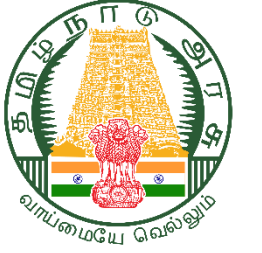




Rural Development & Panchayat Raj Department
Government of Tamil Nadu



Appointment, Regularisation, Probation, Seniority & Service Matters

Thiru. Rajagopal, Asst. Director (Retd)



State Institute of Rural Development & Panchayat Raj
Maraimalai Nagar

Constitution

- The topic “Constitution” is quite essential to understand the machinery of government and its functions for any government official including the public.
- The Indian constitution provides **a separate chapter for the civil service** (i.e. Part XIV of the Indian constitution) particularly Chapter Part I and Part II. Where the services under the Indian Union, the States including Union territory.
- Further the Articles 14 and 16 have bearing on the matters of public employment.

Condition of Service

The expression **'Condition of service'** mean all those conditions which regulate the holding of a post by a person right from the time of this appointment till his retirement and even beyond it is in accordance the matters like pension etc,. The conditions of service of the public servants may be regulated by various methods Viz,

- Provisions in the constitution,
- By Legislation,
- By Statutory Rules,
- Executive Instructions.

- The constitutional provisions by way of Article 309 of the constitution enacting the laws for the service rules.
- The service rules are divided by way of (1) General rule which is framed the State and State Subordinate Services of State Employees.
- The All-India services like I.A.S, I.P.S and I.F.S are framed by the Union of government.
- The general rules are now changed as Tamil Nadu Government Servants(conditions of service) Act,2016 w.e.f. 14.09.2016. by involving Article 309 of the Constitution of India.

Statutory Rules

- The proviso to the **Article 309 of the constitution** enables the government as far as state is concerned to frame the service rules in consonance with the Constitution of India.
- The general rule for all State and State Subordinate Service whereas the State Subordinate Service deals with rules called **“Special rules”** governing the particular service like Panchayat Development Subordinate Service and Tamilnadu Ministerial Service, etc.,

Tamil Nadu Government Servants (Conditions of Service) Act, 2016

- BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Sixty-seventh Year of the Republic of India as follows:—
- 1. (1) This Act may be called the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. (2) Sub-section (1) of section 40 shall be deemed to have come into force on the 1st January 1955 and all the remaining provisions of this Act shall come into force at once.
- 2. ***This Act shall apply to the holders of all posts, whether temporary or permanent, in all State and Subordinate Services*** except to the extent otherwise expressly provided— (a) by or under any law for the time being in force; or (b) in respect of any member of such service by a contract or agreement subsisting between such member and the Government.

(a) “appointed by transfer” means appointment of a member of a service from one category to another category in the same service carrying identical 2 [levels of pay in the pay matrix];

(b)“appointed to a service” means when a person appointed in accordance with this Act or in accordance with the rules applicable at the time, as the case may be, discharges, for the first time the duties of a post borne on the cadre of such service or commences the probation, instruction or training prescribed for members thereof.

(c) “**approved candidate**” means a candidate whose name appears in an authoritative list of candidates approved for appointment to any service, class or category;

(d) “**approved probationer**” means member of a service, class or category, who has satisfactorily completed his probation and awaits appointment as a full member of such service, class or category;

Pay, allowances, leave, leave salary, pension and other conditions of service

The Tamil Nadu Civil Services (Discipline and Appeal) Rules, the rules regulating the pay of the services, the Tamil Nadu Government Servants' Conduct Rules, 1973, the Fundamental Rules, the Tamil Nadu Leave Rules, 1933 and the Tamil Nadu Pension Rules, 1978, shall in so far as they may be applicable and except to the extent expressly provided in this Act, **govern members of every service in the matter of their pay, allowance, leave, leave salary, pension and other conditions of service.**

Approved Candidates

- (1) All first appointments to any class or category or grade in any State Service or Subordinate Service, whether by direct recruitment or by recruitment by transfer or by promotion, shall be made by the appointing authority from a list of approved candidates.
- (2) All appointments made by transfer, from one class to another class and from one category to another category, in the same service carrying identical 1 [levels of pay in the pay matrix] shall be **made by the appointing authority from a list of approved candidates.**
- (3) **Such list shall be prepared in the manner as specified in Schedule-XI by the appointing authority** or any other authority empowered in the special rules in that behalf and shall be displayed in the notice board in the office of the appointing authority.
- (4) The list shall also be **communicated to all persons concerned by registered post** whose names are found in the list as well as to persons senior to the junior most person included in the list whose names have not been included in the list.

- Provided that to all the categories of posts in the State and Subordinate Services **the list of approved candidates for appointment by promotion and by recruitment by transfer all be prepared annually against the estimated number of vacancies expected to arise** during the course of a year.
- The estimate of vacancies shall be prepared taking into account the **total number of permanent post in a category; the number of temporary posts in existence; the anticipated sanction of new posts in the next year; the recruitment post of leave reserves; the anticipated vacancies due to retirement and promotion, etc., in the course of the year and the already in position in that category.**
number of candidates

- The list of approved candidates, so prepared, shall be in force for a **period of one year** only and shall **lapse at the end of the year**.
- The candidates whose names were included in the previous list, but were not appointed, shall be considered, if eligible for inclusion in the list of next year along with their seniors, if any, whose names were not included in the previous list either because they were found not suitable or because they were not technically qualified when the previous list was drawn up:

- Provided further that, for preparing such lists to fill up vacancies, the names of the qualified candidates in the seniority list in a class, category or service shall be considered in the following proportions (rounding off fractions to the next whole number):—

Number of vacancies.	Number of qualified candidates to be considered.
1-20	200% of the actual number of estimated vacancies;
21-80	175% of the actual number of estimated vacancies, subject to a minimum of 40;
81 and above	150% of the actual number of estimated vacancies, subject to a minimum of 140:

- Provided also that if the qualified candidates, after consideration of their claims, **are found not suitable for the post**, the names of the next qualified candidates, to the extent necessary, shall be considered:
- Provided also that in respect of each reserved vacancy to be filled up by the candidate belonging to the Backward Class, Backward Class Muslims or the Most Backward Class and Denotified Community or the Scheduled Caste or the Scheduled Tribe, the names of the first two qualified candidates belonging to the Backward Classes, Backward Class Muslims or Most Backward Classes and Denotified Communities or the Scheduled Castes and Scheduled Tribes, as the case may be.....

