

**PROMOTION OF GOVERNMENT SERVANTS INVOLVED IN
DEPARTMENTAL ENQUIRIES.**

Sl.No	Date	Type	File No	Subject
1.	9.10.1959.	Official Memorandum	GAD (S-1) 56 SSR 59	Promotion of Government servants whose conduct is under enquiry.
2.	11.4.1966	Official Memorandum	GAD 80 SSR 65	Promotion of Government servants involved in Departmental Enquiries.
3.	25.8.1969	Official Memorandum	GAD 42 SSR 69	Bar for promotions during the period of penalty.
4.	21.4.1984	Official Memorandum	DPAR 12 SDE 83	Suspension of Government servants and their promotions pending inquiries instructions regarding.
5.	3.7.1985	Official Memorandum	DPAR 13 SDE 85	Suspension of Government servants and their reinstatement. (Promotion during enquiry)
6.	14.7.1993	Official Memorandum	DPAR 22 SRR 93	Department Promotion Committee in respect of promotions to the State Services in the basis of seniority-cum-merit- Procedure when a departmental enquiry/Court Proceedings is pending.
7.	6.4.2010	Circular	DPAR 37 SDE 2009	ವಾಗ್ಡಂಡನೆಯು ಜಾರಿಯಲ್ಲಿರುವ ಅವಧಿಯ ಬಗ್ಗೆ.

**O.M.No.GAD (S-1)56 SSR 59, Bangalore,
dated the 9th October 1959.**

Promotion of Government Servants whose conduct is under enquiry.

Government has had under consideration the question whether a Government servant whose conduct is under enquiry should be considered for promotion if his seniority and previous record of service apart from the case under enquiry justify it. It is now directed that a Government servant on whom charge sheet has been served after a prima facie case had been established against him should not be considered for promotion till the enquiry is completed. In case the Government servant is exonerated in the enquiry held against him and if his record of service is otherwise satisfactory as would entitle him for promotion, he should be promoted immediately after completion of the departmental enquiry, his seniority and rank remaining the same as would have been the case if there had been no departmental enquiry instituted against him. The Secretariat Department and Heads of Departments are requested to follow these instructions carefully in future.

GOVERNMENT OF MYSORE

No.GAD 80 SSR 65.

Mysore Government Secretariat,
Vidhana Soudha,
Bangalore, dated 11th April, 1966.

OFFICIAL MEMORANDUM

Sub:- Promotion of Government Servants involved in Departmental Enquiries.

Instructions have been issued in Official Memorandum No.GAD (S.1) 56 SSR 59, dated 9th October 1959 in the matter of promotion of Officers whose conduct comes under Departmental enquiry and who are subsequently exonerated.

2 Government have considered the question further and in modification of the instructions contained in the Official Memorandum cited in para 2 above, hereby issue the following instructions for the guidance of the appointing and disciplinary authorities.

- (a) While considering the question of promotion of a Government Servant from one grade to another, the fact that a departmental enquiry is pending against him whatever may be the stage of the enquiry, should not be taken into consideration except in those cases where the Government Servant is under suspension. In determining the quantum of punishment at the culmination of the enquiry, the fact that the Officer has in the meantime been promoted may of course be taken into account.
- (b) If the offence for which a departmental enquiry is started against a Government Servant is so serious that his further promotion would not be in public interest, the Government Servant concerned should be placed under suspension forthwith and the question of his promotion, if any, should be decided after completion of the enquiry in accordance with instructions issued in O.M. dated 9-10-1959.

3. All Departmental enquiries should be completed within a period of six months in order to avoid hardships to the accused Government Servants. Officers and Officials responsible for delay in holding and finalising departmental enquiries will be held personally responsible, if inordinate delays come to Government's notice.

sd/-

K.Balachandran,
Chief Secretary to Government.

GOVERNMENT OF MYSORE

No.GAD 42 SSR 69

Mysore Government Secretariat,
General Administration Department,
Vidhana Soudha,
Bangalore, Dated 25th August 1969.

OFFICIAL MEMORANDUM

Sub:- Bar for promotions during the period of penalty.

A case has come to the notice of Government in which the penalty of withholding increments for a period of 2 years was imposed on an officer and the officer became due for promotion to the higher post during the period. The question whether the officer should or should not be promoted during the period for which his increments were withheld had therefore to be decided having regard to the nature of misconduct for which the penalty was imposed.

