



महाराष्ट्र शासन राजपत्र

असाधारण
प्राधिकृत प्रकाशन

शुक्रवार, जानेवारी १६, २००४/पौष २६, शके १९२५

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Ordinance, 2004 (Mah. Ord. I of 2004) is hereby published under the authority of the Governor.

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

PRATIMA UMARJI,
Principal Secretary to Government,
Law and Judiciary Department.

[Translation in English of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Ordinance, 2004 (Mah. Ord. I of 2004), published under the authority of the Governor.]

GENERAL ADMINISTRATION DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 16th January 2004.

MAHARASHTRA ORDINANCE No. I OF 2004.

AN ORDINANCE

to provide for regulation of transfers of government servants and prevention of delay in discharge of official duties.

WHEREAS the Governor of Maharashtra had promulgated Mah. Ord. IX of 2003. the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Ordinance, 2003, on the 25th August 2003 (hereinafter referred to as "the said Ordinance");

AND WHEREAS upon the re-assembly of the State Legislature on the 8th December 2003, a Bill for converting the said Ordinance into an Act of the State Legislature with certain amendments, was introduced in the Maharashtra Legislative Council as L. C. Bill No. XV of 2003, on the 9th December 2003;

AND WHEREAS the said Bill could not be passed by the State Legislature, as the session of the State Legislature was prorogued on the 19th December 2003;

AND WHEREAS as provided by article 213(2)(a) of the Constitution of India, the said Ordinance shall cease to operate at the expiration of six weeks from the re-assembly of the State Legislature that is, after the 18th January 2004;

AND WHEREAS it is considered expedient to continue the operation of the provisions of the said Ordinance;

AND WHEREAS both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action to continue the operation of the provisions of the said Ordinance, for the purposes hereinafter appearing;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following Ordinance, namely:—

CHAPTER I

PRELIMINARY.

Short title,
commence-
ment and
application.

1. (1) This Ordinance may be called the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Ordinance, 2004.

(2) It shall be deemed to have come into force on the 25th August 2003.

(3) It shall apply to all government servants in the State services including the All India Service Officers of the Maharashtra Cadre:

Provided that, Chapter II shall not apply to the employees appointed on non-transferable posts in isolated cadres and to the employees under the administrative control of the judiciary; and Chapter III shall not apply to the All India Service Officers of the Maharashtra Cadre.

2. In this Ordinance, unless the context otherwise Definitions. requires,—

(a) “competent authority” means the appointing authority of the government servant and shall include the transferring authority specified in section 6;

(b) “Department” or “Administrative Department” means the Department of the Government of Maharashtra as specified in the First Schedule to the Maharashtra Government Rules of Business;

(c) “Government” or “State Government” means the Government of Maharashtra;

(d) “Group A, B, C and D posts” means the posts under the Government classified as Group A, B, C and D posts by Government order, from time to time;

(e) “government servant” means a government servant or employee as defined in rule 2(b) of the Maharashtra Civil Services (Conduct) Rules, 1979, and shall include the All India Service Officers and Employees (other than the Judicial Officers) under the administrative control of the judiciary;

(f) “post” means the job or seat of duty to which a government servant is assigned or posted;

(g) “secretariat services” means the State services belonging to the Mantralaya Departments;

(h) “transfer” means posting of a government servant from one post or place of work to another post or place of work and includes posting from one office to another office within the same town;

(i) “transferring authority” means the authorities mentioned in section 6;

CHAPTER II

TENURES OF POSTING AND TRANSFER AND TRANSFERRING AUTHORITY.

Tenure of
posting.

3. (1) For All India Service Officers and all Groups A, B and C State Government Servants or employees, the normal tenure in a post shall be three years :

Provided that, when such employee is from the non-secretariat services in Group C, such employee shall be transferred from the post held, on his completion of two full tenures at that place, to another place :

Provided further that, when such employee belongs to secretariat services, such employee shall not be continued in the same post for more than three years and shall not be continued in the same department for more than two consecutive tenures.

