

Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel & Training

SEALED COVER PROCEDURE

Department of Personnel & Training has issued various instructions on sealed-cover procedure and its implications on the Government servants at the time of promotion. The procedure to be followed in this regard by the authorities concerned is summarized in the following paras for guidance and better understanding: -

GOVERNMENT SERVANTS TO WHOM SEALED COVER PROCEDURE IS APPLICABLE

2. At the time of consideration of the cases of Government servants for promotion, details of Government servants in the consideration zone for promotion falling under the following categories should be specifically brought to the notice of the Departmental Promotion Committee: -

- (i) Government servants under suspension;
- (ii) Government servants in respect of whom a charge sheet has been issued and the disciplinary proceedings are pending; and
- (iii) Government servants in respect of whom prosecution for a criminal charge is pending.

For the purpose of pendency of prosecution for a criminal charge, the definition of pendency of judicial proceedings in criminal cases given in Rule 9 (6)(b)(i) of CCS (Pension) Rules, 1972 [*Now Explanation 1(b)(i) under Rule 8 of CCS (Pension) Rules, 2021*] is adopted. The Rule 9 (6)(b)(i) of CCS (Pension) Rules, 1972 [*Now Explanation 1(b)(i) under Rule 8 of CCS (Pension) Rules, 2021*] provides as under:-

*"(b) judicial proceedings shall be deemed to be instituted –
(i) in the case of criminal proceedings, on the date on which the complaint or report of a Police Officer, of which the Magistrate takes cognizance, is made"*

[*\[Para 2 of OM No. 22011/4/91-Estt.\(A\) dated 14.09.1992; and
Para 8 of OM No. 22034/4/2012-Estt.\(D\) dated 02.11.2012\]*](#)

2.1 A Government servant, who is recommended for promotion by the Departmental Promotion Committee but in whose case any of the circumstances mentioned in para 2 above arises after the recommendations of the DPC are received but before he is actually promoted, the recommendations of DPC will be considered as if his case had been placed in a sealed cover by the DPC. He shall not be promoted until he is completely exonerated of the charges against him.

[Para 7 of OM No. 22011/4/91-Estt.(A) dated 14.09.1992]

2.2 It is stated that para 2.1 above will not be applicable if by the time the seal was opened to give effect to the exoneration in the first enquiry, another departmental inquiry was started by the department against the Government servant concerned. This means that where the second or subsequent departmental proceedings were instituted after promotion of the junior to the Government servant concerned on the basis of the recommendation made by the DPC which kept the recommendation in respect of the Government servant in sealed cover, the benefit of the assessment by the first DPC will be admissible to the Government servant on exoneration in the first inquiry, with effect from the date his immediate junior was promoted.

[Para 3 of OM No. 22011/2/2002-Estt.(A) dated 24.02.2003]

2.3 In the case of review DPC, where a junior has been promoted on the recommendations of original DPC, the official would be considered for promotion if he/she is clear from vigilance angle on the date of promotion of the junior, even if the circumstances of para 2 above get attracted on the date of actual promotion. Further, in case where the junior is not promoted, it is to be ensured that the provisions of para 2.1 above are not attracted on the date the official is being actually promoted.

[Para 3 of OM No.22034/4/2012-Estt.(D-II) dated 23.01.2014]

PROCEDURE TO BE FOLLOWED BY DPC IN RESPECT OF GOVERNMENT SERVANTS UNDER CLOUD

3. The Departmental Promotion Committee shall assess the suitability of the Government servants coming within the purview of the circumstances mentioned above alongwith other eligible candidates without taking into consideration the disciplinary case/criminal prosecution pending. The assessment of the DPC, including 'Unfit for Promotion', and the grading awarded by it will be kept in a sealed cover. The cover will be superscribed 'Findings regarding suitability for promotion to the grade/post ofin respect of Shri

.....(name of the Government servant). Not to be opened till the termination of the disciplinary case/criminal prosecution against Shri..... The proceedings of the DPC need only contain the note 'The findings are contained in the attached sealed cover'. The authority competent to fill the vacancy should be separately advised to fill the vacancy in the higher grade only in an officiating capacity when the findings of the DPC in respect of the suitability of a Government servant for his promotion are kept in a sealed cover.

[Para 2.1 of OM No. 22011/4/91-Estt.(A) dated 14.09.1992]

3.1 The same procedure outlined in para 3 above will be followed by the subsequent Departmental Promotion Committees convened till the disciplinary case/criminal prosecution against the Government servant concerned is concluded.

