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NOTIFICATION

REGULATIONS SPECIFYING THE MATTERS IN WHICH IT SHALL NOT BE NECESSARY TO CONSULT THE PUBLIC SERVICE COMMISSION.

No.A.11020/1/87-P&AR (GSW), the 11th May, 1989. In exercise of the powers conferred by the provision to clause (3) Article 320 of the Constitution of India, the Governor of Mizoram is pleased to make the following Regulations as respects to services and posts in connection with the affairs of the State of Mizoram, specifying matters in which it shall not be necessary for the Mizoram Public Service Commission to be consulted.

1. (a) These Regulations may be called the Mizoram Public Service Commission (Limitation of Functions) Regulations, 1989.

(b) These shall come into force at once.

2. In these Regulations, unless there is anything repugnant in the subject or context :-

(i) "Appointing authority" means the authority which makes the appointments to any service or post in connection with the affairs of the State of Mizoram;

(ii) "Commission" means the Mizoram Public Service Commission;

(iii) "Constitution" means the Constitution of India;

(iv) "Governor" means the Governor of Mizoram;

(v) "Service" or "Post" means civil service or post in connection with the affairs of the State of Mizoram.

3. It shall not be necessary for the Commission to be consulted in matters relating to methods of recruitment to civil services and posts or the suitability of the candidates for such appointments, in the following cases, namely,

- (a) When an appointment is to be made by the Governor or by an authority other than Governor to a post on a scale of pay the maximum of which is less than Rs. 2,041/- per month.
- (b) When it is proposed to appoint a member of a service to a post, for appointment to which the rules of any other service makes a member of other service eligible, and which in the opinion of the Governor, is normally filled by a member of that service or is similar to posts normally filled by a member of that service.

ILLUSTRATION

The appointment of an officer of the Mizoram Civil Service to the following posts does not require consultation with the Commission:-
post of Deputy Commissioner, Joint Secretary, Deputy Secretary, Under Secretary or Officer on Special Duty in the Secretariat.

- (c) Appointment to the personal staff of the Governor and to his Secretariat.
- (d) Appointment of Law Officers of the State and the Gauhati High Court of Judicature.
- (e) When an officiating appointment is to be made by direct recruitment to a permanent post, if it is necessary in the public interest that the appointment should be made immediately and a reference to the Commission would cost undue delay:

Provided that, if the vacancy, actual, or probable, is for a period of six months or more, the Commission shall, as soon as possible, be consulted in all matters mentioned in sub clause (3) of Article 320 of the Constitution but not later than the 30th day from the date of issue of such appointment orders.

- (f) When an appointment is to be made by direct recruitment to a temporary post, if it is necessary in the public interest that the appointment should be made immediately and a reference to the Commission would cost undue delay:

Provided that if the temporary post has been sanctioned for, or is likely to last more than six months, the commission shall, as soon as possible, be consulted in all matters mentioned in sub-Clause (3) of Article 320 of the Constitution but not later than the 30th day from the date of issue of such appointment orders.

- (g) When it is proposed to re-appoint a retired servant of the Government of India or State Government temporarily to (i) a permanent post created as addition to the cadre of the service from which the retired, or (ii) a temporary post created as addition to the cadre of the service from which he retired or (iii) any other temporary post the duties of which are similar to those normally discharged by members of that service:

- (h) When it is proposed to appoint temporarily an officer of the Indian Armed Forces to a civil post or service for a period not exceeding three years.
- (i) When it is proposed to make appointment to a post on a contract basis for a period not exceeding three years;

Provided that in case the appointment on contract basis is likely to exceed a period of three years, the Commission shall be consulted before the contract is renewed or extended.

- (j) When it is proposed to make any appointment to an honorary post.

4. **PROMOTION** : It shall not be necessary to consult the Commission on the principles to be followed in making promotions or on the suitability of candidates for promotion in the following cases :-

- (a) Promotion to a service by an authority other than the Governor;
- (b) Promotion from a lower to higher grade or post within the same service according to the rules of the service;

Provided that if it is proposed to promote an officer from one grade to another, the Commission shall be consulted if direct recruitment to the higher grade can be made after consulting the Commission;

- (c) As regards the suitability for promotion from one service to another of a candidate not recommended by the authority prescribed in the rules regulating such promotion;
- (d) Officiating promotion for a period which is not likely to last for more than one year;

Provided that if the period of officiating promotion is extended beyond the term for which it was originally sanctioned, the period of promotion shall, for purpose of this regulation, be reckoned from the date when the promotion originally took effect and not from the date of the extension of the period.

