Proceedings of the Government of Karnataka

Subject Taking action in accordance with the Karnataka Extension of Consequential Seniority to Government Servants promoted on the basis of Reservation (to the posts in the Civil Services of the State) Act, 2017- Regarding.

(2) Official Memorandum No. DPAR 29 SBC 77 dated 01.06.1978.
(3) Government Order No. DPAR 22 SBC 79 dated 30.08.1979.
(4) The Karnataka Determination of Seniority of the Government Servants promoted on the basis of Reservation (to the posts in the Civil Services of the State) Act, 2002.
(5) Judgement dated 09.02.2017 of the Hon’ble Supreme Court in Civil Appeal No. 2368 of 2011 and connected Civil Appeals – B.K. Pavitra and Others Versus Union of India and Others.
(7) Government Circular No. Si Aa Su E 380 Se Ne Ni 2018 (Part -1) dated 03.08.2018.

Preamble:

1. In the Government Order dated 27th April 1978, read at (1) above, the policy of reservation in promotion in the State Civil Services was introduced with effect from 27th April 1978 in favour of persons belonging to the Scheduled Castes and the Scheduled Tribes (hereinafter referred as ‘the SCs and the STs’). For the implementation of this policy, detailed instructions along with a roster of 33 points were also given.

2. In the Official Memorandum dated 1st June, 1978, read at (2) above, the clarifications and guidelines elaborating the manner in which the said Government order dated 27th April 1978 is to be implemented are given, which inter-alia, prescribe the method of determining seniority, inter-se, between the Government servants belonging to the SCs and the STs promoted in accordance with the said policy of reservation and those belonging to the General Category in the higher cadre, to which promotion is made.

3. In the Government Order dated 30th August 1979, read at (3) above, the roster given in the order dated 27th April, 1978 was replaced by a new roster but the other instructions remained unaltered.
4. In the Karnataka Determination of Seniority of the Government Servants promoted on the basis of Reservation (to the posts in the Civil Services of the State) Act, 2002, (hereinafter referred as ‘the Act of 2002’) read at (4) above, procedure has been prescribed, along with illustrations, with regard to determining seniority, inter-se, between the persons promoted in accordance with the policy of reservation belonging to the SCs and the STs and those belonging to the General Category.

5. In the Government Order dated 6th May, 2017, read at (6) above, guidelines have been issued to implement the Judgement of the Hon’ble Supreme Court in Pavitra case, read at (5) above, in which, inter alia, it has been ordered that the seniority lists prepared and published prior to it should be reviewed and revised.

6. In the circular dated 03.08.2018, read at (7) above, instructions have been issued to maintain status quo without effecting any promotion / reversion until further orders are issued by Government.

7. The Karnataka Extension of Consequential Seniority to Government Servants promoted on the basis of Reservation (to the posts in the Civil Services of the State) Act, 2017 (hereinafter referred as ‘the Act of 2017’) has been published in part IVA of the Karnataka Gazette Extraordinary No.892 on 23rd June, 2018. Government, now, consider it necessary to issue instructions with regard to the implementation of the Act of 2017 subject to the judgement / orders of the Hon’ble Supreme Court in M.A No. 1151-1152 of 2018 and WP No. 791 of 2018 and connected cases pending before the Hon’ble Supreme Court. Hence the following order.

**Government Order No. DPAR 186 SRS 2018, Bengaluru, dated: 27th February, 2019**

8. In the circumstances explained in the preamble, the following instructions are hereby issued subject to the conditions that the officers / officials, who have been reverted, shall be reposted to the cadres held by them immediately prior to their reversion and if vacant posts are not available in those cadres, supernumerary posts shall be created to accommodate them. It is also ordered that the officers / officials working at present in those cadres, belonging to any category, shall not be reverted.
(1) (a) Section 4 of the Act of 2017 stipulates that, “Notwithstanding anything contained in this Act or any other law for the time being in force, the consequential seniority already accorded to the Government servants belonging to the SCs and the STs who were promoted in accordance with the policy of reservation in promotion provided for in the Reservation Order with effect from the Twenty Seventh Day of April, Nineteen Hundred and Seventy Eight shall be valid and shall be protected and shall not be disturbed.” Accordingly, any Government servant belonging to the SCs or the STs whose seniority was altered in the seniority list prepared pursuant to the Government order dated 6th May, 2017, read at (6) above, his promotion reviewed, date of eligibility assigned to him and based on such date of eligibility was reverted to lower cadre, shall be posted back with retrospective effect to the cadre held by him immediately before such reversion. He shall continue to draw his pay, retrospectively from the date on which he was reverted, in that cadre, in the same scale of pay and at the same stage of pay at which he was drawing his pay before his reversion to lower cadre. In case post in the cadre held by him immediately before his reversion is not vacant, he shall be posted against a supernumerary post to be created by the administrative department concerned in the Karnataka Government Secretariat presuming concurrence of Finance Department. In this process, the officers / officials working at present in those cadres, belonging to any category, shall not be reverted. A supernumerary post so created shall stand abolished after action is completed in respect of the revised seniority lists prepared as per sub-paragraph (2) hereunder in accordance with sections 4, 5 and 6 read with section 9 of the Karnataka State Civil Services (Regulation of Promotion, Pay and Pension) Act, 1973 and the Government servant concerned is adjusted against a sanctioned post.

