

## APPOINTMENT BRANCH

### **FAQs – Appointment by Promotion/ Deputation:**

#### **Q 1 What is the Constitutional mandate of the Union Public Service Commission (UPSC) with regard to Appointment by Promotion/ Deputation?**

**Answer** - Union Public Service Commission is a Constitutional Body constituted under Article 315 of the Constitution of India. The functions of the Commission are laid down in Article 320 of the Constitution. As per Article 320 {{3) (b}}, the Commission shall be consulted by the Government on the principles to be followed in making appointments to Civil Services and Posts and in making promotions and transfers by deputation from one service to another and on the suitability of candidates for such appointments, promotions, or transfer by deputation.

#### **Q 2 Are there any exceptions to the consultation with UPSC in making such promotions and transfers by deputation?**

**Answer** - Proviso to clause (3) of Article 320 of the Constitution provides that the President as respects the All India Services and also as respects other services and posts in connection with the affairs of the Union, may make Regulations, specifying the matters in which either generally, or in any particular class of case, or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted.

#### **Q 3 Are these functions of UPSC limited to the posts of the Union only?**

**Answer** - Article 321 of the Constitution lays down that an Act made by the Parliament or, as the case may be, the Legislature of a State may provide for the exercise of additional functions by the UPSC or the State Public Service Commission as respects the services of the Union or the State and also as respects the services of any local authority or other body corporate constituted by Law or of any Public institution. By virtue of provisions made in the relevant Acts, the functions of the UPSC have so far been extended to consider the cases of appointment by direct recruitment/promotion/deputation of the following Corporations/Bodies:-

- i. The Employees State Insurance Corporation. (By way of ESI Act 1948)
- ii. The Employees Provident Fund Organisation. (By way of EPF Act, 1952)
- iii. The Delhi Municipal Corporation. (By way of DMC Act, 1957)
- iv. The New Delhi Municipal Council. (By way of NDMC Act, 1994)

**Q 4 Are there any exemptions from the consultation with UPSC in making appointment by promotion or transfer?**

**Answer** - Under the proviso to clause (3) of Article 320 of the Constitution, the President has framed the Union Public Service Commission (Exemption from Consultation) Regulations, 1958 specifying the matters in which it shall not be necessary for the Commission to be consulted. As per these Regulations it shall not be necessary to consult the Commission, save as otherwise expressly provided in the Rules governing recruitment by appointment/promotion to Civil Service or Civil Posts, in regard :

- a) to a post included in an All India Service, of any officer who is already a member of an All India Service;
- b) to a post included in a Central Service Group 'A', of any Officer in the Armed Forces of the Union or any officer who is already a member of an All India Service or a Central Service, Group 'A';
- c) to a Central Service, Group 'B', or to a post included in a Central Service, Group 'B', of any officer who is already a member of a Central Service, Group 'B', or Central Service, Group 'C', or of any officer to the Armed Forces of the Union; and
- d) To a tenure post included in a Central Service, Group 'A', or a Central Service Group 'B', of an officer of a State Service.

**Q 5 How is transfer from one service/post to another made?**

**Answer** - Transfer from one service/post to another is made by way of Deputation (including Short Term Contract) or on absorption.

**Q 6 In what manner does UPSC advise Government(s)/ Ministries/ Departments on the suitability of the candidates for promotion/ Deputation?**

**Answer** - UPSC advises Government(s)/ Ministries/ Departments on the suitability of the candidates for promotion and deputation by convening Departmental Promotion Committees (DPCs) in the case of promotion and Selection Committee Meetings (SCMs) in the case of deputation, in accordance with the provisions of the relevant Recruitment Rules.

**Q 7 Are there any specific provisions regarding consultation with the UPSC in matters of appointment by promotion and deputation for any particular post?**

**Answer** - The Recruitment Rules of the Service/Posts specifically provide for consultation with the UPSC for appointment to each post by way of promotion or deputation.

**Q 8 What are the cases normally referred to the UPSC for holding Meetings of the Departmental Promotion Committees (DPCs)?**

**Answer** - The following cases are referred to UPSC for holding DPC meetings:

- (a) Cases of promotion within Group A and from Group B to Group A, where the Recruitment Rules provide for association of the Chairman or a Member of UPSC with the DPC.
- (b) Cases of promotions under special enactments which, by virtue of provisions made in the Acts enacted under Article 321 of the Constitution provide for association of the Chairman or a Member of UPSC, with the DPC. Some of the examples are cases pertaining to the Delhi Municipal Corporation, the Employees State Insurance Corporation, the New Delhi Municipal Corporation etc.

**Q 9 Is it necessary to consult UPSC with regard to selection for temporary/ad-hoc or officiating appointment to a post?**

**Answer** - It shall not be necessary to consult the Commission with regard to selection for a temporary or officiating appointment to a post, if:

- a) the person appointed is not likely to hold the post for a period of more than one year; and
- b) it is necessary in the public interest to make the appointment immediately and a reference to the Commission will cause undue delay,

provided that-

- i) Such appointment shall be reported to the Commission as soon as it is made;
- ii) If the appointment continues beyond a period of six months, a fresh estimate as to the period for which the person appointed is likely to hold the post shall be made and reported to the Commission; and
- iii) If such estimate indicates that the person appointed is likely to hold the post for a period of more than one year from the date of appointment, the Commission shall immediately be consulted in regard to filling up of the post.