5. **TRANSFER**— It shall not be necessary to consult the Commission on the principles to be followed in making transfer, or on the suitability of candidates for transfer from one post to another in the same service.

6. **DISCIPLINARY CASES**— It shall not be necessary for the Commission to be consulted in disciplinary matters in the following cases :-

- (a) by any authority other than the Governor, whether the order passed is an original, an appellate or a revisionary order ;
- (b) by the Governor unless he proposes to pass an original order imposing any of the following penalties or unless an appeal, if admissible under the rules, has been submitted to him against an order of a lower authority imposing any of the following penalties :-

- (i) Withholding of increments or promotion, but excluding stoppage at an efficiency bar;
- (ii) reduction to a lower post or time scale or to a lower stage in a time scale or to a lower grade in a graded scale ;
- (iii) recovery from pay of the whole or part of any pecuniary loss caused to the State Government by negligence or breach of order ;
- (iv) removal ;
- (v) reduction of pension ;
- (vi) dismissal ;
- (vii) compulsory retirement ;
- (c) by the Governor, when rejecting a petition or memorial ;
- (d) in any case in which the Commission has at any previous stage been consulted as to the order to be passed and no fresh question has thereafter arisen for determination;

Provided that the Commission need not be consulted in any of the cases referred to above where the integrity of the delinquent Government servant is involved and the advice of the Vigilance Department as already been obtained for imposing penalties.

ILLUSTRATIONS

- (a) The stoppage of an officer appointed by the Governor at an efficiency bar does not require consultation with the Commission;
- (b) an officer is censured by the Governor. It is not necessary to consult the Commission before the order of censure is passed;
- (c) an officer is suspended pending an enquiry into his conduct. The Commission need not be consulted before the order of suspension is passed;
- (d) it is proposed to dismiss a State Service officer or to reduce his pension. The Commission must be consulted before an order is passed by the Governor;
- (e) it shall not be necessary to consult the Commission in any case relating to —
 - (i) the termination of probation of any person ;
 - (ii) the discharge or reversion of a person otherwise than as penalty;
 - (iii) the termination of the employment of a person in accordance with the terms of his contract or employment ;

- (iv) the imposition of any penalty laid down in any rule or order for failure to pass any test or examination within a specified time.

The above illustrations will not hold good in cases where the integrity of the delinquent Government Servant is involved and the advice of the Vigilance Department has already been obtained for imposing penalties.

- (f) Reduction in pension is a disciplinary case. The pension of an official is reduced by the Head of Department. The appeal is filed before the Governor. The Commission should be consulted before the appeal is disposed of by Governor.
- (g) An assistant in a district office is dismissed by the District Officer. He appeals to the Governor. The Commission will be consulted before an order is passed by the Governor.
- (h) An official in a subordinate service is dismissed by the Head of a Department. An appeal is made to the Governor. It is not necessary for the Head of the Department to consult the Commission before dismissing the official. But the Commission should be consulted by the Governor before deciding the appeal.
- (i) An officer who was dismissed by an original order of the Governor memorializes the Governor against that order. The Commission need not be consulted on the memorial if the order of dismissal was after consulting the Commission.
- (j) An official was dismissed and his appeal rejected by an authority subordinate to the Governor. He memorializes the Governor against that order. The Commission must be consulted before the Governor re-instate him but not if the Governor decides to reject his memorial.

By order etc.

H. Lal Thlamuana,
Special Secretary to the Govt. of Mizoram,
Department of Personnel & A.R.

INSTRUCTIONS REGARDING DIRECT RECRUITMENT THROUGH THE PUBLIC SERVICE COMMISSION ISSUED BY THE GOVERNOR, SUBJECT TO THE PROVISIONS OF REGULATIONS MADE UNDER ARTICLE 320 (3) OF THE CONSTITUTION.

