

പതിനാലാം കേരള നിയമസഭ

അഞ്ചാം സമ്മേളനം

നക്ഷത്രചിഹ്നമിടാത്ത ചോദ്യം നമ്പർ: 5148

22/5/2017 -ലെ മുദ്രപടി

ഓപ്പറേഷൻ ഡ്യൂ ഡ്രോപ്പിന്റെ ഭാഗമായി ആരോപണ വിധേയരായവർ

ചോദ്യം

മുദ്രപടി

ശ്രീമതി. യു.പ്രതിഭ ഹരി

മാത്യു ടി.തോമസ്
(ജലവിഭവ വകുപ്പുമന്ത്രി)

- (എ) 2011-ൽ കേരള വാട്ടർ അതോറിറ്റിയിൽ നടപ്പിലാക്കിയ ഓപ്പറേഷൻ ഡ്യൂ ഡ്രോപ്പ് എന്ന നടപടിയുടെ നിലവിലെ സ്ഥിതി വ്യക്തമാക്കുമോ;
- (ബി) പ്രസ്തുത നടപടിയിന്മേലുള്ള തുടരന്വേഷണപ്രകാരം ആരോപണ വിധേയരായി എത്ര പേരുണ്ടെന്നും ഇവർ ആരൊക്കെയാണെന്നും ഇവർക്കെതിരെ എന്തെല്ലാം നടപടികളാണ് സ്വീകരിച്ചതെന്നും നടപടികൾ വൈകാൻ കാരണമെന്തെന്നും അറിയിക്കുമോ ;

- (എ) പ്രസ്തുത നടപടിയിൽ തുടരന്വേഷണം ആവശ്യമായവയിൽ കേരള വാട്ടർ അതോറിറ്റി നടപടി സ്വീകരിച്ചു വരുന്നു.
- (ബി) പ്രസ്തുത നടപടിയിന്മേലുള്ള തുടരന്വേഷണപ്രകാരം 3 ഫയലുകളിൽ 14 പേർ ആരോപണവിധേയരായിട്ടുണ്ട്. ഇവരിൽ ശ്രീ. കെ.മധു, ശ്രീ. സാബു എം.ജോൺ എന്നിവർ കുറ്റിക്കാരാണെന്ന് കണ്ട് കേരള വാട്ടർ അതോറിറ്റി ശിക്ഷണ നടപടികൾ സ്വീകരിച്ച് പൂർത്തീകരിച്ചിട്ടുണ്ട്. ശ്രീ. യോഹന്നാൻ, ശ്രീ. എ.ബി.രാജൻ, ശ്രീ. എസ്.കെ.കൃഷ്ണകുമാർ, ശ്രീ. വസന്തകുമാർ, ശ്രീ. രവീന്ദ്രനാഥ്, ശ്രീമതി. ആർ.ശ്രീകല, ശ്രീ. എം. ജയറാം, ശ്രീമതി. ലളിതമ്മാൾ, ശ്രീ. പി.എൻ. സ്വാമിനാഥ്, ശ്രീ. വി.എം.പ്രവീൺകുമാർ, ശ്രീ.വി.കെ.ശശി എന്നിവരിൽ നിന്നും കേരള വാട്ടർ അതോറിറ്റി വിശദീകരണം തേടുകയും തുടർനടപടികൾ സ്വീകരിച്ചു വരുകയുമാണ്.

ഓപ്പറേഷൻ ഡ്യൂ ഡ്രോപ്പ്സ് അന്വേഷണ റിപ്പോർട്ടിന്മേൽ അന്വേഷണം നടത്തുവാൻ കേരള വാട്ടർ അതോറിറ്റി വിജിലൻസ് സെല്ലിനെയാണ് ചുമതലപ്പെടുത്തിയിരുന്നത്. വാട്ടർ അതോറിറ്റിയുടെ മുഴുവൻ ഓഫീസുകളിലും അന്വേഷണം നടത്തുന്നത് വിജിലൻസ് സെൽ ആകയാൽ കാലതാമസം നേരിടാറുണ്ട്.

