

**GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL : : : PERSONNEL (B)
DISPUR : : : GUWAHATI**

No. ABP. 29/2006/38

Dated, Dispur, the 9th May /2006.

OFFICE MEMORANDUM

Subject :- Promotion of Government Servants against whom departmental/ disciplinary / Court proceedings are pending or whose conduct is under investigation procedure and guidelines to be followed .

1. The undersigned is directed to refer to the office Memorandum No. ABP. 230/75/6 dated 6.7.1976 and political (A) Deptts. Letter No. PLA (V) 5793/31 dtd. 23.8.94 and subsequent instructions issued from time to time on the above subject and to say that the procedure and guidelines to be followed in the matter of promotion of Government servants against whom departmental / Court proceedings are pending reviewed carefully. Govt. have also noticed the judgement dtd. 27.8.1991 of the Supreme Court in Union of India etc. vs- K.V. Jankiraman etc. (AIR 1991 SC 2010) . As a result of the review and in suppression of all the earlier instructions on the subject , the procedure to be followed in this regard by the authority concerned is laid down in the subsequent paras of this O.M. for their guidance .

2. At the time of consideration of the cases of Govt. Servants in the zone of consideration for promotion falling under the following categories should be specifically brought to the notice of the Departmental Promotion Committee/Selection Committee/Appointing Authority :

- i) Government Servants under suspension.
- ii) Government Servants in respect of whom a charge sheet has been issued and the disciplinary proceedings are pending ; and
- iii) Government servants in respect of whom prosecution for a criminal charge is pending.

3. The Departmental promotion Committee/Selection Committee/Appointing Authority shall assess the suitability of the Government servants coming within the purview of the circumstances mentioned in para-2 above, along with other eligible candidates, without taking into consideration the disciplinary case /criminal prosecution pending . Therefore it is made clear that only bare statement that case of an employee in the zone of consideration /extended zone of consideration is covered by any of the three situations indicated in para-2 above is to be furnished to the Departmental promotion committee / Selection Committee / Appointing Authority to enable it to place its recommendations in the sealed cover . No other details about the pending inquiry or the nature of Charges etc. are to be furnished to the Departmental Promotion Committee /Selection Committee/Appointing Authority list these details weigh with the Departmental

Promotion Committee/Selection committee /Appointing Authority in making its recommendations, which are to be placed in the sealed cover.

4. Considerable doubts also persist about the furnishing of the vigilance clearance and integrity certificates to the Departmental Promotion Committee /Selection Committee /Appointing Authority. It is clarified that the Departmental promotion committee /Selection Committee/Selection committee is required to consider the cases of all persons who are otherwise eligible in terms of the recruitment Rules as on the relevant crucial date and are in the zone of consideration. If however, case of an employee in the zone of consideration is covered by any of the three situations indicated in para-2 above, only this fact is to be furnished to the Departmental promotion committee/ selection committee or the Appointing Authority as the case may be, so that the recommendations could be placed in sealed cover. Where none of the three situations as indicated in para-2 above has arisen, a simple vigilance clearance would need to be furnished. Vigilance clearance /Status would have no other significance and would not be a factor in deciding the fitness of the Officer/Govt. Servant for promotion on merit.

5. It is also clarified that there is no requirement of furnishing a separate integrity certificate to the Departmental Promotion committee/Selection committee or the appointing Authority. In term of the judgment of the Hon'ble Supreme court in the case of Union of India -vs K.V. Janakiraman etc. (AIR 1991 SC 2010), no promotion can be withheld merely on the basis of suspicion or doubt or where the matter is under preliminary investigation and has not reached the stage of issue of charge sheet etc. If in the matter of corruption /dereliction of duty etc. there is a serious complaint and the matter is still under investigation of C.B.I. or otherwise the Government is within its right to suspend the official, in that case, the officer's/Govt. Servants case for promotion would automatically be required to be placed in the sealed cover.

6. If the conditions indicated in para-2 above arisen only after the Departmental Promotion Committee /Selection Committee or the Appointing Authority has made its recommendations and therefore, the recommendations could not be placed in the sealed cover, the recommendations of the Departmental promotion Committee/Selection Committee/Appointing Authority shall be deemed to have been placed in the sealed cover and he shall not be promoted until he is exonerated of the charges. Therefore, after the recommendations of the Departmental promotion committee / Selection Committee/Appointing Authority have been approved by the Competent Authority, it is necessary to again seek the status position from the concerned vigilance division before issuing promotion order in respect of any officer included in the approved panel of names to ensure that there is no hindrance in issuing the promotion order in respect of the concerned officer /Government Servant.

Sd / D.N. SAIKIA,
Commissioner & Secy. to the Govt. of Assam,
Personnel (B) Department.

Copy to:-

1. All Departments of Secretariat, Dispur.
2. All Heads of Department.
3. The Accountant General (A&E) Assam, Maidamgaon, Guwahati-29.
4. The Secretary , Assam Public Service Commission, Khanapara, Guwahati-22
5. The Secretary to the Governor of Assam, Raj Bhawan, Guwahati-1.
6. The Chairman, Board of Revenue, Assam, Guwahati-1.
7. The Chairman, Assam Administrative Tribunal, Guwahati-1.
8. All Deputy Commissioners.

By order etc.,

**Joint Secretary to the Govt. of Assam,
Personnel (B) Department**