2. Under the Classification, Control and Appeal Rules, withholding of increments and withholding of promotions are distinct penalties and it is necessary for the Disciplinary Authority at the time of imposing the penalty to make its intention clear in the order. A similar question may arise in a case where an officer is reduced to a lower stage of pay in the same time scale of pay for a specified period. In all such cases where penalties of withholding of increments or reduction to a lower stage of pay in a time scale of pay are imposed, the Disciplinary Authorities imposing such penalties should invariably consider the nature of misconduct for which the penalty is being imposed and clarify in the order itself whether during the period for which the increment is withheld or the officer is reduced to a lower stage of pay, is to be considered as an eligible for promotion. If having regard to the nature of the misconduct, the Disciplinary Authority considers that the officer should not be eligible for promotion, the penalty of withholding of promotion for such period should also be imposed in the order itself.

Syed Basheer Ahmed,
Dy. Secretary to Government,
General Administration
Department, (Services).

GOVERNMENT OF KARNATAKA
Personnel and Administrative Reforms Department
OFFICIAL MEMORANDUM

No. DPAR 12 SDE 83, BANGALORE DATED THE 21st APRIL, 1984.

Sub:- Suspension of Government Servants and their promotions pending inquiries instructions regarding.

In the O.M.No. GAD 21 SSR 65 dated 26-2-1965 certain guidelines were issued indicating certain circumstances under which Government servants might be placed under suspension, Government have further examined this matter and in modification of the earlier instructions the following instructions are issued for the guidance of the appointing/disciplinary authorities.

Circumstances under which Government servants may be placed under suspension:

- (i) Where an accused Government servant if continued in service is likely to temper with witnesses or documents, shifting him to another station or post should first be considered. If it is still apprehended that he is likely to temper with witnesses or documents, he should be placed under suspension.
- (ii) When a Government servant is prosecuted for any offence committed in the course of his duty and which involves moral turpitude;
- (iii) Government servants caught red-handed while receiving illegal gratification;
- (iv) In certain situations where continuance of Government servant in service during investigation/inquiry is considered not desirable, the Government servant may be given the option to proceed on leave. Alternatively, he may be placed under suspension;
- (v) When the Vigilance Commission recommends placing a Government servant under suspension, the recommendation should be examined in the light of points (i) to (iv) above and decision taken accordingly.

Period for which suspension should be continued pending investigation/inquiry

The period of suspension should be limited as indicated below:

- (a) Where a Government servant is placed under suspension pending investigation, if investigation is not completed within six months, he should be reinstated. In such a case, if at the end of the investigation a *Prima facie* case is established there would be no objection to suspend him again pending inquiry/trial.

- (b) Where suspension is ordered or continued pending inquiry or trial, suspension should be revoked if inquiry/trial is not commenced within three months or the inquiry/trial even though commenced within 3 months, is not completed within nine months from its commencement.

Promotion of Government Servants Against whom inquiries are pending.

In O.M. No. GAD (SI) 56 SSR 59 dated 9/10/59 as modified in O.M No. GAD 80 SSR 65 dated 11/4/66 it was clarified that unless a Government servant is placed under suspension the mere fact that a departmental inquiry is pending against him, is no bar for considering his case for promotion. In further amplification of these instructions Government servant against whom inquiry is pending may be considered for promotion without reference to the pending enquiries and if he is otherwise found to be eligible, he should be promoted subject to the condition that the promotion would be reviewed at the conclusion of the inquiry based on the findings in the inquiry.

The Secretaries to the Government and Heads of Department are requested to follow these instructions and to bring them to the notice of all the appointing authorities/disciplinary authorities/suspending authorities under their administrative control.

sd/-

M.M. Naik

Deputy Secretary to Government,
Department of Personnel & Admnv.
Reforms, (Service Rules)

GOVERNMENT OF KARNATAKA

No.DPAR 13 SDE 85

Karnataka Government Secretariat, Vidhana
Soudha

Bangalore, Dated 3rd July 1985

OFFICIAL MEMORANDUM

Sub: Suspension of Government Servants and their reinstatement.

- Ref:** 1) O.M. No: DPAR 12 SDE 83 dated: 21-4-1984.
2) O.M. No. DPAR 12 SDE 83 dated 04-03-1985.