PART — 1

GENERAL

No. A. 11020/1/87-P&AR(GSW), dated Aizawl, the 11th May, 1989. 1. In the case of service in which permanent vacancies occur throughout the year the number of vacancies to be reported to the Commission should be the number likely to occur during the recruiting year, and no vacancy which occurs after the end of that year, shall during be filled without a further reference to the Commission.

2. In making recruitment to technical or specialist posts, the Commission shall invite the appointing authority to depute a technical expert to assist them. In case of recruitment to other posts, it shall be open :—

- (a) to the Commission to ask for the deputation of an Adviser and
- (b) to an appointing authority, if it feels the need for it, to intimate to the Commission, that an Adviser should be appointed to assist the Commission, and the reason for doing so.

3. In (a) above, the appointing authority shall nominate a suitable Adviser, and in (b) above, an Adviser may be appointed only if the Commission agree to its need.

In any case where the Commission have any objection to the particular adviser or expert deputed by an appointing authority, it shall be opened to the Commission to intimate confidentially and demi-officially to the Chief Secretary their objection to the particular person proposed to be deputed.

PART — II

RECRUITMENT BY OPEN COMPETITION

4. In the case of recruitment by competitive examination the Commission will send to the appointing authority a complete list of the marks obtained by each of the candidates and,

- (a) If the appointing authority is the Governor, the Secretary in the Department concerned shall submit without comment for the order of the Government the names of the candidates in the order of merit, or
- (b) if the appointing authority is not the Governor, that authority shall appoint the candidates who obtained the highest marks upto the number of vacancies to be filled.

PART — III

RECRUITMENT BY SELECTION OTHERWISE THAN BY OPEN COMPETITION

5. In order to provide for possible casualties and unexpected vacancies, the number of candidates which the Commission should be asked to recommend in cases of selection otherwise than by open competition should usually exceed the number of vacancies by 50 per cent.

6. The Commission shall arrange the candidates recommended by them in order of merit, and

- (a) if the appointing authority is the Governor, the Secretary in the Department concerned, shall submit without comment for the orders of Government the names of the candidates in the order of merit or

- (b) if the appointing authority is not the Governor, that authority shall, save as provided in instruction 7 below, appoint the candidates who stand highest in the order of merit in which they have been arranged by the Commission upto the number of vacancies to be filled.

7. Where an appointing authority other than the Governor proposes to make an appointment otherwise than in accordance with the Commission's recommendations, it shall obtain the view of the Commission on the appointment which it proposes to make and shall make no appointment contrary to the final recommendation of the Commission without the approval of the Government in the Department of Personnel and Administrative Reforms.

8. In recruitment to special post of technical nature for which educational qualifications have not been prescribed in the service rules, the appointing authority shall merely give the Commission a general indication of the qualifications required and should explain the nature of the post and other relevant points but should leave it to the Commission to decide what educational qualifications are most likely to secure the service of officers most suitable for that particular post.

P A R T - IV

ANNOUNCEMENT OF DIRECT APPOINTMENT MADE AFTER CONSULTATION WITH THE COMMISSION

9. (a) WHEN RECRUITMENT IS MADE BY A COMPETITIVE EXAMINATION;
- (i) As soon as the result are ready, the Commission will send to the Governor the name of all successful candidates in order of merit as disclosed by the examination. A few more names might be added, if necessary, so as to make the total number of names the nearest multiple of ten;
 - (ii) A candidate on payment of a fee of Rs. 25/- shall be supplied on his application to the Secretary, Public Service Commission with a copy of the detailed marks sheet obtained by him or any other candidate.
 - (iii) In the case of non-gazetted appointments when the appointing authority has decided the names of the candidates to be appointed, it will issue a press communique announcing the names of the candidates approved for appointment.

In the case of Gazette posts, only Gazette Notification should be issued when the appointment is actually made.

(b) WHEN RECRUITMENT IS MADE BY SELECTION OTHERWISE THAN BY OPEN COMPETITION :

In the case of non-gazetted appointment when the appointing authority has decided the names of the candidates to be appointed, it will issue a Press Communique announcing the names of the candidates approved for appointment.

In the case of Gazetted posts, only Gazetted Notification will be issued when appointment is actually made.

10. The Press Communique should be issued by the appointing authority through the Information and Public Relations Department.

By Order and in the name of the Governor,

H. Lal Thlamuana,
Special Secretary to the Govt. of Mizoram.