

No.28011/1/2013-Estt(C)
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel & Training)

North Block, New Delhi
Dated the 23 December, 2013

OFFICE MEMORANDUM

Subject: Consolidated Instructions on Forwarding of Applications of Government Servants for Outside Employment-regarding.

The undersigned is directed to refer to the subject mentioned above and to say that various instructions/guidelines have been issued by the Government from time to time regarding forwarding of applications of Government Servants for posts outside their own Cadre. All such instructions issued till date have been consolidated under easily comprehensible headings for the facility of reference and placed as Annexure to this O.M. All Ministries/ Departments are requested to bring the above guidelines to the notice of all concerned.

2. Hindi version will follow.


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To
All Ministries /Departments.

Copy to:

1. President's Secretariat, New Delhi.
2. Vice-President's Secretariat, New Delhi.
3. The Prime Minister's Office, New Delhi.
4. Cabinet Secretariat, New Delhi.
5. Rajya Sabha Secretariat/Lok Sabha Secretariat, New Delhi.
6. The Registrar General, the Supreme Court of India, New Delhi.
7. The Registrar, Central Administrative Tribunal, Principal Bench, New Delhi.
8. The Comptroller and Auditor General of India, New Delhi.
9. The Secretary, Union Public Service Commission, New Delhi.
10. The Secretary, Staff Selection Commission, New Delhi.
11. All attached offices under the Ministry of Personnel, Public Grievances and Pensions.
12. National Commission for Scheduled Castes, New Delhi.

Contd..p..2/7

13. National Commission for Scheduled Tribes, New Delhi.
14. National Commission for OBCs, New Delhi.
15. Secretary, National Council (JCM), 13, Ferozeshah Road, New Delhi.
16. Establishment Officer & A.S.
17. All Officers and Sections in the Department of Personnel and Training.
18. Facilitation Center, DOP&T (20 copies)
19. NIC (DOP&T) for placing this Office Memorandum on the Website of DOP&T.
20. Establishment Section (100 copies).

Annexure to DOPT O.M.No.28020/1/2010-Estt(C) dated 23rd December, 2013.

FORWARDING OF APPLICATIONS

GENERAL GUIDELINES

These guidelines relate to forwarding of applications of Government servants as direct recruit for posts within the Central Government, State Governments, Autonomous/ Statutory Bodies, CPSEs etc. It may be noted that in a case in which a particular employee cannot be spared without serious detriment to important work in hand, public interest would justify withholding of his application even if otherwise the application would have been forwarded. It may be added for information that where for good and sufficient reasons an application is withheld no infringement of any Constitutional right is involved.

[O.M. No. 170/51-Ests., dated the 21.10.1952]

2. INTERPRETING THE TERM 'PUBLIC INTEREST'

a. The Heads of Departments should interpret the term 'public interest' strictly and subject to that consideration, the forwarding of applications should be the rule rather than an exception. Ordinarily, every employee (whether scientific and technical or non-scientific and non-technical personnel) should be permitted to apply for an outside post even though he may be holding a permanent post.

b. No distinction need be made between applications made for posts in a Department under the Central government, Autonomous Bodies or sub-ordinate offices, posts under the State Governments, posts in Public Sector Undertakings owned wholly or partly by the Central Government or a State Government and posts in quasi-Government organizations. They should all be treated alike so far as the forwarding of applications is concerned. If, however, a Government servant desires to apply for a post in a private concern, he should submit his resignation or notice of retirement, as the case may be, before applying for private employment.

c. For this purpose, "scientific and technical personnel", may be interpreted to mean persons holding posts or belonging to services which have been declared to be scientific or technical posts or scientific or technical service.

[O.M. No. 70/10/60-Estt. (A), dated 09.05.1960 and
O.M. No. 8/7/69-Ests(C) dated the 01.11.1970]

3. GENERAL PRINCIPLES FOR DEALING WITH SUCH APPLICATIONS

The general principles to be observed in dealing with such applications are as under:

a. Applications from purely temporary Government servants - Applications from such Government servants should be readily forwarded unless there are compelling grounds of public interest for withholding them.

