

No.2/5/2006-2GS1

41134—CS—H.G.P., Chd.

From

The Chief Secretary to Government Haryana.

To

1. All Heads of Departments, Commissioners, Ambala Hisar, Gurgaon and Rohtak Divisions.
2. The Registrar, Punjab and Haryana High Court, Chandigarh; and
3. All the Deputy Commissioners and Sub Divisional Officers (Civil) in Haryana.

Dated Chandigarh, the 31<sup>st</sup> May, 2006.

**Subject:- Regarding consideration of promotion during the currency of stoppage of increments.**

Sir,

I am directed to refer to the subject noted above and to invite your attention to para-2 of the Haryana Government instructions issued vide letter No.3508-4GS1-1-1876/7B/18540, dated 19.7.73 which inter-alia provide that if an employee has been awarded punishment of stoppage of one or more grade increments and his turn comes up for promotion during the currency of stoppage of his grade increment(s), the decision for his eligibility for promotion or otherwise should be taken keeping in view his overall record and he should be considered fit for promotion if his over all record makes him eligible for promotion notwithstanding the fact that the punishment awarded to him becomes ineffective on his promotion.

2. In a judgement of the Hon'ble Supreme Court in the case of State of Tamilnadu Versus Thiru K.S. Muragesan & others (C.A.Nos.3432-33 of 1995) decided on 28.2.1995, reported as 1995(3)RSJ 271, this Hon'ble Court has held that:-

“.....Unless the period of punishment gets expired by efflux of time, the claim for consideration during the said period cannot be taken up. Otherwise, it would amount to retrospective promotion which is impermissible under the Rules and it would be a premium on misconduct. Doctrine of double jeopardy has no application and non-consideration is neither violative of Article 21 nor Article 14 read with Article 16 of the Constitution .....”

letters No.6034-2GS1-71/32498, dated 18.11.71 and No.3508-4GS1-1-73/18540, dated 19.7.73 shall stand modified to the extent indicated above.

These instructions may be brought to the notice of all concerned for their information and strict compliance.

Yours faithfully,

*ma*  
Deputy Secretary General Administration,  
for Chief Secretary to Government Haryana.

A copy is forwarded to all the Financial Commissioners and Principal Secretaries/ Commissioners and Secretaries to Government Haryana for information and necessary action.

*ma*  
Deputy Secretary General Administration,  
for Chief Secretary to Government Haryana

To

All the Financial Commissioners and Principal Secretaries/  
Commissioners and Secretaries to Government Haryana.

U.O.No. 13/2/2006-2GS1 Dated Chandigarh, the 31<sup>st</sup> May, 2006.

Endst.No. 13/2/2006-2GS1 Dated Chandigarh, the 31<sup>st</sup> May, 2006.

A copy is forwarded to All the Managing Directors of all the Boards/  
Corporations and Public Undertakings for their information.

*ma*  
Deputy Secretary General Administration,  
for Chief Secretary to Government Haryana.

A copy is forwarded to Principal Secretary/Additional Principal Secretary I & II/ OSD-I & II/ Senior Special Private Secretary/ Senior Private Secretary/ Private Secretary to Chief Minister/ Deputy Chief Minister/ Ministers for information.

*ma*  
Deputy Secretary General Administration,  
for Chief Secretary to Government Haryana

To

Principal Secretary/Additional Principal Secretary I & II/ OSD-I & II/  
Senior Special Private Secretary/ Senior Private Secretary/ Private  
Secretary to Chief Minister/ Deputy Chief Minister/ Ministers.

U.O.No. 13/2/2006-2GS1 Dated Chandigarh, the 31<sup>st</sup> May, 2006.

Endst.No. 13/2/2006-2GS1 Dated Chandigarh, the 31<sup>st</sup> May, 2006.

English Version of letter No. 6034-2GS-I-71/32498, dated 18-11-71

**Subject:** Procedure to be followed in cases where the turn of an official whose conduct is the subject of an enquiry comes for promotion to a higher post.

I am directed to refer to the composite Punjab Government letter No. 1497-4GS-62/4059, dated 13-2-1962, (and to the Haryana Government letter No. 2025-5GS-71/12277, dated 24-5-71) wherein it is provided *inter alia* that where on a preliminary investigation of a complaint a *prima facie* case is found to exist against a Government employee and it is proposed to take action against him under rule 7 or 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1952, then he should not be promoted to a higher post until after disciplinary action against him has been completed.

I am to say that in that connection the Government has considered the matter further and it has been decided to substitute para 2(a)(iv) of the instructions dated 13-2-1962 by the following :-

Para (a) (iv)

Where on a preliminary investigation of the complaint a *prima facie* case has been established against a Government employee and he has been served a charge sheet and an Enquiry Officer has been appointed to hold a regular departmental enquiry under rule 7 of the Punjab Civil Services (Punishment and Appeal) Rules, 1952, or any comparable rule applicable to the Govt. employee concerned, then he should not be promoted until the enquiry has been completed and he has been exonerated. In a case in which a charge-sheet has been served but the explanation in response to the charge-sheet has not been received (and as a result if an Enquiry Officer has not been appointed), the case of promotion should be kept pending until decision has been taken as to whether a regular departmental enquiry should or should not be held. If it is decided that an enquiry should be held, then the Govt. employee should not be promoted until he has been exonerated in the enquiry. If he is ultimately exonerated of all the charges without the imposition of any penalty or is only administered a warning (whether with a copy on the personal file or not) then he should, if otherwise fit for promotion in every respect, be promoted with retrospective effect i.e. from the date on which he was due for promotion and an official junior to him was promoted. In case no vacancy was available for the period in question a temporary post should be created in consultation with the Finance Department and the junior most promoted official should be reverted, if necessary.

In the case of a Govt. employee against whom action is proposed to be taken under rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1952 or any rule comparable thereto, the matter should be considered in the light of the nature of allegations and the quantum of the penalty that is proposed to be awarded. The criterion should be whether or not if the allegations were to be proved and the proposed penalty were to be imposed, then the promotion of the employee would still be justified on the basis of his entire record. In other words promotion should not be withheld only because disciplinary action under rule 8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1952 or any comparable rule is contemplated or is pending against a Government employee and instead in such cases the decision should be taken keeping in view the nature of the allegations, the quantum of the penalty proposed and the overall record. Furthermore, if promotion is withheld on that basis, but subsequently on the completion of the departmental proceedings the Govt. employee is exonerated without the imposition of a penalty or is only administered a warning (whether with a copy on the personal file or not) then he should, if he is otherwise fit for promotion in every respect be promoted with retrospective effect i.e. from the date on which he was due for promotion and an official junior to him was promoted. Where no vacancy is available a temporary post may be created for the purpose in consultation with the Finance Department and the Junior most promoted official should be reverted, if necessary.

3. It is requested that the above instructions may be brought to the notice of all concerned for strict compliance. Receipt of this communication may also be acknowledged.

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