

No.36035/1/2012-Estt.(Res)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

North Block, New Delhi
Dated the 29th November, 2013

OFFICE MEMORANDUM

Sub: Reservation for Persons with Disabilities-revised forms for Disability Certificates.

The undersigned is directed to refer to this Department's O.M. No. 36035/3/2004-Estt.(Res) dated 29.12.2005 circulating consolidated instructions relating to Reservation for the Persons with Disabilities.


2. Ministry of Social Justice and Empowerment vide their Notification No. G.S.R. 2 (E) dated 30.12.2009 has issued rules to amend the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 1996. Rules 3 to 6 (Chapter II) of the said Notification dated 30.12.2009 have prescribed various Forms of Disability Certificate.

3. Keeping in view the amended Rules for Disability Certificates issued by the Ministry of Social Justice and Empowerment vide Notification dated 30.12.2009, paras 9, 10 and 11 of this Department's O.M. No. 36035/3/2004-Estt.(Res) dated 29.12.2005 relating to issue of Disability Certificate stands withdrawn.

4. All the Ministries/Departments are now requested to comply with the instructions contained in Rules 3 to 6 of Chapter II relating to Disability Certificate as per Ministry of Social Justice and Empowerment's Notification No. G.S.R. 2 (E) dated 30.12.2009 (copy enclosed for ready reference).

5. All the Ministries/Departments are also requested to bring the above instructions to the notice of all appointing authorities under their control.

Encl: As above


(G. Srinivasan)
Deputy Secretary to the Govt. of India
Tele: 2309 3074

To

1. All Ministries/Departments of the Govt. of India.
2. Railway Board
3. Supreme Court of India/Election Commission/Lok Sabha Secretariat/Rajya Sabha Secretariat/Cabinet Secretariat/Central Vigilance Commission/President's Secretariat/Prime Minister's Office, Planning Commission.
4. Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi.
5. Staff Selection Commission, CGO Complex, Lodhi Road, New Delhi.

6. Office of the Chief Commissioner for Persons with Disabilities, Sarojini House, 6, Bhagwan Das Road, New Delhi.
7. Office of the Comptroller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi.
8. All Officers and Sections in the Ministry of Personnel, Public Grievances and Pensions and all attached/subordinate officers of this Ministry.
9. Information and Facilitation Centre, Department of Personnel and Training, North Block, New Delhi.
10. ✓ NIC, DoPT, North Block – for uploading the O.M. on the website in OMs & Orders>> Estt(Reservation)>>Persons with Disabilities.

**MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT
NOTIFICATION**

New Delhi, the 30th December, 2009

G.S.R. 2 (E).—In exercise of the powers conferred by sub-sections (1) and (2) of Section 73 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996), the Central Government hereby makes the following rules to amend the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 1996, namely :—

1. (1) These rules may be called the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Amendment Rules, 2009.
- (2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 1996, -

- (i) for rule 2, the following rule shall be substituted, namely:-

"2. Definitions.-

- (1) In these rules unless the context otherwise requires,—

(a) "Act" means the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996);

- (b) "certificate" or "disability certificate" means a certificate issued in pursuance of clause (t) of section 2 of the Act;
- (c) "multiple disabilities" means a combination of two or more disabilities as defined in clause (i) of section 2 of the Act;
- (d) "Form" means a form appended to these rules.

(2) Words and expressions defined in the Act but not defined in these rules, shall have the meanings respectively assigned to them in the Act.;

(ii) for CHAPTER II, the following Chapter shall be substituted, namely :-

"CHAPTER II DISABILITY CERTIFICATE

3. Application for issue of disability certificate -

- (1) A person with disability desirous of getting a certificate in his favour shall submit an application in Form I, and the application shall be accompanied by -
 - (a) proof of residence, and
 - (b) two recent passport size photographs.
- (2) The application shall be submitted to -
 - (i) a medical authority competent to issue such a certificate in the district of the applicant's residence as mentioned in the proof of residence submitted by him with the application, or
 - (ii) the concerned medical authority in a government hospital where he may be undergoing or may have undergone treatment in connection with his disability ;

Provided that where a person with disability is a minor or suffering from mental retardation or any other disability which renders him unfit or unable to make such an application himself, the application on his behalf may be made by his legal guardian.