-shall be considered, subject to their availability and if the first two qualified candidates belonging to the Backward Classes, Backward Class Muslims or Most Backward Classes and Denotified Communities or the Scheduled Castes and Scheduled Tribes, **as the case may be, are found not suitable for the post, the claims of the next two qualified candidates belonging to that reserved category shall be considered.**
- **No reserved vacancy shall be left unfilled,** except when no qualified candidates in the seniority list in a class, category or service belonging to that reserved category are available for consideration.
- In respect of a vacancy to be filled up by General Turn, the names of the qualified candidates including those belonging to the Backward Classes, Backward Class Muslims, the Most Backward Classes and Denotified Communities, the Scheduled Castes and the Scheduled Tribes in the seniority in a class, category or service shall also be considered:

- Provided also that in respect of filling up vacancies in the post of Head of Department, **the number of names of qualified candidates to be considered shall be fixed as twice the number of vacancies plus three in the seniority list in a class**, category or service.
- **Explanation I.**—The period of **one year validity** for the list of approved candidates shall be reckoned from the date of approval of the panel by the competent authority.
- **Explanation II.**—In respect of appointment to the posts, which are under the purview of the Commission, temporary list may be drawn and published as aforesaid with reference to the qualification on the date fixed for the regular lists to meet out the exigencies of service and to avoid administrative delay. Once a qualified candidate is included in the temporary list with reference to the qualification on the crucial date fixed for regular list, his rights for temporary appointment should be protected and he should not be overlooked in preference to a person, who was not included in the temporary list as he was not qualified on the crucial date, but subsequently qualified. The temporary list shall be adopted for giving temporary appointments till the regular list is approved and regular appointments are made with reference to the regular list.
- **Explanation III.**—**No temporary list shall be prepared in respect of the posts for which the consultation of the Commission is not required** and the list of names prepared, if any, shall be a regular one:

Recruited by transfer to a service

- (s) “**recruited by transfer to a service**” means,-
- (i) if, at the time of his first appointment to a service, class or category, **he is either a full member or an approved probationer in the Madras High Court Service** or in any other service, the rules for which prescribe a period of probation for member thereof; or
 - (ii) in case, at the time of his first appointment thereto, he is the holder of a post which has been included in another service but for which no probation has been prescribed, if he has put in that post **satisfactory service for a total period of two years on duty** within a continuous period of three years.

(t) **“recruitment agency”** means the Tamil Nadu Public Service Commission, the Teachers Recruitment Board, the Tamil Nadu Uniformed Service Recruitment Board, the Tamil Nadu Medical Services Recruitment Board and such other bodies constituted by the Government for selection of candidates for appointment to any service;

(u) **“reserve list”** means a list which is prepared so as to contain **not less than twenty five per cent of the candidates of each reservation group including General Turn** in the regular list and shall be in force until the regular list is drawn up subsequently;

(y) **“service”** means a group of persons classified by the Government as a State Service or Subordinate Service, as the case may be.

(z) **“Special Rules”** means the rules in Part-III of the Tamil Nadu State and Subordinate Service Rules applicable to each service or class of service;

Method of Recruitment

9. Notwithstanding anything contained in the Special Rules for various State and Subordinate Services, where the normal method of recruitment to any service, class or category is neither solely by direct recruitment nor solely by recruitment by transfer but is both by direct recruitment and by recruitment by transfer,—

(a) the proportion or order in which the special rules concerned may require vacancies to be filled by direct recruitment and by recruitment by transfer shall be applicable only to vacancies in the permanent cadre;

(b) a person shall be recruited direct only against vacancy in such permanent cadre, and only if the vacancy is one which should be filled by a direct recruit under the special rules referred to in clause (a); and

(c) recruitment to all other vacancies shall be made by recruitment by transfer:

- Provided that any temporary post, **which is in existence for more than five years, shall be treated as a permanent post** for the purpose of this section.

Right of probationers and approved probationers to re appointment.

10. A vacancy in any service, class or category not being a vacancy which **shall be filled by direct recruitment** under the special rules referred to in clause (a) of section 9 shall not be filled by the appointment of a person who has not yet commenced his probation in such service, class or category when an approved probationer or a probationer therein is available for such appointment.

Discharge and re appointment of probationers, approved probationers and full members.

11.

(1) Probationers, approved probationers and full members **shall be discharged for want of vacancies** in the order of juniority.

(2) Full members, approved probationers and probationers who have been discharged for want of vacancies **shall be reappointed in vacancies which arise in the order of seniority.**

Service right in former service.

