

West Bengal Public Service Commission (Exemption from Consultation) Regulations, 2008

Government of West Bengal
Finance Department
Audit Branch

No. 9103-F, dated: 03.12.2008.

NOTIFICATION

In exercise of the power conferred by the proviso to clause (3) of article 320 of the Constitution of India, the Governor is pleased hereby to make the following regulations, namely:-

REGULATIONS

1. Short title and commencement:

(1) These regulations may be called the West Bengal Public Service Commission (Exemption from Consultation) Regulations, 2008.

(2) They shall take effect from the date of their publication in the Official Gazette.

2. Definitions:

In these regulations, unless there is anything repugnant in the subject or context,-

a) "Commission" means the [West Bengal Public Service Commission](#);

b) "Government" means the Government of West Bengal in the Finance Department;

c) "Promotion" means the appointment of a person to a post on a pay or a scale of pay higher than that attached to the post on which he holds a lien or a suspended lien or in which he was appointed on contract:

d) "Pay" has the same meaning as in clause (28) of rule 5 of the [West Bengal Service Rules, Part-I](#);

e) "Regularly constituted State Service" means the services (other than the West Bengal General Service) that have been or may hereafter be included in note I to sub-rule(4) of rule 5 of the West Bengal Service Rules, Part- I. It also includes Central Service Class I, or Central Service Class II, in cases where appointment to West Bengal General Service posts by promotion or transfer from such Services is provided for in the recruitment rules;

f) "State Service" means the services that have been or may, hereafter, be included in note 1 to sub-rule (4) of rule 5 of the West Bengal Service Rules, Part-1:- read with rule 4 of the [West Bengal Services \(Classification, Control and Appeal\) Rules, 1971](#);

3. No Consultation for employment assistance in dying in harness or in physical incapacity.

It shall not be necessary to consult the Commission with respect to the matters specified, in sub-clauses (a) and (b) of clause (3) of article 320 of the Constitution, while selecting for appointments to Group- 'C' and Group 'D' posts for the purpose of offering employment assistance to the family members or near relations to the employees died in harness or retired on being physically incapacitated, on compassionate grounds or to any other categories of candidates as the State Government may, by notification, specify from time to time.

4. No consultation for promotion.

It shall not be necessary to consult the Commission in regard to promotion to posts, permanent or temporary, the appointing authority for which is an authority subordinate to the State Government.

5. No consultation for recruitment in certain cases.

Except as otherwise provided in the rules governing recruitment to a post, it shall not be necessary to consult the Commission with respect to the filling of a post in the West Bengal General Service, when such post is subject to the provisions of the rules or recruitment, filled up –

(a) by promotion of a person having lien on a sub-ordinate post;

(b) by promotion or transfer of a person having lien on a post included in a regularly constituted State Service.

6. No consultation in respect or certain matters.

It shall not be necessary to consult the Commission with respect to the matters specified in sub-clauses (a) and (b) of clause (3) of article 320 of the Constitution when filling a post by a specialist appointed on contract for a period not exceeding five years provided that-

(i) the post in question is deemed by the Government to be of such a technical nature or involves such specialised type of work as to require a specialist to be appointed; and

(ii) the specialist to be appointed on contract is selected after open advertisement by a Selection Committee composed of experts in the line and appointed with the approval of Government.

7. No consultation for selection to a temporary or officiating appointment to a post in certain circumstances.

It shall not be necessary to consult the Commission in regard, to the selection for a temporary or officiating appointment to a post if-

(a) the person appointed is not likely to hold the post for a period of more than one year; and

(b) it is necessary in the public interest to make the appointment immediately and a reference to the Commission will cause undue delay;

provided that –

(i) such appointment shall be reported to the Commission as soon as it is made;

(ii) if the appointment continues beyond a period of six months a fresh estimate as to the period for which the person appointed is likely to hold the post shall be made and reported to the Commission; and

(iii) if such estimate indicates that the person appointed is likely to hold the post for a period of more than one year from the date of appointment, the Commission shall immediately be consulted in regard to the filling of the post.

8. No consultation or re-employment after superannuation.

Notwithstanding anything contained in regulation 7, it shall not be necessary to consult the Commission with respect to any of the matters specified in sub-clauses (a) and (b) of clause (3) of article 320 of the Constitution when it is proposed to re-employ a person after superannuation;

Provided that before superannuation, he was eligible for appointment to the post without consultation with the Commission.

Provided further that his pay on re-employment plus the pension, if any, does not exceed the pay drawn by him at the time of his retirement.