(സി) ഓപ്പറേഷൻ ഡ്യൂ ഡ്രോപ്പ്-ന്റെ ഭാഗമായി എത്ര പേർക്ക് മെമ്മോ നൽകിയിട്ടുണ്ട്; ആരോപണ വിധേയരായവർക്ക് 2015-ന് ശേഷം മെമ്മോ നൽകിയിട്ടുണ്ടോ; എങ്കിൽ ആർക്കെല്ലാം;

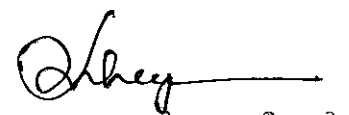
(ഡി) കേരള വാട്ടർ അതോറിറ്റിയായി ഡി.പി.സി സമയബന്ധിതമായി കൂടാറുണ്ടോ; ഡി.പി.സി-യുടെ ക്ലിയറൻസിനുള്ള മാനദണ്ഡങ്ങൾ എന്തൊക്കെയാണ് ഡി.പി.സി. ഗൈഡ് ലൈൻസ് ലഭ്യമാക്കുമോ;

(ഇ) ഏതെല്ലാം തരത്തിലുള്ള അച്ചടക്കനടപടികൾ നേരിട്ട ഉദ്യോഗസ്ഥരെയാണ് ഡി.പി.സി-യുടെ പരിഗണനയിൽ നിന്നും ഒഴിവാക്കുന്നത്; ഇപ്രകാരം ഡി.പി.സി ക്ലിയറൻസ് നടത്താതെ 2010 മുതൽ 2017 നാളിതുവരെ എത്ര ഉദ്യോഗസ്ഥരെ ഒഴിവാക്കിയിട്ടുണ്ട്; പേരു വിവരം വെളിപ്പെടുത്തുമോ ?

(സി) ഓപ്പറേഷൻ ഡ്യൂ ഡ്രോപ്പിന്റെ ഭാഗമായി വാട്ടർ അതോറിറ്റിയുടെ കേന്ദ്ര കാര്യാലയത്തിലെ വിജിലൻസ് വിഭാഗത്തിൽ നിന്നും 139 പേർക്ക് മെമ്മോ കൊടുത്തിട്ടുണ്ട്. കേരള വാട്ടർ അതോറിറ്റി കൈക്കൊണ്ട അച്ചടക്കനടപടി പുനഃപരിശോധിക്കുന്നതിന്റെ ഭാഗമായി ശ്രീ. പി.വി.സെൽവരാജ്, ജൂനിയർ സൂപ്രണ്ട് ശ്രീ. എ.രാജൻ, അസിസ്റ്റന്റ് എക്സിക്യൂട്ടീവ് എഞ്ചിനീയർ എന്നിവർക്ക് കാരണം കാണിക്കൽ നോട്ടീസ് നൽകിയിട്ടുണ്ട്.

(ഡി) ഉണ്ട്. കേരള സ്റ്റേറ്റ് & സബോർഡിനേറ്റ് സർവ്വീസ് റൂൾസ്, 1958 ലെ ചട്ടം 28 (b) പ്രകാരമാണ് ഡി.പി.സി രൂപീകരിച്ചിട്ടുള്ളത്. ഇതിന്റെ വിശദാംശം അനുബന്ധം-1 ആയി ചേർത്തിരിക്കുന്നു.

(ഇ) വിജിലൻസ് & ആന്റികറപ്ഷൻ ബ്യൂറോയുടേയോ, വാട്ടർ അതോറിറ്റിയുടെ വിജിലൻസ് വിഭാഗത്തിലോ ലഭിച്ച പരാതികളുടെ അടിസ്ഥാനത്തിൽ അന്വേഷണം നടത്തിയതിനുശേഷം കുറ്റാരോപണപത്രം നൽകിയവരെയാണ് സാധാരണയായി ഡി.പി.സി ഒഴിവാക്കുന്നത്. ഇപ്രകാരം ഡി.പി.സി ക്ലിയറൻസ് നടത്താതെ 2010 മുതൽ 2017 നാളിതുവരെ 11 ഉദ്യോഗസ്ഥരെ ഒഴിവാക്കിയിരുന്നു. വിവരം അനുബന്ധം-2 ആയി ചേർത്തിരിക്കുന്നു.


സെക്ഷൻ ഓഫീസർ

Appendix A. B. Appendix XII B respectively of the Kerala Service Rules, shall lose their seniority in the service, class, category or grade and calculation of their juniority in the service, class, category or grade who might get promoted before their re-join date.

