

**GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL: PERSONNEL (B)**

ABP 50/2006/Pt/ 182

Dated, Dispur, the 1st June 2015

OFFICE MEMORANDUM

At present, appointment on compassionate ground of the dependants of State Government employees who die in harness, or retire prematurely on being declared permanently incapacitated for service is governed by the provisions laid down in various OMs and government Notifications etc, issued from time to time such as the OM No 357/80/137 dated 9th September 1983, OM No 357/80/173 dated 3rd April 1990, OM No ABP 357/80/176 dated 3rd March 1992, OM No 357/80/Pt/42 Dated 23rd March 1992, ABP 141/94/17 Dated 1st February 1995, OM No 357/80/Pt/ 79 Dated 8th April,1996, OM No ABP 357/80/Pt/87 dated Dispur the 6th March 1997, ABP 357/80/Pt/1-07 dated 17th February 2000, , ABP 50/2006/58 Dated 11th October 2006, ABP 357/80/Vol-I/ 303 Dated 2nd March 2009 and ABP 357/80/vol/314 Dated 1st October 2009. The Government have since some time past been considering the necessity of reviewing the provisions contained in the above quoted OMs orders etc. After careful revision of the matter, the Governor of Assam is now pleased to supersede all the earlier Office Memorandums, Notifications along with corrigenda and/or orders issued in the context of the said OMs and lay down the following principles and procedures to be followed while dealing with the issue of compassionate appointment to the dependent of a government servant who either (i) die in harness, or (ii) retire prematurely on being permanently incapacitated as declared by a certificate issued by State Level Standing Medical Board and receives invalid pension under the provisions of Rule 82 of the Assam Services (Pension) Rules 1969 or (iii) missing and whose whereabouts is not known for at least seven years. These Principles will be applicable to recruitment in all State Government Establishments with immediate effect.

For the purpose of these instructions, a Government servant means a Government servant appointed on regular basis and not one working on daily wage or casual or apprentice or on ad-hoc or contract or reemployment basis. However, the Confirmed work-charged staff will be covered by the term 'Government servant'

Autonomous Bodies/ Institutions including Municipal Corporations, Cooperative Institutions, Universities etc. under the control of the Government may adopt this policy or formulate such policies for compassionate appointments in their services on the lines of the compassionate appointment under Government. The Industries Department and the Public Enterprises Department will issue suitable directives to the various public sector undertakings for adopting such policy.

(1) Only one dependent family member of a Government servant appointed on regular basis- excluding one working on daily wage or casual or apprentice or ad-hoc or contract or re-employment basis- who die in harness or become incapacitated due to accidents suffered while on duty and is eligible to opt for invalid pension under relevant provision of Service Rule / Pension Code and/ or who is missing is eligible for making application for compassionate appointment provided in each case the Government servant has balance of minimum of 3 years of service .

(2) 'Dependent Family Member' means a person who was wholly dependent on the Government servant at the time of his death in harness or retirement on medical grounds, or missing, as the case may be and includes (a) spouse; or (b) son (including adopted son); or (c) daughter (including adopted daughter) or (d) brother or sister in the case of unmarried Government servant.



(3) Every eligible dependent seeking appointment under this OM shall make an application for appointment on compassionate grounds in the prescribed form with all enclosures within one year from the date of death or acceptance of retirement of the employee with consent letter of the retired employee. In case of missing Government servant, a request to grant the benefit of compassionate appointment can be considered only after a lapse of 7 years from the date of lodging an FIR with the police authorities provided that :

- (i) the missing person is not traceable as per police report, and
- (ii) the competent authority feels that the case is genuine.

(4) One eligible family member of such missing persons may be appointed subject to the condition that the services of the person appointed on compassionate grounds would be terminated in case the missing employee is traced subsequently. Compassionate appointments in such cases may be delinked from the payment of settlement dues. In other words, compassionate appointments in such cases may not be denied or deferred only on the ground that settlement of dues of missing employees are still to be paid to the person entitled to receive them.

