

**GOVERNMENT OF TELANGANA
FINANCE (HRM-VII) DEPARTMENT**

Circular Memo No.8242-A/329/A1/HRM-VII/2017, Dated:22-07-2017

Sub:Surplus HR Cell – Public Services - Certain individuals redeployed from Corporations to Government departments – Instructions - Issued - Regarding.

- Ref:-1. G.O.Ms.No.36, General Administration Department dt.25.1.1990.
2. Andhra Pradesh (Regulation of Appointments to Public Services and Rationalisation of Staff Pattern and Pay Structure) Act, 1994(Act 2 of 1994) (Telangana Adaptation).
 3. G.O.Ms.No.275,Finance (SMPC) Department. Dated 14-12-1995.
 4. The Andhra Pradesh Prohibition of Absorption of Employees of State Government Public Sector Undertakings into Public Services Act, 1997 (Act 14 of 1997)
 5. G.O.Ms.No.267, General Administration Department dt.17.7.1998.
 6. Finance Department Memo No.29730/484/SMPC/99 dt.20.9.1999.
 7. G.O.Ms.No.24 Finance (SMPC) Department, dt.09-01-2002.
 8. Memo.No.28540/1174/A1/SMPC/2003 Dated:13-04-2004.
 9. Lr.No.A/Estt/2017 of District Collector, Ranga Reddy District, dt:07.07.2017.

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The attention of all the departments and District Collectors is invited to the references cited. It has come to the notice of the Government that some departments/District Collectors are issuing orders absorbing the surplus employees of different corporations, public sector undertakings, societies, or other organizations / bodies etc., into regular Government departments on temporary / permanent basis.

2. The statutory provisions governing appointments to public service stipulated in section-3, section-4, section-5 and section-6 of Act 2 of 1994 are extracted below:

<p>“3. (1) <i>The appointment of any person in any public service to any post, in any class, category or grade as a daily wage employee is hereby prohibited.</i></p> <p>(2) <i>No temporary appointment shall be made in any public service to any post, in any class, category or grade without the prior permission of the competent authority and without the name of the concerned candidate being sponsored by the Employment Exchange</i></p>	<p><i>Prohibition of daily wage appointments and regulation of temporary appointments</i></p>
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(P.T.O.)

<p>4 (1) <i>No recruitment in any public service to any post in any class, category or grade shall be made except—</i></p> <p>a) <i>From the panel of candidates selected and recommended for appointment by the Public Service Commission/ College Service Commission where the post is within the purview of the said Commission;</i></p> <p>b) <i>From a panel prepared by any Selection Committee constituted for the purpose in accordance with the relevant rules or orders issued in that behalf; and</i></p> <p>c) <i>From the candidates having the requisite qualification either sponsored by the Employment Exchange or applied in response to the wide publicity of vacancy position through Daily News Paper having wider circulation or Employment News Bulletin and also display on the Office Notice Boards or announcement through Radio or Television in other cases where recruitment otherwise than in accordance with clauses (a) and (b) is permissible.</i></p> <p>(2) <i>Nothing in sub-section (1) shall apply:-</i></p> <p>a) <i>To the compassionate appointments made in favour of a son or a daughter or spouse of any person employed in public service who dies in harness or who retired from service on medical grounds, in accordance with the relevant orders issue from time to time;</i></p> <p>b) <i>To the appointments made in favour of a son or a daughter or spouse or a grand-son (Son's son) or a grand-daughter (Son's daughter) or a grand-son (dependent daughter's son) or a grand-daughter (dependent daughter's daughter) of any married person or a brother or a sister or parent of any unmarried person killed or totally incapacitated in extremist violence or in police firing or bomb blast or in communal violence irrespective of the age of the killed who is not accused of an offence, made in accordance with the relevant orders issued from time to time.</i> <i>Explanation: "totally incapacitated" means certified as such by the Medical Board."</i></p> <p>c) <i>To the appointments made in favour of members of Scheduled Castes or Scheduled Tribes, who or whose parents or spouse are subjected to atrocities, in accordance with the relevant orders issued from time to time."</i></p> <p>d) <i>To any suitable appointment to be made in compliance with assurance bearing number 2488/X/96, Assembly Secretariat dated: 10th September'1996 made on the floor of the Legislative Assembly of the State."</i></p>	<p>Regulation of recruitment</p>
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<p>5. <i>Where an appointment is not in accordance with section 4, the drawing authority shall not sign the salary bill of the appointee concerned and the Pay and Accounts Officer, Sub-Treasury Officer or any other officer who is charged with the responsibility of passing the salary bill shall not pass such bill unless a certificate issued by the appointing authority to the effect that the appointment has been made in accordance with section 4 is attached to the first salary bill of the appointee concerned.</i></p>	<p><i>Bills not to be passed</i></p>
<p>6. (1) <i>Where any holder of an elective office or any officer or authority makes any appointment in contravention of the provisions of this Act,-</i> (a) <i>It shall be deemed in the case of the holder of an elective office that he has abused his position or power and accordingly the competent authority shall initiate proceedings for his removal; and</i> (b) <i>In the case of an officer or authority it shall be deemed that he is guilty of misconduct and the competent authority shall initiate action under the relevant disciplinary rules.</i></p> <p>(2) <i>In addition to taking action under sub-section (1) the pay and allowances paid to the person whose appointment is in contravention of the provisions of this Act shall be deemed to be an illegal payment and a loss to the Government or, as the case may be, to the concerned institution and the same shall be recoverable by surcharging the same under the Andhra Pradesh State Audit Act, 1989 against the person, officer or authority who makes such appointment in contravention of the provisions of this Act or where such surcharge is not possible under the said Act in accordance with such manner as may be prescribed including as arrears of land revenue.</i></p>	<p><i>Penalties</i></p>