4. Issue of disability certificate -

- (1) On receipt of an application under rule 3, the medical authority shall, after satisfying himself that the applicant is a person with disability as defined in sub-clause (t) of section 2 of the Act, issue a disability certificate in his favour in Form II, Form III or Form IV as applicable.
- (2) The certificate shall be issued as far as possible, within a week from the date of receipt of the application by the medical authority, but in any case, not later than one month from such date.
- (3) The medical authority shall, after due examination, -
 - (i) give a permanent disability certificate in cases where there are no chances of variation, over time, in the degree of disability, and
 - (ii) shall indicate the period of validity in the certificate, in cases where there is any chance of variation, over time, in the degree of disability.
- (4) If an applicant is found ineligible for issue of disability certificate, the medical authority shall explain to him the reasons for rejection of his application, and shall also convey the reasons to him in writing.
- (5) A copy of every disability certificate issued under these rules by a medical authority other than the Chief Medical Officer shall be simultaneously sent by such medical authority to the Chief Medical Officer of the District.

5. Review of a decision regarding issue of, or refusal to issue, a disability certificate -

- (1) Any applicant for a disability certificate, who is aggrieved by the nature of a certificate issued to him, or by refusal to issue such a certificate in his favour, as the case may be, may represent against such a decision to the medical authority as specified for the purpose by the appropriate Government:

Provided that where a person with disability is a minor or suffering from mental retardation or any other disability which renders him unfit or unable to make such an application himself, the application on his behalf may be made by his legal guardian.

- (2) The application for review shall be accompanied by a copy of the certificate or letter of rejection being appealed against.
- (3) On receipt of an application for review, the medical authority shall, after giving the appellant an opportunity of being heard, pass such orders on it as it may deem appropriate.
- (4) An application for review shall, as far as possible, be disposed of within a fortnight from the date of its receipt, but in any case, not later than one month from such date.

6. Certificate issued under rule 4 to be generally valid for all purposes.-

A certificate issued under rule 4 shall render a person eligible to apply for facilities, concessions and benefits admissible under schemes of the Government and of Non-Governmental Organizations funded by the Government, subject to such conditions as may be specified in relevant schemes or instructions of Government, etc., as the case may be."

(iii) for rule 43, the following rules shall be substituted, namely:-

"43. Qualification for appointment of Chief Commissioner -

In order to be eligible for the appointment as Chief Commissioner, a person must satisfy the following conditions, namely:-

- (i) he should have special knowledge or practical experience in respect of matters relating to rehabilitation of persons with disabilities;
- (ii) he should not have attained the age of sixty years on the 1st January of the year in which the last date for receipt of applications, as specified in the advertisement issued under sub-rule(1) of rule 43 A, falls;
- (iii) if he is in service under the Central Government or a State Government, he shall seek retirement from such service before his appointment to the post; and
- (iv) he must possess the following educational qualification and experience, namely

(A) Educational qualifications.-

- (i) Essential: Graduate from a recognised university.
- (ii) Desirable: Recognised degree/diploma in Social Work/ Law/ Management/ Human Rights/ Rehabilitation/ Education of Disabled Persons.

(B) Experience.-

Should have at least twenty-five years experience in one or more of the following types of organizations at specified levels:-

- (a) In a Group 'A' level post in Central/State Government /Public Sector Undertaking/Semi Government or Autonomous Bodies dealing with disability related matters and/or social sector (health/education/poverty alleviation/ women and child development); or
- (b) A senior level functionary in a registered national or international level voluntary organisation working in the field of disability/social development; or

- (c) Senior Executive position in a leading private sector organisation, involved in social work and in charge of handling social development activities of the organization:

Provided that out of the total twenty-five years experience mentioned above, at least three years of experience in the recent past should have been in the field of empowerment of persons with disabilities.