14. A member of a service, whenever selected by direct recruitment for appointment in any other service of the Government or in other State Governments, Central Government, Universities, or any other quasi-government organisations, **shall hold the service right in the former service for a period not exceeding one year only from the date of relief from the former service:**

Temporary Appointments

- 17. (1) Where it is necessary in the public interest owing to an emergency which has arisen to **fill immediately a vacancy in a post borne on the cadre of a service, class or category and there would be undue delay in making such appointment in accordance with the provisions of this Act and the special rules**, the appointing authority may temporarily appoint a person, who possesses the qualifications prescribed for the post otherwise than in accordance with this Act and the said rules:
- Provided that **no appointment by direct recruitment under this section** shall be made of any person **other than the one sponsored by the Commission** from its regular or reserve list of successful candidates to any of the posts within the purview of the Commission:
- Provided further that appointment by direct recruitment under this section in respect of posts within the purview of the Commission shall be made, **only where new posts with new qualifications are created temporarily and where the Commission does not have a regular or reserve list of successful candidates for sponsoring.**

- (2) Where it is necessary to fill a short vacancy in a post borne on the cadre of service, class or category and the appointment of the person who is entitled to such appointment under this Act and the special rules, would involve excessive expenditure on travelling allowance or exceptional administrative inconvenience, the appointing authority may appoint any other person who possess the qualifications, if any prescribed for the said service, class or category.

- (3) A person appointed under sub-section (1) shall be replaced as soon as possible by a member of a service or an approved candidate qualified to hold the post under this Act, and in any case, he shall not be continued for a period of more than one year from the date of his temporary appointment.

- (4) Where it is necessary to appoint an officer against whom an enquiry into allegations of corruption or misconduct is pending, **but no charge sheet has been filed in the criminal case or where no charge under sub-rule (b) of rule 17** of the Tamil Nadu Civil Services (Discipline and Appeal) Rules have been framed or no proceedings before the Tribunal for Disciplinary Proceedings is pending, the appointing authority **may appoint him temporarily pending enquiry into the allegations against him.**
- (5) A person appointed under sub-sections (1), (2) or (4) shall not be regarded as a probationer in such service, class or category or be entitled by reason only of such appointment to any preferential claim to future appointment to such service, class or category. **The services of a person appointed under sub-sections (1), (2) or (4) shall be liable to be terminated by the appointing authority at any time without notice and without any reason being assigned.**

Recruitment to posts, which are outside the purview of the Commission

18. (1) **Where the posts are outside the purview of the Commission, recruitment shall be made by calling for names of eligible candidates** from the employment exchange besides inviting applications by giving advertisements in two prominent dailies (one in vernacular language):

Provided that this sub-section shall not apply in the case of appointments of dependants of Government servants who die in harness or the Government servants who retire from service on medical invalidation before attaining the age of fifty three years.

- (2) **The candidates to be appointed shall be selected on the basis of merit by the appointing authority** or by an officer designated by the appointing authority or by a Committee of Officers not exceeding three duly constituted by the appointing authority, subject to the rule of reservation of posts wherever applicable after subjecting the candidates to an oral interview and, if necessary, a short written test which can be evaluated in a short time.

Appointment by agreement

- 19. (1) When in the opinion of the Government, special provisions inconsistent with any of the provisions of this Act or of any other rules made under the proviso to Article 309 of the Constitution or continuing by Article 313 of that Constitution (hereinafter referred to in this section as the said rules) are required in respect of conditions of service, pay and allowances, pension, discipline and conduct with reference to any particular post, or any of them, **it shall be open to the Government to make an appointment** to such post otherwise than in accordance with this Act or the said rules and to provide by agreement with the person so appointed for any of the matters in respect of which in the opinion of the Government special provisions are required to be made and to the extent to which such provisions are made in the agreement, nothing in this Act or the said rules **shall apply to any person so appointed in respect of any matter for which provision is made in the agreement:**

- Provided that in every agreement made in exercise of the powers conferred by this section, it shall further be provided that in respect of any matter in respect of which no provision has been made in the agreement, the provisions of this Act or of the said rules shall apply.
(2) A person appointed under sub-section (1) shall not be regarded as a member of the service in which the post to which he is appointed is included and shall not be entitled by reason only of such appointment to any preferential claim to any other appointment in that service or any other service.

Linguistic qualification

- 21. (1) No person shall be eligible for appointment to any service by direct recruitment unless **he has an adequate knowledge of the official language of the State, namely, Tamil:**
- Provided that a person, being otherwise qualified for appointment to the post to which recruitment is to be made, may apply for recruitment to the post, despite the fact that, at the time of such application, he does not possess an adequate knowledge of Tamil.
- Explanation.—For the purpose of this section, a person shall be deemed to have an adequate knowledge of Tamil, if—

- an adequate knowledge of Tamil, if— (i) in the case of a post for which the educational qualification prescribed is the minimum general educational qualification and above, **he has passed the S.S.L.C. Examination or its equivalent examination with Tamil as one of the languages;** or Studied the High School Course in Tamil medium and passed the S.S.L.C. Examination or its equivalent examination in Tamil medium; or **passed the Second Class Language Test in Tamil conducted by the Commission;**
- (ii) in the case of a post for which the educational qualification prescribed is VIII Standard and above, **but below S.S.L.C., he has studied in Tamil medium in those standards or passed the Language Test in Tamil** referred to in sub-section (1) of section 22; and
- (iii) in the case of a post for which the educational qualification prescribed is below VIII Standard, he has studied in Tamil medium in those standards or passed the oral test in Tamil referred to in sub-section (2) of section 22.

(2) Every such candidate as is referred to in the proviso to sub-section (1) shall, if selected and appointed on or after the 9th February 1996, pass the Second Class Language Test in Tamil conducted by the Commission, or pass the language Test in Tamil referred to in sub-section (1) of section 22 conducted by the appointing authority or pass the oral test referred to in sub-section (2) of section 22 conducted by the appointing authority, as the case may be, within a period of two years from the date of his appointment. If he fails to pass the said Language Test within the said period of two years, he shall be discharged from service.

