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Action to be taken against Government employee convicted on a criminal charge and eligibility of convicted persons for appointment in the Government.

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Date: Wednesday, August 4, 2021, 03:51 PM GMT+5:30

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Diary No. 1277/CE/HIS&D
Dtd. 5-8-2021

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No.03/02/2020-2PP2/97
GOVERNMENT OF PUNJAB
DEPARTMENT OF PERSONNEL
(PERSONNEL POLICY- 2 BRANCH)

Dated, Chandigarh: 22/07/2021

To

All the Heads of Departments,
Registrar, Punjab and Haryana High Court,
All Commissioners of Divisions,
All Deputy Commissioners, and
All Sub divisional Magistrates in the State of Punjab.

Subject: Action to be taken against Government employees convicted on a criminal charge and eligibility of convicted persons for appointment in the Government.

1. This is in reference to the latest instructions of Department of Personnel, Government of Punjab No. 3/14/2018-2PP2/337 dated 09.07.2020 directing the Departments to take action against the employees convicted on a criminal charge under the service rules. Department of Personnel has, from time to time issued instructions reiterating the action to be taken against Government employees who are convicted on a criminal charge. Action against convicted employees is taken at various levels eg. District level, Directorate level, Government level etc., and therefore, in order to ensure the strict compliance of Government instructions issued from time to time, there is a need to have practicability and uniformity of decision. There is also a need to clarify the nature of offence, conviction in respect of which will require action against the employee. Accordingly, detailed instructions are issued on this subject.

2. It has been clarified in the circular dated 09.07.2020 that an appeal against an order or even a stay on the sentence will have no effect unless the conviction itself is stayed. It has further been emphasized that in cases of serious charges of misconduct, particularly involving moral turpitude, the Department should immediately act upon the judgments of Court and take action against the

Earlier Department of Personnel, Government of Punjab vide its letter No. 3/23/1998-1PP2/10394 dated 05.08.1998 circulated an order in compliance with decision of Hon'ble Supreme Court in Civil Appeal No. 2992/1995 wherein it was held that employees convicted of a serious charge are not to be retained in service. It was further held that mere suspension of sentence will be of no use to the employees, unless the conviction itself was stayed or set aside. It would be relevant to examine the conduct of the Government servant which has led to his conviction on a criminal charge. If the employee is held guilty and convicted of a serious charge, then such an employee would not be retained in service.

3. The instructions and service rules contemplate that employees convicted of serious offences particularly offences involving moral turpitude are not to be retained in service and such employees are either to be dismissed or removed from service. The term 'moral turpitude' has not been defined in the rules or anywhere else and it may convey different meaning in different contexts, but it has generally been taken to mean a conduct contrary to justice, honesty, modesty or good morals. A list of offences involving moral turpitude has been drawn up in consultation with the Directorate of Prosecution and Litigation, a copy of which is enclosed herewith(Annexure-I). This list, however, is not exhaustive and there might be offences which are not included in the Annexure-I but which, in certain situations and circumstances, may involve moral turpitude.

4. Action against serving State Government employees is to be taken under Punjab Civil Services (Punishment and Appeal) Rules, 1970 or Punjab Police Rules, 1934 or other relevant Rules, while action against All India Services officers will be taken under All India Service (Discipline and Appeal) Rules 1969. As regards retired employees, the Punjab Civil Services Rules (Vol.II, Chapter II) and All India Service (Death-cum-Retirement Benefits) Rules, 1958 will be relevant. The appointing authorities may go through the instructions and rules carefully and take action as under:-

removed from service depending upon the conduct of the employees which led to the conviction on a criminal charge.

- (d) Action against retired employees shall be taken under the Punjab Civil Services (Volume-II, Chapter-II), All India Service (Death- cum- Retirement Benefits) rules, 1958 or any other relevant Rules.
- (e) The employees who are convicted on a criminal charge involving moral turpitude would ordinarily be awarded the penalty of dismissal and forfeiture of full pension, as the case may be, unless the punishing authority after reasons to be recorded, is of the opinion that there are some extraordinary extenuating circumstances which justify the lesser penalty of removal or the withholding of part of the pension.