

GOVERNMENT OF PAKISTAN
Cabinet Secretariat
ESTABLISHMENT DIVISION

No.F.1/11/2012-Lit-IV.

Islamabad - the 3rd January, 2013.

OFFICE MEMORANDUM

Wuf
SUBJECT: ORDER PASSED BY SUPREME COURT OF PAKISTAN IN CONST. PETITION NO.23/2012 FILED BY MS.ANITA TURAB AND OTHERS VS. FEDERATION OF PAKISTAN dated 18.10.2012

M(A)
The undersigned is directed to refer to the subject cited above and to say that the Supreme Court of Pakistan has enunciated certain guiding principles for depoliticizing the public service vide its judgment dated 12-11-2012 passed in the subject case. The operative parts of the judgment given vide para-22 are reproduced as under:-

- C(M)*
C(A) ✓
- Ag*
- Pl articulation*
Pl int p dtu.
7/10/11
- SS (Coord)*
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- i) Appointments, Removals and Promotions: Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder, where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.
 - ii) Tenure, posting and transfer: When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.
 - iii) Illegal orders: Civil servants owe their first and foremost allegiance to the law and the Constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule-based norms; instead, in such situations, they must record their opinion and, if necessary, dissent.
 - iv) OSD: Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing and are judicially reviewable. If at all an officer is to be posted as OSD, such posting should be for the minimum period possible and if there is a disciplinary inquiry going on against him, such inquiry must be completed at the earliest.

"14 Inviolability of dignity of man, etc. (1) the dignity of man and, subject to law, the privacy of home, shall be inviolable.

(2) No person shall be subjected to torture for the purpose of extracting evidence"

"18. Freedom of trade, business or profession:
every citizen shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business"

Rules of Business 1973 :

"Section 5(6) No officer other than a Secretary, Additional Secretary or Joint Secretary shall take the initiative in approaching a Minister in connection with the official business. If an Additional Secretary or Joint Secretary holds an oral discussion with his Minister, he shall communicate the points made during discussion to the Secretary at the first possible opportunity."

"Section 5(10) When the Secretary submits a case to the Minister, the latter may accept the proposals or views of the Secretary or may over-rule him. The Secretary will normally defer to the decision of the Minister and implement it. In case, however, the Secretary feels that the decision of the Minister is manifestly wrong and will cause gross injustice or undue hardship, he may state his reasons and re-submit the case to the Minister. If the Minister still adheres to his earlier decision and the matter is important enough, the Secretary shall request the Minister to refer the case to the Prime Minister and the Minister shall so refer the case for orders of the Prime Minister. If the case is not referred to the Prime Minister, the Secretary shall submit it directly to the Prime Minister with observations of the Minister-in-Charge."

"Section 5(11-A) Verbal orders given by a functionary of the Government should as a matter of routine be reduced to writing and submitted to the issuing authority. If time permits, the confirmation shall invariably be taken before initiating action. However, in an exigency where action is required to be taken immediately or it is not possible to obtain written confirmation of the orders before initiating action, the functionary to whom the verbal orders are given shall take the action required and at the first available opportunity obtain the requisite confirmation while submitting to the issuing authority a report of the action taken by him."

Pakistan Penal Code:

"Section 186 which criminalizes and punishes the act of obstructing public servant in discharge of public functions."

"Section 187 which deals with omission to assist public servant when bound by law to give assistance."

"Section 188 which deals with disobedience to order duly promulgated by public servant Section 189 which punishes the threat of injury to public servant."