(3) The syllabus for the Second Class Language Test in Tamil referred to in this section shall be as specified in Schedule-IV.

Appointment of women

- 26. (1) Women alone shall be appointed to a post in any institution or establishment specially provided for them: Provided that men may be appointed, if suitable and qualified women are not available for such appointment.
- (2) **A minimum of thirty per cent of all vacancies which are to be filled through direct recruitment shall be set apart for women candidates** irrespective of the fact whether the rule of reservation of appointment applies to the posts or not. In respect of the posts to which the rule of reservation of appointment applies, thirty per cent of vacancies shall be set apart for female candidates following the reservation for Scheduled Castes and Scheduled Tribes, Backward Class Muslims, Backward Classes, Most Backward Classes or Denotified communities and General Turn. Women candidates shall also be entitled to compete for the remaining seventy per cent of vacancies along with male candidates:

- 1[Provided that in the case of direct recruitment to the posts with the pay which does not exceed level 10 in the pay matrix] **ten per cent of vacancies out of the thirty per cent vacancies set apart for women shall be set apart for destitute widows** and the first vacancy in every ten vacancies set apart for destitute widows and the first vacancy in every ten vacancies set apart for women in each category, namely, the General Turn, Backward Class Muslims, Backward Classes, Most Backward Classes or Denotified Communities, Scheduled Castes or Scheduled Tribes shall be set apart for destitute widows. **If no qualified and suitable destitute widow is available, then, the turn so set apart for destitute widow shall go to the women** (other than destitute widow) belonging to the respective category.
- Explanation.— In this section, “destitute widow” shall have the same meaning as in Explanation-I under sub-section (8) of section 20.

- (3) Every candidate claiming to be a **“destitute widow”** shall produce a certificate in the form specified in Schedule-X from the Revenue Divisional Officer or the Assistant Collector or the Sub-Collector concerned.
- (4) Selection for appointment under this section shall be made in the order of rotation specified in Schedule-VIII.
- (5) If a qualified and suitable woman candidate belonging to Scheduled Castes, Scheduled Tribes, Backward Class Muslims, Backward Classes, Most Backward Classes or Denotified Communities or General Turn is not available for selection for appointment in the turn allotted for women in the cycle, then, the turn so allotted shall go to a male candidate within the respective category. In respect of the posts to which the rule of reservation of appointments does not apply, then, the turn so allotted shall go to the next male candidate.

Reservation of Appointments.

27. Where the special rules lay down that the principle of reservation of appointments shall apply to any service, class or category, selection for appointment thereto shall be made on the following basis:—

(a) The unit of selection for appointment, for the purpose of this section, shall be **two hundred**, of which thirty six shall be reserved for the Scheduled Castes including six offered to Arunthathiyars on preferential basis amongst the Scheduled Castes, two for the Scheduled Tribes, fifty three for the Backward Classes (other than Backward Class Muslims, Most Backward Classes and Denotified Communities), seven for the Backward Class Muslims, forty for the Most Backward Classes and the Denotified Communities and sixty two shall be filled on the basis of merit:

- Provided that if even after filling up of the required appointments or posts reserved for Arunthathiyars amongst the Scheduled Castes in Schedule-V, if more number of qualified Arunthathiyars are available, such excess number of candidates of Arunthathiyars shall be entitled to compete with the other Scheduled Castes in the inter-se-merit among them and **if any appointment or post reserved for Arunthathiyars remain unfilled for want of adequate number of qualified candidates, it shall be filled up by Scheduled Castes other than Arunthathiyars.**

- [(b) Out of the total number of appointments referred to in clause (a), in the case of appointment made by direct recruitment, one per cent each shall be reserved for persons with benchmark disabilities under categories (i), (ii) and (iii) and one per cent for persons with benchmark disabilities under categories (iv) and (v) both taken together, namely:-
 - (i) blindness and low vision;
 - (ii) deaf and hard of hearing;
 - (iii) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;

- (iv) autism, intellectual disability, specific learning disability and mental illness;
- (v) multiple disabilities from amongst persons under categories (i) to (iv) including deaf -blindness in the posts identified for each disabilities; and the appointment shall be made in the turn and in the order of rotation specified in Schedule–VI;
- (bb) Reservation for persons with benchmark disabilities shall be made in respect of posts identified by the Government in each department, under section 33 of the Rights of Persons with Disabilities Act, 2016;

- (bbb) Where in any recruitment year **any vacancy cannot be filled up due to non-availability of a suitable person with benchmark disability** or for any other sufficient reasons, **such vacancy shall be carried forward in the succeeding recruitment year** and if in the succeeding recruitment year also suitable person with benchmark disability is not available, **it may first be filled by interchange among the five categories and only when there is no person with disability available for the post in that year, such vacancy shall be filled up by appointment of a person, other than a person with disability:**
- Provided that if the nature of vacancies in a department is such that a given category of person cannot be employed, the vacancies may be interchanged among the five categories with the prior approval of the Government.]

- (c) Out of the total number of appointments reserved in the categories referred to in clause (a), in the case of appointment made by direct recruitment to Group 'C' posts, **five per cent in each such category shall be reserved for Ex-servicemen** and subject to availability of such candidates, the appointment shall be made in turn and in the order of rotation as specified in Schedule-VII:
- Provided that if no qualified and suitable Ex-serviceman belonging to a particular category is available for selection for appointment against the reserved turn, **such turn shall be filled up by a candidate other than an Ex-serviceman** but belonging to the particular category and if no such candidates is available even in that category for selection for appointment against the reserved turn, such turn shall be carried forward as provided in clause (d).

