

No. 20011/5/90-Estt(D)

Government of India
Ministry of Personnel, P.G. & Pensions
(Department of Personnel & Training)

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New Delhi, the 4 November, 1992.

OFFICE MEMORANDUM

Subject:- Delinking seniority from confirmation.

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The seniority of Government servants is determined in accordance with the general principles of seniority contained in MHA O.M. No. 9/11/55-RPS dated 22.12.59 (copy enclosed). One of the basic principles enunciated in the said OM is that seniority follows confirmation and consequently permanent officers in each grade shall rank senior to those who are officiating in that grade.

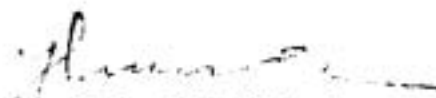
2. This principle has been coming under judicial scrutiny in a number of cases in the past, the last important judgement being the one delivered by the Supreme Court on 2.5.90 (JT-1990(2) SC-264) in the case of Class II Direct Recruits Engineering Officers Association vs. State of Maharashtra. In para 47(A) of the said judgement the Supreme Court has held that once an incumbent is appointed to a post according to rule, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation.

3. The general principle of seniority mentioned above has been examined in the light of the judicial pronouncement referred to above and it has been decided that seniority may be delinked from confirmation as per the directive of the Supreme Court in para 47(A) of its judgement dated 2.5.90. accordingly in modification of the general principle 3, proviso to general principle 4 and proviso to general principle 5(1) contained in MHA (now DOPT) O.M. No. 9/11/55-RPS dated 22.12.59 and para 2.3. of this Department O.M. dt. 3.7.86 (copy enclosed) it has been decided that seniority of a person regularly appointed to a post according to rule would be determined by the order of merit indicated at the time of initial appointment and not according to the date of his confirmation.

4. These orders shall take effect from the date of issue of this Office Memorandum. Seniority already determined according to the existing principles on the date of issue of these orders will not be reopened even if in some cases seniority has already been challenged or is in dispute and it will continue to be determined on the basis of the principles already existing prior to the date of issue of these orders.

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5. All Ministries/ Departments etc. are requested to bring these instructions to the notice of all concerned for guidance and compliance.


(Y.G. PARANDE)
DIRECTOR

To

All Ministries/ Departments etc.

Copy to:-

1. Comptroller and Auditor General of India.
2. Rajya Sabha Sectt./Lok Sabha Sectt.
3. UPSC (with 10 spare copies),
4. All Union Territory Administrations.
5. All attached/subordinate offices under the DCWT.
6. Commissioner for SC/ST, New Delhi.
7. Secretary, Staff Side, National Council (JCM),
9 Ashoka Road, New Delhi .
8. All Sections.
9. 200 spare copies for Estt.(D).