**Q 10 What is the procedure for consultation with the Commission?**

**Answer** - As provided in the Ministry of Home Affairs Office Memoranda. No18/18/48-Ests. Dated 20.8.1949 and I8/1/59-Estt.(B) dated 24.2.1959, all references on matters where consultation with the Commission is obligatory, should be made to the Commission by the administrative Ministry/Department concerned in the form of a self-contained official letter with which all relevant papers or copies of papers should be forwarded. D.O. reference (I.D. notes) should not be made to the Commission. Heads of attached and subordinate offices, to whom powers to make appointments are delegated, may correspond with the Commission on matters relating to recruitment/promotion to the posts for which they are the appointing authorities.

**Q 11 What is the procedure for submission of proposals for DPCs to the Commission?**

**Answer** - Proposal of any Ministry/ Department for convening DPC meeting is to be brought by the Departmental representatives for scrutiny under Single Window System (SWS), with prior appointment. The names, designation and contact details/ telephone numbers of the officers of the Appointment Branch dealing with the receipt of proposals of DPC from different Ministries/ Departments under SWS are given on the website of the UPSC and can be accessed at this [link](#).

**Q 12 What is Single Window System (SWS)?**

**Answer** - Single Window System is a mechanism for receipt and scrutiny of proposals from the Ministries/ Departments/ UTs for convening DPC Meetings. It affords direct interaction between the Departmental representative and the concerned Officer of UPSC at the time of scrutiny of the DPC proposal, with reference to a prescribed checklist. This system was introduced in the Commission w.e.f. August, 2010.

**Q 13 How does the SWS operate? What are its benefits?**

**Answer** - Under SWS, a DPC proposal is received in the UPSC from the Departmental representative. The concerned officer of UPSC scrutinizes the proposal in the presence of the Departmental representative, keeping in view the DPC Guidelines/instructions and the checklist prescribed in this regard. Deficiencies, if any, are brought to the notice of the Departmental representative, who is then advised to bring the proposal after rectifying the deficiencies. In case the proposal is found to be complete, it is accepted. The proposal is thereafter, examined in detail with reference to the extant guidelines/ instructions of the DOP&T.

The Single Window System has helped in substantially reducing the time taken in disposal of the proposals in the Commission.

**Q 14 Is Single Window System applicable in case of proposals for deputation also?**

**Answer** - Yes. Proposals for appointment by deputation (ISTC), absorption and composite methods are also to be submitted by the Ministry / Department concerned under the Single Window System, to the Commission.

**Q 15 What are the documents which are required to be submitted along with a proposal for promotion / deputation to the Commission under Single Window System?**

**Answer** - The list of documents to be submitted along with a proposal for promotion / deputation to the Commission under Single Window System can be accessed at the UPSC website [www.upsc.gov.in](http://www.upsc.gov.in)

**Q 16 Who Chairs the DPCs convened in UPSC?**

**Answer** - The DPCs convened in the Commission are Chaired either by the Hon'ble Chairman or by an Hon'ble Member of UPSC.

**Q 17 Who Chairs the SCMs held in UPSC?**

**Answer** - The SCMs held in the Commission are Chaired either by the Hon'ble Chairman or by an Hon'ble Member of UPSC.

**Q 18 What is the quorum for the DPCs?**

**Answer** - According to para 15 of the DPC guidelines provided in OM dated 10.4.1989, the proceedings of the DPC shall be legally valid and can be acted upon notwithstanding the absence of any of the members other than the Chairman provided that the member was duly invited but he/she absented himself/herself for one reason or the other and there was no deliberate attempt to exclude him/her from the deliberations of the DPC and provided further that the majority of the members constituting the DPC are present in the meeting.

**Q 19 What is the Zone of Consideration for promotion?**

**Answer** - According to the instructions for determining the zone of consideration issued by DOP&T vide O.M. dated 06.01.2006, the zone of consideration for one vacancy is five (05) officers, for vacancies from two (02) to ten (10), the zone of consideration is twice the number of vacancies + four (04) and for vacancies exceeding 10, the zone of consideration is one and a half times the number of vacancies rounded off to the next higher integer +

three (03) but not be less than the size of the zone of consideration for 10 vacancies. In other words, the normal zone of consideration for ten (10) to fourteen (14) vacancies is twenty four (24) and for vacancies exceeding fourteen (14) the zone is one and a half times the number of vacancies rounded off to next higher integer + three (03). The extended zone of consideration for SC/ST officers is five (05) times the total number of vacancies.

**Q 20 Can eligible officers, who are on deputation, be considered for promotion?**

**Answer** - Provisions regarding consideration of officers on deputation are contained in Paras 4.3.1 and 4.3.2 of the DOP&T O.M. dated 10.4.1989, which are as under:

- (i) The names of the officers who are on deputation, either on their own volition or in public interest (including foreign service), should also be included in the list submitted to the DPC for consideration for promotion, in case they come within the field of choice for promotion and fulfill the prescribed eligibility conditions.
- (ii) Very often a certain number of years of service in the lower grade is prescribed as a condition for becoming eligible for consideration for promotion to a higher post/grade. In such cases, the period of service rendered by an officer on deputation/foreign service, should be treated as comparable service in his parent department for purpose of promotion. This is subject to the condition that the deputation/foreign service is with the approval of the competent authority and it is certified by the competent authority that but for the deputation/foreign service, the officer would have continued to hold the relevant post in his parent department. Such a certificate would not be necessary if he was holding the departmental post in a substantive capacity.