43A. Mode of appointment of the Chief Commissioner -

- (1) About six months before the post of Chief Commissioner is due to fall vacant, an advertisement shall be published in at least two national level dailies each in English and Hindi inviting applications for the post from eligible candidates fulfilling the criteria mentioned in rule 43.
- (2) A Search-cum-Selection Committee shall be constituted to recommend a panel of three suitable candidates for the post of the Chief Commissioner.
- (3) Composition of the Committee will be governed by relevant instructions issued by the Department of Personnel and Training from time to time.
- (4) The panel recommended by the Committee may consist of persons from amongst those who have applied in response to the advertisement mentioned in sub-rule (1) above, as well as other eligible persons whom the Committee may consider suitable.
- (5) The Central Government shall appoint one of the candidates recommended by the Search-cum-Selection Committee as the Chief Commissioner.

43B. Term of the Chief Commissioner -

- (1) The Chief Commissioner shall be appointed on full-time basis for a period of three years from the date on which he assumes office, or till he attains the age of sixty-five years, whichever is earlier.

- (2) A person may serve as Chief Commissioner for a maximum of two terms, subject to the upper age limit of sixty-five years.

43C. Salary and allowances of the Chief Commissioner -

- (1) The salary and allowances of the Chief Commissioner shall be the salary and allowances as admissible to a Secretary to the Government of India.
- (2) Where a Chief Commissioner, being a retired Government Servant or a retired employee of any institution or autonomous body funded by the Government, is in receipt of pension in respect of such previous service, the salary admissible to him under these rules shall be reduced by the amount of the pension, and if he had received in lieu of a portion of the pension, the commuted value thereof, by the amount of such commuted portion of the pension.

43D. Other terms and conditions of service of the Chief Commissioner -

(1) **Leave -**

The Chief Commissioner shall be entitled to such leave as is admissible to Government servants under the Central Civil Service (Leave) Rules, 1972.

(2) **Leave Travel Concession -**

The Chief Commissioner shall be entitled to such Leave Travel Concession as is admissible to Group 'A' officers under Central Civil Service (LTC) Rules, 1988.

(3) **Medical Benefits -**

The Chief Commissioner shall be entitled to such medical benefits as is admissible to Group 'A' officers under the Central Government Health Scheme (CGHS).

43E. Resignation and removal –

- (1) The Chief Commissioner may, by notice in writing, under his hand, addressed to the Central Government, resign his post.
- (2) The Central Government shall remove a person from the office of the Chief Commissioner, if he -
 - (a) becomes an undischarged insolvent;
 - (b) engages during his term of office in any paid employment or activity outside the duties of his office;
 - (c) gets convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude;
 - (d) is in the opinion of the Central Government, unfit to continue in office by reason of infirmity of mind or body or serious default in the performance of his functions as laid down in the Act;
 - (e) without obtaining leave of absence from the Central Government, remains absent from duty for a consecutive period of 15 days or more; or
 - (f) has, in the opinion of the Central Government, so abused the position of the Chief Commissioner as to render his continuance in office detrimental to the interest of persons with disability:

Provided that no person shall be removed under this rule except after following the procedure, mutatis mutandis, prescribed for removal of a Group 'A' employee of the Central Government.

- (3) The Central Government may suspend a Chief Commissioner, in respect of whom proceedings for removal have been commenced in accordance with sub-rule (2), pending conclusion of such proceedings.

43F. Residuary provision -

Conditions of service of a Chief Commissioner in respect of which no express provision has been made in these rules shall be determined by the rules and orders for the time being applicable to a Secretary to the Government of India.”;

(iv) after rule 45 and before FORM DPER-I, the following Forms shall be inserted, namely:-