2.	<p>21. Radio broadcasts or television programmes and communications to the press.- No Government servant shall, except with the previous sanction of the Government or any other authority empowered by it in this behalf, or in the bonafide discharge of his duties, participate in a radio broadcast or television programme or contribute any article or write any letter, either nonymously or in his own name or in the name of any other person to any newspaper or periodical: Provided that such sanction shall generally be granted if such broadcast or television programme or such contribution or letter is not, or may not be considered likely to jeopardize the integrity of the Government servant, the security of Pakistan or friendly relations with foreign States, or to offend public order, decency or morality, or to amount to contempt of court, defamation or incitement to an offence: Provided further that no such sanction shall be required if such broadcast or television programme or such contribution or letter is of a purely literary, artistic or scientific character.</p>	<p>working in your Ministries/Divisions and Attached or Subordinate Offices and Autonomous Institutions may be drawn to the Government Servants (Conduct) Rules, 1964, with direction to refrain from making such requests in future.</p>
3.	<p>22. Publication of information and public speeches capable of embarrassing the government.- No</p>	<p><i>Sl. No. 40 of Esta Code 2007</i> According to the existing instructions, only Ministers and Secretaries, and such officers as may be specifically authorized may act as official spokesman of the Government and all official news and information is required to be conveyed to the press and the public through the Press Information Department.</p> <p>2. The Principal Information Officer serves the Government of Pakistan as a whole, in addition to arranging issuance of publicity material emanating from Ministries/ Conferences/Press briefings for Ministers, Secretaries and official spokesman of the Government. As such it is desirable that Principal Information Officer be consulted on the medium to be employed for projection of Government policies, programmes and activities according to the situation and the subject matter.</p> <p>3. <i>Press Conferences.</i>- (i) These shall be called by Ministers or Secretaries/other officials who may be authorized by their respective Ministers. (ii) <i>Press Statements.</i>- On matters of policy which have already been approved by Government and which require publicity and proper projection press releases may be authorized by Secretary concerned and issued through the Press Information Department. On matters of public interest, other than policy, press notes of purely informative nature may be issued by the Heads of Attached Departments through the Press Information Department.</p> <p><i>Sl. No. 40 of Esta Code 2007</i> 4. There is a possibility of incorrect or unauthorized information being collected by journalists and press representatives in informal contacts with officials. Attention is drawn to</p>

any election to a legislative body, whether in Pakistan or elsewhere:

Provided that a Government servant who is qualified to vote at such election may exercise

his right to vote: but if he does so, he shall give no indication of the manner in which he propose to vote or has voted.

* (4) No Government servant shall allow any member of his family dependent on him to indulge in any political activity, including forming a political association and being its member, or to act in a

manner in which he himself is not permitted by sub-rule (3) to act.

(5) A government servant who issues an address to electors or in any other manner publicly announces himself or allows himself to be publicly announced as a candidate or prospective candidate for election to a legislative body shall be deemed for the purpose of sub rule

(3) to take part in an election to such body.

(6) The provisions of sub-rules (3) and (5) shall, so far as may be, apply

to elections to local authorities or bodies, save in respect of Government servants required or permitted by or under any law, or order of the Government, for the time being in force, to be candidates

at such elections.

or activity, if he has not taken every possible precaution, and done everything in his power to prevent such person so acting. In view of this, the conduct of Government servants who may consciously or

unconsciously support the student agitators and have sympathies with them would attract the provision of Rule 23 of the Government Servants' Conduct Rules.

2. It is, therefore, requested that the above rule may be brought to the notice of all Government servants and it may also be emphasized that a breach of this rule will make them liable to proceeded against under the Government Servants (Efficiency and Discipline) Rules

Sl. No. 52 (ibid)

Participation of Government servants in the functions of the political parties.- The question whether Government officers should or not accept an invitation and attend a function arranged by a political party in honour of Head of State, or a Cabinet Minister who may be member of that political party, has been considered in the Establishment Division, and it has been decided that in such cases, where a Government servant accepts an invitation to a function organized by a Political Party and attends it, it will appear to amount to his participation in the activity of that political Organisation and will be in contravention of the provisions of *Rule 23 of the Government Servants' Conduct Rules which prohibits government servants from taking part in, or subscribing in aid of, or assisting in any way in political movement in Pakistan, or relating to Pakistan affairs.

