

## CHAPTER XVII

### CONFIRMATION

Confirmations in services/posts depend, by and large, on the following factors :—

- (i) Availability of permanent posts;
- (ii) Eligibility of persons concerned for confirmation;
- (iii) Seniority; and
- (iv) Suitability of persons within the zone of consideration for confirmation.

#### 2. Guiding Principles

(i) Confirmation should not be delayed and DPCs should be convened to consider the cases of eligible temporary employees for confirmation, immediately the permanent posts become available as a result of retirement/resignation/death of permanent employees or due to conversion of temporary posts into permanent ones. In case the officers concerned are assessed fit for confirmation, confirmation orders should be issued as expeditiously as possible (after completing quickly the necessary formalities etc. medical examination etc. where necessary).

[Department of Personnel OM No. 9/29/71-Estt(D), dt. 2-5-72].

(ii) Action may be taken immediately to conduct reviews for converting temporary posts into permanent ones in the light of the instructions mentioned below and Ministries/Departments may also ensure that no temporary posts which qualify for conversion into permanent ones are continued as temporary in or under a Ministry/Department and all posts so converted are utilised immediately for confirmation of eligible temporary employees.

[MHA OM No. 12/7/69-Estt(D), dt. 29-10-69 and DOP OM No. 12/13/70-Estt(D), dt. 4-5-71, and 12/7/71-Estt(D) dt. 20-11-71.]

#### 3. Conversion of Temporary posts into Permanent ones

(i) 80% of temporary posts in permanent Departments (other than Posts and Telegraphs Department and Government workshops and industrial undertakings) which have been in existence for a period of not less than 3 years and are required for work of a permanent nature may be converted into permanent ones.

[Min. of Finance OM No. 18(2)-E(Spl.)-60, dated 24-3-60.]

(ii) Work-charged staff in non-industrial categories may be brought on to the regular establishment thus entitling them all concessions admissible to regular non-industrial staff. For industrial categories, permanent posts may be created to the extent of 50% of posts which have been in existence for more than 3 years and which are likely to continue on long-term basis, enabling confirmation of work-charged staff whose services are likely to be required on permanent basis.

[Min. of Finance OM No. 8(1)-E(Spl.)60, dt. 12-8-60 as amended by OM of even No. dt. 27-3-63.]

(iii) 50% of the temporary posts in non-permanent departments such as the Department of Rehabilitation, as have existed for not less than 10 years and are not proposed to be wound up in the near future may also be made permanent provided the posts have been in continuous existence for a period of 5 years or more and are required indefinitely.

[Min. of Finance OM No. 23(46)/EG.I/65, dt. 18-9-66.]

#### 4. *Eligibility of Persons concerned for Confirmation*

Before confirming a government servant, competent authority should satisfy himself :

(i) that the person concerned is educationally qualified unless the educational qualifications were specifically relaxed in his case by the competent authority in accordance with the existing instructions issued by the Ministry of Home Affairs (now Department of Personnel and Training) or he belonged to a category of persons in whose case the prescribed educational qualifications stood relaxed at the time of his initial appointment in accordance with the orders issued by the Ministry of Home Affairs (now Department of Personnel and Training).

(ii) he satisfied the condition of the age limit prescribed in the recruitment rules at the time of his initial appointment unless he was exempted from the condition to the extent provided in the instructions issued by the Ministry of Home Affairs (now Department of Personnel and Training) or the condition was specially relaxed in his case by the competent authority under the relevant instructions issued by the Ministry of Home Affairs (now Department of Personnel and Training).

(iii) he has been examined by appropriate medical authority and found fit, wherever necessary.

(iv) he is qualified for confirmation under the relevant recruitment rules and passed prescribed tests, if any, before confirmation.

[MHA OM No. 1/9/58-RPS, dt. 16-5-59.]

#### 5. *Suitability of Persons within the Zone of Consideration*

(i) Suitability of persons within the zone of consideration should be determined by a DPC. Both confirmations and denial of confirmation involve assessment of the work done by the officer concerned and as such assessment can best be done by the DPC.

[MHA OM No. 1/9/58-RPS, dt. 16-5-1969.]

(ii) Before confirming a person, integrity clearance should always be obtained from the vigilance unit of the Ministry/Department concerned.

[MHA OM No. 1/10/64-Estt(D), dt. 14-1-65.]

#### 6. *Seniority*

Confirmation should be made strictly on the basis of the seniority subject to the rejection of the unfit. In considering cases of officers for confirmation, the DPC should not assess the relative merit of the candidates.

[MHA OM No. 1/9/58-RPS, dt. 16-5-59.]

#### 7. *Timely confirmation of officers*

7.1 Due to administrative delays a large number of officers are not confirmed in the various grades and they, including the blind persons continue to be temporary for a number of years. The main reasons for such delays being that :

(i) delay in conversion of temporary posts into permanent ones;

(ii) non-convening of meetings of the DPC at regular annual intervals.