**Q 21 Can eligible officers who are on study leave or on special leave for training abroad be considered for promotion?**

**Answer** - Para 4.4 of the DOP&T O.M. dated 10.4.1989 provides that an officer proceeding on study leave should be treated on the same basis as an officer proceeding on deputation if the study leave was duly sanctioned by the competent authority and the competent authority certified that the officer would have continued to officiate but for her/his proceeding on study leave. Such a certificate would not be necessary if the officer was holding the said departmental post in a substantive capacity. These instructions would also apply in the cases of government servants who are granted special leave for training abroad under the various training schemes.

## **Q 22 Can retired officers be considered for promotion?**

**Answer** - The DOP&T, in consultation with the Department of Legal Affairs, has clarified in OM No.22011/14/98-Estt.(D) dated 12.10.1998 that it would not be in order if eligible employees, who were within the zone of consideration for the relevant year(s) but are not actually in service when the DPC is being held, are not considered while preparing year wise zone of consideration/panel and, consequently, their juniors are considered (in their places) who would not have been in the zone of consideration if the DPC(s) had been held in time. Consideration of such officers is, therefore, considered imperative to identify the correct zone of consideration for relevant year(s). Names of the retired officers may also be included in the panel(s). Such retired officials would, however, have no right for actual promotion. The DPC(s) may, if need be, prepare extended panel(s) following the principles prescribed in the DOP&T O.M. NCt.22011/18/87-Estt.(D) dated 09.04.1996. The DoP&T have brought out further instructions/guidelines vide O.M No. No.2201 I/3/2013-Estt (D) dated 25.01.2016 and 15.11.2018 in regard to grant of notional promotion in eligible cases of retired officers.

## **Q 23 Under what circumstances is an Extended Panel provided by the DPC?**

**Answer** - Provision of an extended panel is governed by the provisions of DOP&T O.M. No. 22011/18/87-Estt.(D) dated 09.04.1996 wherein it has been stipulated that the DPC will prepare an extended panel in the following circumstances:

- (a) When persons included in the panel are already on deputation or whose orders of deputation have been issued and will be proceeding on deputation shortly for a period of more than a year; or
- (b) When persons included in the panel have refused promotion on earlier occasions and are under debarment for promotions; or
- (c) When officers included in the panel have retired/are retiring within the same year provided there is no change in the zone of consideration by the expected date of their retirement.

## **Q 24 What is the crucial date for determining eligibility of officers for promotion?**

**Answer** - The crucial date for determining eligibility of officers for promotion, as prescribed by the DOP&T O. M No.22011/9/98-Estt.(D) dated 08.09.1998, was 1<sup>st</sup> January of the vacancy year, irrespective of whether the vacancy year commenced from 1<sup>st</sup> January or 1<sup>st</sup> April or from any other date, unless otherwise provided for in the statutory Recruitment Rules.

In terms of DOP&T O.M No.22011/6/2013-Estt(D) dated 28.05.2014 from vacancy year 2015-16 onwards the crucial date of eligibility shall be 1<sup>st</sup> April of the vacancy year, in case of financial-year based vacancy year i.e. where the Annual Performance Appraisal Reports (APARs) are written financial year-wise. In case of calendar year based vacancy year, i.e. where APARs are written calendar year-wise, the crucial date of eligibility shall remain as 1<sup>st</sup> January of the vacancy year. These instructions have come into force in respect of vacancy year 2015-16 (financial year) commencing from April 1, 2015 and vacancy year 2015 (calendar year) commencing from January 1, 2015 and shall, accordingly, be applicable to all such subsequent vacancy years.

The DOP&T vide their OM No.22011/4/2013—Estt(D) dated 8th May, 2017, in partial modification to the previously existing instructions on the subject, have issued detailed guidelines to the Ministries/Department which, *inter alia*, contain a Model Calendar envisaging time schedule to be followed by the Ministries/Departments in sending the cases to UPSC for convening DPC. The revised guidelines, among others, envisage the following:

- (i) The vacancy year may be shifted to Calendar Year from the year 2018 onwards, wherever the financial year based vacancy year being followed now.
- (ii) The crucial date of eligibility will be 1st of January of the Vacancy year w.e.f 2019.
- (iii) The APARs for five years preceding T-2nd year may be taken as reckoning APARs, i.e. for the vacancy year 2019 (January 2019 to December, 2019), the reckoning APARs shall be 2016-17, 2015-16, 2014-15, 2013-14 and 2012-13.
- (iv) The year of 2018 being the transitional year, the vacancy period shall be from 1st April 2018 to 31st December, 2018. The reckoning APARs for this vacancy year shall be 2015-16, 2014-15, 2013-14, 2012-13 and 2011-12. The crucial date of eligibility shall be 1st April, 2018 for the transitional year.

**Q 25 What is “sealed cover” procedure and when is it adopted?**

**Answer** - The DOP&T O.M. No. 22011/4/91-Estt.(A) dated 14.09.1992 provides that at the time of consideration of the cases of Government servants for promotion, details of Government servants in the consideration zone falling under any of the following categories should be specifically brought to the notice of the DPC:

- (a) Govt. servants under suspension;
- (b) Govt. servants in respect of whom a charge sheet has been issued and the disciplinary proceedings are pending; and
- (c) Govt. servants in respect of whom prosecution for a criminal charge is pending.

The DPC shall assess the suitability of the Government servants coming within the purview of the circumstances mentioned above along with other eligible candidates without taking into consideration the disciplinary case/ criminal prosecution pending. The assessment of the DPC, including ‘Unfit for promotion’ and the grading awarded by it will be kept in Sealed Cover.

