

8910
11/6/16



GOVERNMENT OF KERALA
PERSONNEL AND ADMINISTRATIVE REFORMS (RULES) DEPARTMENT

CIRCULAR

No. 6419/R1/2016/P&AR D Dated, Thiruvananthapuram 18th May, 2016

Sub:- Personnel and Administrative Reforms
Department. - Re-appointment under Rule 8 of
Part II KS&SSRs, 1958- Clarification - Reg.

Several instances have come to the notice of Government that requests for re-appointment under Rule 8 Part II KS&SSRs are denied on the interpretation that 'No Objection Certificate' from the competent authority of the former department is required to take up appointment in the latter department, otherwise it shall not be deemed to be an appointment made in the exigencies of public service in terms of the Note 1 below the 4th proviso to Rule 8 Part II KS&SSRs and such persons are not eligible for reappointment to the former service, in terms of Rule 8 Part II KS&SSRs.

2. The Rule 8 of Part II KS&SSRs, 1958 envisages that the absence of a member of a service from duty in such service for the reasons cited therein shall not, if he is otherwise fit, render him ineligible in his turn for re-appointment, for promotion from a lower to a higher category in such service and for appointment to any substantive or officiating vacancy in another service for which he may be an approved candidate, as the case may be, in the same manner as if he has not been absent. He shall be entitled to all the privileges in respect of appointment, seniority, probation and appointment as full member which he would have enjoyed but for his absence. The 4th proviso to Rule 8 insists that this rule shall not apply in the case of a member of a service whose absence from duty in such service is by reason of his appointment to another service not being Military Service, solely on his own application, unless such appointment is made in the exigencies of public service. The Note 1 under 4th proviso clarifies that an appointment made in pursuance of applications invited, sponsored or recommended by Government or other competent authority on behalf of the

Government shall be deemed to be an appointment made in the exigencies of Public Service for the purpose of this rule.

3. In Judgment dated: 11/4/2014 in OP (KAT) No. 2369/2012, the Hon'ble High Court has also held that the petitioner thereon is entitled to re-appointment as Junior Inspector/Auditor, as the appointment of the petitioner in pursuant to the application invited by the PSC shall be deemed to be an appointment made in the exigencies of public service for the purpose of rule 8 of Part II of KS&SSRs.

4. Since Public Service Commission is the competent authority to invite application for appointment to Public Services, an application made in pursuance of application invited by the Kerala Public Service Commission has to be treated as an application made in exigencies of Public Service as defined in Note 1 below the 4th proviso to Rule 8 Part II KS&SSRs. Therefore in such cases, insisting "No Objection Certificate" from the former department, to take up appointment in the latter department, in order to get the benefit of reappointment to former department under Rule 8 Part II KS&SSRs is not correct.

5. In the above circumstances, Government here by clarify that NOC is not at all required for reappointment to the former department under Rule 8 Part II KS&SSRs in cases where appointment made to the latter department was in pursuance of PSC notification inviting application for appointment. All Additional Chief Secretaries/ Principal Secretaries/ Secretaries, all Heads of Departments and Appointing Authorities including Advice Sections of the Personnel & Administrative Reforms Department are requested to note the position and they are hereby directed to ensure that no one is denied of the right for re-appointment under Rule 8 Part II KS&SSRs by insisting No Objection Certificate.

SATYAJEET RAJAN
Principal Secretary to Government

To

All Head of Departments and Offices
All Departments / All Sections (including Law & Finance) of Govt.
Secretariat
The Secretary, Kerala Public Service Commission, Thiruvananthapuram

(with C.L)
 The Principal Accountant General (Audit), Kerala, Thiruvananthapuram
 (with C.L)
 The Accountant General (A& E), Kerala, Thiruvananthapuram
 (with C.L)
 The Registrar, All Universities (with C.L)
 The Secretary, Kerala Legislature Secretariat (with C.L)
 The Secretary to Governor, Raj Bhavan, Thiruvananthapuram
 (with C.L)
 The Registrar, High Court of Kerala, Ernakulam (with C.L)
 The Registrar, KAT, Thiruvananthapuram (with C.L)
 The Advocate General, Kerala, Ernakulam/Thiruvananthapuram
 Branch (with C.L)
 The Registrar, Kerala Lok Ayukta, Thiruvananthapuram (with C.L)
 The Secretary, Human Rights Commission, Thiruvananthapuram
 (with C.L)
 The Secretary, Ombudsman for Local Self Government,
 Thiruvananthapuram (with C.L)
 The State Chief Information Commissioner (with C.L)
 All Additional Chief Secretaries/Principal Secretaries/
 Secretaries/Special Secretaries/Additional Secretaries/Joint
 Secretaries/Deputy Secretaries/Under Secretaries to Government
 The PS to Speaker/The PS to Deputy Speaker of the Legislative
 Assembly
 The PS to Chief Minister and all other Ministers
 The PS to the Leader of Opposition
 The Additional Secretary to Chief Secretary
 I & PR (Web & New Media) Department for uploading in the
 Official Website.
 Personnel & Administrative Reforms (Advice-A/B) Department
 Stock File/Office Copy.

Forwarded / By order,

Sunobh
 Section Officer.