7.2 It has been brought to the notice of Ministries/Departments the need to avoid such delays *vide* DOP OM No. 22011/6/75-Estt(D) dt. 30-12-76. It was reiterated that holding of DPCs for confirmation/promotion in a particular year should be dispensed with only after a certificate is issued that there is no necessity for confirmation or promotion.

7.3 It is once again stressed that there should be no delays in confirmation of officers including blind persons on account of administrative delays.

[DOP&AR OM No 18011/1/80-Estt(D), dt. 27-6-80.]

### 8. *Confirmation of Probationers*

A person appointed against a permanent post as a direct recruit with definite conditions of probation is to be confirmed in the grade with effect from the date on which he successfully completes the period of probation. The decision whether he should be confirmed or his probation extended should be taken soon after the expiry of the initial probationary period i.e. ordinarily within 6 to 8 weeks and communicated to the employee together with the reasons in case of extension. There are no general orders providing for convening of Departmental Promotion Committees at specified intervals to consider cases of confirmation of direct recruits placed on probation. However, even though the meetings of the DPC may be held after the termination of the period of probation of direct recruits, a person appointed against a permanent post with definite conditions of probation is to be confirmed in the grade with effect from the date on which he successfully completes the period of probation. A probationer who is not making satisfactory progress or who shows himself to be inadequate for the service should be informed of his short-comings well before the expiry of the original probationary period so that he can make sincere efforts at self improvement.

Promotees placed on probation are also required to be assessed similarly with a view to determining whether they have successfully completed the period of probation. If so, they become eligible for confirmation from or after the date of completion of probation satisfactorily in the post to which they were promoted. Actual confirmation of such persons would, however, depend upon various factors, such as availability of permanent posts, eligibility of persons concerned for confirmation, their seniority and suitability.

[MHA OM No. 44/1/59-Ests(A), dt. 15-4-59.]

### 9. *Consultation with the U.P.S.C.*

Dealt with under Chapter-XVIII on Promotion.

### 10. *Association of UPSC with DPCs for purpose of confirmation*

### 11. *Confirmation of Government servants after Retirement or Death*

(1) So long as permanent vacancy is available before the date of actual retirement of an officer and orders about the procedure for confirmation are observed, there is no objection to his confirmation being made with retrospective effect, even if the fact about the existence of the vacancy becomes known after the officer's proceeding on leave preparatory to retirement, "refused leave" or leave after invalidment or after his retirement. The main criteria in such a case should be that :—

- (a) A substantive vacancy existed on that or from an earlier date;
- (b) The officer concerned was actually holding, otherwise than as a temporary local or a temporary arrangement, or would have held such post but for his appointment to a higher or equivalent post;
- (c) The officer concerned would have been confirmed in the post had the existence of the permanent vacancy been known on the relevant date;
- (d) In cases of posts to which appointment is made both by selection as well as by seniority, such retrospective confirmation may be made by the competent authority in a post which the officer was holding (otherwise than as a purely or temporary arrangement) or would but for his appointment to a higher, or equivalent post, have held immediately before his retirement or death or proceeding on leave preparatory to retirement or on refused leave etc. (as the case may be) or in a lower post from which appointments are normally made to a post held.

[MHA OM No. 32/1/55-Ests(A) dt. 25-6-56 & 27-11-56.]

(2) The instructions reproduced at (1) above will also apply, in similar circumstances to the persons who dies while in Government service.

[MHA OM No. 32/1/55-Ests(A) dt. 27-11-56.]

12. *Consideration of Claims of Officers under suspension or those against whom Departmental proceedings are to be initiated or whose Conduct is under investigation*  
Dealt with under Chapter XVIII on Promotion

13. *Erroneous Confirmation*

(1) The following instructions may be followed while cancelling orders relating to confirmation of Government servants which are later on found to be erroneous :—

- (i) If the order of confirmation was clearly contrary to the statutory rules and there is no power or discretion to relax the rules.
- (ii) If the order of confirmation was made when there was no substantive vacancy and the confirmation authority had no power to create the post in which the officer was confirmed.
- (iii) If the order of confirmation was made in error, for example, naming wrong person, mistake in identity.

Orders of confirmation in the above mentioned cases are void *ab initio* and the officer does not acquire any right to hold the post in which the order purported to confirm him. Provisions of Article 311(2) of the Constitution are not, therefore, attracted and the procedure of "show cause notice" is not required to be followed before cancelling the order of confirmation.

(2) If the order of confirmation was made in contravention of executive or administrative instructions, it cannot be set aside. Cancellation of confirmation in such cases would amount to reduction in rank without any fault on the part of the officer confirmed.

[MHA OM No. 32/5/54-Estt(A) dt. 27-11-54 and OM No. 12/2/69-Estt(D) dt. 21-3-68 read with MHA OM No. 12/3/69-Estt(D) dt. 18-7-70.]

