

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.

2. 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 such 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 that 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. The receipt of this communication may also be acknowledged.