(2) Employees in Group D shall normally not be subjected to fixed tenure. They shall not be transferred out from the station where they are serving except on request when a clear vacancy exists at the station where posting is sought, or on mutual transfer, or when a substantiated complaint of serious nature is received against them.

Tenure of
transfer.

4. (1) No government servant shall ordinarily be transferred unless he has completed his tenure of posting as provided in section 3.

(2) The competent authority shall prepare every year in the month of January, a list of government servants due for transfer, in the month of April and May in the year.

(3) Transfer list prepared by the respective competent authority under sub-section (2) for Group A Officers specified in entries (a) and (b) of the table under section 6 shall be finalised by the Chief Minister or the concerned Minister, as the case may be, in consultation with the Chief Secretary or concerned Secretary of the Department, as the case may be :

Provided that, any dispute in the matter of such transfers shall be decided by the Chief Minister in consultation with the Chief Secretary.

(4) The transfers of government servants shall ordinarily be made only once in a year in the month of April or May :

Provided that, transfer may be made any time in the year in the circumstances as specified below, namely :—

(i) to the newly created post or to the posts which become vacant due to retirement, promotion, resignation, reversion, reinstatement, consequential vacancy on account of transfer or on return from leave ;

(ii) where the competent authority is satisfied that the transfer is essential due to exceptional circumstances or special reasons, after recording the same in writing and with the prior approval of the next higher authority.

(5) Notwithstanding anything contained in section 3 or this section, the competent authority may, in special cases, after recording reasons in writing and with the prior permission of the Government or the Chief Minister, as the case may be, transfer a government servant before completion of his tenure of post.

5. (1) The tenure of posting of a government servant or employee laid down in section 3 may be extended in exceptional cases as specified below, namely :— Extension of tenure.

(a) the employee due for transfer after completion of tenure at a station of posting or post has less than one year for retirement ;

(b) the employee possesses special technical qualifications or experience for the particular job and a suitable replacement is not immediately available ; and

(c) the employee is working on a project that is in the last stage of completion, and his withdrawal will seriously jeopardise its timely completion.

(2) Notwithstanding anything contained in section 3 or any other provisions of this Ordinance, to ensure that the government work is not adversely affected on account of large scale transfers of government servants from one single Department or Office, not more than thirty per cent. of the employees shall be transferred from any Office or Department at a time, in a year.

6. The government servants specified in column (1) of the table hereunder may be transferred by the Transferring Authority specified against such government servants in column (2) of the table. Transferring Authority.

TABLE

Groups of Government Servants (1)	Competent Transferring Authority (2)
(a) Officers of All India Services, all Officers of State Services in Group "A" having pay-scale of Rs. 10,650-15,850 and above.	Chief Minister.
(b) All Officers of State Services in Group "A" having pay-scales less than Rs. 10,650-15,850.	Minister-in-Charge in consultation with Secretaries of the concerned Departments.
(c) All Officers in Group "B"	Heads of Departments.
(d) All employees in Groups "C" and "D".	Regional Heads of Departments :

Provided that, in respect of officers in entry (b) in the table working at the Divisional or District level, the Divisional Head shall be competent to transfer such officers within the Division; and the District Head shall be competent to transfer such officers within the District :

Provided further that, the Competent Transferring Authority specified in the table may, by General or Special order, delegate its powers under this section to any of its subordinate authority.

7. Every Administrative Department of Mantralaya shall for the purposes of this Ordinance prepare and publish a list of the Heads of Departments and Regional Heads of Departments within their jurisdiction and notify the authorities competent to make transfers within their jurisdiction for the purposes of this Ordinance.

CHAPTER III

DISCIPLINARY ACTION.

8. (1) Every Government servant shall be bound to discharge his Official Duties and the Official Work assigned or pertaining to him most deligently and as expeditiously as feasible :

Provided that, normally no file shall remain pending on the table of any Government Servant in the Department or Office for more than seven working days :

Publication
of list of
competent
authority.

Disciplinary
action.

Provided further that, immediate and urgent files shall be disposed of as per the urgency of the matter, as expeditiously as possible, and preferably the immediate file in one day or next day morning and the urgent file in four days :

Provided also that, in respect of the files not required to be referred to any other Department, the concerned Department shall take the decision and necessary action in the matter within Forty-five days and in respect of files required to be referred to any other Department, decision and necessary action shall be taken within three months.