Note.— The date of effective date in this Rule means the date of the letter of the Commission on the basis of which the candidate was appointed.

27 A. Notwithstanding anything contained in rule 27, in the case of a person appointed as Lower Division Clerk or Lower Division Typist in a service prior to the 19th October, 1962 and transferred thereafter from the Unit of the Department in which he was appointed to another Unit of the same department, seniority in the Unit of the Department to which he was transferred shall be determined with reference to the date of his appointment in the Unit of the Department from which he was transferred subject, however, to the condition that the seniority so determined shall not adversely affect the seniority of any person who has been promoted on a regular basis in the unit to which he was transferred prior to the date of his transfer.

27 B. In case of disputes regarding seniority and matters connected with it by reason of any order of Government or any order of an authority subordinate to Government, representations for reconsideration of such order shall be submitted to Government by the aggrieved person within a period of six months from the date of receipt of the order, or the date of publication of the order in the Kerala Gazette, whichever is later.

28. (a) Promotion.—(i) Except in the case of appointment to the posts of Heads of Department no member of a service or class of a service shall be eligible for promotion from the category in which he was appointed to the service unless he has satisfactorily completed his probation in that category:

Provided that a probationer in a class, category or grade shall not be superseded for promotion to a higher class, category or grade by his junior, if the vacancy in the higher class, category or grade arises within the period specified in the Special Rules for completion of probation in the class, category or grade in which he is probationer and if he has passed the test or tests prescribed for successful completion of probation and is otherwise eligible and suitable for such promotion; but his promotion shall be subject to the condition that he satisfactorily completes the probation in the class, category or grade from which he was promoted within the period prescribed thereof, and for this purpose the period of service put in by him in the higher class, category or grade shall be reckoned towards probation in the class, category or grade from which he was promoted and also in the class, category or grade to which he was promoted:

Provided further that if a probationer promoted in pursuance of the above proviso fails to complete his probation in the class, category or grade from which he was promoted within the period prescribed thereof, his probation in the higher class, category or grade shall be terminated and he shall be reverted to the class, category or grade from which he was promoted, and any subsequent promotion of such person to the higher class, category or grade shall not also entitle such person to claim seniority in the higher class, category or grade by reason only of his previous promotion in pursuance of the preceding proviso and he shall commence probation afresh in that class, category or grade from the date of such subsequent promotion.

and class or category from a specified class or category of such service, no member shall be eligible for such appointment unless he is a full member or an approved probationer in the class or category so specified:

Provided that if he is the holder of a post in any service for which no probation has been prescribed, he shall not be eligible for promotion unless he has put in satisfactory service in that post for a period of one year on duty within a continuous period of two years.

(iii) Notwithstanding anything contained in these Rules or in the Special Rules/Executive Orders, the period of probation for persons appointed by direct recruitment or recruitment by transfer through Public Service Commission shall be two years on duty within a continuous period of three years and for persons appointed in a post or category from another post or category in the same service or appointed by transfer from one service to another within the same Department or in another Department (where direct recruitment is not resorted to) shall be one year on duty within a continuous period of two years.

Provided that the period of probation for persons who were appointed on or after the 1st April, 2010 to selection posts in the State Services, by promotion or by transfer within the Department where direct recruitment is not one of the methods of appointments as per the Special rules, shall be six months on duty within a continuous period of one year.

(b) (i) Promotion and appointment by transfer according to merit and ability.— Appointments to posts in a selection category or grade in a service or class, other than Heads of Departments which shall be made under Rule 23A, shall be made from a select list prepared from among the members eligible for appointment to such category or grade in accordance with these rules and the Special Rules, on the basis of merit and ability, seniority being considered only when merit and ability are approximately equal. The select list shall be prepared in the manner indicated herein.

(1) Selection of candidates for appointment to selection categories or grades shall be made by Departmental Promotion Committees constituted for each Department.

(2) A Departmental Promotion Committee shall consist of a member of the Public Service Commission and,—

(a) In the case of a Departmental Promotion Committee for selection to a post other than the lowest post in the State Service, the Appointing Authority or in case the Appointing Authority is the Government, a nominee of the Government, and the Head of the Department concerned;

(b) In the case of a Departmental Promotion Committee for selection to the lowest post in the State Service, the Appointing Authority for the post and a nominee of the Government not below the rank of a Deputy Secretary who is in charge of the administration of the Department concerned.

