

No.A.12018/28/2013-P&AR(GSW)
Government of Mizoram
Department of Personnel and Administrative Reforms
(General Service Wing)

Mizoram Secretariat, MINECO
Aizawl, the 19th July, 2024.

OFFICE MEMORANDUM

Subject: Relieving of government servants upon transfer,

Recruitment Rules/Service rules generally contain the provisions 'power to transfer' and 'posting of members of the service' as follows-

"Notwithstanding anything contained in these rules, the State Government, in public interest, shall have the right and power to transfer any officials, so recruited under these rules to any other post or position which is equivalent in rank or grade"

"Every member of the Service shall, unless he is on leave or otherwise not available for holding a duty post, be posted against a duty post of the appropriate grade in the Service. Notwithstanding anything contained in sub-rule, the State Government, in public interest, shall have the right and power to transfer any member of the Service to any other post or position which is equivalent in rank or grade."

2. The transfer of government servants aims to harmonize objectives of institutional memory, avoid the development of vested interests, and provide a variety of exposure to employees, thereby ensuring their overall growth. While continuity offers value, prolonged tenure within a single position can impede innovation and departmental adaptation. The government functions as a continuous entity, with its services and operations transcending individual tenures. The completion of any governmental task is inherently collaborative, relying on the collective effort of its workforce. Therefore, the departure of any employee, whether through transfer or otherwise, does not impede the ongoing functioning of the machinery of governance. A robust system for succession planning ensures a seamless transition of responsibilities, guaranteeing that essential services continue to be delivered uninterrupted. It is with this understanding that the concept of indispensability is not applicable within the framework of government employment. To suggest otherwise would be tantamount to implying the potential for departmental paralysis, a notion demonstrably unfounded.

3. It is well understood that the transfer of a government servant who is appointed to a particular cadre of transferable posts from one place to another is an ordinary incident of service and therefore does not result in any alteration of any of the conditions of service to his disadvantage in the absence of any specific condition to the contrary in the law governing conditions of service. That a government servant is liable to be transferred to a similar post in the same cadre is a normal feature, and no government servant can claim to remain in a particular place or in a particular post unless, of course, his appointment itself is to a specified, nontransferable post. It is needless to emphasize that a government servant has no legal right to insist on being posted at any particular place of his liking. The government is the best judge to decide how to distribute and utilize the services of its employees. In short, the government possesses unrestricted authority to transfer its employees, taking into

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account the demands of public interest and administrative necessities. It is settled by that a transfer which is an incident of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by mala fides or infraction of any professed norm or principle governing the transfer.

4. Very often, the administrative Heads/Heads of departments /Offices do not comply with the orders and retain the transferred employee/staff, showing them against the existing vacancy, if any for one reason or another, even after the substitute joins duty. In many cases, the transferred employees/staff are not relieved for want of substitutes. Such non-compliance with transfer orders often leads to exerting pressure on the Government to request retention/ modification/ cancellation orders, which is not desirable for a good administration. This has been reviewed and the following instructions are issued for strict compliance by all concerned-

i) Once a transfer order is issued, the Administrative heads/Heads of departments /Offices shall relieve the transferred official immediately without waiting for the substitute to join duty, **not later than two working days in case of posts not requiring transfer of charge/inventory/cash handling. In case of posts requiring transfer of charge/inventory/cash handling, the officers/officials shall be relieved not later than five working days.** If a transferred employee is not relieved within this stipulated period, he will be deemed to have been relieved.

ii) No request for retention shall be made by the department/office concerned and it is the responsibility of the administrative Heads/Heads of departments /Offices to train the existing staff working under their control in all spheres of activities without depending on individual staff/employees.

iii) While relieving, no leave shall ordinarily be granted except in emergent situations.

iv) The employee who refuses to be relieved will also be liable for disciplinary action under extant rules.

5. These instructions shall come into force with immediate effect. Administrative departments/Heads of departments/Offices shall strictly follow the above instructions, and deviations, if any, shall be taken seriously.

6. All administrative departments are requested to bring these instructions to the notice of all concerned for strict compliance.

Sd/-K.Lalthawmmawia
Commissioner & Secretary to the Govt. of Mizoram

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2. Commissioner & Secretary to Chief Minister.
3. P.S. to Speaker/Ministers/Leader of Opposition/Deputy Speaker/Ministers of State/Vice Chairman, State Planning Board/Deputy Govt. Chief Whip.
4. All Members of Legislative Assembly.
5. Chief Executive Member, MADC/LADC/CADC
6. Sr. P.P.S to Chief Secretary.
7. All Heads of Administrative Departments.
8. Commissioner, Persons with Benchmark Disabilities.

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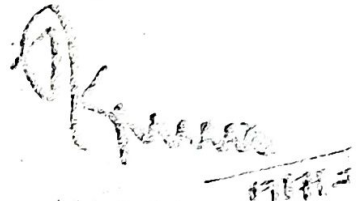
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9. Secretary, MPSC/MIC/SEC/AMC/Lok Ayukta.
10. All Heads of Departments.
11. All Deputy Commissioners.
12. Chief Executive Officer, LMC.
13. All wings of DP&AR.
14. Website Manager, DP&AR for uploading in the official website.
15. Guard File.



(H. Lalrinpuia)
Deputy Secretary to the Govt. of Mizoram.