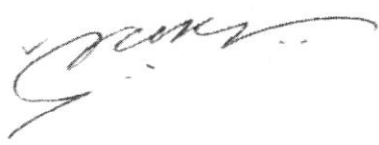
This benefit will however not be applicable in cases where the Government servant:-

- (i) has less than three years to retire on the date from which he has been missing; or
- (ii) is suspected to have committed fraud, or suspected to have joined any terrorist organization or suspected to have gone abroad. While considering such a request, the results of the Police investigation should also be taken into account.

(5) Compassionate appointment is not a matter of right and it will be subject to fulfillment of all the conditions, including the availability of vacancy, laid down for such appointments under the scheme.

(6) The application for compassionate appointments shall be submitted by the dependents in the office where the deceased or the person incapacitated or missing government servant worked. As such, all the district level offices including DC's office and its amalgamated establishments and in all Heads of the Departments, establishments of Public Undertakings, Statutory Bodies, Government Companies and Local Authorities shall accept such applications. Such applications shall then be examined and verified taking into account of the relevant documents and conditions laid down in this OM and thereafter be sent to the concerned District level Committee within 30 days from the date of receipt of the application giving details of the information and about the availability of vacant posts including the category of rosters meant for such posts.

(7) In case of the subordinate offices or any other establishments of the State Government of Assam, located outside the State, the proposal for compassionate appointments with all the details shall be submitted directly or through their Heads of the Department as the case may be, to their concerned Administrative Departments for placing the same before the State level committee. The concerned Administrative Department shall then examine the eligibility of the candidate with reference to the conditions laid down in this OM and the criteria provided by High Court in different orders including the order dated 3rd August 2006 in WP(C) 3875/2005 and submit the same before the State Level Committee with their comments clearly indicating the reasons for selection or rejection as the case may be. The State level committee on receipt of such proposal from the Administrative Departments shall decide each such case as per the principles laid down in the above-mentioned High Court order.



(8) In the Sixth Scheduled areas, following the order of the High Court dated 22nd March 2012 in Bodoland Territorial Council Vs State of Assam WP (C) 2451/2011, the district and Territorial Councils will constitute its own District Level Committee excluding the Deputy Commissioner and Superintendent of Police but with the competent officers of equivalent rank under control of the Councils. The District Level committee will examine each of the proposals in the light of conditions laid down in this OM and the parameters laid down by the honourable High Court in WP(C)3875/2005 and after thorough examination shall forward the same with their recommendation to the concerning Departments of the District/ Territorial Council for due consideration. After consideration, the Council will send the proposal to the State Level Committee for approval.

(9) The family of a deceased or prematurely retired or missing government employee shall be considered to be in need of immediate financial assistance if any of the two conditions mentioned below is satisfied.

(a) The monthly income of the family falls below 90 per cent of the gross monthly salary of the employee before death or premature retirement etc.

(b) The monthly income of the family falls below the minimum salary of a Grade-IV employee (in case of Grade-IV employees) or the minimum salary of a Junior Assistant LDC (in case of employees other than those belonging to Grade IV).

The gross monthly salary, for this purpose shall mean the basic pay along with dearness pay, dearness allowance, house rent allowance and medical allowance. The monthly income of the family shall mean the aggregate of:

(a) Total family pension per month (Basic, Dearness Pension and Relief etc.)

(b) Monthly interest income @8% p.a. on the total amount received by the family after death of the employee or retirement of the incapacitated employee (Gratuity, Leave Encashment, any other payments).


Provided that, where such an employee had to incur medical expenses as indoor patient prior to and leading to his death/incapacitation, such expenses may be deducted from the amount received. All such expenses must be supported by original receipt/Cash memo, hospital discharge certificates.

(c) Monthly income from movable and immovable properties (the family members are expected to submit a declaration on the matter).

(d) Monthly income of the dependents of the ex-employee named in the application (the family members are expected to submit a declaration on the matter).

