

No.11030/4/2012-AIS-II
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

North Block, New Delhi
Dated 20th January, 2015

OFFICE MEMORANDUM

Subject: Concurrence of Vacancies in various Grades of IAS -Adherence to Rules under IAS (Pay) Rules, 2007.

The undersigned is directed to draw the attention towards the **Rule 9(7) of IAS (Pay) Rules, 2007** : "At no time the number of members of the Service appointed to hold posts, other than cadre posts referred to in sub-rule (1) and sub-rule (4), which carry pay of Rs.80000/- per mensem and which are reckoned against the State Deputation Reserve, shall except with the prior approval of the Central Government, exceed the number of cadre posts at that level of pay in a State cadre or, as the case may be, in a Joint Cadre". However, it has come to the notice of the Department of Personnel & Training that some State Cadres are violating the aforesaid rule by creating excess ex-cadre posts at Apex level as well as in other grades of IAS.

2. As per Government of India Instruction under Rule 4(1.6) of IAS (Cadre) Rules, 1954, "The Deputation Reserve is intended to provide a cushion to the State Government for its temporary and unforeseen demands for manning such ex-cadre posts which are required temporarily for short periods and which do not qualify for inclusion in the IAS cadre". Para 9.3 of Government of India decisions under Rule 4 of IAS (Cadre) Rules, 1954 further provides that "There is restriction on the powers of the State Government for the creation of such posts and the number of such posts is not to exceed the number shown against deputation reserve in the Cadre.

3. It is also observed that many State Governments have been using the second proviso to **Rule 4(2) of IAS Cadre Rules, 1954** for creation of additional ex-cadre posts. The Rule provides that a "State Government concerned may add for a period not exceeding two year [and with the approval of the Central government for further period not exceeding three years] to a State or Joint Cadre one or more posts carrying duties or responsibilities of a like nature to **cadre posts**". The provision indicates that the temporary posts created may be restricted to one or two posts only. This provision, however, cannot be used for creating a post in the Apex level.

4. **Rule 3(2) (ii) of IAS (Pay) Rules, 2007:** "Appointment of a member of the Service in the scales of Selection Grade and above shall be subject to availability of vacancies in these grades and for this purpose, it shall be mandatory upon the State Cadres or the Joint Cadre Authority, as the case may be, to seek prior concurrence of the Central Government on the number of available vacancies in each grade." The State Cadre/Joint Cadre are required to forward proposals for concurrence of the Central Government for availability of vacancies at least three months before the promotions are

proposed along with all the details of vacancies in cadre and ex-cadre posts at different levels in the Cadre. It has been noticed that State Governments are operating posts at Selection Grade and above without obtaining the prior concurrence of Government of India. Instances have also come to the notice of the Government of India in which State Government while keeping the cadre posts in abeyance have created temporary posts. Such practices are a departure from the prevailing Pay Rules and Cadre rules. It is, therefore, requested that State Government may refrain from creating excess cadre/ex-cadre posts and proposal may be sent for concurrence of vacancies in time before the promotion of officers.

5 The onus of furnishing accurate details and the availability of vacancies to the Central Government lies with the concerned State/Joint Cadre authorities and any concurrence obtained on the basis of incomplete or incorrect information would be considered void and the promotion would be liable for cancellation. These conditions hold true even if the promotions are given in exercise of the powers given to the State/Joint Cadre Authorities under rule 3(2)(ii) of the IAS (Pay) Rules.

6. The provision of Note below Rule 3 of IAS (Pay) Rules provides for mandatory Mid-Career Training Programme for promotion to Selection Grade and Super Time Scale. This department has been receiving proposal for concurrence of vacancies for promotion of officer who have not undergone mandatory Mid-Career Training Programme which is being viewed seriously. The State Governments are, therefore, requested to ensure that each IAS officer is released to attend the aforesaid mandatory training programme before his/her promotion is due.

7. In view of these observation, It is requested that all State Governments /UTs may strictly comply with the rules/instructions issued by the Department of Personnel & Training from time to time, failing which the Department of Personnel & Training will be constrained to take an adverse view in the matter.

Diwakar Nath Misra
(Diwakar Nath Misra)
Director (S)

To

1. The Chief Secretaries of all States/UTs
2. The Secretary, MHA, North Block, New Delhi.

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Director / Sig.