[Para 2.2 of OM No. 22011/4/91-Estt.(A) dated 14.09.1992]

SIX MONTHLY REVIEW OF "SEALED COVER" CASES

4. It is necessary to ensure that the disciplinary case/criminal prosecution instituted against any Government servant is not unduly prolonged and all efforts to finalize expeditiously the proceedings should be taken so that the need for keeping the case of a Government servant in a sealed cover is limited to the barest minimum. It has, therefore, been decided that the appointing authorities concerned should review comprehensively the cases of Government servants, whose suitability for promotion to a higher grade has been kept in a sealed cover on the expiry of 6 months from the date of convening the first Departmental Promotion Committee which had adjudged his suitability and kept its findings in the sealed cover. Such a review should be done subsequently also every six months. The review should, inter alia, cover the progress made in the disciplinary proceedings/criminal prosecution and the further measures to be taken to expedite their completion.

[Para 4 of OM No. 22011/4/91-Estt.(A) dated 14.09.1992]

PROCEDURE FOR AD-HOC PROMOTION OF "SEALED COVER" CASES

5. In spite of the six-monthly review referred to in para 4 above, there may be some cases where the disciplinary case/criminal prosecution against the Government servant is not concluded even after the expiry of two years from the date of the meeting of the first DPC, which kept its findings in respect of the Government servant in a sealed cover. In such a situation, the appointing authority may review the case of the Government servant, provided he is not under

suspension, to consider the desirability of giving him ad-hoc promotion keeping in view the following aspects:-

- (a) Whether the promotion of the officer will be against public interest;
- (b) Whether the charges are grave enough to warrant continued denial of promotion;
- (c) Whether there is any likelihood of the case coming to a conclusion in the near future;
- (d) Whether the delay in the finalization of proceedings, departmental or in a court of law, is not directly or indirectly attributable to the Government servant concerned; and
- (e) Whether there is any likelihood of misuse of official position which the Government servant may occupy after ad-hoc promotion, which may adversely affect the conduct to the departmental case/criminal prosecution.

The appointing authority should also consult the Central Bureau of Investigation and take their views into account where the departmental proceedings or criminal prosecution arose out of the investigations conducted by the Bureau.

[Para 5 of OM No. 22011/4/91-Estt.(A) dated 14.09.1992]

5.1 In case the appointing authority comes to a conclusion that it would not be against the public interest to allow ad-hoc promotion to the Government servant, his case should be placed before the next DPC held in the normal course after the expiry of the two year period to decide whether the officer is suitable for promotion on ad-hoc basis. Where the Government servant is considered for ad-hoc promotion, the Departmental Promotion Committee should make its assessment on the basis of the totality of the individual's record of service without taking into account the pending disciplinary case/criminal prosecution against him.

[Para 5.1 of OM No. 22011/4/91-Estt.(A) dated 14.09.1992]

5.2 After a decision is taken to promote a Government servant on an ad-hoc basis, an order of promotion may be issued making it clear in the order itself that:-

- (i) the promotion is being made on purely ad-hoc basis and the ad-hoc promotion will not confer any right for regular promotion; and
- (ii) the promotion shall be "until further orders". It should also be indicated in the orders that the Government reserves the right to cancel the ad-hoc

promotion and revert the Government servant, at any time, to the post from which he was promoted.

[Para 5.2 of OM No. 22011/4/91-Estt.(A) dated 14.09.1992]

5.3 If the Government servant concerned is acquitted in the criminal prosecution on the merits of the case or is fully exonerated in the departmental proceedings, the ad-hoc promotion already made may be confirmed and the promotion treated as a regular one from the date of the ad-hoc promotion with all attendant benefits. In case the Government servant could have normally got his regular promotion from a date prior to the date of his ad-hoc promotion with reference to his placement in the DPC proceedings kept in the sealed cover(s) and the actual date of promotion of the person ranked immediately junior to him by the same DPC, he would also be allowed his due seniority and benefit of notional promotion as envisaged in para 6.

[Para 5.3 of OM No. 22011/4/91-Estt.(A) dated 14.09.1992]

5.4 If the Government servant is not acquitted on merits in the criminal prosecution but purely on technical grounds and Government either proposes to take up the matter to a higher court or to proceed against him departmentally or if the Government servant is not exonerated in the departmental proceedings, the ad-hoc promotion granted to him should be brought to an end.

[Para 5.4 of OM No. 22011/4/91-Estt.(A) dated 14.09.1992]

ACTION AFTER COMPLETION OF DISCIPLINARY CASE/ CRIMINAL PROSECUTION

6. On the conclusion of the disciplinary case/criminal prosecution which results in dropping of allegations against the Government servant, the sealed cover or covers shall be opened. In case the Government servant is completely exonerated, the due date of his promotion will be determined with reference to the position assigned to him in findings kept in the sealed cover/covers and with reference to the date of promotion of his next junior on the basis of such position. The Government servant may be promoted, if necessary, by reverting the junior-most officiating person. He may be promoted notionally with reference to the date of promotion of his junior. However, whether the officer concerned will be entitled to any arrears of pay for the period of notional promotion preceding the date of actual promotion, and if so to what extent, will be decided by the appointing authority by taking into consideration all the facts and circumstances of the disciplinary proceeding/criminal prosecution. Where the authority denies arrears of salary or part of it, it will record its reasons for doing so. It is not possible to

anticipate and enumerate exhaustively all the circumstances under which such denials of arrears of salary or part of it may become necessary. However, there may be cases where the proceedings, whether disciplinary or criminal, are, for example delayed at the instance of the employee or the clearance in the disciplinary proceedings or acquittal in the criminal proceedings is with benefit of doubt or on account of non-availability of evidence due to the acts attributable to the employee etc. These are only some of the circumstances where such denial can be justified.

