CHAPTER XVIII

PROMOTION

Article 309 of the Constitution of India provides that acts of the appropriate Legislature may regulate the recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or any State. It also provides that pending provision in this behalf being made by or under an Act, the President or such persons as he may direct shall be competent to make, in the case of services and posts in connection with the affairs of the Union, rules regulating the recruitment and other service conditions of persons appointed to such services and posts.

For an impartial and uniform procedure of recruitment to services, it is necessary that there should be prescribed recruitment rules for every post/grade and all recruitment made in accordance with these rules. In deciding on the methods of recruitment the main consideration naturally is whether a direct recruit or a person with experience of work in the next lower grade would be more suitable for appointment to the post/grade. Not infrequently departmental experience in an office is not only essential but may also be preferable to mere academic qualifications for maintaining efficiency. It is also natural for persons serving in the lower grades to look forward to promotion to higher posts in which their experience can be used with advantage to the State. For these reasons, promotion is one of the recognised important methods of recruitment to various services and posts under the Central Government.

2. The instructions issued by Government of India in the Ministry of Home Affairs (now Department of Personnel and Training) from time to time on the subject are as under:—

1. Guiding principles for promotion
   (i) Every person eligible for promotion and in the field of choice should be considered for promotion.
   (ii) It is desirable that—
      (a) Standard for promotion should be strictly adhered to. Where prescribed standards are considered too rigorous to meet practical requirements, they may be reviewed in consultation with the U.P.S.C./D.P.C.
      (b) Minimum length of service in the lower grade prescribed as a condition for promotion to the higher grade is not materially different from that prescribed by other Departments for promotion to similar grades involving the same nature of duties and responsibilities.

   [MHA OM No. 1/5/58-RPS dated 26-2-58.]

   (iii) Employing Departments should estimate the number of vacancies which might arise in the succeeding year for being filled by promotion on the recommendation of a DPC and also convene the meeting of the Departmental Promotion Committees at regular annual intervals.

   [MHA OM No. 9/21/58-RPS dated 10-6-59 read with MHA OM No. 1/9/66-Ext(D) dated 22-7-66.]

   (iv) The administrative authorities should ensure that the information furnished to Departmental Promotion Committees is accurate and in proper order in all respects. Ministries may investigate all cases of delay and submission of incorrect particulars to the DPC and take suitable action against the persons responsible for default.

   [MHA OM No. 1/5/64-Ext(D) dated 14-4-64 read with MHA OM No. 1/9/66-Ext(D) dated 22-7-66.]
NEW MEDIA WING
(Ministry of Information and Broadcasting)

This is a representation from Sh. Ombir Singh, Stenographer for review DPC, that of the DPC held on 15.07.1997 promoting Sh. Ombir Singh from Stenographer Grade.III to Stenographer Grade.II w.e.f. 15.7.1997. He claims that he may be promoted from retrospective effect i.e. the date of his eligibility for promotion to the vacant post.

2. Sh. Ombir Singh was appointed on 3.8.1987 as Stenographer Grade III and the vacant post of Stenographer Grade II became available on 31.5.1992 consequent upon the retirement of the then Stenographer Grade I. (Two months less for completion of five years regular service in the grade). As per the roster position, the vacancy was earmarked to a SC candidate. Sh. Ombir Singh, a SC candidate had not completed five years' regular service on the date of occurrence of vacancy, however, as per the RRs effective on that date, five years regular service was required for promotion to the post of Stenographer Gr.II from a Stenographer Gr.III.

3. As Sh. Ombir Singh had not completed the requisite service for promotion, non-SC candidates, Sh. Methew George and Smt. Usha Gulati were proposed to be considered by the DPC and it had been decided, if DPC recommended a non-SC candidate for appointment in question, the post will be got de-reserved before issuance of appointment orders.

4. The DPC held on 17.7.1992 recommended Sh. Methew George for promotion to the post of Stenographer Gr.II. After approval of HOD the recommendations of DPC, the proposal for dereservation of vacancy reserved for SC post was sent to Ministry.