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b. Applications from permanent Government servants -- Both permanent non-scientific and non-technical employees as well as permanent scientific and technical employees could be given four opportunities in a year to apply for outside posts, except where withholding of any application is considered by the competent authority to be justified in the public interest. A permanent Government servant cannot justly complain of hardship or harsh treatment if his application for any other post or employment is withheld.

c. Applications of Government servants who have been given some technical training at Government expenses after commencement of service - Such Government servant cannot justifiably complain of hardship if he is not allowed to capitalize the special qualifications so gained by seeking other better employment. Withholding of application in such a case is therefore justifiable.

d. Applications of Government servants belonging to Scheduled Castes and Scheduled Tribes, other than 'scientific and technical personnel' - Applications for employment of temporary or permanent Central Government servants belonging to Scheduled Castes and Scheduled Tribes should be readily forwarded except in very rare cases where there may be compelling grounds of public interest for withholding such application. The withholding of application should be the exception rather than the rule in the case of employees belonging to Scheduled Castes and Scheduled Tribes who should be afforded every facility to improve their prospects.

e. Application of Government servants for employment in private business and industrial firm, etc. - Where a Government servant (including a temporary Government servant) seeks permission, to apply for such employment, he should submit his resignation or notice of retirement, as the case may be, before applying for private employment. He cannot complain of hardship if his application is withheld. While a person remains in Government service, the State can legitimately refuse to surrender its claim on his services in favour of a private employer.

[O.M. NO. 170/51-ESTS., DATED THE 21.10.1952; OM NO. 70/10/60-ESTS(A) DATED 09.05.1960; OM NO. 1/6/64-SCT.I DATED 19.03.1964; O.M. NO. 5/2/68-ESTT.(C) DATED 06.05.1968; OM NO. 8/7/69-ESTS(C) DATED 01.11.1970; OM NO. 8/15/71-ESTS(C) DATED 16.09.1971; OM NO. 8/22/71-ESTS(C) DATED 16.10.1971]

4. PROCEDURE TO BE FOLLOWED IN THE CASE OF THOSE WHO APPLY FOR POSTS IN THE SAME/ OTHER CENTRAL GOVERNMENT DEPARTMENTS/ STATE GOVERNMENT/ AUTONOMOUS BODY/ CENTRAL PUBLIC SECTOR ENTERPRISES ETC.

a) Applications from Government servants for employment elsewhere, submitted otherwise than in response to advertisement or circulars inviting applications, should not be forwarded.

[O.M. No. 5/3/65-Ests(C) dated the 21.12.1965]

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b) The applications may be forwarded in accordance with the general principles given in preceding paragraphs, irrespective of whether the post applied for in the other department/office is permanent or temporary.

c) As for temporary Government servants they should, as a matter of rule, be asked to resign from the parent department/office at the time of release from the parent department/office. An undertaking to the effect that he/she will resign from the parent department/office in the event of his/her selection and appointment to the post applied for may be taken from his/her at the time of forwarding the application. This procedure is to be followed even in case of a temporary Government servant applying as a direct recruit for a post in the same organisation.

d) In the case of permanent Government servants, their lien may be retained in the parent department/office for a period of two years incase of the new post being in the Central/state Government. They should either revert to the parent department/office within that period or resign from the parent department/office at the end of that period. An undertaking to abide by these conditions may be taken from them at the time of forwarding the applications to other departments/office. In exceptional cases where it would take some time for the other department/office to confirm such Government servants due to the delay in converting temporary posts into permanent ones, or due to some other administrative reasons, the permanent Government servants may be permitted to retain their lien in the parent department/office for one more year. While granting such permission, a fresh undertaking similar to the one indicated above may be taken from the permanent Government servants by the parent department.

e) Permanent Government servants on their being selected for appointment in an autonomous Body/ CPSE will have to resign before they are permitted to join the new organization. In their case no lien shall be retained and they will be governed by the orders issued by Department of Pensions & Pensioners' Welfare regulating mobility of personnel between Central Govt and Autonomous Bodies/ CPSEs etc.

f) The Terms of the bond need not be enforced in the cases of those who apply for appointment elsewhere, other than private employment, through proper channel. However, the obligations under the bond would be carried forward to the new employment. An undertaking to this effect may be obtained from the Govt. servant before he is relieved.