(3) The member of the Public Service Commission shall be the Chairman of the Departmental Promotion Committee and the authority to initiate action and to function as Convener of the Committee shall be the appointing authority.²

² Proviso inserted by G.O. (P) No. 7/2013/P&ARD dated 19th March 2013 published as S.R.O. No. 7/2013/P&ARD in Kerala Gazette Extraordinary No. 1068 dated 13th April, 2013.

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The Department shall meet periodically to prepare select lists in the order of merit of the Officers selected for appointment. The Department shall hold all its meetings for the purpose of making selections in particular vacancies whenever occasion arises. The criterion for assessment of merit shall be the confidential reports of the officers. The confidential reports of the officers for at least the preceding three years shall be made available to the Committee for this purpose. Where remediable adverse remarks recorded in the confidential report of a Government Servant are not communicated to the officer concerned, such remarks shall be ignored by the Departmental Promotion Committee while considering his case for promotion. The following procedure shall be adopted by the Departmental Promotion Committee for the preparation of select lists:—

(a) Select lists shall be prepared during a calendar year for the vacancies estimated to arise in the next calendar year;

(b) During the first six months of the year action shall be taken to make all the Confidential Reports up-to-date, adverse remarks communicated, and orders for expunging such remarks issued wherever necessary. Simultaneously seniority lists shall also be made up-to-date and probation of officers in the field of choice declared. Confidential Reports and seniority lists shall be made up to date before 30th June;

(c) *** ** ** ** **

(d) During September/October the Departmental Promotion Committees will be convened and select lists prepared which will be notified before 30th November and in any case not later than December 31. If any officer becomes qualified after the preparation of the select list, but, before the occurrence of the vacancy, the Departmental Promotion Committee shall meet subsequently and his name shall be considered for inclusion in the select list;

(e) At the time of change over from the existing system the number of vacancies for the current year and the next year shall be considered together.

(4a) Where confidential reports for the three years mentioned in sub-clause (4) are not available in respect of an Officer who was under suspension but has been reinstated or who was or is on long leave, the suitability of the officer shall be assessed,—

(i) in the case of an Officer who has been reinstated after suspension fully exonerating him of the charges or in the case of an officer who was or is on long leave, on the basis of the confidential reports for a period of three years (excluding the period during which the officer was under suspension or on long leave or is on long leave, as the case may be) preceding the date of the meeting and if the Confidential Reports for the said period are not available, on the basis of the Confidential Report for the one year immediately after reinstatement or, as the case may be, immediately after rejoining duty after leave;

(ii) in the case of an Officer who has been reinstated after suspension imposing a penalty, on the basis of the confidential reports for the period after reinstatement (which shall not be less than one year.)

(4b) where confidential reports for the three years mentioned in sub-clause(4) are not available in respect of an officer for no fault of his up to a period of six months, the Departmental promotion Committee shall consider, ignoring the non-availability of the report for the said period, the suitability of the officer based on the available report or by getting special confidential report from the Superior Officer/Higher Authority under whom the Officer is working at the time of consideration of his case.

On matters in respect of which there is a difference of opinion, a majority of the members of the Committee shall prevail. Provided that where the Member of the Public Service Commission requires that the Public Service Commission shall be consulted before final recommendation is made, such consultation shall be made.

(6) The Departmental Promotion Committee shall first decide the field of choice, that is, the number of eligible officers awaiting appointment who should be considered for inclusion in the "Select list". Provided, however, that an officer of outstanding merit, and his seniors, if any, in the category or grade may be included in the list of eligibles, even if he or such seniors are outside the normal field of choice.

Note.- The field of choice shall as far as possible be three and at least twice the number of vacancies expected within a year plus the number of the superseded officers of the previous year. For example, if there are 200 anticipated vacancies and the number of superseded officers of the previous years is 4, the panel for the field of choice shall normally contain 10 names (5-4) or at least 8 (4-4).

(7) The 'Select List' shall be prepared from among the eligible officers on the basis of merit and ability, seniority being a consideration only when all the qualifications are equal. The number of names to be included in the "Select List" shall be the same as the estimated number of vacancies likely to arise during the next year. Supplemental lists may be prepared in case the lists already prepared get exhausted before the close of the year to which they relate so as to obviate the necessity for convening meetings of Departmental Promotion Committees at short notice or keeping of posts unfilled and thereby causing administrative inconvenience. Persons selected for inclusion in the Select List shall be ranked in the Select List according to their seniority in the feeder category. When the Special Rules provide for a definite ratio or order of preference from the feeder categories, persons from each feeder category shall be included in separate select lists and appointment shall be made in accordance with the ratio or order of preference prescribed by such Special Rules for each feeder category.

