

No. PER (AP-B)B(19)-25/2007-Loose.
Government of Himachal Pradesh
Department of Personnel
APPOINTMENT-II

From

The Pr. Secretary (Personnel) to the
Government of Himachal Pradesh.

To

1. All Administrative Secretaries to the Government of Himachal Pradesh.
2. All Special/Additional/Joint/Deputy/Under Secretaries to the Government of Himachal Pradesh.
3. All Divisional Commissioners in Himachal Pradesh.
4. All Heads of the Departments in Himachal Pradesh.
5. All Deputy Commissioners in Himachal Pradesh.

Dated Shimla-171002, the 05 January, 2013

Subject: Principles for promotion to selection posts-Clarification thereof.

Sir/Madam,

On the subject cited above, I am directed to say that the instructions contained in Notification No. Per (AP-II)-A(1)-1/80 dated 3-4 November, 1981 provide that the officer assessed as "outstanding" will supersede the officer assessed as "very Good", only when the difference of length of service in the feeder grade between the two officers is not more than two years. Similar is the position in respect of "Very Good", and "Good" grading.

The instructions issued vide letter No. PER(AP)-C-F(1)-1/95 dated 27th May, 1996 provide that even if a Scheduled Caste/ Scheduled Tribe candidate is promoted earlier by virtue of rule of reservation than his senior general candidate and the senior general candidate is promoted later to the said higher grade, the general candidate shall regain his seniority over such earlier promoted Scheduled Caste/Scheduled Tribe candidate. It means that the reserved category candidates has to be given seniority above his immediate junior and below his immediate senior in the entry grade in case at the given point of time all the candidates are on the same post without giving any weightage of earlier promotion of the reserved category candidate on account of rule of reservation roster.

It has been observed that there are contradictions between these two instructions dated 3-4 November, 1981 and 27th May, 1996 and intricate situation can arise. Therefore with a view to give harmonious interpretation to these instructions, it has been decided that the length of service for the purpose of instructions dated 3-4 November, 1981 in respect of the reserved category candidates, who have been promoted by virtue of rule of reservation should be determined by taking into account the date from which the reserve category candidate has been assigned seniority on the promotional post on the basis of seniority in the entry grade in view of the instructions dated 27th May, 1996.

Contd.....P-2/----

For administrative convenience, the position is being explained by taking into a hypothetical illustration. Supposing that 'A', 'B' and 'C' are three officers having been assigned seniority in the entry grade in the same order. 'A' and 'C' are general category candidates and 'B' is the reserved category candidate. 'B' is promoted to the next promotional (non-selection) post in the year, 2000 by virtue of rule of reservation roster and 'A' and 'C' are promoted to the same post in the year, 2005. 'A' regained seniority above 'B' as per the seniority in the entry grade in accordance with the instructions dated 27th May, 1996 on the promotional post. The next promotional (selection) post became available in the year, 2010 and all the three candidates are eligible for promotion. 'C' is assessed by the DPC as "Outstanding, whereas 'A' & 'B' are assessed as "Good". 'C' can supersede 'A' in accordance with the instructions dated 3-4 November, 1981 as difference in the length of service between the two officers in the feeder category is less than two years, because both were promoted in the year, 2005. In case, the above discussed two instructions are not read together and not given harmonious constructions, Intricate situation may arise. Since the difference in the length of service in the feeder category between 'B' (promoted in the year 2000 by virtue of rule of reservation) and 'C' (promoted in the year 2005) is more than two years, 'C' cannot supersede 'B' If instructions dated 3-4 November, 1981 are applied in isolation which would create anomalous situation and render the instructions dated 27.5.1996 ineffective which are based on the law laid down by the Apex court. Such a situation cannot allowed to be happen under the garb of instructions dated 3-4 November, 1981. When 'C' can supersede 'A', who is senior most amongst the three, but cannot supersede his immediate senior 'B', who is junior to 'A', if this is allowed to happen 'B' will become senior to 'A' which is neither the intention of issuing the above instruction nor as per the law laid down by the Hon'ble courts. Therefore, in order to give harmonious constriction to the aforesaid two instructions, the length of service in respect of 'B' has to be calculated from the deemed date, from which he is granted seniority as per the entry grade in promoted post in accordance with the instructions dated 27th May, 1996. Thus, for the purpose of instructions dated 3-4 November, 1981, the length of service in the feeder category in respect of 'B' has to be calculated with effect from the year, 2005.

The above clarification/instructions may be brought to the notice of all concerned and strict compliance may be ensured. These instructions are being issued in consultation with State Law Department.

Yours faithfully



Additional Secretary (Personnel) to the
Government of Himachal Pradesh

No. As above. Dated Shimla-171002, the 05 January, 2013
Copy forwarded to the Dealing Assistant dealing with DPC matters DOP-II Section for
information and record alongwith all relevant papers.



Additional Secretary (Personnel) to the
Government of Himachal Pradesh