

No. 22012/99/2009-AIS(I)  
Government of India  
Ministry of Personnel, Public Grievances & Pensions  
Department of Personnel & Training

...  
New Delhi, 25<sup>th</sup> August, 2010.

OFFICE MEMORANDUM

Subject : Clarifications in the wake of Punjab & Haryana High Court order dated 01.02.2010 in CWP No.15798 of 2009 filed by Sh. Parveen Kumar Vs. Union Public Service Commission and others as confirmed by Hon'ble Supreme Court in SLP No. 14002/2010 in the matter of DOPT Vs. Parveen Kumar & Ors.

...  
The undersigned is directed to invite attention to Regulation 5(3) of IAS (Appointment by Promotion) Regulations, 1955, which reads as under: -

“The Committee shall not consider the cases of the members of the State Civil Service who have attained the age of 54 years on the 1<sup>st</sup> day of January of the year for which the Select List is prepared.”

2. Against the above provision, Sh. Parveen Kumar, one of the State Civil Service officers of Punjab, had filed a CWP No. 15798/2009 before the Hon'ble High Court of Punjab & Haryana. The Hon'ble High Court vide their order dated 1<sup>st</sup> February 2010 interpreted the said provision as under: -

“The sole question which emerges for determination of this Court is whether the age of eligibility is required to be considered with reference to 1<sup>st</sup> January of the year for which the Select List is prepared or any other date. A plain reading of the expression ‘year’ in Regulation 2(1) shows that a year would mean the period commencing on January 1<sup>st</sup> and ending on December 31<sup>st</sup> of the same year. A further perusal of Regulation 5(3) would make it evident that the Committee is debarred from considering the cases of such officers of the State Civil Service who have attained the age of 54 years. The regulation further says that the age of 54 years is required to be determined on January 1<sup>st</sup> of the year for which the Select List is prepared. In the present case, four vacancies are of the year 2006 and one vacancy of earlier years became available in the year 2006 on account of non-joining of Sh. Joginder Lal Jain, PCS. It has been rightly contended that the emphasis in Regulation 5(3) is on the expression “the year for which the Select List is prepared”, which would mean that meeting of the Committee may be held in a subsequent year but the eligibility of the officers in so far as his age is concerned would remain intact. It has to be judged with reference to the year for which the Select List is prepared.


We find substantive support to the aforesaid submission in un-numbered proviso to Regulation 5(1). According to the aforesaid proviso if no meeting of the Committee could be held during a year then whenever the Committee meets again, the Select List has to be prepared separately for each year during which the Committee could not meet as on December 31<sup>st</sup> of each year. The aforesaid proviso is consistent with the definition of expression ‘year’ in Regulation 2(1)(1). Therefore the vacancies for the year 2006, i.e. from 01.01.2006 to 31.12.2006 have to be determined as on December 31<sup>st</sup> of that year. The Select List, which has been erroneously styled as ‘Select List of 2007’, in fact, is the Select List for the year 2006. Therefore, the age of the petitioner has to be determined as on 01.01.2006. Accordingly, he would be eligible.”

3. Against the above-mentioned orders of the Hon'ble High Court, this Department had filed SLP No. 14002 of 2010 before the Hon'ble Supreme Court, which has been dismissed, vide order dated 31<sup>st</sup> May 2010.

4. In view of above, the order of the Hon'ble High Court has become absolute. Accordingly, the following decisions have been taken by the competent authority:-

- (i) The said order would be implemented w.e.f. 1<sup>st</sup> February 2010, i.e. date of the High Court order.
- (ii) Wherever meetings of the Selection Committee in respect of any All India Service have not been held or meetings have been held but minutes of the meeting have not been approved by the Commission, the same will be held in accordance with the interpretation of Regulations given by Hon'ble High Court and confirmed by Hon'ble Supreme Court.
- (iii) Where meetings have already been held and minutes have been approved the same will not be opened unless and until there is a specific direction from a Court of Law.
- (iv) The eligibility of State Service officers in cases of Review Selection Committee meeting would be reckoned on the basis of Regulations/interpretation prevailing in that year unless otherwise directed by a Court of Law.
- (v) Select List will henceforth be styled coinciding with the year of vacancies. In case there are two overlapping Select Lists for a particular year the same will be distinguished by styling the Select List of that year (correspondent to the year in which vacancies have arisen) and the other select list will be named by adding 'A' to that year.

5. Accordingly, it is requested that the concerned authorities of your Government may kindly be suitably instructed to send requisite proposal to UPSC keeping in view the above directions of Hon'ble High Court as confirmed by Hon'ble Supreme Court.

  
(S.S. Shukla)

Under Secretary to the Government of India

1. Chief Secretaries of all the State Governments
2. M/o Home Affairs, J.S.(Police)
3. M/o Home Affairs, J.S.(UT)
4. M/o Environment & Forests, J.S.

Copy for information to the Secretary, UPSC, Dholpur House, Shahjahan Road, New Delhi.