

Bihar Administrative Service Association

North of Income Tax Golamber, Nehru Marg, Patna-800001

(Registration No-663/2003)

Website: basabihar.com, E-mail Id: infobasa1@gmail.com

Shashank Shekhar Sinha
President

Mob. No.- 9334118192



Anil Kumar
General Secretary

Mob. No.- 9431409463

Memo No

Date

Vice President

Md. Moezuddin

9304951990

Ajay Kumar

9835737317

Joint Secretary

Subodh Kumar

7979919465

Gopal Sharan

8210342042

Treasurer

Sunil Kumar Tiwary

9431085120

Joint Treasurer

Mona Jha

9430881025

To,

Hon'ble Chief Minister,
Govt. of Bihar, Patna.

Sub:- Quashing of the General Administration Department, Bihar circular no.-4900 dated 02-04-2012 issued against the letter and spirit of IAS (Appointment by Selection) Regulations, 1997. Discontinuation of Promotion of Non-SCS to IAS through appointment by Selection and to accelerate the procedure to fill up the large vacancy of IAS by Promotion of SCS/BAS officer under Rule 8(1) of IAS (Recruitment) Rules 1954.

Sir,

With reference to the above mentioned different subjects, firstly, we would like to draw your kind attention towards the rule 8 of IAS (Recruitment) Rule, 1954 which deals with the provision of recruitment of IAS by Promotion or Selection for appointment to State and Joint Cadre. **This rule was framed immediately after Independence in 1954 when many states of India didn't have the sufficient number of State Civil Service Officers.** As a stop gap arrangement to meet the short-fall of requisite number of directly recruited IAS officers, provision for appointment of IAS by selection was incorporated in IAS (Recruitment) Rule, 1954. It is more evident from the reading of the first line of rule 8(2) of the said rule which reads as- "**The Central Government may, in special circumstances and on the recommendation of the State Government concerned and in consultation with the Commission and in accordance with such regulations as the Central Government may, after consultation with the State Governments and the Commission, from time to time, make, recruit to the Service any person of outstanding ability and merit serving in connection with the affairs of the State who is not a member of the State Civil Service or that State (but who holds a gazetted post in a substantive capacity).**"

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2.The word “may” used in the said rule itself explains the intention of law maker explicitly that it is not mandatory and it can be used when special circumstances arises. In other words , when eligible SCS officers are available for promotion to IAS , this provision of recruitment of IAS by Selection should not be used.

3.The prevailing formula of promotion to IAS officer and present cadre strength of IAS are as follows:

(a) (Total Strength of IAS in State-Number of Training Reserve)*33.33% = Promotional post of IAS (Say “x”)

(b)15% of “x” = Non-SCS officer under special circumstances and if any exigency arises, may be promoted to IAS.

Present Status of IAS in Bihar	Cadre strength	Present Strength	Vacancy	Year of Last batch inducted into IAS U/R 8(1)/8 (2) through Promotion/Selection
Total Strength Of IAS	342	N.A.	N.A.	-
Direct Recruitment	228	N.A.	N.A.	-
Through Promotion	104	40	64	
Through Promotion to BAS(SCS)	89	26	63	1989(34 th Batch)
Through Selection to Non SCS	15	14	01	1996(39 th Batch)

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4. This was a temporary provision which has become a regular feature in practice in Bihar. It is very clear that at present, there is neither any special circumstance nor there is any exigency to recruit officers through selection as the state administrative officers of outstanding merit and ability, having even more than 20 years of substantiveservice experienceis available in good numbers for promotion to IAS in Bihar.

5. Further, **no standard mechanism** has been evolved or prescribed for **adjudging the outstanding merit** and ability of a Non-State Civil Service Officer for being considered and selected for appointment to the I.A.S. . Nonetheless to say that, **it promotes use of discretion** in the appointment which is the root cause of all kind of discrimination.

6. It is a known fact that BPSC prepares the list of successful candidates according to highest to lowest marks scored in the competitive examination and in general, **the top rankers opt for Bihar Administrative Service**. Then how, the Non-SCS Officer, lower in the merit list published by BPSC, becomes officer of extra ordinary and outstanding merit for appointment to IAS post on the basis of selection under rule 8(2) by state of Bihar.

7. It is for your kind information that many states like Haryana, Jharkhand, Uttar Pradesh and other states have discontinued the process of the appointment of Non-SCS officer to IAS by selection in recent years.

8. Bihar Administrative Service Association further would like to draw your kind attention towards the spirit of statutory provision of the IAS (Appointment by Selection) Regulations, 1997 **rule 4(1) (iii) which deals with the qualifying minimum length of service for officers to be appointed as IAS through Selection**. It requires minimum 8 years of continuous service

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under the state government in any post which has been **declared equivalent to the post of Deputy Collector** in the State Civil Service. In Bihar, a **resolution** was adopted by Government in 2001 under the said rule which **mandated eight years of service after one promotion of Non-SCS officers** as a minimum length of service for eligibility under rule 8(2). However in 2012, this resolution has been modified against the spirit of the aforesaid rule without any rhyme or reason in the garb of compliance of the court order. The present resolution no. 1/c dated 2.4.2.12 /GAD/Bihar (Photo Copy is annexed) is defective in nature, discriminatory, biased, unconstitutional, against the letter and spirit of the original provisions of the said rule. It has been designed to bestow favors on non-SCS officers, hence resolution is liable to be quashed ab initio.

