

RBE No. 14/1993: Sealed Cover Procedure - Promotion from Group 'B' to Group 'A' or Within Group 'A'

No.E(D&A)92 RG6-149(B), dated 22.01.1993

Sub: Promotion from Group 'B' to Group 'A' and Within Group 'A' of Railway Officers against whom disciplinary/ Court proceedings are pending - Procedure and guidelines to be followed.

1. In supersession to all instructions contained in Board's letter [No.E\(D&A\)88 RG6-21, dated 21.09.1988 \(RBE No. 210/1988\)](#) & 02.07.1990 on the above subject, the procedure and guidelines laid down below shall be followed in the matter of promotion from Group 'B' to Group 'A' and within Group 'A' of Railway Officers against whom disciplinary/ Court proceedings are pending.

2. Cases of Govt. servants to whom sealed cover procedure will be applicable:

At the time of consideration of the cases of Government servants for empanelment, details of Government servants in the consideration zone for promotion falling under the following categories should be specifically brought to the notice of the Departmental Promotion Committee:

(i) Government servants under suspension;

(ii) Government servants in respect of whom a charge sheet has been issued and the disciplinary proceedings are pending;

(iii) Government servants in respect of whom prosecution for a criminal charge is pending.

2.1 Procedure to be followed by DPC in respect of Govt. servants under cloud:

The Departmental Promotion Committee shall assess the suitability of the Government servant coming within the purview of the circumstances mentioned above along with other eligible candidates without taking into consideration the disciplinary case/ criminal prosecution pending. The assessment of the DPC including "Unfit for Promotion" and the grading

awarded by it will be kept in a sealed cover. The cover will be super scribed 'Findings regarding suitability for promotion to the grade/ post of .....in respect of Shri .....(name of the Government servant). Not to be opened till the termination of the disciplinary case/ criminal prosecution against Shri .....The proceedings of the DPC need only contain the note "The findings are contained in the attached sealed cover". The authority competent to fill the vacancy should be separately advised to fill the vacancy in the higher grade only in an officiating capacity when the findings of the DPC in respect of the suitability of a Government servant for his promotion are kept in a sealed cover.

2.2 Procedure by subsequent DPCs:

The same procedure outlined in para 2.1 above will be followed by the subsequent Departmental Promotion Committee convened till the disciplinary case/ criminal prosecution against the Government servant concerned is concluded.

3. Action after completion of disciplinary case/ criminal prosecution:

On the conclusion of the disciplinary case/ criminal prosecution which results in dropping of allegation against the Government servant, the sealed cover or covers shall be opened. In case the Government servant is completely exonerated, the due date of his promotion will be determined with reference to the position assigned to him in the findings kept in the sealed cover/ covers and with reference to the date of promotion of his next junior on the basis of such position. The government servant may be promoted, if necessary, by reverting the junior-most officiating person. He may be promoted notionally with reference to the date of promotion of his junior. However, whether the Railway servant who has been promoted, as mentioned above will be entitled to any arrears of pay for the period of notional promotion proceedings the date of actual promotion, and if so to what extent, will be decided by the appointing authority by taking into consideration all the facts and circumstances of the disciplinary proceeding/ criminal prosecution, where the authority denies arrears of salary or part of

it, it will record the reason for doing so. It is not possible to anticipate and enumerate exhaustively all the circumstances under which such denial of arrears of salary or part of it may become necessary. However, there may be cases where the proceedings whether disciplinary or criminal, are, for example delayed at the instance of the employee or the clearance in the disciplinary proceedings or acquittal in the criminal proceedings is with benefit of doubt or on account of non-availability of evidence due to the acts attributed to the employee etc. These are only some of the circumstances where such denial can be justified.

- 3.1 If any major penalty is imposed on the Government servant as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the finding of the sealed cover/ cover(s) shall not be acted upon. His case for promotion may be considered by the next DPC in the normal course and having regard to the penalty imposed on him.
- 3.2 However, in the case of ad hoc promotion from Group 'B' to Group 'A' and promotions within Group 'A' (upto and including promotion to SA Grade) those imposed with a the minor penalties of censure, stoppage of passes/PTOs, recovery from pay and withholding of increment may also be promoted prospectively in their turn with reference to their position in the earlier panel(s) of the DPC. In the case of those imposed with the penalty of withholding increment, however, they cannot be promoted before expiry of the penalty. The pay on promotion in all these cases should be fixed under the normal rules with reference to the date of actual promotion.
- 3.3 It is also clarified that in a case where disciplinary proceedings have been held under the relevant disciplinary rules, 'warning' should not be issued as a result of such proceedings. If it is found, as a result of the proceedings, that some blame attaches to the Government servant, at least the penalty of censure should be imposed.
4. Six monthly review of "Sealed Cover" cases:  
It is necessary to ensure that the disciplinary case/ criminal prosecution instituted against any Government servant is not unduly prolonged and all efforts to finalize expeditiously the processing should be taken so that the

need for keeping the case of a Government servant in a sealed cover is limited to the barest minimum. It has, therefore, been decided that the appointing authorities concerned should review comprehensively the cases of the Government servants, whose suitability for promotion to a higher grade has been kept in a sealed cover on the expiry of 6 month from the date of convening the first Departmental Promotion Committee which has adjudged his suitability and kept its findings in the sealed cover. Such a review should be done subsequently also every six months. The review should, inter alia, cover the progress made in the disciplinary proceedings/ criminal prosecution and the further measures to be taken to expedite their completion.