(10) Compassionate appointments shall be made only to the Grade III and Grade IV posts against the vacancies under the direct recruitment quota.

(11) The district level committee and the State level committee constituted under the order of WP (C) 3875/2005 shall continue to function in the manner as directed by the High Court and will take action strictly as per the direction and principles laid down in the order. The principles as laid down at para 7 of the said High Court order are quoted below for ready reference:



Principle-1: All pending applications against existing vacancies as per the quota earmarked including the cases of the petitioners in the present cases and all others, who may not be before the Court, shall be decided in accordance with the proposed directions to be laid down in the present order and also in accordance with the principles noted in the preceding paragraphs of this order. This will be done within a period of 4(four) months from today. The present direction naturally has to be considered as a one time measure in view of the subsequent directions as laid down in the succeeding paragraphs.

Principle- 2: The District Head of each Department will intimate the vacancies as and when such vacancies occur, the Court Appointed District Level Committees for its scrutiny. There will be no delay in such intimation.

Principle-3: The District Level Committee will be constituted by the Deputy Commissioner of the District and the Superintendent of Police. The Deputy Commissioner himself will sit on the Committee. The District Head(s) of such departments in which vacancies are available shall be co-opted as the Additional Members of the Committee.

Principle-4: The District Level Committee will meet once every 2(two) months on the last Saturday of the second month.

Principle-5: The District Level Committee will decide as to who amongst the eligible candidates is entitled to compassionate appointment. To the extent possible such appointments will be recommended to be made within the district. In making recommendations for appointments, the District Level Committee will take into account the financial condition of the family of the deceased and on a relative consideration of the cases will make its recommendation. There will be no selection and "seniority of the claim" will not be resorted to unless two or more eligible candidates are at par.

Principle-6: To decide on the question of financial status of the family of a claimant regard will be had to the following factors as laid down in GM Vs Kunti Tiwari (Supra)

- (a) Gratuity amount received/ receivable
- (b) Family pension payable.
- (c) Provident Fund Amount received/ receivable.
- (d) Any ex-gratia payment made or payable.
- (e) Proceeds of LIC policy and other investment of the deceased.
- (f) Income of the family from other sources.
- (g) Employment of other family members.
- (h) Size of the family and liabilities, if any.

Principle-7: The recommendations of the District Level Committee will be considered by a State Level Committee consisting of Chief Secretary and the Senior Financial Commissioner of the State.. The commissioner and secretary of the Department (s) in which vacancies are available will be co-opted as Additional members of the state Level Committee.

Principle-8: The State Level Committee will meet once every 3 (three) months.

Principle-9: All vacancies available against the quota of compassionate appointment must be filled up within a period of 6 (six) months from the date of occurrence of the vacancy in accordance with the present directions.



Principle-10: If the applications of eligible candidates remain pending and cannot be considered due to want of vacancies for a period of 2(two) years from the date of making such applications will require no further consideration and must be understood to have spent their force.

(12) Compassionate appointments are exempted from recruitment procedures only. The beneficiaries of this scheme have to be otherwise eligible and suitable for appointment.

(13) Appointment on compassionate grounds should be made only on regular basis and that too only if regular vacancies meant for that purpose are available.

(14) (a) Compassionate appointments can be made up to a maximum of 5% of the total strength of a cadre/ man in position in the cadre at the time of recruitment in any Grade III, not above the level of Junior Administrative Assistant (direct recruitment), or Grade IV (direct recruitment) posts. While calculating this maximum limit of 5% posts, the following method shall be adopted:

