Services - State and Subordinate Services - Appointment by Promotion/Transfer to higher categories of Employees who are facing disciplinary case - Guidelines - Issued.

GENERAL ADMINISTRATION(SER.C) DEPARTMENT

G.O.Ms.No.257. **Dated 10-06-1999.**

Read the following:

1. G.O.Ms.No.424, GA (Ser.C) Dept., dt.25-05-76.
2. G.O.Ms.No.104, GA (Ser.C) Dept., dt.16-02-1990.
3. G.O.Ms.No.66, GA (Ser.C) Dept., dt.30-01-91.
4. From the Dept. of Personnel & Training, Ministry of Personnel, Public Grievances & Pensions Govt.of India, Memo.No.22011/4/91-Estt. (A), dt.14-09-1992.
5. G.O.Ms.No.74, GA (Ser.C) Dept., dt.24-02-94.
6. G.O.Ms.No.203, GA (Ser.C) Dept., dt.05-05-99.

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ORDER:

In the G.Os 1st to 3rdread above, orders were issued enunciating guidelines for consideration of employees who are facing disciplinary enquiries in regard to their appointment by promotion or transfer to higher categories.

2. In the reference fourth read above, the Ministry of Personnel, Public Grievances and Pensions, Government of India have issued guidelines in regard to consideration of Government servants against whom disciplinary or court proceedings are pending or whose conduct is under investigation, for promotion to next higher categories. Keeping in view the said guidelines, orders have been issued in the G.O. fifth read above, for consideration of employees for ad hoc promotion where the disciplinary case/criminal prosecution against the Govt. employees is not concluded even after the expiry of two years from the date of the meeting of the first Departmental Promotion Committee, in which the employee was considered, in case the employee is not under suspension.

3. It has come to the notice of Government, that the guidelines issued in the said orders are not being strictly adhered to in several departments and adhoc promotion is being considered on the simple ground, that two years period has elapsed after institution of disciplinary proceedings against the employee without going into the desirability of making adhoc promotion in such case. The Government have carefully reviewed the issue and accordingly it has been decided to cancel the orders issued in the G.O. fifth read above and issue suitable guidelines on the subject.

4. Accordingly, orders issued in theG.O.Ms.No.74, Genl.Admn.(Ser.C) Department, dated the 24th February, 1994 are hereby cancelled with immediate effect.

5. Government also order that with immediate effect the following procedure and guidelines, be followed to consider the employees against whom disciplinary cases or criminal prosecution are pending or whose conduct is under investigation, for appointment by promotion or transfer, to next higher categories.

A. The details of employees in the zone of consideration for promotion falling under the following categories should be specifically brought to the notice of the Departmental Promotion Committees or Screening Committees:-

(i) Officers under suspension;

(ii) Officers in respect of whom a charge sheet has been issued and the disciplinary proceedings are pending;

(iii) Officers in respect of whom prosecution for a criminal charge is pending.

B. Officers who are facing enquiry, trial or investigation can be categorised into the following groups based on the nature of the allegations of charges pending against them or about to be instituted namely:-

(I) an officer with a clean record, the nature of charges or allegations against whom relate to minor lapses having no bearing on his integrity or efficiency, which even if held proved, would not stand in the way of his being promoted;

(ii) an officer whose record is such that he would not be promoted, irrespective of the allegations or charges under enquiry, trial or investigation; and

(iii) an officer whose record is such that he would have been promoted had he not been facing enquiry, trial or investigation, in respect of charges which, if held proved, would be sufficient to supersede him.

C. The suitability of the officers for inclusion in the panel should be considered on an overall assessment based on the record which should include namely:-

(i) Adverse remarks recorded in the Annual Confidential reports, the penalties awarded and the bad reputation of the officer as vouchsafed by the Head of the Department and the Secretary to Government of the Department concerned;

The above cases should be considered as falling under category (ii) of item (B) above.

(ii) The officers who do not have any adverse entry in the Annual Confidential Report, and who have no penalties awarded against them in the entire duration of the post and not merely in the past five years and whose reputation is vouchsafed by the Head of the Department and Secretary to Government of the Department concerned should be considered as falling under category (iii) of item (B) above.

The officers categorised as under item (iii) of G.O.Ms.No.424, GA (Ser.C) Dept., dated 25-05-76 as mentioned above only should be considered for adhoc promotion after completion of two years from the date of the Departmental Promotion committee or Screening committee Meeting in which their cases were considered for the first time.

6. The appointing authority should consider and decide that it would not be against public interest to allow adhoc promotion to the officer concerned and this shall be decided with reference to the charge under enquiry. If the charge is one of moral turpitude, misappropriation, embezzlement and grave dereliction of duty then the appointing authority should consider as not in the public interest to consider adhoc promotion to such charged officer. But, however, if the charge is not a grave one but is a minor one, not involving moral turpitude, embezzlement and grave dereliction of duty then only in such cases he appointing authority should consider that it would not be against public interest to allow adhoc promotion because till then his record is clean with reference to ACRs, past punishment and reputation in the department as vouchsafed by the Head of the Department and Secretary to Government. The appointing authorities should strive to finalise the disciplinary cases pursuing them vigorously so that within two years the proceedings are concluded and final orders issued.

7. If the Officer concerned is acquitted, in the criminal prosecution on the merits of the case or is fully exonerated in the departmental proceedings, the adhoc promotion already made may be confirmed and the promotion treated as a regular one from the date of the adhoc promotion with all attendant benefits. In case the officer could have normally got his regular promotion from a date prior to the date of his adhoc promotion with reference to his placement in the Departmental Promotion Committee proceedings and the actual date of promotion of the person ranked immediately junior to him by the Departmental Promotion committee, he would also be allowed his due seniority and benefit of notional promotion.

8. If the Officer is not acquitted on merits in the criminal prosecution but purely on technical grounds and Government either proposes to take up the matter to a higher Court or to proceed against him departmentally or if the Officer is not exonerated in the departmental proceedings, the adhoc promotion granted to him should be brought to an end.

9. All the Departments of Secretariat and Heads of Departments should follow the above instructions scrupulously and bring it to the notice of all the concerned.

(BY ORDER AND IN THE NAME OFTHE GOVERNOR OF ANDHRA PRADESH)

V.ANADARAU,
CHIEF SECRETARY TO GOVERNMENT

To
All Departments of Secretariat.
All Heads of Departments.
All Collectors/District Judges.
The Registrar, A.P. Administrative Tribunal, Hyderabad.
The Registrar, A.P. High Court, Hyderabad.
The Secretary, A.P Public Service commission, Hyderabad.
The Secretary to Vigilance Commissioner, A.P.Vigilance commission, Hyderabad.
All Service Sections in Genl.Admn.Department.

// Forwarded by Order//

Section Officer