5. The Ministry has turned down the proposal of dereservation and instructed to convene a fresh DPC to consider the suitability of SC candidate. Now Sh. Ombir Singh has completed the five years service required for promotion.

6. In the meantime Sh. Methew George, a general candidate recommended by the DPC for promotion has filed a writ petition in the Hon'ble CAT for his promotion. The CAT had stayed the convening of a fresh DPC.

7. The Hon'ble CAT has vacated the stay and dismissed the application of Sh. Methew George vide their order dated 30.5.1997. Accordingly, DPC met again on 15.7.1997 and recommend the promotion of Sh. Ombir Singh to post of Stenographer Gr.II. He was promoted w.e.f. 15.07.1997 i.e. the date of DPC.

8. However, Sh. Ombir Singh has requested that he may be promoted from retrospective effect (w.e.f. the date he was eligible for promotion after occurrence of the vacancy).
9. As per instructions published in Swamy's complete manual on establishment and administration, a Review DPC may be convened to rectify certain unintentional mistakes e.g.:

(i) where eligible persons were omitted to be considered; or
(ii) where ineligible persons were considered by mistake; or
(iii) where the seniority of a person is revised with retrospective effect resulting in a variance of the seniority list placed before the DPC; or
(iv) where some procedural irregularity was committed by a DPC; or
(v) where adverse remarks in the CRs were toned down or expunged after the DPC has considered the case of the officer.

10. In light of the above it does not appear that intentional mistakes have been committed by the DPCs held on 17.7.1992 and 15.7.1997.

Submitted for perusal pl.
1. Who were the members of the DPC which gave promotion to an officer?

2. On the deliberation/decision of the said DPC only, the PPS upon this file made the final file as link file.

Re:

St. Ramad

[Signature]

[Date] 07/06/14

[Signature]
Ref: note on fore pages.

2. As desired, the information is furnished below:

The members of OPC include Sh. S.K. Chaturvedi, IAS, Chairman, Sh. Madan Lal, IAS, Member,
Sh. K. Ravindranath, IAS, Member and
Sh. Hari Singh, IAS, M/O DoB - Member.

3. The deliberation/decision of OPC one at pages 23-24/attache.

4. Care history and route location of the matter

      has already been put up on Mr's pages (26-27/attache).

5. Submitted as

\[21/7/2014\]

\[Rt. File put up for Mr. Kendri\]

\[24/7/19\]

Kindly clarify it at page 11 of the representation of

\[2019\]
2. Sh Ombrin Singh has mentioned in his representation that in accordance with Rule, five years service was required for this promotion to grade-II Stenographer. He was just 15 days short for eligibility period for promotion.

3. Sh Ombrin Singh was appointed on grade-IIs on 3-8-87. The vacancy of grade-IIs was vacated on 31-5-92. He was just two months short for eligibility for promotion on the day of occurrence of vacancy.

4. The case for filling up the vacancy was processed on 9-6-92. As per the date of appointment, i.e., 3-8-87, he was just one month and 23 days short for getting five years service for promotion.

5. However, as per the date of DPC held on 17-7-92, the was just 14 days short for completion of five years regular service for this promotion.
After going through all the relevant records and various points brought out on file especially at page 30/ante, it is very evident that the DPC did not apply its mind in a meticulous manner as far as the promotion of Shri Ombir Singh is concerned.

Further the following facts bear adequate testimony to support the above contention:

(a) That that post being considered by DPC was that of Reserved Category;
(b) That Shri Ombir Singh was the only reserved candidate at that point of time;
(c) Shri Ombir Singh fell only 15 days short on the date of DPC for completion of his full five years of regular service for promotion;
(d) That after sidelined Shri Ombir Singh and giving promotion to another candidate, when the department wrote to the Ministry of Information and Broadcasting to dereserve the post, the Ministry turned down this proposal thereby questioning the legitimacy of the promotion process;
(e) The Hon’ble CAT disposed off the OA of Shri George Mathew who was promoted to the post by the DPC.

