

GOVERNMENT OF MADHYA PRADESH
GENERAL ADMINISTRATION DEPARTMENT

MEMORANDUM

No. 2720-1192-I (iii)-63,

Bhopal, dated the 19th October 1963—Asvina 27, 1885.

To,

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

SUBJECT.—Authority Competent to take departmental* action against persons diverted to other offices.

REFERENCE.—This Department's Memorandum No. 48-40-252-I (iv), dated the 3rd November 1962.

In this Department's Memorandum referred to above, the Commissioners of Divisions were directed to divert the surplus class IV staff within their divisions from offices where surplus exists, to offices where vacancies become available or where new posts are created. A question has been raised as to which authority whether the one in the department from which they have been transferred or the one in the department/office to which they have been transferred will be the competent authority for taking disciplinary action against any of such transferred staff.

2. The question has been examined in details and the following decisions have been taken :—

- (i) In the case of a substantive person becoming surplus and being posted to another department, their lien will have to be retained against supernumerary posts in parent department as long as he is not absorbed in a permanent vacancy in the establishment to which he is transferred. From the date he is absorbed in a permanent vacancy in the new establishment, his lien in the parent department would be terminated. The order of absorption which will be passed by the office competent to make appointment to the posts of absorption, will serve as a fresh order of appointment and the absorbing authority will be the appointing authority for the purpose of Article 311 (1) of the Constitution of India. In such cases the position would be that in disciplinary matters, he would be controlled by his previous appointing authority as long as his lien is retained in the parent establishment. With effect from the date he is absorbed in the new establishment, he will be controlled, in disciplinary matters, by the new appointing authority. Formal orders about the termination of lien in the parent department will, however, be necessary.
- (ii) To enable the punishment of reduction in rank and other minor punishments to be inflicted in disciplinary proceedings by the appointing authority in the new establishment, in cases referred to in (i) above, till lien is created therein for the official concerned (*i.e.* till he is permanently absorbed in the new establishment it would be necessary to delegate such powers to that authority.
- (iii) In the case of transfer of temporary personnel from one establishment to another there is no lien for such person in any of the department's. In such cases, therefore, a fresh order of appointment by the competent authority in the establishment to which such personnel is transferred, would be enough to clothe that authority with powers under the Classification, Control and Appeal Rules.

3. It has been further decided that in dispersing the surplus staff, temporary personnel should be transferred first. Permanent employees should be distributed only if the surplus exceeds the strength of temporary staff.

R. S. S. RAO,
Deputy Secretary to Government,
Madhya Pradesh.
General Administration Department.