(2) Any wilful or intentional delay or negligence in the discharge of official duties or in carrying out the Official Work assigned or pertaining to such Government Servant shall amount to dereliction of Official Duties and shall make such Government Servant liable for appropriate disciplinary action under the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 or any other relevant disciplinary rules applicable to such employee.

(3) The concerned competent authority on noticing or being brought to its notice any such dereliction of duties on the part of any Government Servant, after satisfying itself about such dereliction on the part of such Government servant shall, take appropriate disciplinary action against such defaulting Government Servant under the relevant disciplinary rules including taking entry relating to such dereliction of duty in the Annual Confidential Report of such Government Servant.

CHAPTER IV

MISCELLANEOUS.

9. No suit, prosecution or other legal proceedings shall lie against any Government Servant or Officer for anything done or purported to have been done in good faith in pursuance of the provisions of this Ordinance or the rules made thereunder. Protection of action taken in good faith.

10. (1) The State Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules to carry out the purposes of this Ordinance. Power to make rules.

(2) Every rule made under this Ordinance shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of Thirty days, which may be comprised in one session or in two or more successive sessions, and if, before

the expiry of the session in which it is so laid or the session or sessions immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette*, the rule shall, from the date of publication of such decision in the *Official Gazette*, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

Power to
remove
difficulties.

11. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Government may, as occasion arises, by an order published in the *Official Gazette*, do anything, not inconsistent with the provisions of this Ordinance.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

Repeal by
withdrawal
of Mah.
Ord. IX of
2003 and
saving.

12. (1) The Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Ordinance, 2003, is hereby withdrawn.

Mah.
Ord. IX
of
2003.

(2) Notwithstanding such Withdrawal, anything done or any action taken (including any notification or order issued) under the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under this Ordinance.

STATEMENT

The Government had issued Guidelines for General Transfers of Government Employees from time to time. All such comprehensive guidelines were recently issued in a consolidated form under Government Circular, General Administration Department, No. SRV-1097/C.R.20/97/XII, dated the 27th November 1997, and by Government Circular, dated the 7th February 1998. However, it was noticed by the Government that these directions were not being followed scrupulously at various levels in the administration and were not having the desired effect.

2. Under the circumstances, to ensure strict compliance with the Government transfer policy, Government considered it expedient to make a suitable law for regulating transfers of all Government Servants.

3. Government was also deeply concerned about the delays and dereliction in the discharge of Official Duties by Government Servants. To effectively curb this undesirable tendency, Government considered it expedient to lay down the time schedule for disposal of Government work and to provide for taking disciplinary action against the defaulting Government Servants for any dereliction of Official Duties.

4. As both Houses of State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make the law for the aforesaid purposes, the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Ordinance, 2003 (Mah. Ord. IX of 2003), was promulgated by the Governor of Maharashtra, on the 25th August 2003.

5. Thereafter, the session of the State Legislature was convened by the Hon'ble Governor on the 8th December 2003 and upon the re-assembly of the State Legislature, a Bill for converting the said Ordinance into an Act of the State Legislature with certain amendments, was introduced in the Maharashtra Legislative Council as L. C. Bill No. XV of 2003 on the 9th December 2003. However, the said Bill could not be passed, as the session of the State Legislature was prorogued on the 19th December 2003. As the State Legislature had re-assembled on the 8th December 2003, as provided by article 213 (2) (a) of the Constitution of India, the said Ordinance would cease to operate after the 18th January 2004, and the Government considers it expedient to continue the operation of the provisions of the said Ordinance.

6. As both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that circumstances still exist which render it necessary for him to take immediate action to continue the provisions of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Ordinance, 2003 (Mah. Ord. IX of 2003), with certain amendments as incorporated in the said Ordinance conversion Bill, this Ordinance is promulgated.

Mumbai,
dated the 16th January 2004.

MOHD. FAZAL,
Governor of Maharashtra.

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

CHARUSHEELA SOHONI,
Principal Secretary to Government.