The same procedure as outlined above will be followed by the subsequent DPCs convened till the disciplinary proceedings/ criminal prosecution against the Government servant concerned is concluded.

**Q 26 Can “sealed cover” be opened subsequently?**

**Answer** - If any penalty is imposed on the Government servant as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the sealed cover(s) shall not be acted upon. His case for promotion shall be considered by the next DPC in the normal course and having regard to the penalty imposed on him.



However, on the conclusion of the disciplinary proceedings/criminal prosecution which results in dropping of charges against the Government servant, the sealed cover or covers are to be opened.

**Q 27 Is “sealed cover” procedure adopted if an officer’s case gets covered under any of the three circumstances mentioned at para 2 of the OM dated 14.09.1992 after the DPC meeting is held?**

**Answer** - According to DOP&T O.M. No. 22012/1/99-Estt. (D) dated 25.10.2004, if the conditions indicated in para-2 of DoPT OM dated 14.9.1992 arise only after the DPC has made its recommendations and therefore, the recommendations could not be placed in the sealed cover, para-7 of the said OM provides that the recommendations of the DPC shall be deemed to have been placed in the sealed cover and the officer shall not be promoted until she/he is exonerated of the charges. To ensure this, the OM dated 25.10.2004 provides that after the recommendations of DPC have been approved by the competent authority, it is necessary to again seek the status/position from the concerned vigilance division before issuing promotion order in respect of any officer included in the approved panel of names, to ensure that there is no hindrance in issuing the promotion order in respect of the concerned officer.

**Q 28 Has the concept of independence of DPCs been judicially upheld by any court of law?**

**Answer** - The Supreme Court of India has, in a number of judgements, held that the decision of the duly constituted DPC cannot be interfered with and a review of assessment in respect of an officer made by it cannot be directed except on the limited ground of malafide or procedural irregularity. Some of such cases are as follows:-

- (a) RS. Dass Vs Uol & Ors. [1986 (Supp.) SCC 617];
- (b) UPSC Vs H.L Dev and Ors. [AIR 1988 SC 1069];
- (c) Dalpat Abasahab Solanke Vs B.S. Mahajan [AIR 1990 SC 434];
- (d) Nutan Arvind Vs Uol & Anr. [(1996) 2 SUPREME COURT CASES 488];
- (e) Anil Katiyar Vs Uol and Ors. [1997(1) SLR 153];
- (f) Durga Devi & Anr. Vs State of Himachal Pradesh & Ors. [(1997) 4 SCC 575]
- (g) UPSC Vs L.P. Tiwari & Ors. [2006 (12) SCALE 278];
- (h) Union of India and Anr. Vs. S.K. Goel and Ors. In Appeal (Civil) No.689 of 2007.

**Q 29 What are the important provisions regarding independence of the DPC in assessing the suitability of officers for promotion?**

**Answer** - The following provisions in DOP&T OM dated 10.4.1989 are relevant in the context of independence of the DPCs in making the assessment of suitability of officers for promotions:

- a) Para 6.1.2. provides that the DPCs enjoy full discretion to devise their own methods and procedures for objective assessment of the suitability of candidates who are to be considered by them.
- b) Para 6.1.3 stipulates that while merit has to be recognized and rewarded, advancement in an officer's career should not be regarded as a matter of course, but should be earned by dint of hard work, good conduct and result oriented performance as reflected in the ACRs and based on strict and rigorous selection process.
- c) Para 6.2..1(e) provides that the DPC should not be guided merely by the overall grading, if any, that may be recorded in the CRs but should make its own assessment on the basis of entries in the CRs, because it has been noticed that sometimes the overall grading in a CR may be inconsistent with the grading under various parameters or attributes.

**Q 30 What are the important guidelines for assessment of ACRs/APARs by the DPC?**

**Answer** - The following provisions in DOP&T OM dated 10.4.1989 are relevant in the context of assessment of ACRs/APARs by the DPC in making the assessment of suitability of officers for promotions:

- a) Para 6.2.1.(a) provides that the DPC should consider CRs for equal number of years in respect of all officers considered for promotion (subject to the provisions contained in para 6.2.1 (c) of the OM).
- b) Para 6.2.1 (c) provides that where one or more CRs have not been written for any reasons during the relevant period, the DPC should consider the CRs of the years preceding the period in question and if in any case even these are not available, the DPC should take the CRs of the lower grade into account to complete the number of CRs required to be considered as per para 6.2.1(b) of the guidelines. If this is also not possible, all the available CRs should be taken into account.
- c) Para 6.2.1(f) provides that if the Reviewing authority or the Accepting authority, as the case may be, has overruled the Reporting Officer or the Reviewing authority, as the case may be, the remarks of the latter authority should be taken as the final remarks for the purposes of assessment provided it is apparent from the relevant entries that the higher authority has come to a different assessment conclusively after due application of mind. If the remarks of the Reporting Officer, Reviewing authority and

Accepting authority are complementary to each other and one does not have the effect of overruling the other, then the remarks should be read together and the final assessment made by the DPC.

