



**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

PUBLIC SERVICES - Passing of the Departmental Test/Special Tests-Exemption from passing of Test Prescribed in the special Rules in respect of employees who crossed 45 years of age - Orders - Issued.

GENERAL ADMINISTRATION (SER.C) DEPARTMENT.

G.O. Ms.No.165

Dated: 22-4-1997.
Read the following:

1. G.O.Ms.No. 189, G.A. (Ser.C) Dept., dated 28-7-1978
2. G.O.Ms.No.475, G.A. (Ser.C) Dept., dated 20-9-1994.
3. From the Secretary, A.P. Public Service Commission
Lr.No.1508/R8/2/97, dated 17-4-1997.

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ORDER:

In the G.O. First read above orders were issued, interalia, to the effect the employees appointed as on 1-11-56 in the former Andhra State and State of Hyderabad and allotted to the Government of Andhra Pradesh shall be exempted from passing the Departmental Tests, if they have completed 45 years of age for promotion to higher categories.

2. In the G.O. Second read above it was ordered that where the Special Rules prescribe passing of a test is a precondition for drawal of increments/declaration of probation, for the employees who crossed 45 years of age and if they have not passed the prescribed tests, the annual grade increments may be released.

3. Representations have been made by several Non-Gazetted Officers' Organizations requesting that the condition of passing of Departmental Tests/Special Tests may be removed in respect of employees who have crossed 45 years of age for getting one promotion.

4. Government have examined the aforesaid issue and it has been decided that the Government employees who have crossed 45 years of age be exempted from passing of Departmental Test/Special Test prescribed in the Special Rules/Adhoc Rules for the purpose of promotion to the next higher category only (i.e.) the

promotion or appointment by transfer to a post above the one held by him/her, if they could not pass the same.

5. The following Notification will be published in the Andhra Pradesh Gazette.

NOTIFICATION

In exercise of the powers conferred by the proviso to article 309 of the Constitution of India and of all other powers here unto enabling the Governor of Andhra Pradesh hereby makes the following ad-hoc rules namely:-

ADHOC-RULE

Notwithstanding anything contained in the Andhra Pradesh State and Subordinate Service Rules or in the Special Rules or Adhoc Rules, the Government Employees who have crossed 45 years of age shall be exempted from passing Departmental tests prescribed in the Special Rules/ Adhoc Rules for the purpose of Promotion to the next higher category (i.e) promotion/ appointment by transfer to a post above the one held by him/her if they could not pass the same.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

M.S.RAJAJEE
Chief Secretary to Government.

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services - Passing of the Departmental Test / Special Test-Exemption from passing of tests prescribed in the special rules in respect of employees who crossed 45 years of age – Ad-hoc Rule – Re-issued.

GENERAL ADMINISTRATION (SER.C) DEPARTMENT

G.O.Ms.No.225

Dated:18-05-1999,
Read the following:-

1. G.O.Ms.No.165, GA (Ser.C) Dept., Dt.22-04-1997.
2. Cir.Memo.No.49152/Ser.C/97, G.A (Ser.C) Dept. Dt.28-07-1997.
3. Cir.Memo.No.10922/Ser.C/98, G.A. (Ser.C) Dept. Dt.26-03-1998.
4. U.O.Note No.37275/Ser.C/98, G.A.(Ser.C) Dept. Dt.22-07-1998.
5. From the Secretary, APPSC., Lr.No.1036/RR/2/99, Dt.13-05-1999.

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ORDER:-

In the reference first read above an ad-hoc rule was issued as follows:

“Notwithstanding anything contained in the Andhra Pradesh State and Subordinate Service Rules or in the Special Rules or in ad-hoc rules, the Government employees who have crossed 45 years of age shall be exempted from passing the Departmental Tests prescribed in the Special Rules/Adhoc Rules for the purpose of promotion to the next higher category (i.e.) promotion / appointment by transfer to a post above the one held by him/her if they could not pass the same.”

In the references second to fourth read above clarifications were issued on the applicability of the adhoc rule.

2. The policy of the Government enunciated in the adhoc rule, is to exempt the employees from passing of the Departmental Tests / Special Tests, in respect of those who crossed 45 years of age, for the purpose of promotion/appointment by transfer to the immediate next higher post, above the one held by the employee if the employee could not pass the same. This concession was to consider the employee for only one promotion after initial appointment to public service, taking into consideration the fact that the individual inspite of his or her best efforts to qualify himself or herself, could not pass the same owing any personal reasons.

3. Certain employees have challenged the adhoc rule and the clarification thereon in the Court of Law. The Andhra Pradesh Administrative Tribunal in its directions in O.A.No.7612/1998 referred to the judgment of the High Court of Andhra Pradesh and observed as follows:-

“The petitioners before the High Court in W.P. No.26310/98 also got promotions from the category of LDCs to the category of Superintendents and the High Court directed that their cases should be considered for further promotion to the post of Assistant Registrar / Assistant Controller / Administrative officer. Though the High Court has not specifically considered the legality of the clarification at Sl.No.5 in Memo.No.10922/Ser.C/98, Dt.26-03-1998 when it was contended that the petitioners in the Writ Petition are not entitled for exemption from passing Accounts Test as they were promoted earlier as Superintendents even though they did not pass Accounts Test, the High Court observed as follows:

“The argument, that petitioners were promoted to posts of Superintendents though they did not pass the Accounts Test and are not entitled to promotion to next stage, is also without merit. The promotion to the post of Superintendent was on basis of proceedings Dt.27-12-1989, which confined promotion only to one stage. The petitioners are seeking benefit now of G.O.Ms.No.165, Dt.22-04-1997. This is independent of proceedings Dt.27-12-1989. The G.O. does not exclude employee who had received benefit of proceedings of 1989. Hence the argument cannot be accepted.”

The aforesaid observations show that, even persons who have got promotions earlier in the service are entitled for getting promotion to one higher post in terms of adhoc rule issued in G.O.Ms.No.165, GAD, Dt.22-04-1997.

4. Keeping in view of the above observations, it is decided to omit the wording “if they could not pass the same” occurring in the adhoc rule and to recast the adhoc rule to be clear and specific in depicting the policy of the Government. Accordingly, the following notification is issued.

5. The adhoc rule here by made shall be deemed to have come into force with effect from 22nd April, 1997.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers hereunto enabling the governor of Andhra Pradesh hereby makes the following adhoc Rule namely:-

ADHOC RULE:

Notwithstanding anything contained in the Andhra Pradesh State and Subordinate Service Rules or in the Special Rules or in adhoc rules, the Government employees who have crossed 45 (forty five) years of age shall be exempted from passing the Departmental Tests prescribed in the special rules or the adhoc rules for the purpose of promotion to the next higher category i.e., promotion or appointment by transfer involving promotion to a post above the one held by him or her, if they could not get even one promotion after their initial appointment.

Provided that the persons who already got a promotion once where no tests are prescribed for the higher post, the exemption is not applicable to him or her if he or she is to be considered for further promotion to next higher category where tests are prescribed. (This adhoc rule is applicable from the panel year 1997-98).

Provided further that the exemption is applicable in case of Departmental Tests or Special Tests only, where they are prescribed as a pre-requisite for promotion and this exemption shall not be applicable where like technical or academic qualifications are prescribed for promotion to the next higher category of posts.

Provided also that the exemption shall not be applicable for declaration of probation, where passing of Departmental Tests or Special Tests in a pre-condition for declaration of probation.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

N.V.H. SASTRY
SECRETARY TO GOVERNMENT