Note.- (i) Officers under suspension and officers against whom criminal proceedings are pending in a Sessions Court or in any other higher Court for grave offences like murder, dacoity, etc; and Officers against whom departmental proceedings are taken for the imposition of a major penalty under the disciplinary rules applicable to them should not be included in the select list. But the suitability of such an Officer for promotion should be assessed at the relevant time by the Departmental Promotion Committee and a finding reached whether, if the Officer had not been suspended or the criminal proceedings/ departmental proceedings had not been pending against him, he would have been recommended/selected for promotion. Where a select list is prepared the Departmental Promotion Committee shall also make a finding as to what the position of the Officer in that list would have been but for the suspension or the criminal proceedings/ departmental proceedings against him. The findings as to the suitability and the place in the select list of the officer should be recorded separately and attached to the proceedings. The proceedings of the Departmental Promotion Committee need only contain a note. "The findings are recorded in the attached sheet of paper". The authority competent to fill the vacancy should be separately advised to fill the vacancy only on a temporary basis. Officers against whom vigilance or departmental proceedings are taken after the charges have *prima facie* been established in a preliminary enquiry should not be included in the select list. But, the cases of such Officers should also be assessed. The question of including them in the select list shall be considered when the result of the

and, as known. However Officers against whom departmental proceedings are taken for the imposition of a minor penalty may be included in the select list provisionally if they are found suitable but subject to the pendency of disciplinary proceedings initiated against them.

- (ii) The vacancy that would have gone to the Officer but for his suspension or the criminal proceedings departmental proceedings against him for the imposition of a major penalty should be filled only on a temporary basis by the next person in the approved list. If the Officer concerned is completely exonerated, he will be promoted thereafter to the post filled on a temporary basis, the arrangements made previously being reversed. If the exonerated is not complete, the Departmental Promotion Committee may decide each case on its merits. Where, however, the post which would have gone to the Officer but for his suspension or the criminal proceedings departmental proceedings against him, ceases to exist before the conclusion of the disciplinary proceedings, he will be promoted to the first vacancy that may be available in future if he is found fit for promotion at that time. If the officers against whom departmental proceedings are taken for imposition of a minor penalty and who have been provisionally included in the select list are fully exonerated of the charges, their cases for promotion on the basis of such inclusion in the select list shall be considered. If the Officers are not fully exonerated of the charges, the Departmental Promotion Committee may decide each case on its own merit.
- (iii) Officers whose names are included in the select list but who are subsequently placed under suspension or against whom criminal proceedings are taken in a Sessions Court or in any other higher Court for grave offences and officers against whom departmental proceedings are taken for the imposition of a major penalty under the disciplinary rules applicable to them, shall not be promoted on the basis of their inclusion in the select list until they are fully exonerated of the charges against them. If the officer is fully exonerated of the charges, he shall be promoted on the basis of his position in the select list to the post which has been filled on a temporary basis pending disposal of the charges against him. If the Officer is not fully exonerated, the Departmental Promotion Committee may consider each case on its own merit. Officers whose names are included in the select list but against whom departmental proceedings for imposing a minor penalty are initiated subsequently, may be promoted on a temporary basis pending disposal of the proceedings against them. If the Officer is fully exonerated of the charges the temporary promotion shall be treated as regular promotion and if the Officer is not fully exonerated of the charges, his case may be considered by the Departmental Promotion Committee on merits.
- (iii a) The inclusion of the names of Officers in the select list after decision by the Departmental Promotion Committee on their cases on merits under Note (ii) or Note (iii) and their consequent promotion shall be subject to further reassessment by the Departmental Promotion Committee on the basis of orders passed in appeal or review. If the Departmental Promotion Committee revises the select list on further reassessment and if by that time the Officer has been promoted on the basis of his inclusion in the earlier select list, the orders promoting the Officer shall be revised in accordance with the revised select list. In such cases the appointment as per the revised order only shall be considered as regular appointment. However, this revision of order of appointment shall be made only if the orders in appeal or review are passed within a period of one year from the date of order of promotion of the

or can. On the basis of those who are not included in the select list prepared after reassessment under Notes II or III above and who are fully exonerated of all the charges on appeal or review passed within a period of two years from the date of publication of the select list, a further reassessment shall be made and the select list as well as appointments ordered on the basis of it shall be revised (including such officers also in the select list if they are otherwise eligible for inclusion therein).