**Q 31 How many and which ACRs are to be considered by the DPC for assessment for promotion in respect of a particular vacancy year?**

**Answer** - According to DOP&T OM No.22011/7/98-Estt.(D) dated 6<sup>th</sup> October, 2000 the DPC should assess the suitability of the employees for promotion on the basis of their service records and with particular reference to the CRs for five preceding years irrespective of the qualifying service prescribed in the Service/Recruitment Rules. The preceding five years for the aforesaid purpose shall be decided as per the guidelines contained in the DOP&T OM No.22011/9/98-Estt. (D) dated September 8, 1998, which prescribe the Model Calendar for DPC, read with OM of even number dated June 16, 2000. (If more than one CR have been written for a particular year, all the CRs for the relevant years shall be considered together as the CR for one year.)

DOP&T O.M. dated September 8, 1998 read with O.M. dated June 16, 2000 provides that only such ACRs should be considered by the DPCs which became available during the year immediately preceding the vacancy/panel year even if DPCs are held later than the schedule prescribed in the Model Calendar. For example, for the vacancy/panel year 2000-01, ACRs upto the year 1998-99 are required to be considered irrespective of the date of convening of DPC.

The DOP&T vide their OM No.22011/4/2013-Estt(D) dated 8th May, 2017, in partial modification to the previously existing instructions on the subject, have issued detailed guidelines to the Ministries/Department which, *inter alia*, contain a Model Calendar envisaging time schedule to be followed by the Ministries/Departments in sending the cases to UPSC for convening DPC. The revised guidelines envisage the following:

- (i) The vacancy year may be shifted to Calendar Year from the year 2018 onwards, wherever the financial year based vacancy year being followed now.
- (ii) The crucial date of eligibility will be 1<sup>st</sup> of January of the Vacancy year w.e.f 2019.
- (iii) The APARs for five years preceding T-2<sup>nd</sup> year may be taken as reckoning APARs, i.e. for the vacancy year 2019 (January 2019 to December, 2019), the reckoning APARs shall be 2016-17, 2015-16, 2014-15, 2013-14 and 2012-13.
- (iv) The year of 2018 being the transitional year, the vacancy period shall be from 1<sup>st</sup> April 2018 to 31<sup>st</sup> December, 2018. The reckoning APARs for this vacancy year shall be 2015-16, 2014-15, 2013-14, 2012-13 and 2011-12. The crucial date of eligibility shall be 1<sup>st</sup> April, 2018 for the transitional year.

**Q 32 What are the certificates to be attached to a DPC proposal regarding communication of ACRs/APARs?**

**Answer** - The DOP&T vide O.M. No. 21011/1/2005-Estt.(A) (Pt.II) dated 14.05.2009 in pursuance of Supreme Court judgement dated 12.5.2008 in the case of Dev Dutt Vs Union of India (Civil Appeal No. 7631 of 2002) have decided that the nomenclature of the Annual Confidential Report will be modified as Annual Performance Assessment Report (APAR) and the APAR for the year 2008 -09 onwards shall be communicated to the concerned officer after the Report is complete with the remarks of the Reporting Officer, Reviewing Officer and the Accepting Authority wherever such system is in vogue. The Ministries/Departments while sending proposals for DPCs are also required to furnish a certificate to the effect that in accordance with the above O.M, the APARs from 2008-09 onwards have been communicated to the officers in the Eligible list and, representations, if any, have been disposed of with speaking orders. Copies of such representations and speaking orders shall also be sent along with the DPC proposals.

As regards the ACRs prior to the period 2008-09, detailed instructions have been issued by the DoP&T vide O.M. No. 21011/1/2010-Estt.A dated 13.04.2010. According to these instructions, if an employee is to be considered for promotion in a future DPC and his ACRs prior to the period 2008-09, which would be reckonable for assessment of his fitness in such future DPCs contain final grading which are below the benchmark for his next promotion, before such ACRs are placed before the DPC, the concerned employee will be given a copy of the relevant ACR for his representation, if any, within 15 days of such communication. The Ministries/Departments while sending proposals for DPCs are required to furnish a certificate to the effect that in accordance with the above O.M below Bench Mark ACRs pertaining to the period prior to 2008-09 [in case such ACRs would be coming up for assessment in the case of Officer(s) included in the Eligibility list] have been communicated to the officers included in the Eligibility list and, representations, if any, have been disposed of with speaking orders.

**Q 33 From which date does promotion take effect?**

**Answer** - Para 17.11 of the DOP&T O.M. dated 10<sup>th</sup> April, 1989 provides that in cases where the recommendations for promotion are made by the DPC presided over by a Member of the UPSC and such recommendations do not require to be approved by the Commission, the date of Commission's letter forwarding fair copies of the minutes duly signed by the Chairman of the DPC or the date of actual promotion of the officers, whichever is later, should be reckoned as the date of regular promotion of the officer. In cases where the Commission's approval is also required, the date of UPSC's letter communicating its approval or the date of actual promotion of the officer whichever is later will be the relevant date. In all other cases, the date on which promotion will be effective will be the date on which the officer was actually promoted or the date of the meeting of the DPC whichever is later.

Appointments to posts falling within the purview of the Appointments Committee of the Cabinet (ACC) can, however, be treated as regular only from the date of approval of ACC or actual promotion whichever is later except in particular cases where the ACC approves appointment from some other date.

**Q 34 Are the promotions made with prospective effect only?**

**Answer** - Para 6.4.4 of the DOP & T O. M. dated 10<sup>th</sup> April, 1989 provides that while promotions will be made in the order of the consolidated select list, such promotions will have only prospective effect even in cases where the vacancies relate to earlier year(s).

**Q 35 What is a Review DPC?**

**Answer** - Review DPC is a DPC convened to review the recommendations of a Regular DPC held earlier in respect of any particular vacancy year.

