

158
36

PUBLIC SERVICE COMMISSION CIRCULAR NO. 03/92

My No. DT/1/92
Office of the Public Service
Commission
P.O. Box 500,
Colombo 1.

22nd October, 1992.

To: All Secretaries to Ministries.

CABINET DECISION REGARDING POWERS VESTED IN
THE PUBLIC SERVICE COMMISSION - TRANSFERS &
DISCIPLINARY PROCEEDINGS.

Your reference is requested to paragraphs 3 : 4 and 3 : 5 of the Public Service Commission Circular No: E.01/92 dated 26th-February, 1992.

As you are already aware, powers of appointment, transfer, dismissal and disciplinary control of all public officers other than Heads of Departments and above are vested in the Public Service Commission (the PSC). The following guidelines are given in relation to the exercise by the Public Service Commission of its powers in respect of transfers and disciplinary control.

2. Transfers : All-Island Services

2 : 1 A transfer should generally be made only in terms of a scheme of transfers except where a transfer becomes necessary on account of the exigencies of service or in order to accommodate the urgent need of an officer.

2 : 2 Transfer Boards

2 : 2 : 1 Transfer Boards in respect of All Island Services, too, should be appointed as provided for in Section 3 of Chapter III of the Establishments Code and P.A. Circular No. 19/92.

2 : 2 : 2 These Transfer Boards should draw up a scheme of transfers taking into consideration the provisions laid down in Section 3 : 8 of Chapter III of the Establishments Code and para. 6 of P.A. Circular 19/92 and forward it with the recommendation of the Secretary concerned for approval of the Public Service Commission.

- 2 : 2 : 3 After giving due publicity to the Transfer Scheme, applications should be called for by the Secretary to the Ministry, who shall forward them to the Transfer Board to recommend any transfers.
- 2 : 2 : 4 Transfers of officers recommended by the Transfer Board should be forwarded to the Public Service Commission by the Secretary concerned with his own observations.
- 2 : 2 : 5 After obtaining Public Service Commission approval, transfer orders shall be conveyed by the Secretary concerned under his signature with the words immediately above the signature "By order of the Public Service Commission".
- 2 : 2 : 6 1. However, a Secretary to a Cabinet Ministry is authorised to effect the transfer of a Staff Grade Officer where he is of the view that such transfer should be made on account of the exigencies of the service.
- 2 : 2 : 6 2. After effecting such transfer, he should obtain the covering approval of the Public Service Commission within a week, giving reasons that prompted him to effect the transfer.
- 2 : 2 : 7 An officer aggrieved by any transfer may appeal to the Public Service Commission through the Secretary concerned within a week of receipt of the transfer order. Such appeals should be forwarded promptly by the Secretary concerned to the Public Service Commission with his own observations.
- 2 : 3 When recommending a transfer outside the Scheme of Transfer for orders by the Public Service Commission, the Secretary concerned should furnish a report giving reasons therefor, suggesting a replacement, and stating the effective date of the transfer, and certifying that the relevant authorities have agreed to release him from the post he is holding. No transfer will be ordered without giving at least one month's notice, other than in exceptional circumstances where exigencies of service demand a transfer with shorter notice.

3. Disciplinary Proceedings

Following clarifications are made on instructions given under para. 3 : 5 of the Public Service Commission Circular No..E. 01/92.

3 : 1 Where disciplinary action is contemplated against an officer it is incumbent on the Secretary to the Ministry to cause preliminary investigations to be carried out and completed with the least possible delay. Where it is considered undesirable that an officer should continue to exercise the functions of his office he may forthwith be interdicted by the Secretary and covering approval of the Public Service Commission obtained therefor promptly, after reporting the full circumstances that led to such interdiction.

3 : 2 All draft charge sheets should conform substantially to Form A appended hereto, and when forwarded for Public Service Commission approval should bear the certificate of the staff officer who drafted it to the effect that they are correct and in order. Certified copies of notes and the report of the preliminary investigations, along with any other relevant documents should be forwarded together with the draft charge sheet, STRICTLY under confidential cover.

3 : 3 Where an officer is interdicted, draft charge sheet should be forwarded to the Public Service Commission within one month. Any delay in the issue of charge sheets without acceptable reasons will be considered a serious lapse.

3 : 4 Where an accused officer pleads not guilty to the charges and requests a formal inquiry in order to establish his innocence, the Secretary to the Ministry should forward such plea to the Commission along with the following informations :

- (i) Name and designation of the prosecuting officer and his place of work and the telephone number if available.
- (ii) Where the documents can be inspected.
- (iii) Place where the inquiry is to be held.
- (iv) The Panel from which the accused officer has opted to have the Inquiry Officer appointed.

- 14 -

3 : 5 An officer to present the case for the prosecution should be appointed by the Secretary to the relevant Ministry, and it will be the Public Service Commission that will permit an officer to represent the accused officer.

3 : 6 Apart from serving public officers, the Public Service Commission maintains the following four Panels of Inquiry Officers :

- I) Retired Public Officers
- II) Retired Judicial Officers
- III) Retired Legal Officers, and
- IV) Lawyers of at least 10 years' standing

3 : 7 The Commission appoints inquiry officers to conduct disciplinary inquiries from the members of these four Panels or from among serving public officers after the accused officer has indicated the Panel from which he wishes to have the Inquiry Officer appointed.

3 : 8 On receipt of the report of the Inquiry Officer the Secretary to the Ministry concerned should make his observations on each charge and his recommendation as to the punishment when forwarding the Inquiry Report to the Commission. In addition, the Secretary concerned should furnish the particulars in the Form B annexed hereto, signed personally by him. All documents in regard to any formal inquiry should be forwarded STRICTLY under confidential cover. On receipt of the Inquiry Report with the observations of the Secretary to the Ministry, the Public Service Commission will make the disciplinary order.

3 : 9 Instances where payments to Inquiry Officers have been delayed for long periods have been brought to the notice of the Commission. It is the responsibility of the Secretary to the relevant Ministry to ensure that payments due to Inquiry Officers are made promptly and that no room is left for complaint that any payment has been unduly delayed.

By order of the Public Service Commission

C. Hatharasinghe

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Secretary,

Public Service Commission.