

Confirmation in Govt. Post

Government of West Bengal
Finance Department
Audit Branch
No. 6060-F

Calcutta, the 25th June, 1979.

NOTIFICATION

In exercise of the power conferred by the proviso to article 3(1) of the Constitution of India, and in supersession of all previous orders on the subject, the Governor is pleased hereby to make the following rules :-

RULES

1. Short title and commencement.- (1) These rules may be called the West Bengal Services (Appointment, Probation and Confirmation) Rules, 1979.

(2) They shall come into force with effect from the 1st June, 1979.

2. Application.- (1) These rules shall apply in cases of appointment on entry into Government Service.

(2) Subject to the provisions of sub-rule (3), these rules shall apply to all persons who are whole-time employees of Government, including those who are paid out of contingencies or under work-charged head or who are paid on piece-rate basis but employed throughout the year.

(3) These rules shall not apply to-

- (a) persons appointed on contract basis, or appointed otherwise than in accordance with recruitment rules,
- (b) part-time employees, casual labours, daily labours, muster-roll workers and seasonal labours,
- (c) employees of the Central Government or any other State Government who are on deputation to any Department of Government,
- (d) such other categories of persons as may be specified from time to time by Government by notification in the Official Gazette,
- (e) the cases of appointment on promotion to higher posts and on appointment to selection grades.

3. Definitions.- In these rules, unless there is anything repugnant in the subject or context,-

- (a) "appointment on permanent basis" means substantive appointment with confirmation,

- (b) "appointment on probation" means appointment on trial before confirmation;
- (c) "Government" means the Government of West Bengal;
- (d) "probationer" means a Government employee appointed on probation;
- (e) "temporary service" means service beginning from the date of appointment under Government till the date of appointment on probation or on permanent basis;

4. Mode of appointment.- All appointments on entry into Government service shall initially be made on temporary basis.

5. Appointment on probation and appointment on permanent basis.-

(1) A Government employee-

- (a) shall be deemed to be on probation on completion of continuous temporary service for two years after his initial appointment in a post of service or cadre;
- (b) shall be confirmed and made permanent on satisfactory completion of the period of probation. Where passing of any departmental examination is essential before confirmation, the provisions of Chapter I of the Services (Training and Examination) Rules, West Bengal, shall have to be complied with.

(2) Except as otherwise provided elsewhere in these rules, the period of probation shall be one year.

(3) No formal declaration shall be necessary in respect of appointment on probation.

(4) On completion of the period of probation the appointing authority shall either issue formal declaration making the probationer permanent or take such action as may be considered necessary in terms of the provisions of Part A of Chapter I of the Services (Training and Examination) Rules, West Bengal, within six months from, if any, and the appointing authority shall ensure that confirmation on satisfactory completion of the period of probation is not delayed in any case.

6. Special provisions.-(1) On the date on which these rules come into force, Government employees who have completed more than three years, but less than five years' continuous service in a post, service or cadre on that date, either on a temporary or quasi-permanent basis, shall be deemed to have been appointed on probation with effect from the said date and the period of probation in such cases shall be six months.

(2) On the date on which these rules come into force, Government employees who have rendered more than five years' continuous service on that date shall be deemed

to have completed the prescribed period of probation. Where, however, rules regulating the recruitment to any post or service or cadre require the passing of any academic, departmental or other examination before confirmation, these rules shall not be construed to relax such requirement.

(3) In respect of Government employees who are on probation on the date on which these rules come into force, the period of probation shall be subject to the limits prescribed in rule 5 and sub-rule (1) of this rule.

7. Repeal and savings :-(1) The West Bengal Services (Temporary and Quasi-permanent Service and Service with Permanent Status) Rules, 1967 is hereby repealed;

Provided that such repeal shall not affect the previous operation of the said rules in respects of things done or omitted to be done thereunder before such repeal.

(2) On the coming into force of these rules such of the provisions of the West Bengal Service Rules, the West Bengal Services (Revision of Pay and Allowance) Rules, 1970, the Services (Training and Examination) Rules, West Bengal or any other Rules, as are inconsistent with these rules shall be deemed to have been amended notwithstanding anything to the contrary contained elsewhere in these rules.