**Q 36 What are the circumstances warranting convening of a Review DPC?**

**Answer** - The circumstances under which Review DPC can be held, are as under:

- (a) Non-reporting of vacancies due to error or omission (i.e. though the vacancies were available or could be anticipated at the time of holding of DPC, but these were not reported to the DPC); or
- (b) Where eligible persons were omitted to be considered; or
- (c) where ineligible persons were considered by mistake; or
- (d) Where the seniority of a person was revised with retrospective effect resulting in a variance of seniority list placed before the DPC; or
- (e) Where some procedural irregularities were committed by the DPC; or
- (f) Where adverse remarks in the CRs were toned down or expunged after the DPC had considered the case of the officer. (These circumstances are only illustrative and not exhaustive.)

**Q 37 What is a Supplementary DPC ?**

**Answer** - A Supplementary DPC is a DPC held again in respect of a vacancy year when unforeseen additional vacancies for the same year occur after holding of the first DPC. The instructions issued by DOP&T vide OM No. 22011/5/86-Estt (D) dated 10.4.89 [para 6.4.2 (i)] provide that vacancies occurring due to death, voluntary retirement, new creations etc. which cannot be foreseen at the time of placing facts and material before the DPC, would warrant another meeting of DPC. Supplementary DPC should be held for drawing up a panel for these vacancies.

**Q 38 What are the instructions governing Supplementary DPC ?**

**Answer** - Supplementary DPC is governed by the same set of instructions which govern the original DPC. Instructions issued by DOP&T vide OM No.

22011/2/2014- Estt.D dated 30.01.2015 illustrates certain significant aspects of Supplementary DPC as under:

(i) The zone of consideration, in case of holding supplementary DPC, shall be fixed as per the provisions DOP&T OM No. 22011/2/2002-Estt(D) dated 6.1.2006 keeping in view total number of vacancies arising in a particular vacancy year i.e. vacancies accounted in Original DPC + additional vacancies becoming available subsequently during the same year.

(ii) The eligibility list for supplementary DPC shall be prepared by removing the names of all such officers who have already been assessed by earlier DPC as fit, unfit or placed in the sealed cover by the original DPC before placing the same for consideration by the supplementary DPC.

(iii) The officers who have already been empanelled or placed in the extended panel but could not be promoted due to these vacancies not actually becoming available; need not be re-assessed by the supplementary DPC as the assessment matrix remains the same. They may be appointed against the additional vacancies of the same vacancy year as per recommendations of the earlier DPC. In such situation the number of vacancies for supplementary DPC shall be accordingly adjusted.

**Q 39 What are the extant instructions on supersession in promotions?**

**Answer** - The DOP&T vide O.M. No.35034/7/97-Estt.(D) dated 8.2.2002 has dispensed with supersession in promotions at all levels. As per these instructions the mode of promotion is 'Selection' and the element of selectivity is to be determined with reference to the relevant Benchmark (Very Good or Good) prescribed for promotion.

**Q 40 How is the panel for a vacancy year is recommended by DPCs?**

**Answer** - The DOP&T vide O.M. No.35034/7/97-Estt.(D) dated 8.2.2002 stipulates that the DPCs shall determine the merit of those being assessed for promotion with reference to the prescribed Benchmark and accordingly grade the officers as 'Fit' or 'Unfit'. Only those graded 'Fit' (i.e. who meet the prescribed Benchmark) by the DPC shall be included and arranged in the select panel in order of their inter se seniority in the feeder grade. Those officers who are graded 'Unfit' (in terms of the prescribed Benchmark) by the DPC shall not be included in the select panel. Thus, there shall be no supersession in promotion among those who are graded 'Fit' (in terms of the prescribed Benchmark) by the DPC.

**Q 41 What is Model Calendar for DPCs?**

**Answer** - The DOP&T vide their OM No.22011/9/98-Estt.D dated 8.9.1998 read with OM of even number dated 13.10.1998 have issued detailed

guidelines to the Ministries/Department which, *inter alia*, contain a Model Calendar envisaging time schedule to be followed by the Ministries/Departments in sending the cases to UPSC for convening DPC. This Model Calendar provides separate time schedule for cases requiring approval of ACC and cases which do not require such approval. The underlying idea in framing this time schedule is that the DPCs are not only convened in time but sufficiently in advance so as to utilise the prepared panel as and when the vacancies arise during the course of vacancy year. The Model Calendar not only provides specific time frame for the Ministries/Departments for processing the proposal after compiling relevant information/documents and, thereafter, sending the case to UPSC but also provides specific time lines for holding of DPC and seeking approval of ACC etc.

The DOP&T vide their OM No.22011/4/2013—Estt(D) dated 8th May, 2017, in partial modification to the previously existing instructions on the subject, have issued detailed guidelines to the Ministries/Department which, *inter alia*, contain a Model Calendar envisaging time schedule to be followed by the Ministries/Departments in sending the cases to UPSC for convening DPC. The revised guidelines, among others, envisage the following:

- (i) The vacancy year may be shifted to Calendar Year from the year 2018 onwards, wherever the financial year based vacancy year being followed now.
- (ii) The crucial date of eligibility will be 1<sup>st</sup> of January of the Vacancy year w.e.f 2019.
- (iii) The APARs for five years preceding T-2<sup>nd</sup> year may be taken as reckoning APARs, i.e. for the vacancy year 2019 (January 2019 to December, 2019), the reckoning APARs shall be 2016-17, 2015-16, 2014-15, 2013-14 and 2012-13.
- (iv) The year of 2018 being the transitional year, the vacancy period shall be from 1<sup>st</sup> April 2018 to 31<sup>st</sup> December, 2018. The reckoning APARs for this vacancy year shall be 2015-16, 2014-15, 2013-14, 2012-13 and 2011-12. The crucial date of eligibility shall be 1<sup>st</sup> April, 2018 for the transitional year.