- i) Total nos of post already occupied by persons appointed on compassionate ground in a cadre in the particular year of recruitment shall be taken into account. If nos of such persons already constitute 5% or more of the cadre strength or the man in position in the cadre in that year, no new appointment shall be made to that cadre on compassionate ground. If however, the nos of persons are less than the 5 percent limit, appointment may be made in such a way that together with the existing appointees on compassionate ground, their total strength does not exceed the specified maximum limit of 5%.
- ii) The 5% level should not be taken as binding limit. In a cadre where less than 10 vacancies are to be filled up by way of direct recruitment and that in terms of the cadre strength or man in position one or more post falls short to reach the 5% level of compassionate appointment, the appointing/ recruiting authority if so considers that giving any post at that stage for compassionate appointment would jeopardize the purposes of recruitment, he/ she may not consider for giving any post for compassionate appointment immediately and issue a speaking order for doing so.
- iii) A person selected for appointment on compassionate grounds should be adjusted in the recruitment roster against the appropriate category viz SC/ST/ OBC/General depending upon the category to which he/she belongs. For example, if he belongs to SC category he will be adjusted against the SC reservation point, if he is ST/OBC he will be adjusted against ST/OBC point and if he belongs to General category he will be adjusted against the vacancy point meant for General category.
- iv) In a situation where a compassionate appointment is to be made to a specific category of persons, say ST (P) while there is no roster point available in that cadre in respect of the said category of persons for filling up the post, the appointment shall not be made although numerically the post is within the earmarked 5% limit.
- v) There shall be no compassionate appointment in a cadre having single post.
- vi) In small cadres, where nos of posts is less than 20, two or more similar cadres may be clubbed together to get one post for compassionate appointment in extreme situation. Otherwise vacancy based roster shall be followed up to 20th post. In such cases, in extreme situation,

appointing authority without waiting for the turn of 20th post may reasonably consider at the turn of 10th or subsequent vacancy, giving one post for compassionate appointment following the Rule of Rounding off. This post usually would go to a general category candidate but if there is shortfall of any other category of candidates in that cadre, the post may be given to such category of candidate also, if available.

(b) While the ceiling of 5% for making compassionate appointment against cadre strength should not be circumvented by making appointment of dependent family member of Government servant on casual/daily wage/ad-hoc/contract basis against regular vacancies, there is no bar to considering him for such appointment if he is eligible as per the normal rules/orders governing such appointments.

(c) The ceiling of 5% of direct recruitment vacancies for making compassionate appointment should not be exceeded by utilising any other vacancy e.g. sports quota vacancy.

4/15) If sufficient vacancies are not available in any particular office to accommodate the persons in the waiting list for compassionate appointment, it is open to the administrative Department/ Office to take up the matter with other Departments/Offices of the Government to provide at an early appointment on compassionate grounds to those in the waiting list.

- (16) The upper age limit could be relaxed wherever found to be necessary as per the existing Government policy. The lower age limit shall, however, in no case be relaxed below 18 years. Age eligibility shall be determined with reference to the date of application and not the date of appointment; The State Level Committee shall be competent to grant relaxation of upper age limit for making such appointment as per existing Government policy.
- (17) Educational qualification as prescribed by the concerned service Rules shall however not be relaxed.
- (18) Henceforth, all the provisions of this OM will be applicable in cases of compassionate appointments in the Education (Elementary /Secondary /Higher etc) Departments made to any posts- including teacher- which is equivalent to a Grade III posts.
- (19) Where a widow is appointed on compassionate ground to Grade IV post, she will be exempted from the requirement of educational qualification, provided the duties of the position will be satisfactorily performed without having the educational qualification of Middle standard or whatever prescribed in the Recruitment Rules.
- (20) A person appointed on compassionate grounds under this OM shall give an undertaking in writing (as in Annexure) that he/she will maintain properly the other family members who were dependent on the Government servant/ in question and in case it is proved subsequently (at any time) that the family members are being neglected or are not being maintained properly by him/her, his/her appointment may be terminated forthwith. This condition shall also be incorporated as one of the additional conditions in the offer of appointment applicable only in the case of appointment on compassionate grounds.
- (21) When a person is appointed on compassionate grounds to a particular post, the set of circumstances, which led to such appointment, should be deemed to have ceased to exist. Therefore: -
- i. he/she should strive in his/her career like his/her colleagues for future advancement and any request for appointment to any

higher post on considerations of compassion should invariably be rejected.