2. These restrictions would not, however, apply to those officers, who are responsible for the maintenance of law and order, and may be required to be on duty in such functions e.g., the Commissioner, the Deputy Commissioner, the D.D.O., the Senior Superintendent of Police etc.

2. This decision may kindly be brought to the notice of all government officers, and it

(c) The association shall not be in any way connected with any political party or organization, or engage in any political activity.

(d) The association shall not -

(i) issue or maintain any periodical publication except in accordance with any general or special order of the Government;

(ii) except with the previous sanction of the Government, published any representation on behalf of its members, whether in the press or otherwise.

(e) The association shall not, in respect of any election to a legislative body, or to a local authority or body, whether in Pakistan or elsewhere -

(i) pay or contribute towards, any expenses incurred in connection with his candidature by a candidate for such election;

(ii) by any means support the candidature of any person for such election; or

(iii) undertake or assist in the registration of electors, or the selection of a candidate for such election.

(f) The association shall not -

(i) maintain, or contribute towards the maintenance of, any member of a legislative body, or of any member of local authority or body, whether in Pakistan or elsewhere;

(ii) pay, or contribute towards,

the Ministries/Divisions/Departments themselves formally to the Establishment Division.

3. This d.o. letter may please be brought to the notice of all civil servants working in various Ministries/Divisions/ Departments etc.

Sl. No. 46 (ibid)

It has been observed there is an increasing trend among Government Servants to bring extraneous influences in service matters such as postings and transfers, promotions, etc. apart from that in terms of Rule 19 of the Government Servants (Conduct) Rules, 1964, read with sub-rule (4) of Rule 2 of the Government Servants (Efficiency and Discipline) Rule, 1973, such acts constitute 'misconduct', they have an adverse effect on the overall discipline and working efficiency of the concerned set ups.

2. In order to curb these practices, the Estt. Division has been circulating instructions reminding the Government servants of the provisions under the rules and emphasizing the need to refrain from bringing in extraneous influences in service matters, (Serial Nos. 45, 46 and 47), the then Adviser to the Prime Minister for Establishment's d.o.letter No. 57-27/86-E.II, dated 25th May, 1989; and the then Establishment Secretary's d.o. letter of even number dated 27th May, 1990. Despite clear position under the rules and issuing instructions and reminders on the subject, the instances of misconduct on the part of the defaulting Government servants continue to come to notice.

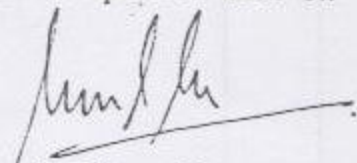
3. It has accordingly been decided that all the competent authorities would bring, immediately, to the notice of the Prime Minister's Secretariat cases of the defaulting civil/government servants whenever extraneous pressures are brought to bear upon the normal channels of discipline, for seeking orders to initiate disciplinary proceedings on case to case basis, through the Establishment Division.

4. This d.o. letter may please be brought to the notice of all civil/Government servants working under your administrative control

8. The Chief Secretaries of the Provinces/other regions are requested to take action on paras 7 to the extent of Federal Government officers serving under them.

9. The Compliance of these instructions by all concerned will be the responsibility of the administrative secretary/Chief Secretary concerned.

10. All Ministries/Divisions/Provincial Governments/Regions are further requested to report cases of non-compliance to this Division on quarterly basis duly signed by the Secretary/Additional Secretary Incharge of the Ministry/Division concerned and the respective Chief Secretary. First report in this respect for the period ending 31.01.2013 may however, be sent by 05.02.2013 positively. Thereafter, the report be sent on quarterly basis.


(Tassaduq Hussain)
Deputy Secretary(D)
Ph: 051-9207117

1. All Secretaries/Additional Secretaries in Charge of Federal Ministries/Divisions, Islamabad, Rawalpindi.
2. All Chief Secretaries (Baluchistan, Sindh, Punjab, KPK, GB and AJK)
3. Chief Commissioner, ICT