

No 20011/01/2007-AIS-II
Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)

New Delhi, dated the 6th November, 2007

To

The Chief Secretaries of
all the State Governments.

Subject: Sealed Cover Cases - action after completion of disciplinary / criminal
proceedings

Sir,

I am directed to refer to the provisions of para 6 of this Department's letter no. 20011/12/92-AIS-II dated 8th November 1993 (guidelines regarding sealed cover procedure) and paras 18.1 and 18.2 of Annexure-II of letter no. 20011/4/1992-AIS-II dated 28th March 2000 (by which guidelines regarding promotion to various grades in the IAS was circulated) on the subject noted above. It has been pointed out by some states that these provisions seem to convey the impression that retrospective promotions can be granted (and payments of arrears on this account may be made) to the concerned officers of the All India Services by the Screening Committees/Central Government even when they have been awarded a penalty on conclusion of the disciplinary proceedings against them or even after having been convicted in the criminal proceedings. It has been decided to issue clarification in this regard to obviate the possibility of any confusion in this regard.

2. It would be appropriate to point out that this Department's letter dated 8th November, 1993 was issued, and its contents were incorporated in the promotion guidelines, to give effect to the directions of the Hon'ble Supreme Court, in its judgement dated 27.8.1991, in the case of Union of India vs. K. V. Jankiraman etc., on the procedure of adoption of "sealed cover" in the cases of Govt. servants facing disciplinary/criminal cases at the time of the convening of the screening committees. There was an error in the wording of paragraph 18 of the Guidelines regarding Promotion to various grades in the IAS (circulated by letter dated 28th March, 2000) which led to the confusion given above.

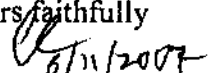
3. It is clarified, in terms of the Supreme Court's judgement delivered in the case of Shri K.V.Jankiraman, that in the cases wherein an officer of the All India Services is facing disciplinary/criminal proceedings and on the conclusion of these proceedings he is awarded a penalty or convicted, as the case may be, he cannot be promoted retrospectively. His case for promotion may be considered by the next Screening

Committee in the normal course for prospective promotion, having regard to the penalty imposed on him. Therefore there would be no question of payments of arrears of pay etc. to him.

4. It is further clarified that in cases wherein the officer has been completely exonerated in the disciplinary proceedings or acquitted in the criminal proceedings, as the case may be, his due date of promotion will be determined with reference to the findings of the Screening Committee kept in sealed cover/covers and with reference to the date of promotion of his next junior even if it requires to revert the junior-most officiating person. He may be promoted notionally with reference to the date of promotion of his such 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 taking into consideration all the facts and circumstances of the disciplinary proceedings/criminal prosecution. Where arrears of salary or part of it are denied, reasons will be recorded for doing so. It is not possible to anticipate and enumerate exhaustively all the circumstances under which such denial 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.


5. In view of the above clarifications, the last sentence in paragraph 18.1 and the last two sentences in paragraph 18.2 of the Guidelines regarding promotion to various grades in the Indian Administrative Service (Circulated by letter No. 20011/4/92-AIS-II dated 28th March, 2000) may be treated to be deleted and the portion underlined above may be read as inserted at the end of paragraph 18.1.

Yours faithfully


(Chaitanya Prasad)
Director (Services)

Copies to:-

1. Ministry of Home Affairs (IPS-II Section)
2. Ministry of Environment & Forests, CGO Complex, New Delhi.
3. Ministry of Home Affairs (UTS Section)
4. Accountant General of all the State Governments.
5. All Ministries/Departments of the Government of India.


(Chaitanya Prasad)
Director (Services)