By order of the Governor,
Sd/- J. Sanyal,
Jt. Secretary to the
Govt. of West Bengal

Government of West Bengal
FINANCE DEPARTMENT
AUDIT BRANCH

No. 5225-F

Calcutta, the 17th May, 1995.

MEMORANDUM

Under the existing system, the pre-requisite for confirmation is the availability of a permanent post on which no other Government employee holds a lien. The availability of a permanent post depends upon factors such as retirement/resignation of a permanent Government employee, confirmation of a Government employee in a higher post, conversion of temporary posts into permanent ones etc. Further, according to the present procedure, confirmation is not a one-time event in the career of a Government employee. Generally, he has to be successively confirmed in each and every post/service/cadre to which he is promoted subject to the availability of permanent post in each cadre or service.

2. The exercise of identification of permanent vacant posts as well as confirmation of an employee against them has become a time consuming and complicated procedure which has to be gone through before permanent status is conferred upon a Government employee. The delays and complexities involved in complying with the procedural requirements of confirmation often result in a situation where an employee cannot be given his due promotion

3. Under the circumstances the Government have had under consideration for some time past the issue of delinking of confirmation from the availability of permanent vacant posts and to have confirmation as an one-time event in the career of a Government employee. After due consideration of the matter in all its aspects the Government have now decided that henceforth confirmation should be delinked from the availability of permanent vacant posts and to have confirmation as an one-time event in the career of a Government employees.

4. Pursuant to the above decision, a review of all the existing rules and instructions has been made and the revised procedure to be followed in respect of various matters such as probation confirmation, seniority, lien etc. is indicated below:-

CONFIRMATION :

(i) Confirmation will be made only once in the service of Govt. employee which will be in the entry post/service/cadre provided further confirmation shall be necessary when there is fresh entry subsequently in any other post/service/cadre by way of direct recruitment or otherwise;

(ii) Confirmation is delinked from the availability of permanent vacancy in the post/service/cadre. In other words, an officer who has successfully completed the probation and passed departmental examination or undergone training, as prescribed under relevant rules may be considered for confirmation;

(iii) A specific order of confirmation will be issued when the case is cleared from all angles;

(iv) If the recruitment rules do not prescribe any probation an officer promoted on regular basis (after following the prescribed procedure) will have all the benefits that a person confirmed in that post/service/cadre would have;

(v) Where probation is prescribed, the appointing authority will on completion of the prescribed period of probation assess the work and conduct of the officer himself and incase the conclusion is that the officer is fit to hold the higher post, he will pass an order declaring that the person concerned has successfully completed the probation. If the appointing authority considers that the work of the officer has not been satisfactory or needs to be watched for some more time he may revert him to the post/service/cadre from which he was promoted, or extend the period of probation, as the case may be;

(vi) The provisions of the WBS (Appointment, Probation and Confirmation) Rules, 1979, will continue to apply as before;

LIEN :

The concept of lien as the title of the Government employee to hold substantively a permanent post will undergo a change. Lien will now represent only the right/title of a Government employee to hold a regular post, whether permanent or temporary, either immediately or on the termination of the period of absence. The benefits of having a lien in a post/service/cadre will thus be enjoyed by all officers who are confirmed in the post/service/cadre of entry or who have been promoted to a higher post declared as having completed the probation where it is prescribed, or those who have been promoted on regular basis to a higher post where no probation is prescribed under the rules, as the case may be.

The above right/title will, however, be subject to the condition that the junior-most person in the cadre will be liable to be reverted to the lower post/service/cadre if at any time the number of persons so entitled is more than the posts available in that cadre/service. For example, if a person who is confirmed or whose probation in a higher post has been declared as having been completed or one who is holding a higher post for which there is no probation on a regular basis, reverts from deputation or foreign service and if there is no vacancy in that post/service/cadre to accommodate him, the junior-most person will be reverted. If, however, this officer himself is the junior-most, he will be reverted to the next lower post/service/cadre from which he was earlier promoted.

4. This order takes immediate effect; but it shall be deemed to have covered all past cases where the ad-hoc appointments could not be regularized only on account of non-confirmation in the lower feeder posts, even though the Govt. employees concerned were confirmed at some stage in their career.

5. Necessary amendments of the relevant rules/regulations will be made in due course.

Sd/- R. K. Bose
Officer-on-Special Duty & Ex-Officio
Deputy Secretary to the
Government of West Bengal
Finance Department