

GOVERNMENT OF MADHYA PRADESH  
GENERAL ADMINISTRATION DEPARTMENT

*MEMORANDUM*

No. 71-3727-I (iii) 65

Bhopal, dated the 7th January 1966—17 Pausa, 1887

To,

All Departments of Government,  
The President, Board of Revenue,  
All Commissioner of Divisions,  
All Heads of Departments,  
All Collectors,  
Madhya Pradesh.

**Sub.**—Reversion of Government servants from officiating appointments-application of Article 311 (2) of the Constitution.

As explained in para 6 to this Department's Memorandum No. 69-3728-I (iii) 65, dated the 7th January 1966, and officiating Government servant has no right to be retained in the post in which he officiates and his reduction to his substantive rank would not constitute a punishment unless it is intended or declared to be punishment on the specific ground of inefficiency or negligence, etc., in the higher post. Thus, the provisions of Article 311 (2) would not be attracted when in exercise of the right following from Contract or Service Rules it is proposed to revert an officiating Government servant to his original post on account of the cessation of the vacancy or the return of the permanent incumbent, or failure to pass a prescribed test or departmental examination. The reduction in such circumstances does not amount to reduction in rank within the meaning of Article 311 (2) of the constitution. However to avoid complications in all cases of officiating appointments and appointments to temporary posts, the appointments should always be made "temporarily until further orders". When any person is appointed temporarily until further orders, it is implicit in these terms of his appointment that he is only on trial and that if he does not come up to the required standard, he will be reverted to his substantive post. If during officiation the person concerned is not considered suitable for the higher post, he should be reverted to his substantive rank and, in order to avoid any constitutional complications, no reason for the reversion should be stated in the order of reversion. for the sake of uniformity all orders of appointments in temporary posts and in officiating vacancies should be worded as prescribed below :—

*I—Temporary appointments in an officiating capacity*

No. .... Shri ..... is appointed to officiate temporarily until further orders as ..... in the Madhya Pradesh ..... Service (Class ..... ) with effect from the .....

*II—Officiating appointments*

No. .... Shri ..... in the Madhya Pradesh ..... Service is appointed temporarily until further orders to officiate as a ..... in the Madhya Pradesh ..... Service (Class ..... ) with effect from .....

2. Provisions of Articles 311 (2) would, however, be attracted if a Government servant who is officiating on a higher post is proposed to be reverted to his substantive rank for some specific act of misconduct, negligence, inefficiency or like. In that case it would be necessary to comply with the procedural requirements of that Article, and to give the Government

servant proposed to be reverted an opportunity to show cause against his reversion. It should be borne in mind that this position applies even to cases in which officiating promotions are notified to be 'until further orders'. If reversion is ordered by way of penalty not only show cause notice but also a regular departmental enquiry would be needed, the above stipulation notwithstanding.

3. At the same time, it must be remembered that it is only when incompetency or unsuitability is made the basis on which the order for reversion is actually founded, that the order will amount to a punishment and reduction in rank. Where the incompetency or unsuitability only figures in the **background** and does not constitute the **basis** on which the reversion is ordered, it will not amount to a punishment

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General Administration Department.*