

No.22011/3/2013-Estt (D)
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

North Block, New Delhi
Dated- 25.01.2016

OFFICE MEMORANDUM

Subject:- Promotion of Govt. Servants exonerated after retirement – Procedure and Guidelines to be followed - Regarding.

The undersigned is directed to invite reference to the Department of Personnel and Training Office Memorandum No. 22011/4/91-Estt(A) dated 14th September, 1992 regarding procedure and guidelines to be followed by DPC in respect of Government servants against whom disciplinary/court proceedings are pending or whose conduct is under investigation. In case the Government servant is covered under any of the three conditions as mentioned in Para 2 of OM dated 14.09.1992, the recommendations of the DPC are to be kept in 'sealed cover' and subsequent action regarding opening of sealed cover will depend on the outcome of the disciplinary/criminal proceedings.

2. If on conclusion of the disciplinary/ criminal proceedings, the Government servant is exonerated, the procedure prescribed in para 3 of the OM dated 14-9-1992 is to be followed. This provides as under:-

“On the conclusion of the disciplinary case/criminal prosecution which results in dropping of allegations against the Govt. servant, the sealed cover or covers shall be opened. In case the Government servant is completely exonerated the due date of his promotion will be determined with reference to the position assigned to him in the findings kept in the sealed cover/covers and with reference to the date of promotion of his next junior on the basis of such position. The Government servant may be promoted, if necessary, by reverting the junior most officiating person. He may be promoted notionally with reference to the date of promotion of his junior. However, whether the officer concerned will be entitled to any arrears of pay for the period of notional promotion preceding the date of actual promotion, and if so to what extent, will be decided by the appointing authority by taking into consideration all the facts and circumstances of the disciplinary proceedings/criminal prosecution. Where the authority denies arrears of salary or part of it, it will record its reasons for doing so. It is not possible to anticipate and enumerate exhaustively all the circumstances under which such denials of arrears of salary or part of it may become necessary. However, there may be cases where the proceedings, whether disciplinary or criminal, are, for example delayed at the instance of the employee or the clearance in the disciplinary proceedings or acquittal in the criminal proceedings is with benefit of doubt or on account of non-availability of evidence due to the acts attributable to the employee etc. These are only some of the circumstances where such denial can be justified.”

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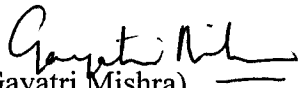
3. The applicability of above provisions in so far as it relates to cases where the Government Servant, who has retired by the time he is exonerated of all the charges has been considered in respect of the following cases:

- i. Where the promotion order pertaining to the relevant DPC has been issued and the officers empanelled have assumed charge prior to the date of superannuation of the retired Government Servant; and
- ii. The retired Government Servant would have been in service and assumed charge of the post had the disciplinary proceeding not been initiated against him/her.

4. It has been decided in consultation with the Department of Expenditure, Department of Pensions & Pensioners' Welfare and the Department of Legal Affairs that notional promotion and payment of arrears of pay, if any, for the period of notional promotion till the date of retirement, to such a retired Government servant if found fit on opening of the sealed cover is to be decided by the appointing authority in terms of Para 3 of OM No.22011/4/91-Estt.(A) dated 14/9/1992.

5. A retired Government employee who is considered for notional promotion from the date of promotion of his next junior after opening of the sealed cover would also be entitled to fixation of pension on the basis of such notional pay on his notional promotion.

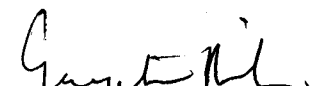
6. The provisions contained in this Office Memorandum shall become operational from the date of issue of this Office Memorandum. Past cases settled in accordance with the earlier provisions shall not be reopened.


(Gayatri Mishra)
Director (E-I)
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All Ministries/Departments of the Government of India.

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- 10 All attached offices under the Ministry of Personnel, Public Grievances and Pensions.
11. All Officers and Sections in the Department of Personnel and Training.
12. Establishment(D) Section, DoP&T (10 copies)
13. NIC for updation on the website.


(Gayatri Mishra)
Director (E-I)