In the official memoranda referred to above, certain guidelines were issued indicating circumstances under which Government Servants might be placed under suspension and the period for which suspension should be continued pending investigation/inquiry. Government have further examined this matter and in supersession of the earlier instructions, the following instructions are issued for the guidance of the appointing/disciplinary authorities.

2. Circumstances under which Government servants may be placed under suspension:

- i) Where continuance in office of the Government Servant will prejudice the investigation, trial or any inquiry (i.e. apprehended tampering with witnesses or documents)
- ii) Where continuance in office of the Government Servants is likely to seriously subvert discipline in the office in which the Government Servant is working.
- iii) Where the Government Servant is prosecuted for any offence committed in the course of his duty involving moral turpitude.
- iv) Corruption embezzlement or misappropriation of Government money or money of a foreign employer under whom the Government Servant has worked on deputation or otherwise, possession of disproportionate assets, misuse of official powers for personal gain.
- v) serious negligence and dereliction of duty resulting in considerable loss to Government and to the foreign employer while the Government Servant had worked on deputation.
- vi) return to duty after unauthorized absence.
- vii) refusal, or deliberate failure to carry out written orders of superior officers.

3. Period of suspension: Rule 10 of the CCA Rules provides for placing a Government Servant under suspension where disciplinary proceedings are contemplated or are pending or where a case in respect of any criminal offence is under investigation or trial. It is thus permissible to place Govt. Servants under suspension even before the commencement of investigation into the allegations against him. Taking into account the above position, it is hereby directed that Govt. Servants placed under suspension should be reinstated in service if the stages of investigation or inquiry trial following the date of suspension are not adhered to according to the schedule below, namely, where-

- a) the investigation or inquiry/trial into the allegations against Govt. Servants have not commenced within three months from the date of suspension;
- b) the investigation into the allegations against Govt. Servants is not completed within six months from the date of commencement of the investigation;
- c) the inquiry/trial has not commenced within three months on conclusion of the investigation;
- d) the inquiry/trial has not concluded within twelve months from the date of commencement of the inquiry/trial or from the date of suspension whichever is later

The period laid down for continuing a Govt. Servant under suspension is only outer limit and do not prevent the appropriate authorities from reinstating the Govt. Servant earlier if circumstances of the case warrant. Where a Govt. Servant has been suspended by any authority other than the Govt., the provisions of sub-rule (6) of rule 10 of the Karnataka Civil Services (CCA) Rules, 1957 should be complied with.

4. Where any department, having regard to the gravity of the allegation and the complexity of the case in respect of the following types of cases is of the view that the time schedule laid down in the preceding para cannot be adhered to and further continuance of the suspension of Govt. Servants is justified, such cases may be examined on their own merit and decision taken by the Minister concerned whether to continue suspension;

- i) Moral turpitude;
- ii) Corruption (including trap cases, embezzlement or misappropriation of money of Govt. or a foreign employer, possession of disproportionate assets and misuse of official power for personal gain);
- (iii) Refusal or deliberate failure to carry out Written orders of superior officer

5. Promotion on during inquiry:- In O.M No: GAD (SI) 56 SSR 59 dated: 09-10- 1959 as modified in O.M NO: GAD 80 SSR 65 dated: 11-04-1966, it was clarified that unless a Govt. Servant is placed under suspension, the mere fact that a

departmental inquiry is pending against him, is no bar for considering his case for promotion. In further amplification of these instructions, a Govt. Servant against whom inquiry is pending may be considered for promotion without reference to the pending enquiries and if he is otherwise found to be eligible, he should be promoted subject to the condition that the promotion would be reviewed at the conclusion of the inquiry based on the findings in the inquiry.

6. The Secretaries to Government and Heads of Departments are requested to follow these instructions and to bring them to the notice of all the appointing authorities/disciplinary authorities/suspending authorities under their administrative control.

sd/-

M.M. Naik

Joint Secretary to Government, Department of
Personnel & Admnv.
Reforms, (Service Rules)

GOVERNMENT OF KARNATAKA

No.DPAR 22 SRR 93

Karnataka Government Secretariat,
Vidhana Soudha
Bangalore, dated: 14th July 1993

OFFICIAL MEMORANDUM

Sub: Departmental Promotion Committee in respect of promotions to State Services on the basis of seniority-cum-merit-Procedure when a Departmental Enquiry/Court Proceedings is pending.