(3) In cases where juniors are confirmed erroneously in contravention of the executive or administrative instructions and whose confirmation cannot be set aside vide (2) above, the administrative Ministries/Departments may create with retrospective effect i.e. from the date the junior was erroneously confirmed, a permanent post, in consultation with their Associate Finance, in accordance with the orders contained in the Government of India decision No. 7 below rule 11 of the Delegation of Financial Powers Rules, 1978. The senior officer referred to may after creation of such a permanent post be confirmed against the post so created from the date of its creation, if he is otherwise considered fit for confirmation.

If a junior officer is erroneously confirmed from a date earlier than the date of confirmation of his senior, a permanent post may be created in the manner indicated above for the purpose of ante-dating the confirmation of the senior officer.

[MHA OM No. 12/3/69-Estt(D) dt. 18-7-70]

14. *Relaxation of prescribed age limit*

Normally a person who is not within the prescribed age limit at the time of his initial recruitment to the grade should not be confirmed in that grade. However, if the prescribed age limit in his case was/is relaxed in accordance with the provisions of Ministry of Home Affairs OM No. 4/1/55-RPS, dated 12-2-55, or such a person belongs to one of the specified categories entitled to age concessions in accordance with the provisions of the orders issued by Ministry of Home Affairs (now Department of Personnel and Training), he becomes eligible for being considered for confirmation subject to fulfilment of other conditions mentioned in para 1.

15. *Typewriting Test*

Passing of the typewriting test by Lower Division Clerks in Attached and Subordinate Offices of the Government of India not participating in the Central Secretariat Clerical Services is one of the essential conditions for purpose of confirmation. No one who does not pass the typewriting test at the prescribed speed of 30 words per minute (in English) should be considered for confirmation in the grade of LDC until he has passed the typewriting test at the prescribed speed indicated above, or has been exempted by the competent authority from passing such a test in accordance with the orders issued by the Ministry of Home Affairs (now Department of Personnel

and Training) from time to time. The effective date of confirmation in the case of those who pass the typewriting test subsequent to the date on which they were due for confirmation in accordance with their seniority will be the date of the test in which they were declared successful and in the case of those exempted from typewriting test, the date of exemption.

[MHA OM No. 15/3/63-Estt(D), dt. 13-7-64 read with MHA OM No. 15/3/63-Estt(D), dt. 16-9-65.]

16. *Confirmation of Group D Employees appointed to Group C posts*

Appointment of a Group D employee to a Group C post is a fresh appointment, and the persons concerned can at best retain such rights on his erstwhile Group D post, as accrued to him before appointment to Group C. However, if such Government servant was entitled to be confirmed or declared quasi-permanent in the Group D post with effect from a date before his appointment to Group C posts, the confirmation or quasi-permanency certificate need not be denied to him, even though the orders may be passed later with retrospective effect. There should, however, be no objection of his being considered for confirmation or quasi-permanency with effect from a date after he has taken over a Group C post.

[MHA OM No. 12/29/56-RPS, dt. 22-3-57.]

17. *Procedure for Processing the cases of Officers in case the Adverse Entries in the Confidential Report are Expunged or Toned down*

Whenever cases of eligible officers for confirmation are placed before a DPC, the fact whether any representation from such officer against adverse entries in his confidential record is pending a decision of the competent authority, should be specifically brought to the notice of the DPC who may defer the decision on the case, if it considers it necessary to do so till a decision has been taken on the representation. This procedure should also be followed where the officer has not submitted any such representation but the time allowed for the purpose is not over. Representations received after the time allowed need not be brought to the notice of the DPC unless the competent authority has entertained them after condoning the delay.

Departmental Promotion Committee will take into account the record of service as placed before them and give due weight to the adverse entries appearing in the confidential records on the date the cases of officers are considered by the DPC. If the adverse entries are not communicated to the officer concerned in any case, such non-communication will also be taken into account by the Committee while taking note of the adverse entries. In case the adverse remarks are ordered to be toned down or expunged by the competent authority after the DPC has met and taken a decision on the case of the officer concerned, the matter will be brought to the notice of the appointing authority for a decision, whether having regard to the nature of the adverse remarks and the extent to which they have been toned down or expunged, the case of the officer concerned justifies a review by the DPC. In case a review is considered necessary by the appointing authority the case of the officer will be referred to the DPC for such a review. If the DPC concerned was presided over by the Chairman or Member of the UPSC, the concurrence of the Commission should be obtained before the officer's case is referred to the DPC for reviews. All cases where the DPC had deferred a decision pending disposal of the representation will, of course, have to be brought again before the DPC for review. If, on review, the DPC finds the officer fit for confirmation, it would place him at the appropriate place in the relevant list of officers considered fit for confirmation after taking into consideration the toned down remarks or treating the expunged remarks as non-existent at the time the Committee had earlier considered his case for promotion/confirmation and his confirmation will be regulated as follows :

If the officer concerned is recommended for confirmation on the basis of the finding of the DPC on review, he should be confirmed whenever the first vacancy becomes available but the seniority already allotted to him on the basis of the review should not be disturbed by the delay in his confirmation. In other words, he will be deemed to be senior to his junior who may have been confirmed in the meantime.

[MHA OM No. 1/3/65-Estt(D), dt. 20-2-67.]