

Regd. No. NE 907



The Mizoram Gazette

EXTRA ORDINARY

Published by Authority

Vol. XXIII Aizawl, Wednesday, 20. 7. 1994, Asadha 29, S.E. 1916, Issue No. 131

NOTIFICATION

No. A. 12017/2/91-P&AR(GSW): In exercise of the powers conferred by the provision to clause (3) of 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.

Shot title 1. (a) These Regulations may be called the Mizoram Public Service and com-
mencement Commission (Limitation of Functions) Regulations, 1994.

(b) They shall come into force at once.

Definitions 2. In these Regulations, unless the context otherwise requires :—

- (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.

- Limitation 3. of functions in matters relating to methods of recruitment.
- 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. 2900/- 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; Posts of Deputy Commissioner, Joint Secretary, Deputy Secretary, Under Secretary or Officer on Special Duty in the Secretariat.

- (c) Appointment of the personal staff of the Governor and to his Secretariat.
- (d) Appointment of Law Officers of the State except the members of the State Judicial Service 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 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 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 he 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 India Armed Forces to a Civil post of 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 a 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.

Limitation 4.
of function
in respect
of 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 time scale of pay provided in the Rules unless the promotion is to be made by selection;
- (c) 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.

Limitation of function in respect of transfer. 5. 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.

Limitation of function in respect of disciplinary cases. 6. It shall not be necessary for the Commission to be consulted in disciplinary matters in the following cases :-

- (a) in passing an order by any authority other than the Governor, whether the order passed is an original, an appellate or a revisionary order;
- (b) by the Governor, when rejecting a petition or memorial;
- (c) 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.

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 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 of 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;

- (f) Reduction in pension in 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 Department. An appeals made to the Governor. It is not necessary for the Head of 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 on 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-instates him but not if the Governor decides to reject his memorial.

Repeal and 7. All previous Regulation made on the subject shall stand repealed on and from the date of the commencement of this Regulation;

Provided that any action or actions taken under such Regulations hereby repealed shall be deemed to have been taken under these Regulations.

By order etc.

Lalmalsawma,
Secretary to the Govt. of Mizoram,
Deptt. of Personnel & Admn. Reforms.