

Protocol

No.A.12018/28/2013-P&AR (GSW)  
GOVERNMENT OF MIZORAM  
DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS  
(GENERAL SERVICE WING)

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OFFICE MEMORANDUM

Dated Aizawl, the 21<sup>st</sup> February, 2017

**Subject : Application of Recruitment Rules/Service Rules in force at the time of occurrence of vacancy for filling up of vacant posts.**

The undersigned is directed to refer to Department of Personnel & Training Office Memorandum No.22011/5/86-Estt(D) dated 10.04.1989 which provides that "a vacancy shall be filled in accordance with the recruitment rules in force on the date of vacancy, unless rules made subsequently have been given retrospective effect. Since amendments to recruitment rules normally have only prospective application, the existing vacancies should be filled as per the recruitment rules in force".

2. The matter has also come up for consideration before the Hon'ble Supreme Court quite a number of times and the Apex Court in the case of H.C.Kulwant Singh & Ors vs H.C.Daya Ram & Ors in Civil Appeal No.5859 of 2014 (Arising out of SLP(C) No.798 of 2008) observed as under:

*"It has been ruled by this Court that the vacancies had occurred prior to the amended rules would be governed by the old rules and not by the amended rules and the Court further reiterated that it did not have the slightest doubt that the posts which fell vacant prior to the amended rules would be governed by the old rules and not by the new rules.....The ratio of the said decision is that the vacancies that had arisen after the amendment would be governed by the amended Rule and the vacancies that had arisen prior to the amendment would be governed by the unamended rule."*

3. Similarly, the Hon'ble Gauhati High Court has declared in its recent judgment dated 12.08.2016 in IA(C) No.57 of 2016 in WP(C) No.48 of 2014 (D) Rev.Petition No.2 of 2014 (D) in the case of Rimawikima & 18 Ors vs State of Mizoram & 14 Ors for application of the aforesaid principle of old rules for old vacancies as follows:

*"...this Court is of the considered opinion that no specific clarification is required in the present case in as much as the law is already settled that any vacancy that arises will be considered in terms of the relevant recruitment rules which were in force at that relevant point of time i.e. occurrence of vacancies."*

4. In the light of these judicial pronouncements read with the Government of India, Department of Personnel & Training instructions, it is hereby informed that any vacancy should be filled in accordance with the Recruitment Rules/Service Rules in force on the date of occurrence of vacancy of a duly sanctioned post which may either be permanent or temporary post.

5. It is reiterated that for recruitment, either by way of direct recruitment, promotion, limited departmental examination or any other methods, for filling up of vacancies which had arisen in the past, the then existing old rules would apply and not the subsequent new recruitment rules, and the new rules would apply only for filling up of new vacancies which might arise after the new or amended rules came into force unless the rules made subsequently have been given retrospective effect.

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6. It is further clarified that regularisation of Contract, Muster Roll, Work-charged or any other ad hoc employees should be considered in accordance with the relevant Recruitment Rules/Service Rules in force on the date of occurrence of vacancy of a duly sanctioned post against which he/she is to be regularised.

7. All Administrative Heads/Heads of Departments are, therefore, requested to ensure strict compliance of the above instructions.

**Sd/- V.LALREMTHANGA**

Secretary to the Govt. of Mizoram  
Department of Personnel & Administrative Reforms

**Memo No.A.12018/28/2013-P&AR (GSW) : Dated Aizawl, the 21<sup>st</sup> February, 2017**

Copy to :-

- 1) Secretary to the Governor
- 2) Principal Secretary to Chief Minister
- 3) P.S to Speaker/Ministers/Vice-Chairman, State Planning Board/Deputy Speaker/Ministers of State
- 4) P.S to all Parliamentary Secretaries
- 5) Sr. P.P.S. to Chief Secretary
- 6) All Administrative Heads of Department
- 7) Secretary, MPSC/MIC/SEC/AMC
- 8) All Heads of Department
- 9) All Deputy Commissioners
- 10) Website Manager, DP&AR for uploading in the website
- 11) Guard File.

*Lalrohlua*  
21/2/17

**(LALROHLUA)**

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(General Service Wing)  
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