5. Procedure for ad hoc promotion:

In spite of the six monthly review referred to in para 4 above, there may be some cases, where the disciplinary case/ criminal prosecution against the Government servant are not concluded even after the expiry of two years from the date of the meeting of the first DPC, which kept its findings in respect of the Government servant in a sealed cover. In such a situation the appointing authority may review the case of the Government servant, provided he is not under suspension, to consider the desirability of giving him ad hoc promotion keeping in view the following aspects:

- (a) Whether the promotion of the officer will be against public interest;
- (b) Whether the charges are grave enough to warrant continued denial of promotion;
- (c) Whether there is no likelihood of the case coming to a conclusion in the near future;
- (d) Whether the delay is in the finalization of proceedings, departmental or in a court of law is not directly or indirectly attributable to the Government servant concerned;
- (e) Whether there is any likelihood of misuse of official position which the Government servant may occupy after ad hoc promotion, which may adversely affect the conduct of the departmental case/ criminal prosecution.

The appointing authority should also consult the Central Bureau of Investigation and take their views into account where the departmental

proceedings or criminal prosecution arose out of the investigations conducted by the Bureau.

- 5.1 In case the appointing authority comes to a conclusion that it would not be against the public interest to allow ad hoc promotion to the Government servant, his case should be placed before the next DPC held in the normal course after the expiry of the two year period to decide whether the officer is suitable for promotion on ad hoc basis. Where the Government servant is considered for ad hoc promotion, the Departmental Promotion Committee should make its assessment on the basis of the totality of the individual's record of service without taking into account the pending disciplinary case/ criminal prosecution against him.
- 5.2 After a decision is taken to promote a Government servant on an ad hoc basis, an order of promotion may be issued making it clear in the order itself that:
  - (i) The promotion is being made on purely ad hoc basis and the ad hoc promotion will not confer any right for regular promotion; and
  - (ii) The promotion shall be "until further orders". It should also be indicated in the order that the Government reserve the right to cancel ad hoc promotion and revert at any time the Government servant to the post from which he was promoted.
- 5.3 If the Government servant concerned is acquitted in the criminal prosecution on the merits of the case or is fully exonerated in the departmental proceedings, the ad hoc promotion already made may be confirmed and the promotion treated as regular from the date of the ad hoc promotion with all attendant benefits. In case, the Government servant could have normally got his regular promotion from a date prior to the date of his ad hoc promotion with reference to his placement on the DPC proceedings kept in the sealed cover(s) and/or the actual date of promotion of the person ranked immediately junior to him by the same DPC, he would also be allowed his due seniority and benefit of notional promotion as envisaged in para 5 above. However, in case of promotion from Group 'B' to Group 'A' and within Group

- 'A' (upto and including promotions to SA Grade), if the Railway officer is given ad hoc promotion as envisaged in para
- 5.2 above, and is finally imposed any of the minor penalties of censure, stoppage of Pases/PTOs, Recovery from pay and withholding of increment, such Railway servant should be deemed as regular promoted from the date of ad hoc promotion duly retaining the position assigned to him in earlier panel(s).
- 5.4 If the Government servant is not acquitted on merits on the criminal prosecution but purely on technical ground and Government either proposes to take up the matter to a higher court or to proceed against him departmentally or if the Government servant is imposed a penalty other than those mentioned in the preceding paragraph in the departmental proceedings, the ad hoc promotion granted to him should be brought to an end.
6. Sealed cover applicable to Officers coming under cloud before promotion:  
A Government servant, who is recommended for promotion by the Departmental Promotion Committee but in whose case any of the circumstances mentioned in para 2 above arise after the recommendation of DPC are received but before he is actually promoted, will be considered as if his case had been placed in a Sealed Cover by the Departmental Promotion Committee. He shall not be promoted until the conclusion of disciplinary case/ criminal proceedings and the provisions contained in this letter will be applicable in his case also.
7. Sealed Cover Procedure for confirmation:  
The procedure outlined in the preceding paras should be followed in considering the claim for confirmation of an officer under suspension etc. A permanent vacancy should be reserved for such an officer when his case is placed in a Sealed Cover by the Departmental Promotion Committee.

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Forward reference ⇒ [RBE No. 27/1993](#), [RBE No. 158/1993](#), [RBE No. 07/1996](#), [RBE No. 235/2001](#), [RBE No. 22/2003](#), [RBE No. 18/2005](#), [RBE No. 34/2005](#), [RBE No. 45/2014](#)

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