

Rule 4 (1).—On the termination of a session by prorogation all pending notices, except those in respect of questions, statutory motionsshall lapse.

On examination of these rules it has been found that the provisions made in rule 68 are in conflict with the provisions made in rules 70 (4) and 4(1) of the Bihar Legislative Assembly Rules and to remove this lacuna, the Assembly Secretariat are contemplating to amend rule 68 of the Rules during the next session of the Bihar Legislative Assembly. Pending amendment of Rule 68 of the Assembly Rules, it has been decided that no question, notice of which has already been received by the departments and which have not been answered, will lapse. All Departments of Government are, therefore, requested to send answers to the Assembly of all 'not reached' questions as expeditiously as possible without treating them to have lapsed.

RECRUITMENT OF PEONS.

35 (i)

Letter no. OM/M-1021/60-258, dated Patna, the 6th September, 1950, from the Joint Secretary to Government of Bihar, Cabinet Secretariat (Organisation and Methods Section), to all Secretaries to Government, all Heads of Departments/Commissioners of Divisions/all District Officers.

SUBJECT.—Recruitment of Peons.

I am directed to say that in the year 1952 Government took a decision that the recruitment and control of peons in the Secretariat and attached offices should be centralised and that the responsibility for the centralised recruitment and control should be placed on the Finance Department. The Scheme as approved, envisaged that—

- (a) a combined cadre of peons should be prepared for the Secretariat and attached offices, the cadre to be maintained and controlled by the Finance Department.
- (b) Recruitment to the combined cadre of peons should be made by advertisement in 2 Hindi Dailies and from nominations received from the Employment Exchange.
- (c) Selection of candidates should be made by 3 Under-Secretaries to Government after interview of candidates obtained from (b) above. Appointment to be made from the list prepared strictly in order of preference given by the Selection Committee.
- (d) Permanent appointment to substantive posts of peons to be made by the Departments from the list of temporary peons in consultation with the Finance Department.
- (e) Temporary posts to be filled by candidates obtained from (c) above, strictly in the order of preference given by the Selection Committee.

The Finance Department took preliminary steps to prepare a combined gradation list of permanent and temporary peons of the Secretariat and the attached offices, but it was soon found that there were certain inherent defects in the proposal placed before the Government and the scheme was found to be not only unwieldy but unworkable. The difficulties which the Finance Department came upon in trying to implement the decision have been re-examined and a revised proposal was placed before Government. The State Government have now been pleased to take the following decisions :—

- (1) That each department or office in the Secretariat should maintain and control its own separate cadre of class IV Government servants.
- (2) Permanent posts in the Department should be filled according to the following principles :
 - (i) All Departments or offices should prepare and maintain a list of temporary peons in the Departments strictly in order of the date of continuous appointment as temporary peons in the Departments or offices.

- (ii) All permanent vacancies in the departmental Class IV cadre should be filled by members of the Scheduled Castes and Scheduled Tribes whose names are entered in the list of temporary peons prepared by the departments irrespective of the order in which their names might find place in the department's list until the total number of vacancies in the departmental class IV cadre to which members of the Scheduled Castes and Scheduled Tribes are entitled in terms of paragraph 3 of the Appointment Department order in their memo. no. 540, dated the 5th July 1954, have been filled.
- (iii) If candidates from the Scheduled Castes and Scheduled Tribes are not available in the departmental list of temporary peons to fill permanent vacancies in the departmental cadre according to reservations made for them, the vacancy should be filled by circulation of the vacancies among the other departments of the Secretariat and attached offices inviting nominations of candidates of the above groups from their lists of temporary peons.
- (iv) If candidates from the Scheduled Castes and Scheduled Tribes are still not available the post should continue to be filled on a temporary basis until duly qualified candidates from members of the Scheduled Castes and Scheduled Tribes are available. Before, however, filling a post which should have been filled either by a candidate from the Scheduled Castes or the Scheduled Tribes by persons of any other group, the department or the office should bring their difficulties to the notice of the Welfare and Appointment Departments before actually filling the post on a temporary basis by others.
- (v) In any department where the prescribed percentage of reservation for the Scheduled Castes and Scheduled Tribes have not been achieved, before any appointment is made to a Class IV post, a certificate from one of the authorities mentioned in Appointment Department memo. no. III/S2-109/58—3284, dated the 19th March, 1958, must be obtained and attached to the first acquittance roll, Payment of salary shall not be made in the absence of such a certificate.
- (vi) After the number of vacancies reserved for Scheduled Castes and Scheduled Tribes have been filled, the remaining permanent vacancies may be filled by other temporary peons in the departmental list. strictly in order of seniority.
- (vii) In filling temporary posts of peons in the departments henceforth, no person who does not belong to the Scheduled Castes and Scheduled Tribes should be appointed. All fresh appointments to temporary posts should be made after giving due publicity on office notice boards to Organisations representing Scheduled Castes and Scheduled Tribes and to the Employment Exchange.
- (viii) In district offices a list of Umidwar peons is maintained. Enrolment of peons not belonging to the S. C. and S. T. in the list should be stopped till the reserved quota in favour of the aforesaid castes and tribes has been filled. Umidwar peons, however, who have been on the list for more than 2 years should not be passed over those not belonging to the S. C. or the S. T. should be informed that their names would be considered only after the reserved quota for the S. C. or the S. T. has been filled
- (ix) No temporary post of a peon should be filled if it is vacant for a period of less than one month.
- (x) All fresh appointments as also absorption of temporary peons in permanent posts should be made in accordance with the foregoing principles by a Committee consisting of 3 officers, one of whom at least should be an officer of another department.

