

**Exposition of Regulations 3 and 6 of the Haryana
Public Service Commission (Limitation of Functions)
Regulations, 1973**

Regulations 3, Clauses (a) & (b)- These clauses provide for the Commission being consulted only if the appointment is to be made to a Class I, II & III (Gazetted) post and the appointment is by direct recruitment and further the appointment is to posts not included in Schedule 'A' of the Regulations.

Clauses (c) and (d) intend to authorise the appointing authority to carry out make shift arrangements only so that the work connected with the posts concern does suffer. It should be borne in mind at the time of filling such appointment that the period of such an arrangement in no case exceeds the period mentioned in these clauses without prior approval of the Commission. In the cases falling in clause (d) a requisition complete in all respects must be sent to the Commission within 15 days of the adhoc appointment. * Whenever an adhoc appointment is made against the direct recruitment quota post the appointing authority is required as per instructions issued vide Haryana Govt. Circular No. 6317-1GS, 70/21913, dated 20-08-1970 to send a requisition complete in all respects on prescribed proforma to the Haryana Public Service Commission and no adhoc appointment may be allowed to continue beyond six months without their approval. The Head of Department must send a statement on the prescribed proforma to the Administrative Secretaries on the 7th of every month and Administrative Departments will be responsible to examine the said statement and ensure that there is no irregularity in following the said instructions.

To avoid vested interests it has been emphasized vide Haryana Govt. instructions No. 699-1-GS.1-74/7611, dated 2/5-4-74 that against the direct recruitment quota posts neither adhoc appointments will be made through the Employment Exchange nor departmental officers/officials will be promoted on adhoc/temporary basis till steps have already been taken to fill these posts by direct recruitment and for that purpose necessary requisition has already been sent to the Commission and the receipt of the same is acknowledged by them. Apart from this adhoc promotions against the direct recruitment quota posts will be allowed to continue only after the approval of the Commission has been obtained.

Clause (e) specifies as to which cases of promotion and transfer are not to be referred to the Commission. It is closely connected with clauses (a) and (b). It lays down that all promotions or transfer is an officiating one and is thought unlikely to be for more than six months.

* incorporated in the light of H.G. instructions No. 66/71/84-7 GSI dated 29-03-85.

Note: - Cases of promotion within the cadre of the same service need not be referred to the Commission.

(vide Haryana Government letter No. 4717-IGD-I-71/27165, dated 20-9-1971).

Clauses (g) and (h) of Regulation 3 require no comments.

Clause (i) of the Regulation implies that once an officer has been appointed to an isolated post on a temporary basis in consultation with the Commission and the Government are in a position to absorb him permanently by transfer in a regular cadre duties and responsibilities, they can do so without consulting the Commission for a second time, provided that he has rendered satisfactory service under the State Govt. for a period of at least 10 years. Doubtful cases should be referred to the Commission for their prior approval.

Clauses (g) to (n) require no comments.

Regulation 6, Clause (a) : A competent authority subordinate to Government may pass an original or appellate order inflicting major or minor penalty in the case of Class III or IV officials without reference to the Commission. In the case of Class II officers a competent authority subordinate to Haryana Government need not consult the Commission when passing original orders inflicting minor penalties which are of a lesser nature than those specified in this clause.

Clause (b) to (h) of Regulation 6 are quite clear and need no further elaboration, except that regarding a department, where that same person is the 'Head of the Department' as well as a Secretary to Govt. a clear distinction must be made between the two capacities in which he functions. In his capacity as Head of Department, he functions as authority subordinate to Govt. and as such, can pass orders in disciplinary cases without reference to the Commission, in accordance with clause (a) of Regulation.

6. In his capacity as a Secretary to Government, he acts merely as the mouth piece of Government and if, therefore, there is an appeal for disciplinary orders passed by him in his former capacity, as Head of the Department, it will be heard by Government and not by himself though he may in his capacity as a Secretary to Govt. be the formal channel through which the appeal is laid before Government. The term 'Government' used here connotes the Minister concerned. The Minister dealing with the case, may if so desires, consult his Secretary who in this case will be the same person who has passed the original order but that does not effect person who has passed the original order but does not effect the legal position, which is that it is the Government who are hearing appeal from the orders passed by one of their subordinate authorities.
