



**GOVERNMENT OF ANDHRA PRADESH**

**ABSTRACT**

Public Services - Passing of the Departmental Test/Special Tests - Exemption from passing of tests prescribed in the special rules in respect of employees who crossed 45 years of age - Adhoc-Rule-Reissued.

**GENERAL ADMINISTRATION (SER.C) DEPARTMENT**

**G.O.Ms.No.225**

**Dated: 18-5-1999.**

**Read the following:**

1. G.O.Ms.No.165, G.A.(Ser.C) Department, Dt.22-4-97.
2. Cir.Memo.No.49152/Ser.C/97, G.A.(Ser.C) Department, dt.28-7-1997.
3. Cir.Memo.No.10992/Ser.C/98, G.A.(Ser.C) Department, dt.26-3-1998.
4. U.O. Note No.37275/Ser.C/98, G.A.(Ser.C) Department, dt.22-7-1998.
5. From the Secretary, APPSC, Lr.No.1036/RR/2/99, dt.13-5-1999.

**A P U S**

**ORDER:**

In the reference first read above an adhoc rule was issued as follows "Not with standing 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 years of age shall be exempted from passing the Departmental Test 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 clarification were issued on applicability of the adhoc rules. .

2. The policy of the Government enuciated in the adhoc rule, is to exempt 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 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 promo tion after initial appointment to public service, taking into consideration the fact that the individual in spite of his of 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 clarifications thereon in the court of Law. The Andhra Pradesh Administrative Tribunal in its directions in O.A.No.7612/1998 referred to the Judgement 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 promotiois from the category of LDCs to the category of Superintedents and the High Court directed that their cases should be considered for further promotion to the post of Assistant Register/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 dated 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 dated 27-12-1989, which confined promotion only to one stage. The petitioners are seeking benefit now of G.O.Ms.NO.165, dt.22-4-1997. 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.

Theaforesaid 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, G.A.D. dt.22-4-1997.

4. Keeping in view of the above observatins, 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 provision to article 309 of the Constitution of India and of all other power hereunto enabling the Governor of Andhra Pradesh hereby makes the following Adhoc-rule namely:

#### **ADHOC RULE:**

Not with standing 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 to 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 test are prescribed. (This adhoc rule is applicable from the panel year 1997-98.)

Provided further that the exemption is applicable in case of departmental test or Special test 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 rest or special test is 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**