

Rules regulating the various conditions
of service of Government servants -
Framing of - under Article 309 of the
Constitution of India.

Government of Maharashtra,
General Administration Department,
Circular No. SRV - 1074/1558-D-2,
Sachivalaya; Bombay - 32. BR,
Dated the 7th January, 1975.

Circular of Government

Since the commencement of the Constitution of India this Government has started the practice of prescribing certain conditions of service of the State Government servants in the form of notifications under Article 309 of the Constitution of India, e.g. Conduct, Discipline and Appeal Rules, Recruitment Rules, etc. Specific instructions have also been issued to the Secretariat Departments that they should publish the departmental examination rules and the principles regulating preparation and revision of select lists for various posts and services under them in the form of notifications under Article 309 of the Constitution. In the case of several other conditions of service of Government servants, particularly in the case of most of the recruitment rules, however, the practice followed in the State so far as to prescribe such conditions by issuing executive instructions i.e. Government Resolutions or Circulars. The supreme Court of India has recently called upon this Government to frame statutory rules under Article 309 of the Constitution of India in place of the executive orders issued by it prescribing recruitment rules and other conditions of service of the State Government servants. In deference to the directive of the Supreme Court, Government has since decided that all the recruitment rules and also the orders prescribing various other conditions of service of Government servants which are deemed to have been made under Article 309 of the Constitution should hereafter be made and issued in the form of notifications under that Article. Government is accordingly pleased to issue the following instructions in this connection :-

- 1) The recruitment rules proposed to be framed for all the newly created posts and services (both gazetted and non-gazetted) and if the existing recruitment rules are proposed to be amended, the entire rules incorporating the amendments, should be drafted by the Secretariat Departments invariably in the form of notifications and such drafts should be referred to the General Administration Department first for advice.
- 2) In the case of the recruitment rules for the gazetted posts and services and also the recruitment rules for certain non-gazetted posts and services which are within the purview of the Maharashtra Public Service Commission, the draft rules approved by the General Administration Department should be referred to the Commission for its advice.
- 3) The recruitment rules approved by the General Administration Department and by the Maharashtra Public Service Commission, whenever of course the concurrence of the Commission also is necessary, should be referred to the Law and Judiciary Department, for its advice on the draft of the notification.

- 4) After the draft notification as approved by the Law and Judiciary Department is received, it should be submitted to the Governor, for approval of the rule, through (i) the Secretary of the Department concerned (ii) the Secretary to Government, General Administration Department (Personnel Division), (iii) the State Minister and the Minister concerned and (iv) the Chief Minister.
- 5) After the Governor's approval is received, the Secretariat Department concerned should publish the notification in the Government Gazette and endorse copies to all concerned.
2. The procedure mentioned above should be followed by the Secretariat Departments mutandis while prescribing other conditions of service of the Government servants.

By order and in the name of the Governor of Maharashtra,

K.P.Nadkarni,
Deputy Secretary to the Government of Maharashtra.

To,

The Secretary to the Governor,
The Secretary to the Chief Minister,
The Personal Assistants to all Ministers and Ministers of State,
All Secretaries to Government,
The Secretary, Maharashtra Public Service Commission, Bombay (By letter),
The Law and Judiciary Department,
All other Departments of the Secretariat.