3. Further, Section 2 of Act 14 of 1997 reads as below:

<p>2. <i>Notwithstanding anything contained in any contract or agreement or any judgment, decree or order of any court, Tribunal or any other authority or any order or proceedings of the State Government no employee of a State Government public Sector Undertaking: shall be or shall ever be deemed to be entitled to absorption into public service from the date of commencement of this Act only on the, ground that such undertaking has become sick or is likely to become closed or is likely to be closed and accordingly ,-</i></p> <p>a) <i>all orders issued by the Government or any other authority appointing any such employee to any post in public service on any such ground shall stand cancelled with effect from the 30th November, 1996.</i></p>	<p><i>Prohibition of absorption into public service</i></p>
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4. In the reference 8th cited, the District Collector, RangaReddy District has requested to issue clarification on the following points.

- i. whether the retired surplus staff of Andhra Pradesh State Co-operative Rural Irrigation Corporation Limited, who are temporarily redeployed and salaries were drawn and paid by District Employment Office are eligible for pensionary benefits like Gratuity, Commutation of Pension and Pension or not.
- ii. Whether the cases of children of such deceased surplus employees are eligible for compassionate appointments or not.

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5. In this context, all the departments/District Collectors are informed that Government have issued detailed guidelines in G.O.Ms.No.24, Finance (SMPC) Department dated 09.01.2002 for re-deployment and absorption of surplus work-charged establishment and surplus staff in different categories of posts in **Government Departments** into existing vacancies of other departments and also the powers were delegated to District Collectors for deployment of such resources in the categories lower than **zonal, multi zonal and state cadre posts**. These orders are obviously not applicable to absorption of employees in Public Sector Undertakings, Societies, or other organizations/bodies under Government departments. Declaring the employees of AP State Co-operative irrigation Corporation Limited as surplus and redeploying them in Government departments by invoking orders issued in G.O.Ms.No.24, Finance (SMPC) Department dated:09.01.2002 is against the orders issued in the said G.O. and the provisions of Act 2 of 1994 and also Act 14 of 1997 and **hence null and void abinitio**.

6. Therefore, such orders, if any, issued by the departments/District Collectors allotting surplus employees from AP State Co-operative Irrigation Corporation Limited or similar public sector undertakings, societies, or other organizations / bodies etc., to Government departments would be in contravention of G.O.Ms.No.24, Finance (SMPC) Department dated:09.01.2002 as well as Act 2 of 1994 and Act 14 of 1997, and **hence null and void abinitio**.

7. Hence all the Departments and the District Collectors concerned are instructed to cancel such orders if any issued and repatriate such persons to their parent organizations immediately, besides initiating disciplinary proceedings against the concerned officials in terms of section 6 of Act 2 of 1994 and also recover the loss occurred to the Government due to such illegal appointments, after duly fixing the responsibility for such illegal orders.

8. It is also clarified that such persons of public sector undertakings, societies, or other organizations / bodies etc., who were absorbed into Government Departments in violation of the orders issued G.O.Ms.No.24, Finance (SMPC) Department dated:09.01.2002 and the provisions of Act 2 of 1994 and also Act 14 of 1997 are not eligible for any benefits such as pension, gratuity, commutation of pension and compassionate appointments etc., on par with the Government employees in Government Departments. Such employees are eligible only for the benefits which are available in their parent organizations and such benefits have to be paid by their parent organizations only.

9. The Director of Treasuries and Accounts, the Director of Works Accounts and the Pay and Accounts Officer, Hyderabad shall initiate disciplinary proceedings against the responsible officers/staff for admitting the bills in violation of the Section-5 of Act 2 of 1994.

N. SIVA SANKAR
SECRETARY TO GOVERNMENT

To
All the Departments of Secretariat.
All the Heads of Departments.
All the District Collectors.
All the District Employment Officers.
The Director of Treasuries & Accounts, Telangana, Hyderabad.
The Pay and Accounts Officer, Telangana State, Hyderabad
The Director of works & Accounts, Telangana State, Hyderabad.
SF/SCs.

// FORWARDED :: BY ORDER //

SECTION OFFICER