- (d) The claims of members of the Scheduled Castes, the Scheduled Tribes, the Backward Classes (other than Most Backward Classes/Denotified Communities), Backward Class Muslims and the Most Backward Classes/Denotified Communities **shall also be considered for the thirty one appointments**, which shall be filled on the basis of merit and where a candidate belonging to a Scheduled Caste, Scheduled Tribe, Backward Class (Other than Most Backward Class/Denotified Community) Backward Class Muslims or Most Backward Class/Denotified Community is selected on the basis of merit, the number of posts reserved for the Scheduled Castes, the Scheduled Tribes, the Backward Classes (other than Most Backward Classes/ Denotified Communities), Backward Class Muslims or the Most Backward Classes/ Denotified Communities, as the case may be, shall not in any way be affected.

- (e) Selection for appointment under this section shall be made in the order of rotation specified in Schedule-V.
- Explanation.—The vacancies arising on and from the 29th April 2009 shall be filled up as per Schedule-V and all selections for appointment shall be started afresh from serial number one in the said Schedule-V with effect on and from the said date

- (f) If qualified and suitable candidates belonging to any of the Backward Classes, Backward Class Muslims including the Most Backward Classes and Denotified Communities **are not available** for selection for appointment by recruitment by transfer or by promotion in the turns allotted to them, **the turns so allotted shall lapse and the selection for appointment for the vacancies shall be made by the next turn in the order of rotation:**

- Provided that if qualified and suitable candidates belonging to any of the Scheduled Castes and Scheduled Tribes are **not available for selection** for appointment by recruitment by transfer or by promotion in the turns allotted to them in the cycle, **the turns so allotted to them shall not lapse and the number of candidates to be selected in that recruitment shall be reduced by the number of candidates belonging to Scheduled Castes and Scheduled Tribes** not available for selection against the turn allotted to them. The unfilled vacancies reserved for the Scheduled Castes and Scheduled Tribes to be filled by recruitment by transfer or by promotion **shall be carried over to four consecutive recruitment years**, namely, year of recruitment plus three subsequent recruitment years.
- The selection for appointment to the vacancies in the next recruitment shall be made first for the carried over turns and then the normal rotation shall be followed.
- If qualified and suitable candidates belonging to any of the Scheduled Castes and Scheduled Tribes are not available for selection for appointment by recruitment by transfer or by promotion even thereafter, the vacancies reserved for those categories shall first be dereserved by obtaining the orders of the Government before filling them by candidates in the next turn in the order of rotation:

- Provided further that the normal number of vacancies reserved for the candidates belonging to the Scheduled Castes and Scheduled Tribes and the carried forward vacancies as specified in the first proviso shall not exceed fifty per cent of the total number of vacancies for a particular recruitment.
- **If there be two vacancies only, one of them shall be treated as a reserved vacancy.** If there be one vacancy only, it shall be treated as unreserved. The surplus of the fifty per cent shall be carried forward to the subsequent recruitment, subject to the condition that the vacancies carried forward do not become time barred due to their continued existence for more than three years. Selection for appointment to the earliest carried forward vacancies shall be made first:

- Provided also that in the case of selection for appointment by direct recruitment, with effect on and from the 1st April 1989, there shall be a ban on dereservation of vacancies reserved for the candidates belonging to any of the Scheduled Castes and Scheduled Tribes, Most Backward Classes and Denotified Communities to be appointed by direct recruitment. But, the above ban on dereservation of vacancies shall not be applicable to the vacancies reserved for the Backward Classes (other than Most Backward Classes and Denotified Communities), Backward Class Muslims and, therefore, if qualified and suitable candidates belonging to any of the Backward Classes (other than Most Backward Classes and Denotified Communities), Backward Class Muslims are not available for appointment, the turn so allotted to them shall lapse and the vacancy shall be filled by the next turn in the order of rotation.
- If sufficient number of qualified and suitable candidates belonging to any of the Scheduled Castes and Scheduled Tribes, Most Backward Classes.....

-Denotified Communities are not available for selection for appointment for the vacancies reserved for them by direct recruitment in the first attempt of recruitment, then, a second attempt shall be made for selection of the candidates belonging to the respective communities by direct recruitment in the same recruitment year or as early as possible before the next direct recruitment for selection of candidates against such vacancies. If the required number of candidates belonging to such communities are not available even then, **the vacancies for which selection could not be made shall remain unfilled until the next recruitment year treating them as “backlog” vacancies.**
- In the subsequent year, when direct recruitment is made for the vacancies of that year, namely, the current vacancies, the “backlog” vacancies shall also be announced for direct recruitment, keeping the vacancies of the particular recruitment year, namely, the **current year vacancies and the “backlog” vacancies as two distinct groups** as illustrated in Schedule-IX. The selection for appointment for the next direct recruitment shall be made first for the “backlog” vacancies and then the normal rotation shall be followed:

- Provided also that, in exceptional cases, **for posts in Groups A and B** for which suitable candidates belonging to the Scheduled Castes, Scheduled Tribes, Most Backward Classes or Denotified Communities are not available against the respective reserved vacancies and the non-filling up of posts causes hardship for running the administration, the **Government may grant exemption from carrying forward of such vacancies** and the procedure therefor shall be as specified in Schedule-IX:

- Provided also that when a candidate selected for appointment against a vacancy for Scheduled Castes, Scheduled Tribes, Most Backward Classes / Denotified Communities, Backward Classes, Backward Class Muslims or General Turn, does not join duty in the post for which he is appointed or his provisional selection for that post is cancelled for any reason, **a candidate in his place shall be appointed from the respective category and in accordance with the ranking from the reserve list:** Provided also that the candidates appointed from the reserve list shall be placed below all the candidates appointed from the regular list in the same order in which the vacancies have arisen:

- Provided also that the **reserve list shall be operated even against the vacancies** caused due to the fact that the candidates have joined duty, but left thereafter while the reserve list is in force. (g) Notwithstanding anything contained in this section and in the Special Rules for various State and Subordinate Services, **the rule of reservation shall not apply to the appointments on compassionate grounds.**

- (h) Notwithstanding anything contained in this section, in order to restore the representation of Scheduled Castes and Scheduled Tribes in a service, **where their representation is less than eighteen per cent and one per cent**, respectively, **each department shall furnish such vacancies treating them as shortfall vacancies** of Scheduled Castes and Scheduled Tribes in the lowest level of posts in each of the Groups A,B,C and D, besides the posts of Junior Assistants, Typist and Steno-Typist Grade III in the Tamil Nadu Ministerial Service and the Tamil Nadu Judicial Ministerial Service, to the Government and the Government, in turn, shall inform the same to the recruiting agencies for notifying the vacancies for direct recruitment as a one time measure:
- Provided that *reservation for Women, Differently abled person and Ex servicemen* **shall not apply to the said recruitment.**

Date of commencement of probation of persons first appointed temporarily.

28.

If a person appointed temporarily either under sub-section (1) or sub-section (2) of section 17 to fill a vacancy in any service, class or category otherwise than in accordance with the provisions governing the appointment thereto, such vacancy being a vacancy which may be filled by direct recruitment, is subsequently appointed to the service, class or category, **he shall commence his probation, if any, in such category either from the date of his first temporary appointment or from such subsequent date, as the appointing authority may determine.**

If the post is one to which appointment may be made by transfer, and the person who had been appointed thereto either under sub-section (1) or sub-section (4) of section 17 is subsequently recruited thereto by transfer and included in the list of approved candidates, the **appointing authority may, in his discretion, allow such person to commence his probation**, if any, from the date of his first temporary appointment or from such subsequent date, as the appointing authority may determine:

- Provided that the date so determined by the appointing authority to commence probation in this section, **shall not be earlier than the date of commencement of probation of the junior most person already in service:**
- Provided further that on the date so determined by the appointing authority to commence probation in this section, the person shall not only possess all the qualifications prescribed for appointment to the service, but also be fit for inclusion in the list of approved candidates drawn up by the Commission or the appointing authority, as the case may be.

- (2) A person who commences probation under sub-section (1) shall **also be eligible to draw increments in the [levels of pay in the pay matrix] applicable to him from the date of commencement of his probation.**
- Where commencement of probation is ordered from a date earlier than the date of the order and if this had not been enabled by relaxation of any rule, he shall draw increments, including arrears, in the 2 [levels of pay in the pay matrix] applicable to him from such earlier date. **The appointing authority shall include a provision to this effect while issuing orders in all such cases.**

Service in a different service counting for probation.

29.

(1) A probationer in a service or a class or category of service shall be eligible to count for probation, his service, if any, performed otherwise than in a substantive capacity on regular appointment to another service in accordance with the rules if the normal method of recruitment to the latter service is, according to the rules, by transfer from the former service or the class or category thereof, as the case may be.

(2) **A probationer in any category of a service or class of a service shall be eligible to count for probation**, his service, if any, performed otherwise than in substantive capacity on regular appointment to a higher category of the same service or class of service, as the case may be:

- Provided that nothing contained in this sub-section shall be construed as authorising the promotion of a probationer in a category to a higher category in contravention of section 41.

(3) A probationer in one service who is appointed temporarily to another service, under sub-section (1) or sub-section (4) of section 17 shall be entitled to count towards his probation in the former service the period of duty performed by him in the latter service during which he would have held a post in the former service but for such temporary appointment.

- (4) A probationer in any category of a service who is promoted temporarily under the provisions of section 47 to a higher category in the same service **shall be entitled to count towards his probation, if any, in the former category the period of duty performed by him in the latter category during which he would have held a post in the former category but for such temporary promotion.**
- (5) The period of military duty of a probationer shall count towards his probation in the post held by him prior to his joining military duty; it shall also count towards his probation in the post to which he may be appointed under section 12.

(6) A probationer in a category or class of a service who is or has been deputed to foreign service shall be entitled to count towards his probation in that particular category or class of the former service, the period of duty performed by him under foreign service during which he would have held a post in the former service:

Provided that the 1 [levels of pay in the pay matrix] applicable to the post in foreign service is either equal or higher than that applicable to the post in the parent department and that the duties and responsibilities of the posts are comparable.

Termination or extension of probation.

31. (1) Where the special rules of any service prescribe a period of probation for appointment as a full member of the service, or **where such period of probation has been extended under section 33**, the appointing authority may, at any time before the expiry of the prescribed period of probation or the extended period of probation, as the case may be—

- (i) discharge a probationer from the service for want of a vacancy; or
- (ii) at its discretion, by order, either extend the period of probation of the probationer in case the probation has not been extended under section 33 or terminate his probation and discharge him from service after **giving him a reasonable opportunity of showing cause against the proposed termination of probation:**

- Provided that where a probationer has been given reasonable opportunity of showing cause against the imposition on him of any of the penalties specified in clauses (iv), (vi), (vii) and (viii) of rule 8 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and at the conclusion of the disciplinary proceedings a tentative conclusion is arrived as to terminate his probation, **a further opportunity of showing cause specifically against termination of his probation need not be given to him.**

- (2) If within the period of probation, **a probationer fails to acquire the special qualification or to pass the special test** if any, prescribed in the special rules or to acquire such other qualification as may be declared by the Government or by the appointing authority with the approval of the Government to be equivalent to the said special qualification or special test, **the appointing authority shall, by order, discharge him from the service unless the period of probation is extended under section 33.**

- (3) If within the period of probation prescribed in the special rules for the service or within the extended period of probation, as the case may be, a probationer has appeared for any such test or for any examination in connection with the acquisition of any such qualification and the result of the test or examination for which he has so appeared are not known before the expiry of such period, he **shall continue to be on probation until the publication of the result** of the test or examination for which he has appeared or the first of them in which he fails to pass, as the case may be.
- **In case the probationer fails to pass any of the test or examination for which he has so appeared, the appointing authority shall, by order, discharge him from the service.**

(4) The maximum period upto which the probation of a Government servant shall be extended so as to enable him to acquire the test qualification, **be fixed as five years. If he does not acquire** the test qualification even within the maximum period of five years, he shall be reverted and **the qualified and the eligible junior shall be considered for promotion.** If such a person is appointed by direct recruitment and has not acquired the test qualification even within the maximum period of five years, his probation shall be terminated.

