

Government of Himachal Pradesh  
Department of Personnel  
Appointment-II  
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No.Per(AP-II)A(3)-1/79-III

Dated, Shimla-171002, the 10<sup>th</sup> April, 2019

OFFICE MEMORANDUM

**Subject:** Instructions on sealed cover procedure-where Government servant has been acquitted but appeal is contemplated/pending – clarification regarding.

In continuation to this Department Office Memorandum of even number dated 03-12-1992, the undersigned is directed to forward herewith copy of the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training, Establishment, A-III Desk, North Block, New Delhi, Office Memorandum F.No.11012/6/2016-Estt.A-III, dated 19<sup>th</sup> January, 2017, regarding clarificatory instructions with regard to the course of action in cases where the Government servant is acquitted by trial court but an appeal against the judgment is contemplated or has been filed.

2. These instructions are hereby adopted by the State Government and will be applicable to the employees of the State with immediate effect.
3. These instructions may be brought to the notice of all concerned for strict compliance.



(R.D. Dhiman)

Additional Chief Secretary (Personnel) to the  
Government of Himachal Pradesh  
Phone No. 0177-2621911

Endst. No.Per(AP-II)A(3)-1/79-III Dated, Shimla-171002, the 10<sup>th</sup> April, 2019

Copy to :-

1. All the Administrative Secretaries to the Government of Himachal Pradesh.
2. All Heads of Departments in Himachal Pradesh.
3. The Registrar, H.P. High Court, Shimla-171001.
4. The Divisional Commissioners, Shimla, Kangra and Mandi.
5. All Deputy Commissioners in Himachal Pradesh.
6. All the Superintendents of Police in Himachal Pradesh.
7. All the Managing Directors/Registrars/Secretaries of Boards, Corporations, Govt. Universities Public Sector Undertakings/Autonomous Bodies/Commissions and Authorities in Himachal Pradesh.
8. The Secretary, Himachal Pradesh Public Service Commission, Shimla-171002.
9. The Secretary, Himachal Pradesh Staff Selection Commission.
10. Guard file.



Deputy Secretary (Personnel) to the  
Government of Himachal Pradesh

(202) (283)

F. No. 11012/6/2016-Estt.A-III  
Government of India  
Ministry of Personnel, Public Grievances and Pensions  
Department of Personnel & Training  
Establishment A-III Desk  
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North Block, New Delhi  
Dated: 19<sup>th</sup> January, 2017

OFFICE MEMORANDUM

Department of Personnel  
Appointment & Promotion  
Dairy No. SU 638617  
Date 13-03-2019

Subject: Instructions on sealed cover procedure - where Government servant has been acquitted but appeal is contemplated/pending - clarification regarding. J. S/E

The undersigned is directed to refer to this Department's O.M. No. 22011/4/91-Estt.A dated 14.09.1992 issued in the light of the Judgement dated 27.08.1991 of the Hon'ble Supreme Court in the case of *Union of India v/s K.V. Jankiraman* etc. (AIR 1991 SC 2010). References have been received seeking clarification with regard to the course of action in cases where the Government servant is acquitted by trial court but an appeal against the judgment is either contemplated or has been filed. This issue has been examined in the light of various court judgements including *Bank of India and another vs. Degala Suryanarayana*, Appeal (Civil) 3053-54 of 1997, (1999) 5 SCC 762 in consultation with Department of Legal Affairs and it is clarified as following:

- i. Where the recommendation of DPC has been kept in sealed cover solely on account of pendency of the criminal case, the sealed cover may be opened in case of acquittal of the Government servant provided it has not been stayed by a superior court.
- ii. In the order of promotion a mention may however be made that the promotion is provisional subject to the outcome of appeal that may be filed against the acquittal of the Government servant. The promotion thus will be without prejudice to the action that may be taken if the judgement of the trial court acquitting the Government servant is set-aside.
- iii. In case on appeal the Government servant stands convicted, following action will be taken:
  - a. The provisional promotion shall be deemed *non est*, and the Government servant shall stand reverted;
  - b. In case of the Government servant being sentenced to imprisonment exceeding 48 hours, he will be deemed to be

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under suspension in terms of rule 10(2)(b) from the date of conviction;

c. Action under rule 19 (i) of the CCS(CCA) Rules, 1965, read with OM No. 11012/11/85-Estt (A) dated the 11<sup>th</sup> November, 1985 and 4<sup>th</sup> April, 1986 shall be taken.

2. All Ministries/ Departments are requested to bring the aforesaid instructions to the notice of all concerned and take action accordingly.

3. Hindi version will follow.

  
(Mukesh Chaturvedi)  
Director (E)  
Tele: 2309 3176

To

The Secretaries of All Ministries/Departments (as per the standard list)

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 Comptroller and Auditor General of India, New Delhi.
7. The Secretary, Union Public Service Commission, New Delhi.
8. The Secretary, Staff Selection Commission, New Delhi.
9. All attached offices under the Ministry of Personnel, Public Grievances and Pensions.
10. Secretary, National Council (JCM), 13, Feroze Shah Road, New Delhi.
11. CVOs of all Ministries/Departments.
12. ADG (M&C), Press Information Bureau, DoP&T
13. NIC, Department of Personnel & Training, North Block, New Delhi for uploading the same on the website of this Ministry under the Head OMs & Orders → Establishment CCS (CCA) Rules.
14. Hindi Section, DoP&T

  
(Mukesh Chaturvedi)  
Director (E)  
Tele: 2309 3176