- (b) Where while preparing a select list an officer has been superseded on account of his confidential report for the one year referred to in sub-clause (4a) not being available due to non-completion of the said period of one year, the select list shall be treated as provisional to the extent it relates to the officers junior to the officer so superseded, and as soon as the confidential reports in respect of such officer relating to the said one year become available, the departmental promotion committee shall review the list and make it absolute after considering the claims of the officer with reference to the confidential reports for the said one year.
- (v) A censure under Rule 11 (i) (i) of the Kerala Civil Services (Classification, Control and Appeal) Rules, 1960 or a warning awarded or proposed to be awarded to an Officer need not be taken into account while considering his case for promotion under Note (ii), (iii) and (iii a) above.
- (vi) When there are more than one feeder category carrying different scales of pay, they shall be shown in separate lists and persons in a lower scale of pay shall be appointed only after appointing all persons on a higher scale of pay, unless the Special Rules prescribe a ratio or any special order of preference for each feeder category.
- (vii) When the posts in the feeder categories are on the same scale of pay and there is no fixed ratio, appointment shall be made in accordance with their seniority in the feeder category, the seniority being determined by the date of the order of first appointment to that particular category, class or grade.

(8)(a) The select list prepared by the Department Promotion Committee in the manner referred to above shall be published by the Convener of the Committee after approval by the Government. Normally no revision of such select list shall be made under Rule 29 on the basis of re-evaluation of the confidential reports. However, if any officer who has been superseded and whose name has not been included in the list makes, within one month from the date of publication of the list, a written representation to the convener of the Departmental Promotion Committee requesting a revision of the list, the Committee shall consider the representation. After going through the representation, if the Committee feels that some clarification should be obtained from the superseded officer by personal hearing, it may do so and on the basis of such representation and personal hearing if it is of the view that the list already prepared should be revised, it may make a recommendation to the effect. The list shall then be revised accordingly and published by the Convener after approval by the Government.

Note.--Promotions from the first list published by the Departmental Promotion Committee shall be provisional and the list will be subject to revision, if, after following the procedure, it is found that the list requires revision.

(b) Wherever Government consider that there are exceptional circumstances which warrant a departure from the advice of the Departmental Promotion Committee in the public interest, the Departmental Promotion Committee shall be given a fresh opportunity to consider the proposals of the Government to revise the select list. If on receipt of the recommendation of the Departmental Promotion Committee, Government

Advise the Departmental Promotion Committee in the public interest and may make a decision accordingly. In such case it will be open to the Public Service Commission to include the matter in the Annual Report.

Provided that the power under this paragraph shall not be exercised after the expiry of one year from the date on which the select list was prepared by the Departmental Promotion Committee.

(9) The 'Select List' shall be reviewed annually and it shall remain in force until it is revised. Names of those officers who have already been appointed shall be removed from the list and the rest of the names along with those officers who may now be included in the field of choice, shall be considered for the "Select List" for the subsequent period. A person included in an earlier select list, shall, however, be ranked above a person considered for a subsequent list, unless his conduct and work subsequent to such inclusion renders it necessary that he should be placed lower in the list or his name may be omitted from the list if there is definite deterioration in the work and conduct of the Officer subsequent to his inclusion in the select list for the previous year, as the case may be.

(10) The claims of a person who qualifies himself for a post, after the select list in respect of that post has been prepared but before the date of occurrence of the vacancy in the higher post shall not be overlooked.