This Model Calendar provides separate time schedule for cases requiring approval of ACC and cases which do not require such approval. The underlying idea in framing this time schedule is that the DPCs are not only convened in time but sufficiently in advance so as to utilise the prepared panel as and when the vacancies arise during the course of vacancy year. The Model Calendar not only provides specific time frame for the Ministries/Departments for processing the proposal after compiling relevant information/documents and, thereafter, sending the case to UPSC but also provides specific time lines for holding of DPC and seeking approval of ACC etc.

The above instructions also require the Ministries/Departments to strictly adhere to the time schedules prescribed in the model calendar with a view that panels for promotion are ready on the first day of the vacancy year.

**Q 42 What is the process for implementation of the recommendations of the DPC ?**

**Answer** - The recommendations of DPC are advisory in nature and should be duly approved by the Appointing Authority. Where the posts fall within the purview of the Appointments Committee of the Cabinet, the approval of ACC should also be obtained.

**Q 43 What is the procedure for non-acceptance of the Commission's recommendations?**

**Answer** - The procedure to be followed in cases of non-acceptance of the Commission's recommendations are contained in O.M. No. 39023/02/2006-Estt.(B) dated 05.12.2006 which is also available at the below mentioned link:

[http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02est/39023\\_02\\_2006-Estt.B-05122006.pdf](http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02est/39023_02_2006-Estt.B-05122006.pdf)

According to the DOP&T O.M. No. 39023/02/2006 -Estt. (B) dated 5.12.2006 where the ACC has disagreed with the advice of UPSC or of the Departmental Promotion Committee /Selection Committee in which Chairman/Member of the UPSC is the Chairman of the Committee, the decision of the ACC should be intimated by the Ministry concerned to the UPSC by endorsing a copy of the order issued in pursuance of the ACC decision.

Where the appointing authority proposes to disagree with the advice of UPSC for any valid reasons, case(s) should be referred to the ACC, along with a self contained note, through EO's office in the DOP&T for decision. In respect of cases, where the final decision by the ACC involved disagreement with the advice of UPSC, reasons for non-acceptance of the Commission's advice will also be intimated by the Ministry/Department/concerned Division of DOP&T to the UPSC while communicating the decision of the ACC, unless it has been decided to withhold the reasons for disagreement in public interest.

After receipt of reference as above from the Department concerned, details of such cases are considered for inclusion in the next Annual Report of the Commission.

**Q 44 When is consultation with UPSC necessary?**

**Answer** - Para 3 of the DOP&T O.M. No.AB-14017/71/89-Estt.(RR) dated 03.10.1989 provides as under:-

When the field of deputation for Group A post consists of Central Government Group A officers only, prior consultation with the UPSC is not necessary for selection of an officer. When the field for consideration includes State Government officers also, prior consultation with the Commission is necessary before appointing a State Government officer. When the field for consideration is made more broad based and consists of not only Central/State Government officers but also officers from non-Government Institutions, the selection shall always be made in consultation with the UPSC.

The UPSC are to be consulted for appointment of a Central Government Group B officer on deputation to a Group A post.



When Composite Method of recruitment is prescribed for Group A or Group B post, i.e. the departmental candidate is to be considered along with the outsiders, the selection shall be made by the Commission only.

**Q 45 What is the difference between deputation (including short-term contract) and absorption?**

**Answer** - When an officer is appointed from outside the cadre or from outside the direct line of promotion for a limited period by the end of which he will have to revert to his parent cadre, he is known to be on deputation or on short-term contract. Short-term contract is also in the nature of deputation and this method is followed when services of suitable officers belonging to Non-government Organizations, e.g. Universities, Recognized Research Institutions, Public Sector Undertakings etc., are required for appointment to Teaching, Research, Scientific or Technical posts.

When an officer working outside the cadre or outside the direct line of promotion is regularly absorbed in the post/grade, the post is treated as having been filled by the method of absorption.

**Q 46 What is Composite Method?**

**Answer** - In cases where the field of promotion consists of only one post, the method of recruitment by deputation (including short-term contract)/promotion is prescribed so that the departmental officer holding the feeder post is considered along with outsiders who have applied for appointment on deputation basis. This method is known as the Composite Method. If the departmental candidate is selected for appointment to the post, the post is to be treated as having been filled by promotion; otherwise the post is filled by deputation/contract for the prescribed period of deputation/contract at the end of which the departmental officer is again afforded an opportunity to be considered for appointment to the post.

**Q 47 What is the crucial date for determining eligibility for Deputation?**

**Answer** - According to DOP&T O.M. dated 3.10.1989 (para-6), the crucial date for determination of eligibility will be as follows:-

(i) In the case of a vacancy already existing at the time of issue of the communication inviting nominations, the eligibility may be determined with reference to the last date prescribed for receipt of nominations in the Ministry/Department/Organization responsible for making appointment to the post, i.e. originating Ministry etc.

(ii) In the case of an anticipated vacancy, the crucial date for determining eligibility should be the date of occurrence of the vacancy.

