



GOVERNMENT OF KERALA
Personnel and Administrative Reforms (Rules) Department

CIRCULAR

No.2517/R1/2013/P&ARD Thiruvananthapuram, 8th February 2013

Sub:- P& ARD - Kerala State and Subordinate Services Rules 1958 - Re-appointment under rule 8 of Part II KS&SSR,s - Clarification - reg

Rule 8 of Part II Kerala State and Subordinate Services Rules 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,—

- a) for re - appointment to a substantive or officiating vacancy in the class, category, grade or post in which he may be a probationer or an approved probationer
- b) for promotion from a lower to a higher category in such service; and
- c) 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.

2. Based on the above rule position, a 'member of a service' in one Department who after moving on to another Department returns to the service in the first Department shall be entitled to re-appointment in the same class, category, grade or post in the same service in the first Department under clause (a) and he shall be entitled to all promotions within the same 'service' in the first Department that would have accrued to him but for his absence from such a service. His promotions under clause (b) in the first Department shall be limited to grades or categories or posts within such 'service', of which he was a member at the time of his relief from that Department.

3. As per the second proviso under rule 8 (c) , Part II, KS&SSRs, a member of a service who is appointed to another service and is a probationer or an approved probationer in the latter service, shall not be appointed under sub rule (c) to any other service for which he may be an approved candidate unless he relinquishes his membership in the latter service in which he is a probationer or an approved probationer.

4. According to rule 2 (15), Part I KS&SSR's 'Service' is classified as "State Service" and "Subordinate Service" as the case may be.

5. Rule 8 is applicable to a member of a service absent from duty in such 'service'. A Government servant who left a "Subordinate Service" in his parent Department for taking up appointment in

another subordinate or state service has the right for seniority on his re-appointment, only in the subordinate service of the Parent Department from which he left. The availability of the benefit of the rule is limited to the post borne on the cadre of a 'service' namely, "Subordinate" or "State service" and not extended to all posts in the Department. He cannot automatically claim and acquire the benefit of seniority in the "State Service" of the Parent Department unless he was an approved candidate for appointment at the time of his relief from the Parent Department in the State Service. Even then for appointment in the "State Service" he has to be re-appointed in the Parent Department in the "Subordinate Service", and he has to relinquish his membership in the latter service as provided in the second proviso to Rule 8. If he was not an approved candidate for appointment in the "State Service" at the time of his relief in the Parent Department, he has to get his probation declared in the "Subordinate Service", get selected by the DPC after assessment of his merit and ability, relinquish his membership in the latter service and get appointed to each post borne on the cadre of the "State Service". His seniority in the "State Service" in the Parent Department shall be determined by the date of order of his appointment to "State Service" as envisaged in Rule 27 (a) Part II KS&SSRs. The Rule does not envisage protection of seniority in another service namely "State Service". The Hon'ble High Court in Writ Appeal No. 1414, 1385, 1825 and 1823/11 dated 29.06.12 has also observed as follows,

" However it is needless to say that the authorities who consider the representations for repatriation of the respondent/writ petitioners, have to take into account the relevant rules keeping in mind the State Service and Subordinate Service".

6. There are occasions when a Government Servant gets relieved from the Parent Department in the "Subordinate Service" and after a long period of absence gets reappointed to the Parent Department on request, claims the benefits of seniority and appointment direct to the posts in the "State Service" also based on the post held by his junior in the "Subordinate Service" in the Parent Department at the time of his relief from the "Subordinate Service". The junior in this case who continued in the Parent Department might have got selected by the Departmental Promotion Committee to each post borne on the cadre of the "State Service" after getting his probation declared in each post and merit and ability assessed by the DPC and his seniority reckoned as per Rule 27 (a) Part II, KS&SSRs. The re-appointee claims the benefit of seniority and appointment notionally in the "State Service" also, by skipping the procedure and criterion of seniority laid down in the Rules for such appointment in the "State Service" and also without relinquishing the membership in the latter Service as envisaged in the second proviso to Rule 8 (c). This has created embarrassing situations to Government and has led to large number of litigations. This causes discontent among the Government Servants who continues in the Parent Department. The re-appointee one day, on his re-appointment after a long period of absence in the Parent Department often gets appointed to the highest post borne on the cadre of the "State Service" of the Parent Department overlooking the claims of those who have been appointed to the posts in the "State Service" as per seniority in the "State Service" after following the procedure prescribed in the Rules, causing their reversion and upsetting the settled seniority. Appointment of a person who has been absent for a very long time in the Parent Department to higher

posts without any experience in that Department also affects the efficiency of the service. This often persuades Government Servants to hop from one Department to another in Government Service, in search of promotional avenues. This is not what is intended by the rule.

7. In the circumstances, Government hereby clarify that a 'member of a service' in one Department who after moving on to another Department, returns to the service in the first Department, shall be entitled to re-appointment, only in the same class, category, grade or post in the same service namely "State" or "Subordinate Service" as the case may be in the first Department under Rule 8, Part II, KS&SSRs and he shall be entitled for all promotions within the same service (State or Subordinate) in the first Department that would have accrued to him but for his absence from such a service. A Government Servant who left the Parent Department from the "Subordinate Service" shall not be eligible for the benefit of seniority and appointment in the "State Service" by virtue of his re-appointment in the Parent Department under Rule 8, Part II KS&SSRs.

K. JOSE CYRIAC

Chief 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, Rajbhavan, 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)
 The General Manager, KSRTC, Thiruvananthapuram (with C.L)
 The Secretary, KSEB, Thiruvananthapuram (with C.L)
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 The PS to Chief Minister and all other Ministers
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Forwarded By order,

Section Officer