- ii. an appointment made on compassionate grounds cannot be transferred to any other person and any request for the same on considerations of compassion should invariably be rejected.

(22) The inter-se seniority of persons appointed on compassionate grounds may be fixed with reference to their date of appointment. Their interpolation with the direct recruits / promotees may also be made with reference to their dates of appointment without disturbing the inter-se seniority of direct recruits / promotees.

(23) Date of joining by a person appointed on compassionate grounds shall be treated as the date of his/her regular appointment.

(24) (a) As regards pending cases prior to issuance of the direction in Achyut Ranjan Das & 162 ors Vs State of Assam & Ors (i.e 3rd August 2006), the authorities/ Departments need to ensure the compliance of the directions contained in Principle I urgently. The High Court had fixed 30th September 2010 within which all such pending cases were required to be considered. Those Departments which have not yet complied with the Principle I and disposed off all such pending cases shall complete it within six months from the date of issue of this OM.

(b) It may be noted that once consideration of a case as a one time measure under Principle-I is over, such applications that may remain pending are not required to be considered if a period of more than two years has elapsed. Thus, it is clarified that so far as the pending cases covered by Principle No-I are concerned, these cases cannot be rejected applying the test of the principle No-10. The Principle-10 will come into operation only in respect of cases other than the pending case covered by the principle-I i.e cases received after the judgment dated 3-8-2006. This implies that if applications are pending for a period of two years from the date of making an application but could not be considered for want of vacancies, all such applications will require no further consideration and must be understood that they have spent their force.

(c) The cases of compassionate appointments shall be considered on need basis upon comparative assessment of various applications and not by application of the test of seniority of claims unless two or more eligible candidates are at par. It may also happen that a claim later in point of time is more deserving than a claim prior in point of time.

(d) While disposing of the applications by way of rejection, clear speaking order shall be recorded stating the reasons of rejection and a copy of such order shall be furnished to the applicants.


(S.C. Das IAS) 01/06/2015

Additional Chief Secretary to the Government of Assam
Department of Personnel: Personnel B

Memo No : ABP 50/2006/Pt/ 182-A

Dated, Dispur, the 1st June 2015

Copy to :

1. The Additional Chief Secretary to the Chief Minister, Assam, Dispur.
2. The Commissioner & Secretary to the Governor of Assam, Rajbhavan, Guwahati
3. PSs to all Ministers/Ministers of state, Assam, Dispur.
4. Staff Officer to the Chief Secretary, Assam.
5. The Registrar General, Gauhati High Court, Guwahati.
6. Secretary Cum Registrar, Assam Information Commission, Sixth Mile Guwahati.
7. The Secretary to the Assam Human Rights Commission, Guwahati.
8. The Registrar, Office of the Lokayukta, Assam, Guwahati.
9. The Secretary, Assam Public service Commission, Guwahati.
10. Addl. Chief Secretary to the Govt. of Assam, Dispur.....
11. P.S. to the Chief Information Commissioner, Assam, Sixth Mile.
12. The Chairman, Assam Administrative Tribunal, Panbazar, Guwahati-1.
13. The Chairman, Board of Revenue, Panbazar, Guwahati-1.
14. All Principal Secretaries to the Govt. of Assam, Dispur.
15. The Accountant General (A&E), Assam Maidamgaon, Guwahati-29.
16. The Accountant General (Audit), Assam, Maidamgaon, Guwahati-29.
17. All Commissioners & Secretaries to the Government of Assam.
18. All Commissioners of Divisions.
19. All Heads of the Departments
20. All Deputy Commissioners.
21. All Sub divisional Officers.
22. Director, Printing & Stationeries for publication of the OM in the next issue of the Gazette and submit 300 copies of the OM.

By orders etc,

YHC
11/6/15

Joint Secretary to the Government of Assam
Administrative Reforms & Training Department