Besides the rulings of the Hon’ble Delhi High Court as mentioned in para 8 of the representation of Shri Ombir Singh should also be taken into cognizence.

Keeping all the above material facts in view and that too with the constitutional provisions to enable members of the weaker sections of Society including SC/ST candidates to reach positions of benefit in Government with the right procedure as laid down by Service Rules, the undersigned has no hesitation to overrule the impugned order of the then DPC and extending the benefits of seniority and fixation of pay in respect of Shri Ombir Singh for regular promotion to the post of Steno Grade-II from the day Shri Ombir Singh became eligible for such post.

However, no financial benefit from retrospective effect will be granted as it is not a matter of right to seek retrospective promotion but in the present instant case whatever benefit is being extended to Shri Ombir Singh is based on the justifications/observations brought in the foregoing paragraphs.

For issue of necessary orders accordingly.

(L.R. Vishwanath)
Addl. Director General

[Signature]

R.O.

Necessary order has been prepared accordingly and law for A&AR law approved.

[Signature]

[Date]
New Media Wing
Ministry of Information and Broadcasting

New Delhi-110003.

ORDER

In modification of Order of even number dated 22nd July, 1997 regarding promotion of Shri Ombir Singh to the post of Stenographer Grade-II in the scale of pay of Rs. 1400-40-1600-50-2300-EB-60-2600 in the office of Research Reference and Training Division (Now New Media Wing) and in pursuance of provision contained in Part-VI of Swamy’s compilation on Establishment and Administration and Govt. of India, DoPT O.M. No.22013/1/97-Estt. (D) dated 13.04.1998, the promotion of Shri Ombir Singh vide order dated 22.07.1997 shall be deemed to have effect from 03.08.1992 on notional basis in the grade of Stenographer Grade-II.

Consequent upon his notional promotion as Stenographer Grade-I, Shri Ombir Singh will not be entitled to any financial benefit. However, his seniority & fixation of pay will accordingly be revised/refixed.

This issue with the apporoval of Addl. Director General, New Media Wing, New Delhi.

(Simmi Kumar)
Research Officer

Copy to :

1. Shri Ombir Singh, Stenographer Grade-I, New Media Wing, New Delhi w.r.t his representation dated 13.03.2014.
3. Personal file of Shri Ombir Singh, Stenographer Grade-I.
4. Bill Clerk, New Media Wing. The fixation of pay in respect of Shri Ombir Singh may be revised accordingly.

(Simmi Kumar)
Research Officer
ORDER

In modification of Order of even number dated 22nd July, 1997 regarding promotion of Shri Ombir Singh to the post of Stenographer Grade-II in the scale of pay of Rs. 1400-40-1600-50-2300-EB-60-2600 in the office of Research Reference and Training Division (Now New Media Wing) and in pursuance of provision contained in Part-VI of Swamy's compilation on Establishment and Administration and Govt. of India, DoPT O.M. No.22013/1/97-Estt. (D) dated 13.04.1998, the promotion of Shri Ombir Singh vide order dated 22.07.1997 shall be deemed to have effect from 03.08.1992 on notional basis in the grade of Stenographer Grade-II.

Consequent upon his notional promotion as Stenographer Grade-I, Shri Ombir Singh will not be entitled to any financial benefit. However, his seniority & fixation of pay will accordingly be revised/refixed.

This issue with the approval of Addl. Director General, New Media Wing, New Delhi.

(Simmi Kumar)
Research Officer

Copy to:

1. Shri Ombir Singh, Stenographer Grade-I, New Media Wing, New Delhi w.r.t his representation dated 13.03.2014.
3. Personal file of Shri Ombir Singh, Stenographer Grade-I.
4. Bill Clerk, New Media Wing. The fixation of pay in respect of Shri Ombir Singh may be revised accordingly.

