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Action against Government Servants to be taken if they are later found ineligible or unqualified for their initial recruitment.

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GOVERNMENT OF MAHARASHTRA
General Administration Department,
Resolution No.CDR-1093/1077/CR-23/93/XI,
Mantralaya, Bombay-400 032, Dated, the 12th October, 1993.

R E S O L U T I O N

The question of taking action against the Government Servants in respect of misconduct committed before their employment has been under consideration of Government for some time past. Normally the Department/Office is required to make use of the provision of 'Warning' inserted in the Attestation Form for taking action against the Government Servant furnishing false information at the time of appointment.

2. A question has now arisen as to whether a Government servant can be discharged from service where it is discovered later that the Government servant was not qualified or eligible for his initial recruitment in service. The Supreme Court in its judgement in the District Collector, Vizianagaram Vs M. Tripura Sundari Devi (1990 (4) SLR 237) went into this issue and observed as under :-

" It must further be realised by all concerned that when an advertisement mentions a particular qualification and an appointment is made in disregard of the same, it is not a matter only between the appointing authority and the appointee concerned. The aggrieved are all those who had similar or better qualifications than the appointee or appointees but who had not applied for the post because they did not possess the qualifications mentioned in the advertisement. It amounts to a fraud on public to appoint a person with inferior qualifications in such circumstances unless it is clearly stated that the qualifications are relaxable. No Court should be a party to the perpetuation of the fraudulent practice ".

It has now been decided that wherever it is found that a Government servant, who was not qualified or eligible in terms of the recruitment rules etc. for initial recruitment in service or had furnished false information or produced a false certificate in order to secure appointment, he should not be retained in service. If he is a probationer or a temporary Government servant, he should be discharged or his services should be terminated. If he has become a permanent Government servant, an inquiry as prescribed in Rule 8 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 may be held and if the charges are proved, the Government servant should be removed or dismissed from service. In no circumstances should any other penalty be imposed.

3. Such discharge, termination, removal or dismissal from service would, however, be without prejudice to the right of the Government to prosecute such Government servants.

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

A. G. MANDPE,
Deputy Secretary to the Government of Maharashtra,
General Administration Department.

To

- The Secretary to the Governor,
- The Secretary to the Chief Minister,
- All Departments of the Mantralaya,
- * Registrar, High Court (Original Side), Bombay,
- * Registrar, High Court (Appellate Side), Bombay,
- * Registrar, Office of the Lok Ayukta and Upa Lokayukta, Bombay,
- * Secretary, Maharashtra Legislative Assembly Secretariat, Bombay,
- * Secretary, Maharashtra Legislative Council Secretariat, Bombay,
- * Secretary, Maharashtra Public Service Commission, Bombay,
- All Heads of Departments and Heads of Offices under the
- Several Departments of the Mantralaya.

* By letter.