[Para 3 of OM No. 22011/4/91-Estt.(A) dated 14.09.1992]

6.1 Promotion of the Government servant exonerated after retirement:

(a) The applicability of the para 6 above in so far as it relates to cases where the Government servant, who has retired by the time he is exonerated of all the charges has been considered in respect of the following cases:

- (i) Where the promotion order pertaining to the relevant DPC has been issued and the officers empanelled have assumed charge prior to the date of superannuation of the retired Government Servant; and
- (ii) The retired Government Servant would have been in service and assumed charge of the post had the disciplinary proceeding not been initiated against him/ her.

(b) In such cases, notional promotion and payment of arrears of pay, if any, for the period of notional promotion till the date of retirement, to such a retired Government servant if found fit on opening of the sealed cover is to be decided by the appointing authority in terms of Para 6 above.

(c) A retired Government employee who is considered for notional promotion from the date of promotion of his next junior after opening of the sealed cover would also be entitled to fixation of pension on the basis of such notional pay on his notional promotion.

[Para 3 to 5 of OM No. 22011/3/2013-Estt.(D) dated 25.01.2016]

6.2 In case the subsequent proceedings (commenced after the promotion of the junior) results in the imposition of any penalty before the exoneration in the first proceedings based on which the recommendations of the DPC were kept in sealed cover and the Government servant concerned is promoted retrospectively on the basis of exoneration in the first proceedings, the penalty imposed may be

modified and effected with reference to the promoted post. An indication to this effect may be made in the promotion order itself so that there is no ambiguity in the matter.

[Para 4 of OM No. 22011/2/2002-Estt.(A) dated 24.02.2003]

6.3 In case where the Government servant is acquitted by trial court but an appeal against the judgment is either contemplated or has been filed, the following action is to be taken :-

- (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 will be without prejudice to the action that may be taken if the judgment of the trial court acquitting the Government servant is set-aside.
- (iii) In case, the Government servant stands convicted on appeal, the 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 under suspension in terms of rule 10(2)(b) of the CCS (CCA) Rules, 1965 from the date of conviction;
 - c) Action under Rule 19(i) of the CCS(CCA), Rules, 1965, shall be taken.

[OM No. 11012/6/2016-Estt.(A-III) dated 19.01.2017]

6.4 If any penalty is imposed on the Government servant as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the sealed cover/covers shall not be acted upon. His case for promotion may be considered by the next DPC in the normal course and having regard to the penalty imposed on him.

[Para 3.1 of OM No. 22011/4/91-Estt.(A) dated 14.09.1992]

6.5 In a case where disciplinary proceedings have been held under the relevant disciplinary rules, 'warning' should not be issued as a result of such proceedings. If it is found, as a result of the proceedings, that some blame attaches to the Government servant at least the penalty of 'censure' should be imposed.

[Para 3.2 of OM No. 22011/4/91-Estt.(A) dated 14.09.1992]

SEALED COVER PROCEDURE FOR CONFIRMATION

7. The procedure outlined in the preceding paras should also be followed in considering the claim for confirmation of an officer under suspension, etc. A permanent vacancy should be reserved for such an officer when his case is placed in sealed cover by the DPC.

[Para 6 of OM No. 22011/4/91-Estt.(A) dated 14.09.1992]

8. List of the OMs mentioned in this document is annexed. In case any reference to the relevant OM is required, the same may be accessed from the Archive Section of DOPT's website.

ANNEXURE

List of OMs mentioned in this Document

1. [OM No. 22011/4/91-Estt.\(A\) dated 14.09.1992](#)
2. [OM No. 22011/1/99-Estt.\(A\) dated 25.02.1999](#)
3. [OM No. 22011/2/2002-Estt.\(A\) dated 24.02.2003](#)
4. [OM No. 22034/4/2012-Estt.\(D\) dated 02.11.2012](#)
5. [OM No.22034/4/2012-Estt.\(D-II\) dated 23.01.2014](#)
6. [OM No. 22011/3/2013-Estt.\(D\) dated 25.01.2016](#)
7. [OM No. 11012/6/2016-Estt.A-III dated 19.01.2017](#)