[O.M. No. 60/37/63-Ests(A) dated 14.07.1967; OM No. 8/4/70-Ests(C) dated 06.03.1974; O.M. No. 28016/5/85-Estt(C) dated 31.01.1986]

5. POSTS ADVERTISED BY UNION PUBLIC SERVICE COMMISSION (UPSC)/STAFF SELECTION COMMISSION(SSC)

a) Where Government servants apply directly to UPSC/SSC as in the case of direct recruit, they must immediately inform the head of their Office/Department giving details of the examination/post for which they have applied, requesting him to communicate his permission to the Commission directly. If, however, the Head of the Office/Department considers it necessary to withhold the requisite permission, he should inform the Commission accordingly within thirty days of the date of closing for receipt of applications. In case any situation mentioned in para 6 below is existing, the requisite permission should not be granted and UPSC/SSC should be

immediately informed of this fact as also the nature of allegations against the Government servant. It should also be made clear that in the event of actual selection of Government servant, he would not be relieved for taking up the appointment, if the charge-sheet/prosecution sanction is issued or a charge-sheet is filed in a court for criminal prosecution, or if the Government servant is placed under suspension.

b) It may be noted that in case of direct recruitment by selection, i.e., "selection by interview", it is the responsibility of the requisitioning Ministry/Department to bring to the notice of the Commission any point regarding unsuitability of the candidate (Government servant) from the vigilance angle and that the appropriate stage for doing so would be the consultation at the time of preliminary scrutiny, i.e., when the case is referred by the Commission to the Ministry/Departments for the comments of the Ministry's representatives on the provisional selection of the candidate for interview by the Commission.

[O.M. No. 14017/101/91-Estt.(RR) dated the 14th July, 1993& O.M.No.20016/1/88-Estt.(C) dated 18/07/1980]

c) When once the Administrative Authority has forwarded an application, it is mandatory that the Government employee concerned should be released to take up the new appointment. However, where subsequent to the forwarding of the application, but before selection if exceptional circumstances arise in which it may not be possible to release the official, the fact should be communicated to the Commission as well as to the official concerned. The decision not to release an official should be taken only where the circumstances referred to above are really exceptional.

[O.M. No. 60/43/64-Ests(A) dated the 24.08.1965]

6. CIRCUMSTANCES IN WHICH APPLICATION SHOULD NOT BE FORWARDED

Application of a Government servant for appointment, whether by direct recruitment, transfer on deputation or transfer, to any other post should not be considered/ forwarded, if-

- (a) (i) he is under suspension; or
- (ii) disciplinary proceedings are pending against him and a charge sheet has been issued; or
- (iii) sanction for prosecution, where necessary has been accorded by the competent authority; or
- (iv) where a prosecution sanction is not necessary, a charge-sheet has been filed in a Court of law against him for criminal prosecution.
- (v) where he is undergoing a penalty – no application should be forwarded during the currency of such penalty.

(b) When the conduct of a Government servant is under investigation (by the CBI or by the Controlling Department) but the investigation has not reached the stage of issue of charge-sheet or prosecution sanction or filing of charge-sheet for criminal prosecution in a court, the application of such a Government servant may be forwarded together with brief comments on the nature of allegations and it should also be made clear that in the event of actual selection of the

Government servant, he would not be released for taking up the appointment, if by that time any of the situations in (a) above arises.

[O.M. No. 14017/101/91-Estt.(RR) dated the 14th July, 1993]

7. FORWARDING OF APPLICATIONS FOR POSTS ADVERTISED BY CENTRAL/ PUBLIC SECTOR UNDERTAKINGS/ CENTRAL AUTONOMOUS BODIES

Applications of Central Government Servants in response to press advertisement for posts in Central Public Enterprises/Autonomous Bodies may be forwarded with a clear understanding with the employee that in the event of their selection for the post applied for they will sever their connections with the Government before joining the Public Sector Undertakings/ Autonomous Bodies. No lien shall be retained in such cases. The relieving order should indicate the period within which the official should join the Public Sector Undertaking/ Autonomous Body. Normally this period should not be more than 15 days. This period may be extended by the competent authority for reasons beyond the control of the official. Necessary notification/ orders accepting the resignation of the Govt. servant from Govt. service should be issued from the actual date of his/her joining the Public Sector Undertaking/Autonomous Body. The period between the date of relieving and the date of joining Public Sector Undertaking/ Autonomous Body can be regulated as leave of the kind due and admissible and if no leave is due, by grant of extra ordinary leave. In case he/she is not able to join the Public Sector Undertaking/Autonomous Body within the period allowed by the competent authority, he/she should report back to the parent office forthwith.

[Department of Pension & Pensioner's Welfare OM No. 4/15/88-P&PW(D) dated 13.11.1991]

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