9. No consultation for appointment to part-time post.

It shall not be necessary to consult the Commission with respect to any appointment to a part-time post, when such post is filled by an officer who is already confirmed, in a Civil Service or is already employed in a civil post on a contract.

10. No consultation for appointment by recruitment made overseas.

It shall not be necessary to consult the Commission before making an appointment in cases in which recruitment is made overseas through the agency and on the advice of the Ambassadors or the High Commissioners for India, as the case may be.

11. No consultation for termination of employment of a person appointed on probation.

It shall not be necessary to consult the Commission with regard to the termination of employment of a person appointed on probation during or at the end of the period of probation in accordance with the rules governing the probationary service.

12. No consultation for termination of employee holding temporary post.

It shall not be necessary to consult the Commission with regard to:

(a) the discharge of a temporary employee on termination of the temporary post or in accordance with the terms of his employment; and

(b) reversion of an officer from an officiating or a temporary post, otherwise than as a penalty.

13. No Consultation for termination of employment in accordance with terms of employment.

It shall not be necessary to consult the Commission regarding the termination of the employment of any person in accordance with the terms of his employment or in pursuance of the terms of any contract entered into with the officer.

14. No consultation for imposition of penalty on failure to pass any test or examination

It shall not be necessary to consult the Commission with respect of the imposition of any penalty laid down in any rule or order for failure to pass any test or examination within a specified time.

15. No consultation with respect to matters earlier decided by commission.

It shall not be necessary to consult the Commission with respect to any case in which the Commission at any previous stage has given advice in regard to the orders to be passed and no fresh question has thereafter arisen for determination.

16. No consultation for rejecting petition.

In regard to petitions and memorials in disciplinary cases it shall not be necessary for the Commission to be consulted before an order rejecting such a petition is passed by the Government or by the Governor.

17. No consultation for certain posts.

It shall not be necessary to consult the Commission with respect to the matters specified in sub-clauses (a) and (b) of clause (3) of article 320 of the Constitution in the case of posts in Eastern Frontier Rifles (West Bengal Battalion)-

18. No consultation for officers of Indian Armed Forces deputed to civil posts.

It shall not be necessary to consult the Commission with respect to any matter in the case of officers of the Indian Armed forces to be appointed on deputation to Civil posts under the Government.

19. No Consultation for posts of Chairman members of Commission and Advocate General etc.

It shall not be necessary to consult the Commission with respect to the matters specified in sub-clauses (a) and (b) of clause (3) of article 320 of the Constitution in the case of the following posts.

-

(a) Chairman and members of the Commission;

(b) Advocate General;

(c) personal staff of His Excellency the Governor other than the clerical establishment and stenographers in Governor's Secretariat or in the office of the Military Secretary to the Governor; and

(d) Posts to be filled by the members of All India Services.

20. No consultation for making of order in disciplinary case.

It shall not be necessary to consult the Commission in regard to the making of any order in the disciplinary case other than –

(a) an order by the Governor imposing any of the following penalties

(i) censure;

(ii) withholding of increments, or promotion;

(iii) recovery from pay of the whole or part of pecuniary loss caused to Government by negligence or breach of orders;

(iv) reduction to a lower stage in the time scale of pay for a specified period with further direction as to whether or not the Government servant will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay;

(v) reduction to a lower time – scale of pay, grade, post or service with or without further directions regarding conditions of restoration to the grade or post or service from which the Government servant was reduced and his seniority and pay on such restoration to that grade, post or service;

(vi) compulsory retirement;

(vii) removal from service;

(viii) dismissal from service;

(b) an order by the Governor on an appeal against an order imposing any of the said penalties made by a subordinate authority;

(c) an order by the Governor overruling or modifying, after consideration of any petition or memorial or otherwise, on order imposing any of the said penalties made by the Governor or by a subordinate authority;

(d) an order by the Governor imposing any of the said penalties in exercise of his powers of review and in modification of an order under which none of the said penalties has been imposed.

(e) an order of suspension, being an order imposed not as punishment but to facilitate the proper investigation of a case against the suspended officer is passed against a member of a State Service and

(f) an order passed under the West Bengal Civil Services (Safeguarding of National Security) Rules,

1949.

21. Repealing and saving:

(1) The West Bengal Public Service Commission (Exemption from Consultation) Regulations, 1955, is hereby repealed.

(2) Notwithstanding such repeal, any action taken under the West Bengal public Service Commission (Exemption from Consultation) Regulations, 1955, prior to coming into force of these regulations shall not be questioned merely on the ground of such repeal.

By order of the Governor

Sd/- D. Mukhopadhyay
Pr. Secy. to the Govt. of West Bengal

No. 9103-F dated 03.12.2008