Ref: O.M. No. DPAR 5 SRC 84, dated: 9.10.1985.

The instructions issued in para 7 of the Official Memorandum dated: 09-10-1985 referred to above have been further examined and the following instructions are issued in its place:

2. Where a departmental enquiry or court proceeding is pending the following course of action shall be taken.

3. The Departmental Promotion Committee (DPC) shall assess the suitability of the officer/official for promotion without taking into consideration the disciplinary proceedings/court proceedings pending against the officer/official. The assessment on the basis of records, the view of the DPC shall be kept in a sealed cover. In the subsequent DPCs also, if any, during the period of disciplinary/court proceedings, the DPC shall consider the officer's, official's case and record its findings which will again be kept in a sealed cover in the above manner.

4. On the conclusion of the disciplinary/court proceedings and in case the officer/official is exonerated, the sealed cover or covers may be opened and the earliest possible date of promotion but for the pendency of the disciplinary/court proceedings against him/her, may be determined with reference to the position (s) assigned to him/her in the findings in the sealed cover/covers with reference to date of promotion of his/her junior on the basis of such position. The officer/official concerned may then be promoted in accordance with rules if necessary by reverting the junior most officiating person.

5. If any penalty is imposed on the officer/official as a result of the disciplinary proceedings or if he is found guilty in the court proceedings, the findings in the sealed cover/covers shall not be acted upon. The officer's/officials case for promotion may be considered in the usual manner by the next DPC which meets in the normal course after conclusion of the disciplinary/court proceedings.

6. The sealed cover procedure contemplated herein above, shall be adopted only after the date of issuance of charge Memo/Charge Sheet, that being the date from which the disciplinary proceedings can be taken to have been initiated.

7. The same procedure as detailed above shall be followed where an officer/official is placed under suspension. On his reinstatement in service at any stage of the enquiry the procedure as explained in para 3 of this O.M. shall be followed and on conclusion of the enquiry the procedure as indicated in paragraph 4 and 5 shall be followed.

sd/-

P. Ramanath

Under Secretary to Government-I
Department of Personnel and
Administrative Reforms
(Service Rules).

ಕರ್ನಾಟಕ ಸರ್ಕಾರ

ಸಂಖ್ಯೆ: ಸಿಆಸುಇ 37 ಸೇಇವಿ 2009

ಕರ್ನಾಟಕ ಸರ್ಕಾರದ ಸಚಿವಾಲಯ
ವಿಧಾನಸೌಧ,
ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 06-04-2010

ಸುತ್ತೋಲೆ

ವಿಷಯ: ವಾಗ್ಗಾಂಧನೆಯು ಜಾರಿಯಲ್ಲಿರುವ ಅವಧಿಯ ಬಗ್ಗೆ
ಉಲ್ಲೇಖ ಸುತ್ತೋಲೆ ಸಂಖ್ಯೆ: ಸಿಆಸುಇ 12 ಸೆನೆನಿ 2001, ದಿನಾಂಕ: 02-05-2001

ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆ ಅಥವಾ ಕ್ರಿಮಿನಲ್ ಮೊಕದ್ದಮೆಗಳು ಪ್ರಾರಂಭವಾಗಿ, ಅಂತಹ ಇಲಾಖಾ ವಿಚಾರಣೆ ಅಥವಾ ಕ್ರಿಮಿನಲ್ ಮೊಕದ್ದಮೆಗಳು ದಂಡನೆಯಲ್ಲಿ ಪರ್ಯವಸಾನಗೊಂಡಲ್ಲಿ, ಆ ದಂಡನೆಯು ಜಾರಿಯಲ್ಲಿರುವ ಅವಧಿಯಲ್ಲಿ ಅಂತಹ ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ಮುಂಬಡ್ತಿ ನೀಡಲು ಆಸ್ಪದವಿಲ್ಲವೆಂದು ಉಲ್ಲೇಖಿತ ಸುತ್ತೋಲೆಯಲ್ಲಿ ಹೇಳಲಾಗಿದೆ. ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿಯಂತ್ರಣ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಾವಳಿ 1957ರ ನಿಯಮ 8ರಡಿಯಲ್ಲಿ ನಮೂದಿಸಿದ ದಂಡನೆಗಳ ಪೈಕಿ ವಾಗ್ಗಾಂಧನೆಯು (Censure) ಯಾವ ಅವಧಿಯವರೆಗೆ ಜಾರಿಯಲ್ಲಿರುತ್ತದೆಂಬ ಬಗ್ಗೆ ಅನೇಕ ಇಲಾಖೆಗಳು ಸ್ಪಷ್ಟೀಕರಣವನ್ನು ಕೇಳಿವೆ. ಈ ವಿಷಯವನ್ನು ಸಿ.ಆ.ಸು.ಇಲಾಖೆಯು ಪರಿಶೀಲಿಸಿದೆ.