(5) Any delay in the issue of an order discharging a probationer under sub-section (2) or sub-section (3) shall not entitle him to be deemed to have satisfactorily completed his probation.

Probationer's suitability for full membership.

- (1) **At the end of the prescribed or extended period of probation**, as the case may be, the appointing authority shall consider the probationer's suitability for full membership of the service, class or category for which he was selected.
- (3) If the appointing authority decides that the **probationer is not suitable for such membership**, it shall, unless the period of probation is extended under section 33, by order, discharge him from the service after giving him a reasonable opportunity of showing cause against the action proposed to be taken in regard to him:
- Provided that where a probationer has been given a reasonable opportunity of showing cause against the imposition on him of any of the penalties specified in clauses (iv), (vi), (vii) and (viii) of rule 8 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and at the conclusion of the disciplinary proceeding, a tentative conclusion is arrived as to discharge him from the service, a further opportunity of showing cause specifically against such discharge need not be given to him.

- **Explanation I.—** The decision of the appointing authority that the probationer is not suitable for full membership may be based also on his work and conduct till the date of the decision, inclusive of the period subsequent to the prescribed or extended period of probation.
- **Explanation II. —** Where the competent authority proposes to terminate the probation of a member of a service for general unsatisfactory work or incapacity without the need for enquiry into specific charges, he shall do so under section 31 or under this section, as the case may be. In cases where he proposes to terminate the probationer of such member for specific charges in addition to, or distinct from, general inefficiency or incapacity, he shall frame specific charges and follow the procedure laid down in rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, as such termination of probation by way of penalty will attract the provisions of Article 311(2) of the Constitution.

Extension of probation.

33. (1) In the case of any probationer falling under section 31 or 32, the appointing authority may extend his probation to enable him to acquire the special qualifications or pass the prescribed tests, or, as the case may be, to enable the appointing authority to decide whether the probationer is suitable for full membership or not.

2) The period of probation as extended under section 31 or 32 or in a case where **a probationer is reverted due to want of vacancy during the extended period shall terminate at the latest when the probationer** has, after the date of expiry of the period of probation prescribed for the service, class or category in which he is on probation, **completed three years on duty in such service, class or category.**

The period of probation as extended under section 31 shall terminate at the latest when the probationer, has, after the date of expiry of the period of probation prescribed for the service, class or category in which he is on probation, completed three years of duty in such service, class or category.

- (3) **In cases where the probation of probationer is extended**, a condition shall, unless there are special reason to the contrary, be attached to the order of extension of probation that the probationer's increment shall be stopped until he is declared to have satisfactorily completed his probation.
- **Such stoppage of increment shall not be treated as a penalty**, but only as a condition of extension of probation and shall not have the effect of postponing future increments after he has passed the prescribed tests, or examinations or after he is declared to have satisfactorily completed his probation.

Exercise of certain powers of appointing authority by higher authorities.

34. The powers conferred on the appointing authority, other than the Government, may be exercised also by any higher authority to whom the appointing authority is administratively subordinate whether directly or indirectly, in the following cases:—

- (a) Termination of probation of a probationer under clause (ii) of sub-section (1) of section 31;
- (b) Discharge of probationer under sub-section (3) of section 32; and
- (c) Extension of probation under clause (ii) of sub-section (1) of section 31 or under this section.

Fixation of seniority

40. (1) The seniority of a person in a service, class, category or grade shall, unless he has been reduced to a lower rank as a punishment, be determined in the order of his placement in the list prepared by the recruitment agency or appointing authority, as the case may be, in accordance with the rule of reservation and the order of rotation specified in Schedule-V, where it applies. The date of commencement of his probation shall be the date on which he joins duty irrespective of his seniority.

(2) The seniority of a person in a service, class, category or grade shall, where the normal method of recruitment to that service, class, category or grade **is by more than one method of recruitment**, unless the individual has been reduced to a lower rank as a punishment, be determined with reference to the date on which he is appointed to the services, class, category or grade:

Provided that where the junior appointed by a particular method of recruitment happens to be appointed to a service, class, category or grade, earlier than the senior appointed by the same method of recruitment, the senior shall be deemed to have been appointed to the service, class, category or grade on the same day on which the junior was so appointed:

- Provided further that the benefit of the above proviso shall be **available to the senior only for the purpose of fixing inter-se-seniority:**
- Provided also that where persons appointed by more than one method of recruitment are appointed or deemed to have been appointed to the service, class, category or grade on the same day, their inter-se-seniority shall be decided with reference to their age.

(3) The transfer of a person from one class or category of a service to another class or category carrying the same 1[levels of pay in the pay matrix] **shall not be treated as first appointment to the latter for purpose of seniority** and the seniority of a person so transferred shall be determined with reference to the rank in the class or category from which he was transferred; where any difficulty or **doubt arises in applying this provision, seniority shall be determined by the appointing authority.**

(4) Where a member of any service, class, category or grade is reduced to a lower service, class, category or grade he **shall be placed at the top of the latter** unless the authority ordering such reduction directs that he shall take rank in such lower service, class, category or grade, next below any specified member thereof.