(11) The select list shall be reviewed and revised for the purpose of sub-clause (10) in cases where the acquisition of an extra qualification or the gaining of a prescribed period of experience is insisted on as conditions precedent to the selection to the higher post. In such cases the following procedure shall be followed:—

The Convener of the Departmental Promotion Committee concerned should bring to the specific notice of the Committee the case of all senior hands who are being overlooked in drawing up the select list for want of qualification or experience and who are likely to acquire that qualification or experience during the pendency of the list. The select list drawn up at the meeting shall be treated as provisional to the extent to which it relates to the junior hands included in the select list whose seniors are likely to become fully qualified during the pendency of the list. When such senior hands acquire the qualification and/or experience which would make them eligible for appointment, the Convener shall take early steps for the convening of an *ad hoc* meeting of the Departmental Promotion Committee and after considering the claims of such persons, revise, if necessary, the provisional portion of the select list. The provisional portion of the select list, if revised, shall be made absolute following the procedure laid down in sub-clause (8) above and the process repeated wherever necessary.

Note.- (i) As a person included in the earlier select list shall be ranked above a person considered for a subsequent list, unless his work and conduct subsequent to such inclusion renders it necessary that he should be placed lower in the list the calculation of anticipated vacancies for purpose of preparing annual or supplemental select lists shall be done as accurately as possible.

(ii) Claims of persons previously omitted from the list shall be considered whenever new lists are prepared.

(12) The recommendations made by the Departmental Promotion Committees shall be treated as recommendations having the approval of the Public Service Commission, and the convention regarding acceptance of the advice of the Commission shall apply to them. In cases where the Commission has been consulted, the convention regarding consultation

10. The Commission shall similarly apply to the final order of preference made by the Commission.

13. Candidates belonging to Scheduled Castes and Scheduled Tribes shall not be superseded for appointment to Selection categories or grades by the application of too rigid a standard of suitability. The Departmental Promotion Committees may consider the case of such candidates sympathetically by relaxing the standard of suitability where possible, and only the claims of those whom the committee considers unsuitable even by the relaxed standards should be superseded for appointment to such selection categories or grades.

(14) Notwithstanding anything contained under this rule, the Government may by order effect promotion/appointments by transfer notionally without monetary benefit of pay and allowances but with consequential pensionary benefits, to a pensioner without having to follow the procedures such as preparation, publication and review of select list by convening the Departmental Promotion Committee, if it is found later on after his retirement that he would have become eligible at any time during the course of his service for being promoted or appointed to such posts, categories or grades in that service had due procedure according to the rule existing at that time or made applicable thereafter been followed at the appropriate time.

(1A) *Preparation of select list subsequent to the occurrence of vacancy.*- When a select list is prepared subsequent to the occurrence of a vacancy, no person who was not qualified for inclusion in the select list at the time of occurrence of the vacancy shall be included in the select list for appointment against that vacancy.

Note.- If there are no qualified persons for promotion to a post on the date of occurrence of the vacancy, the person who gets qualified first thereafter, shall be considered for promotion to that post:

Provided that where the Special Rules in respect of the post provide that direct recruitment shall be resorted to in the absence of qualified candidates for promotion on the date of occurrence of the vacancy, recruitment to the post shall be made accordingly.

(ii) *Promotion and appointment by transfer to higher posts according to seniority.*- All other promotions or appointments by transfer to higher posts shall, subject to the provisions of these rules and the special rules, be made in accordance with seniority subject to the person being considered suitable for the post. Punishments other than censure awarded within a period of three years immediately preceding such promotion or appointment by transfer shall be taken into account in determining the suitability of a person for promotion or appointment by transfer.

Note.- (i) when there are more than one feeder category carrying different scales of pay, persons in lower scale of pay shall be appointed only after appointing persons in the higher scale of pay unless the Special Rules provide a ratio or any special preference for each feeder category.

(ii) When the post in the feeder category has the same scale of pay and the Special Rules prescribe no fixed ratio or preference, appointment shall be made in accordance with the seniority in the feeder category, the same being determined in the manner as provided in the first proviso to clause (a) of rule 27 of the General Rules. If the length of service or seniority of persons in the feeder categories are the same, the person senior in age may be given preference over the other.

... of an ... and ... examination.

Note.- Cases already settled or disposed of prior to the issue of this amendment shall not be reopened.

This amendment shall be deemed to have come into force with effect from 10 th December 1984.

(c) *****

(d) Duty in a different service counting for probation on promotion.- A member of a service or a class of service promoted from one category to another shall be eligible to count for probation in the higher category his service, if any, performed otherwise than in a substantive capacity on regular appointment to another service. State or Subordinate, in accordance with these Rules and the Special rules if the normal method of recruitment to the latter service is according to such Special rules by transfer from the former service or class thereof.