(b) The Appointing Authorities / Heads of Departments shall consider and take appropriate decisions with regard to allocation / re-allocation of work among the officers / officials working against sanctioned posts and supernumerary posts. This arrangement will continue till the supernumerary posts are abolished.

(2) After completing action in accordance with sub-paragraph(1) above, the seniority lists of all cadres to which promotions have been made in accordance with the existing policy of reservation in promotion and seniority lists of all cadres higher than such cadres shall be reviewed with effect from 27th April, 1978 by determining seniority, inter-se, of Government servants belonging to the SCs and the STs and those belonging to the General Category, in accordance with sections 3 and 4 read with section 5 of the Act of 2017.
(3) The method of determining seniority, inter-se, between the Government servants belonging to the SCs and the STs vis-a-vis those belonging to the General Category, in cases where promotion is effected in accordance with the policy of reservation in promotion, is detailed, with illustrations, in the Schedule to the Act of 2017, which shall be kept in view while reviewing seniority lists with reference to sub-paragraph (2) above.

(4) When promotions are to be made to a cadre from two or more lower (feeder) cadres, the deemed dates of eligibility to be assigned shall be determined on the basis of the ratio prescribed in the rules of recruitment.

(5) While reviewing the seniority lists as above, the question of determining the dates of eligibility in respect of direct recruits does not arise since their seniority is determined in accordance with rule 5 of the Karnataka Government Servants' (Seniority) Rules, 1957, keeping in view the instructions contained in the Official Memorandum No. DPAR 48 SSR 75 dated 5th July, 1976. This position shall be borne in mind while reviewing seniority lists with reference to sub-paragraph (1) above.

9. Rule 10 of the Karnataka Government Servants' (Seniority) Rules, 1957, inter alia, specifies that seniority lists shall be prepared by the appointing authority concerned.

10. The circular dated 03.08.2018, read at (7) above, is hereby modified with immediate effect to the extent that the appointing authorities shall initiate the process of promoting Government servants only after the revised seniority lists are published in accordance with paragraph 8 above. After the publication of the seniority lists, the process of promoting Government servants may be initiated only on the basis of such seniority lists.

11. All the appointing authorities shall strictly follow the instructions contained in this order. Any failure on the part of the appointing authorities to do so shall be viewed seriously by Government.

12. All the Additional Chief Secretaries / Principal Secretaries / Secretaries to Government shall instruct the autonomous bodies / universities / public undertakings / commissions / corporations / boards / local bodies and institutions receiving grant-in-aid from Government, coming under their administrative purview, to comply with this Government order.
13. This Government Order shall be subject to the judgement/orders of the Hon'ble Supreme Court in M.A No. 1151-1152 of 2018 and W.P. No. 791 of 2018 and connected cases pending before the Hon'ble Supreme Court.

By order and in the name of the Governor of Karnataka

(Gayathri.M.R)

Under Secretary to Government, Department of Personnel and Administrative Reforms (Service Rules)

To: The Compiler, Karnataka Gazette, Vikasa Soudha, Bangalore, for publication in the extra ordinary Gazette and to supply 1000 copies to DPAR (Service Rules), Vidhana Soudha, Bangalore.

Copy to:
1) The Principal Accountant General (J & SSA), Audit Bhavan, New Building, Post Box No. 5398, Bangalore-1.
2) The Principal Accountant General (ER&SA) Audit Bhavan, New Building, Post Box No. 5398, Bangalore-1.
3) The Principal Accountant General (A&E) Main Building, Bangalore-1.
4) The Chief Secretary to Government.
5) The Additional Chief Secretary / Secretary to Chief Minister.
6) The Secretary to Deputy Chief Minister
7) Private Secretaries to all the Ministers
8) All the Additional Chief Secretaries / Principal Secretaries / Secretaries to Government.
9) All Heads of Departments/Deputy Commissioners/Chief Executive Officers of Zilla Panchayats/District Superintendent of Police.
10) *Secretary, Karnataka Legislative Assembly/Karnataka Legislative Council, Vidhana Soudha, Bangalore.
11) *Secretary, Karnataka Public Service Commission, Udyoga Soudha, Bangalore.
12) *Registrar General, Karnataka High Court, Bangalore.
13) *Registrar, Karnataka State Administrative Tribunal, Kandaya Bhavan, K.G. Road, Bangalore.
14) *Registrar, Karnataka Lokayukta, Dr.B.R. Ambedkar Veedhi, Bangalore.
15) *Registrar, Karnataka Appellate Tribunal, M.S. Building, Bangalore.
16) *Treasury Officer, State Huzur Treasury, Bangalore
17) The Deputy Secretary to Government, DPAR (Cabinet) (Ref: Sub. No. 198/2019)
18) Section Guard file / Additional Copies.

(* Covering Letter)

(This Government Order is also available at http://172.19.1.185/sv liv es earch and www.dpar.karnataka.gov.in/servicerules )