- (5) The seniority of any person in a service or post of the merged territory of Pudukkottai, who is absolutely in a service or post under the Government of Tamil Nadu shall be determined as follows:—
- (i) If he is absorbed in a post similar to that which he was formerly holding in the service of the merged territory of Pudukkottai, his seniority shall be determined by the date from which he was holding the former post continuously.
- (ii) If he is absorbed in a post of a higher cadre carrying a higher 2 [levels of pay in the pay matrix] than that which he was formerly holding in the service of the merged territory of Pudukkottai his seniority shall be determined by the date on which he joined the post under the Government of Tamil Nadu.
- (iii) If he is absorbed in a post other than those specified in clauses (i) and (ii), which does not improve his cadre and 3 [levels of pay in the pay matrix] in the service of the merged territory of Pudukkottai, his seniority shall be determined on the basis of merit.

(6) Application for the revision of seniority of a person in a service, class, category or grade shall be submitted to the appointing authority **within a period of three years** from the date of appointment to such service, class, category or grade or within a period of three years from the date of order fixing the seniority, as the case may be.

Any application received after the said period of three years shall be summarily rejected. This shall not, however, be applicable to cases of rectifying orders, resulting from mistake of facts.

Revision of list approved candidates for appointment by promotion or by recruitment by transfer.

45. The list of approved candidates for appointment by promotion or by recruitment by transfer may be revised by an authority to which an appeal or review would lie against an order of dismissal passed on a full member of the service, class, category or grade, as the case may be.

- Such revision may be made by the appellate authority or the reviewing authority, as the case may be, aforesaid after consulting the Commission where such consultation is necessary in respect of posts which are within the Commission's purview either suo motu at any time, or on a petition submitted by an aggrieved member within two months in the case of State Services and within three months in the case of Subordinate Services, from the date on which the list is displayed in the Notice Board in the office of the appointing authority.
- If no representation is received within the said period, the list communicated shall be deemed to be final:

Annulment or modification of list of approved candidates for appointment or promotion by Government.

- 46. Notwithstanding anything contained in this Act or in the special rules, the **Government shall have power** *to annul, modify a list of approved candidates for appointment or promotion to any category, class or service prepared by the head of a department or any other lower authority.*

Temporary promotion.

47. (1) Where it is necessary in the public interest owing to an emergency which has arisen to fill immediately a vacancy in a post borne on the cadre of a higher category in a service or class by promotion from lower category and there would be undue delay in making such promotion in accordance with the provisions of the Act, the appointing authority may temporarily promote a person, who possesses the qualifications prescribed for the post, otherwise than in accordance with the provisions of this Act.

(2) Where it is necessary to fill a short vacancy in a post borne on the cadre of a higher category in service or class by promotion from lower category and the appointment of the person who is entitled to such promotion under the provisions of the Act would involve excessive expenditure on travelling allowance or exceptional administrative inconvenience, the appointing authority may promote any other person who possesses the qualification, if any, prescribed for the higher category.

(3) A person temporarily promoted under sub-section (1) shall be replaced as soon as possible by the member of the service, who is entitled to promotion under the Act.

(4) Where it is necessary to promote an officer against whom an enquiry into allegations of corruption or misconduct is pending, but no charge sheet has been filed in the criminal case or where no charge under sub-rule (b) of rule 17 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules have been framed or no proceedings before the Tribunal for Disciplinary Proceedings is pending, the appointing authority may promote him temporarily pending enquiry into the allegations against him.

(5) A person promoted under sub-section (1), (2) or (4) shall not be regarded as a probationer in the higher category or be entitled by reason only of such promotion to any preferential claim to future promotion to such higher category. The services of a person promoted under sub-section (1), (2) or (4) shall be liable to be terminated by the appointing authority at any time without notice and without any reason being assigned.

- (6) (i) **A person promoted under sub-section (1), (2) or (4) shall commence his probation**, if any, in such category either from the date of his temporary promotion or from such subsequent date as the appointing authority may determine: Provided that on the date so determined, **the person possesses all the qualifications prescribed for promotion to the service, class or category, as the case may be.**
- (ii) **He shall also be eligible to draw increments** in the 1 [levels of pay in the pay matrix] applicable to him from the date of commencement of his probation.
- Where commencement of probation is ordered from a date earlier than the date of the order and if this has not been enabled by relaxation of any provisions of the Act, he shall draw increments, including arrears, in the 2 [levels of pay in the pay matrix] applicable to him from such earlier date.
- The appointing authority shall include a provision to this effect while issuing order in all such cases.

Appointment in place of members dismissed, removed, compulsorily retired or reduced in rank.

53. Where a person has been dismissed, removed, compulsorily retired or substantively reduced from any service, class, category or grade, no vacancy caused thereby or arising subsequently in such service, class, category or grade, shall be substantively filled to the prejudice of such person **until the expiry of a period of one year** from the date of such dismissal, removal, compulsory retirement or reduction in rank or until the appeal, if any, preferred by him against such dismissal, removal, compulsory retirement or reduction in rank is decided, whichever is later.

Age concession for discharged Government employees or temporary Government employees.

61. Notwithstanding anything contained in the Act or in the special rules for the various State and Subordinate Services, in the case of discharged Government employee or a temporary Government employee **who has not completed forty years of age**, the actual period of his service under the Government, whether continuous or non-continuous shall be excluded in computing his age for appointment to any post under the Government including the appointment made through the Commission.

Explanation.— For the purpose of this section, a discharged Government employee is a person who was in the employment of the State and was discharged because of reduction in establishment or for any other reason but not as disciplinary measure.