(e) Probation where there are more than one grade to the same category.- Notwithstanding anything to the contrary contained in the Special Rules where there are more than one grade to the same category and duties and responsibilities attached to the various grades are one and the same, and appointment to the higher grades are made by promotion from the lower grades then probation shall be insisted only in the lowest grade to such category.

28 A. Notwithstanding anything contained in these Rules or in the Special Rules, in the case of appointment to the post of Heads of Departments, direct recruitment shall be resorted to in the absence of suitable persons for appointment by promotion or by transfer. Appointment by promotion or by transfer shall be made on the basis of merit and ability, seniority being considered only when merit and ability are approximately equal. Merit and ability shall be assessed by the authority competent in the Government to make such appointments:

Provided that the lists for consideration for appointment by promotion or by transfer to the posts shall not ordinarily consist of members of service who do not have at least one year of service before the date of their superannuation after appointment to such a post.

29. *Revision of orders of appointment to selection posts.*- Subject to the provisions of Note (iii a) of sub-clause (7) and Para (a)j] of sub-clause (8) of clause (i) of sub-rule (b) of rule 28 an order appointing a member of a service or class to a selection category or grade by promotion or by transfer may be revised by the State Government. Such revision may be made by the State Government either *suo motu* at any time or on a petition submitted by any aggrieved member within six months from the date of passing the order:

Provided that the said period of six months may be extended by the State Government if sufficient cause is shown for the delay in the submission of the petition.

(b) Promotion which depends upon the passing of any examination or test in a service or class which depends upon the passing of any examination (General or Departmental) shall ordinarily be made with reference to the conditions existing at the time of occurrence of the vacancies, and not with reference to those at the time when the question of promotions is taken up.

(bb) Where a pass in any examination or test confers on a person the title to any right, benefit or concession, such title to the right, benefit or concession shall be deemed to have accrued-

- (a) in the case of a person who has passed such examination or test before the 14th August, 1971, on the day following the last day of such examination or test in the subject or subjects; and
- (b) in the case of a person who has passed such examination or test on or after 14th August 1971, on the day following the last day of the whole examination or test in which he has successfully completed the examination or test by passing one or more subjects.

Explanation.- (1) The principles in this sub-rule shall apply for the drawal of increment and for promotion not involving change of duties against vacancies remaining unfilled for want of test qualified persons:

- (2) Where a person can choose between two examinations or tests or corresponding subjects or papers of two examinations or tests and where the two examinations or tests conducted during the same period end on two different dates, the title to the right, benefit or concession conferred by the passing of the examination or test shall be deemed to have accrued on the day following the last date of the whole of the examination or test which ends on the latter date;
- (3) The expression "the last day of such examination or test in the subject or subjects" occurring in clause (a) of this sub-rule shall mean the last day on which according to the schedule of the examination or test first published by the Kerala Public Service Commission, such examination or test in the subject or subjects would have been conducted if the examination or test in any of the subjects had not been postponed to a latter date;
- (4) The expression "the last day of the whole examination or test" occurring in clause (b) of this sub-rule shall mean the day on which, according to the schedule of the examination or test first published by the Kerala Public Service Commission, the examination or test in the last of the subjects comprising the whole examination or test would have been conducted, if the examination or test in any of such subjects had not been postponed to a later date.
- (5) The expression 'any examination or test' occurring in this sub - rule shall mean any examination or test conducted by the Kerala Public Service Commission, Government or Department which has a direct nexus with the service matters like probation, promotion, increment

Sheep
Inspector General

Annexure 2

1. Smt. V. S. Das	Disciplinary action pending
2. Sri. Santhosh Phillip, N	Disciplinary action pending
3. Sri. Jayakumaran Nair	Disciplinary action pending
4. Smt. P. K. Nirma a	Disciplinary action pending
5. Smt. C. L. Marry	Disciplinary action pending
6. Sri. R. Subrahmanian	Disciplinary action pending
7. Sri. G. Aravindaksha Kumar	Disciplinary action pending
8. Smt. Vijayambika	Disciplinary action pending
9. Sri. S. S. Roy	Disciplinary action pending
10. Sri. Valsan Moolakkadu	Disciplinary action pending
11. Sri. B. Mohanan	Disciplinary action pending

Sheep
Amritha B. B. B.