(vi) If any departure is proposed to be made by any department in the Secretariat and the attached offices in any particular case the orders of the Council of Ministers shall be obtained. Similarly, if any departure is proposed to be made from the above decisions, in a district office the orders of the Commissioner of the Division, shall be obtained, who in cases of doubt, will obtain the orders of Government in the Appointment Department.

No. OM/R-206/68—267, dated the 13th September 1968, from the Special Secretary, Government of Bihar, Cabinet Secretariat (Organisation and Methods Section), to all Secretaries to Government/all Heads of the Departments/all Commissioners of Divisions/all District Officers.

SUBJECT.—Recruitment of Peons.

XII—(ii)

I am directed to refer to the orders issued in Cabinet Secretariat (O. & M. Section) circular letter no. OM/M-1021/60—258, dated the 6th September 1960 which *inter alia* contains the following provision :—“(vi) After the number of vacancies reserved for Scheduled Castes and Scheduled Tribes have been filled, the remaining permanent vacancies may be filled by other temporary peons in the departmental list strictly in order of seniority; (vii) In filling temporary posts of peons in the departments henceforth no person who does not belong to the Scheduled Castes and Scheduled Tribes be appointed. All fresh appointments to temporary posts should be made after giving due publicity on office notice boards to organisations representing Scheduled Castes and Scheduled Tribes and to Employment Exchange.

2. Thus it laid down that persons other than Scheduled Castes and Scheduled Tribes could not secure temporary appointment as peons and in service temporary peons of the general category could not be substantively appointed against substantive vacancies, irrespective of the length of their officiation till a single reserved vacancy for the Scheduled Castes and Scheduled Tribes remained unfilled. It now transpires that to put a complete ban on appointment of non-Harijans and non-Adivasis is unconstitutional and a reservation which, in substance, creates a monopoly is contrary to Act 16(4) of the Constitution.

In view of the above considerations Government have decided that the following modification may be made in the aforesaid circular no. 258, dated the 6th September 1960 and these may be substituted in place of paras, bearing some number in that order :—

“2(vi) The permanent vacancies reserved for Scheduled Castes and Scheduled Tribes shall, in no case, be allotted to persons who do not belong to the Scheduled Castes and Scheduled Tribes. The remaining permanent *unreserved* vacancies may be filled by other temporary peons in the departmental list, strictly in order of seniority.

(vii) In filling temporary vacancies, It should be ensured that no person, who does not belong to the Scheduled Castes and Scheduled Tribes is appointed to the reserved posts (not exceeding 45 per cent of the vacancies in a particular year) There should, however, be no bar to the appointment of candidates belonging to other castes and community to the unreserved vacancies (being not more than 55 per cent of the total number of vacancies in any particular year).”

I am accordingly to request that henceforward the revised orders may be strictly followed in your department/Office and brought to the notice of all appointing authorities under your administrative control for their guidance.