**Q 48 What are the conditions to be fulfilled in cases of Extension of tenure of deputation?**

**Answer** - DOP&T OM No.6/8/2009- Estt.(Pay-II)dated 17<sup>th</sup> June, 2010, as amended from time to time including OM No.2/6/2018-Estt. (Pay-II) dated 18.05.2018, prescribe the following:-

- The period of deputation/ foreign service shall be as per the Recruitment Rules of the ex-cadre post or 5 years in case no tenure regulations exist for the ex-cadre post.
- In case where the period of deputation / foreign service prescribed in the recruitment rules of the ex-cadre post is 5 years or less than 5 years, the Administrative Ministry/ borrowing organisation may grant extension up to the 6<sup>th</sup> year after obtaining orders of their Secretary (in the Central Government)/ Chief Secretary ( in the State Government)/ equivalent officer ( in respect of other cases) and for the 7<sup>th</sup> year with the approval of the Minister of the borrowing Ministry/ Department and in respect of other organisations with the approval of the Minister of the borrowing Ministry/ Department with which they are administratively concerned, subject to the following conditions:
  - (i) The extension would be subject to the prior approval of the lending organization, the consent of the official concerned and, the approval of the UPSC/State Public Service Commission and Appointment Committee of Cabinet (ACC), wherever necessary.
  - (ii) If the borrowing organization wishes to retain an officer beyond the prescribed tenure, it shall initiate action for seeking concurrence of lending organization, individual concerned etc. six month before the date of expiry of tenure. In no case it should retain an official beyond the sanctioned term unless prior approval of the competent authority to grant further extension has been obtained.
  - (iii) No extension of deputation beyond 7 years is to be allowed unless provided in the relevant Recruitment Rules of such deputation post.
  - (iv) In case where the necessity to have deputation tenures longer than seven years is felt, the concerned administrative Ministries/ Departments/ Borrowing organizations may amend the relevant Recruitment Rules of such deputation post accordingly, after following the requisite procedure.
  - (v) No case for extension shall be referred to DoPT.
  - (vi) For computing the total period of deputation, the period of deputation including the period of deputation in another ex-cadre post held immediately preceding the current appointment in the same or some other organization/department of the Central Government shall also be taken into account.
  - (vii) If during the period of deputation, the basic pay of an employee exceeds the maximum of the scale of pay of the post or the fixed pay of the post on account of proforma promotion in his cadre under the Next Below Rule or otherwise, the deputation of the employee should be restricted to a maximum period of 6 month from the date on which his pay thus exceeds such maximum and he should be reverted to his parent department within the said period.

**Q 49 Is there a prescribed proforma of Bio-data/ Curriculum Vitae to be filled in by the candidates applying for Deputation?**

**Answer** - The DOP&T vide its O.M. No. AB.14017/28/2014-Estt.(RR) dated 02.07.2015, has prescribed the revised proforma in which the candidates are required to fill their Bio-data/ Curriculum Vitae for applying for Deputation posts. This proforma, which has been revised on the basis of the suggestions of the UPSC, is available at the following link:

[http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02est/14017\\_28\\_2014-Estt.RR-02072015.pdf](http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02est/14017_28_2014-Estt.RR-02072015.pdf)

**Q 50 What are the points required to be noted by the Ministries/ Departments at the time of inviting applications and preparation of the Deputation proposals before sending the same for the consideration of the Commission?**

**Answer** - DOP&T vide its O.M. No. AB.14017/28/2014-Estt.(RR) dated 02.07.2015, has enumerated the following points to be noted by the Borrowing / Parent Department/ Office for compliance by the Ministries/ Departments:

(i) Vigilance Clearance will not normally be granted for a period of 3 years after the currency of punishment, if a minor penalty has been imposed on an officer. In case of imposition of a major penalty, Vigilance Clearance will not normally be granted for a period of 5 years after the currency of punishment in terms of DOP&T O.M. No.11012/11/2007-Estt.(A) dated 14.12.2007.

(ii) While forwarding applications in respect of officers who are about to complete their 'cooling-off' period shortly the instructions of

DOP&T as contained in O.M. No.2/1/2012-Estt.(Pay.11) dated 04.01.2013 may be strictly adhered to.

(iii) A copy of the Application format may be provided by the Borrowing Department in their website in a downloadable form as Word Document along with the advertisement.

(iv) In the case of a vacancy already existing at the time of issue of communication inviting nominations/ publication in the Employment News, the eligibility may be determined with reference to the last date prescribed for receipt of nominations in the concerned administrative Ministry/Department. In the case of an anticipated vacancy, the crucial date for determining eligibility should be the date on which the vacancy is expected to arise.

(v) It shall be prominently mentioned in the vacancy circular/ advertisement that the applications/CV not accompanied by supporting certificates/ documents in support of Qualification and Experience claimed by the candidates would not be processed for determining the eligibility of the candidates for the selection.

(vi) Crucial date for determining the eligibility of the applicants will be counted after excluding the first date of publication of the vacancy/ post in the Employment News. i.e., For the vacancy published in the Employment News of 18-24 Jan. 2014, the crucial date will be counted from the 19<sup>th</sup> Jan. 2014 (excluding the first date of publication).

(vii) To facilitate determination of eligibility of the applicants working in Public Sector Undertakings/ Autonomous organizations not following the Central Government Scales, their equivalent scales of pay/posts may be confirmed by the borrowing Department. Where necessary, details in this regard may also be ascertained from the lending Department.

*(These are only some of the salient points which have been highlighted in the DoP&T circular.)*

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