2. ವಾಗ್ಗಾಂಧನೆಯು ಕರ್ನಾಟಕ ಸಿವಿಲ್ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿಯಂತ್ರಣ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957ರ ನಿಯಮ 8ರಲ್ಲಿ ನಿಗದಿಪಡಿಸಿದ ಅತ್ಯಂತ ಲಘು ದಂಡನೆಯಾಗಿದೆ. ಅಂದರೆ ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧದ ಆರೋಪವು ಗಂಭೀರ ಪ್ರಮಾಣದ ಆರೋಪವಲ್ಲದಿದ್ದಲ್ಲಿ ಮತ್ತು ಸಾಬೀತಾದ ಆರೋಪದ ಗಂಭೀರತೆಯನ್ನು ಪರಿಗಣಿಸಿ ಅತ್ಯಲ್ಪ ಮಟ್ಟದ ದಂಡನೆಯನ್ನು ವಿಧಿಸಬೇಕಾದ ಸಂದರ್ಭಗಳಲ್ಲಿ ವಾಗ್ಗಾಂಧನೆಯನ್ನು ವಿಧಿಸಲಾಗುತ್ತದೆ. ಈ ದಂಡನೆಯು ಜಾರಿಯಲ್ಲಿರುವ ಅವಧಿಯ ಬಗ್ಗೆ ಸಂಬಂಧಿತ ನಿಯಮದಲ್ಲಿ ಯಾವ ಸೂಚನೆಯು ಇರುವುದಿಲ್ಲ. ಇದಕ್ಕೆ ಸಂಬಂಧಿಸಿದ ಯಾವುದೇ ಆದೇಶ ಸುತ್ತೋಲೆಯಲ್ಲಿ ಈ ದಂಡನೆಯು ಜಾರಿಯಲ್ಲಿರುವ ಅವಧಿಯ ಬಗ್ಗೆ ನಮೂದನೆಯಿರುವುದಿಲ್ಲ. ಈ ದಂಡನೆಯ ಸ್ವರೂಪದಿಂದಾಗಿ ಇದು ಯಾವುದೇ ಅವಧಿಯವರೆಗೆ ಜಾರಿಯಲ್ಲಿರುವುದಿಲ್ಲ. ಅಂದರೆ ಇದನ್ನು ವಿಧಿಸಿದ ತಕ್ಷಣದಿಂದ ಇದು ಮುಕ್ತಾಯವಾಗುತ್ತದೆ. ವಾಗ್ಗಾಂಧನೆಯು ಅದನ್ನು ವಿಧಿಸಿದ ದಿನಾಂಕದ ನಂತರ ಜಾರಿಯಲ್ಲಿರುವುದಿಲ್ಲವಾದ್ದರಿಂದ, ವಾಗ್ಗಾಂಧನೆಯನ್ನು ವಿಧಿಸಿದ ದಿನಾಂಕ ನಂತರ ಸಂಬಂಧಿಸಿದ ನೌಕರರ ಪ್ರಕರಣವನ್ನು ಮುಂಬಡ್ತಿಗೆ ಪರಿಗಣಿಸಬಹುದಾಗಿದೆಯೆಂದು ಸ್ಪಷ್ಟೀಕರಿಸಲಾಗಿದೆ.

(ಕೆ.ಆರ್.ಶ್ರೀನಿವಾಸ)

ಸರ್ಕಾರದ ಕಾರ್ಯದರ್ಶಿ

ಸಿಬ್ಬಂದಿ ಮತ್ತು ಆಡಳಿತ ಸುಧಾರಣೆ ಇಲಾಖೆ.