(Simmi Kumar)
Research Officer
OFFICE ORDER

In modification of Order No.A-36016/3/92-93-Admn. dated 22nd July, 1997 regarding promotion of Shri Ombir Singh Stenographer Grade-II in the pay scale of Rs.1400-40-1600-50-2300-EB-60-2600-Admn.in the office of RRTD,(Now New Media Wing) and in pursuance of provision contained in part-VI of Swamy’s compilation on Establishment and Administration and Govt, of India DOPT’s O.M.No.22013/1/97-Estt. (D) Dated 13.04.1998, the promotion of Shri Ombir Singh vide order dated 22.07.1997 shall be deemed to have effect from 03.08.1992 on notional basis in the grade of Stenographer Grade-II. The pay of Shri Ombir Singh is fixed as in the scale of pay of Rs. 1400-40-1600-50-2300-EB-60-2600 under FR 22(1)(a)(I):

<table>
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<tr>
<th>S.N.</th>
<th>Date</th>
<th>Pay (In Pay scale)</th>
<th>Basic after fixation</th>
<th>Remarks</th>
</tr>
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<td>1.</td>
<td>03.08.1992</td>
<td>1400-40-1600-50-2300-EB-60-2600</td>
<td>1440</td>
<td>Pay MACPS</td>
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<td>2.</td>
<td>1.8.1993</td>
<td>- do-</td>
<td>1480</td>
<td></td>
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<tr>
<td>3.</td>
<td>1.8.1994</td>
<td>- do-</td>
<td>1520</td>
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<tr>
<td>4.</td>
<td>1.8.1995</td>
<td>- do-</td>
<td>1560</td>
<td></td>
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<td>5.</td>
<td>1.1.1996</td>
<td>- do-</td>
<td>5150</td>
<td>1.1.1996 as per Vth Pay Commission w.e.f. 1.1.1996</td>
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<td>6.</td>
<td>1.8.1996</td>
<td>- do-</td>
<td>5300</td>
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<tr>
<td>7.</td>
<td>1.8.1997</td>
<td>- do-</td>
<td>5450</td>
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<td>8.</td>
<td>1.8.1998</td>
<td>- do-</td>
<td>5600</td>
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<td>9.</td>
<td>1.8.1999</td>
<td>- do-</td>
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<td>1.8.2000</td>
<td>- do-</td>
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<td>11.</td>
<td>1.8.2001</td>
<td>- do-</td>
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<td>12.</td>
<td>1.8.2002</td>
<td>- do-</td>
<td>6200</td>
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<td>13.</td>
<td>1.8.2003</td>
<td>- do-</td>
<td>6350</td>
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<td>14.</td>
<td>1.8.2004</td>
<td>- do-</td>
<td>6500</td>
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<td>15.</td>
<td>1.8.2005</td>
<td>- do-</td>
<td>6650</td>
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<td></td>
<td>Pay is fixed as per VIth Pay Commission in the pay scale of Rs. 9300-34800(4200/GP)</td>
<td>Pre Vith Pay commission Rs. 5000-150-8000</td>
<td>Revised</td>
<td>Pay is fixed @ 1.86+GradePay and 3% of annual increment</td>
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<td>16.</td>
<td>1.1.2006</td>
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<td>17.</td>
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<td>18.</td>
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<td>19.</td>
<td>1.7.2008</td>
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<td>18120</td>
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<td>20.</td>
<td>1.9.2008</td>
<td>2\textsuperscript{nd} MACP in the pre pay scale of Rs..5500-175-9000</td>
<td>(9300-34800(4600 GP)</td>
<td>2\textsuperscript{nd} MACPin the Gr. Pay of 9300-34800(GP 4600)</td>
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<td>1.9.2008</td>
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<td>-do-</td>
<td>20500</td>
<td></td>
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<td>24.</td>
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<td>-do-</td>
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<td>-do-</td>
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<td>26.</td>
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</table>

2. The above fixation is subject to post audit observation and overpayment, if any will be recovered from the Employee in lump sum.

Sh. Ombir Singh  
Stenographer I,  
NMW.,  
New Delhi.

Copy to:  
1. Personal file/Service Book of the person concerned.  
2. P&AO(MS), Min. of I&B.  
3. Bill Clerk.