9. This leads to another point of serious and grave concern causing hierarchical issues as much **junior Non-SCS officers getting inducted into IAS much earlier in comparison to the SCS officers**. It is pertinent to note that currently SCS officers of 1989 batch have been inducted into IAS cadre whereas at the same year non-SCS officers of 1996 batch got inducted to IAS by selection.

10. It is surprising to note that present number of non-SCS officers promoted to IAS by selection has been surprisingly **saturated**, while **63 posts** of IAS to be filled by promotion from SCS, are **elying vacant** despite availability of sufficient numbers of SCS/BAS officers.

11. It is also notable that Promotion to IPS post by selection of Non-SPS officers have almost been discontinued in India.

12. Therefore, in light of the above discussion Bihar Administrative Service Association demands for the

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(a) immediate quashing of the General Administration Department, Bihar circular no. 4900 dated 02-04-2012,

(b) discontinuation of promotion of Non-SCS officer into IAS, as large numbers of BAS/SCS officers are available for promotion to IAS as being done in states like Uttar Pradesh, Haryana and other states of India,

(c) the procedure of induction of SCS officers to IAS by Promotion should be expedited at once and all the vacancies should be filled at the earliest.

Yours faithfully

Encl:-a/a

Sd/-

(Anil Kumar)

Sd/-

(Shashank Shekhar Sinha)

Memo No.-/ Date-

CC:- Chief Secretary, Bihar/ Additional Chief Secretary, General Administration Department, Govt. of Bihar, Patna for information and necessary action.

Sd/-

(Anil Kumar)

Sd/-

(Shashank Shekhar Sinha)

Memo No.-/ Date-

CC:- Chairman, Union Public Service Commission, Dhaultpur House, UPSC Bhawan, New Delhi for information and necessary action.

Sd/-

(Anil Kumar)

Sd/-

(Shashank Shekhar Sinha)

Memo No.-/ Date-

CC:- Secretary, Department of Personnel and Training, Govt. of India, New Delhi for information and necessary action.

Sd/-

(Anil Kumar)

Sd/-

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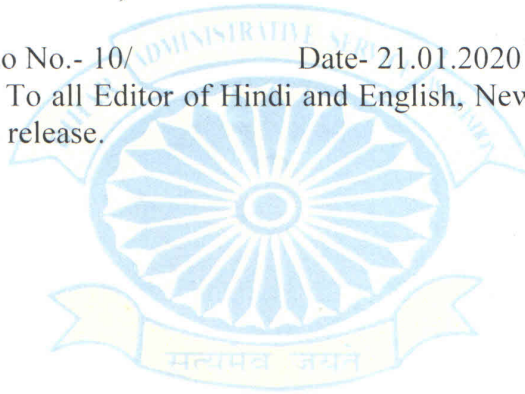
CC:- Secretary General, All India Federation of State/Civil Service Association, New Delhi for information and necessary action.

Sd/-
(Anil Kumar)

Sd/-
(Shashank Shekhar Sinha)

Memo No.- 10/ Date- 21.01.2020

CC:- To all Editor of Hindi and English, News Paper, Bihar for circulation as press release.



(Signature)
21/01/2020
(Shashank Shekhar Sinha)

बिहार सरकार

सामान्य प्रशासन विभाग

संकल्प

2.4.12

विषय:— भारतीय प्रशासनिक सेवा (चयन द्वारा नियुक्ति) विनियम, 1997 के अंतर्गत गैर-राज्य असैनिक सेवा के पदों को उपसमाहर्ता के पद की समकक्षता संबंधी अधिघोषणा के संबंध में।

माननीय कैंट, (पटना पीठ), रांची द्वारा ओ0ए0 संख्या-221/01 तथा माननीय उच्च न्यायालय, पटना द्वारा सी0डब्ल्यू0जे0सी0 संख्या-10616/2010 में पारित न्यायादेश में विषयगत विभागीय संकल्प संख्या-2178 दिनांक 21.04.2001 को निरस्त किये जाने के आलोक में उक्त विभागीय संकल्प को निम्न प्रकार से संशोधित किया जाता है:—

1. उक्त संकल्प की कंडिका-1 के द्वितीय पारा में अंकित—

‘बिहार वन सेवा’, ‘बिहार आरक्षी सेवा’ एवं ‘राज्य प्रशासनिक सेवा’ से भिन्न अन्य राज्य सेवाओं एवं संवर्गों के 10,000-15,200/-रूपए के वेतनमान तथा उच्चतर वेतनमान वाले पदों पर कार्यरत् पदाधिकारियों के कर्तव्य तथा दायित्वों को देखते हुए इन वेतनमान के पदों को भारतीय प्रशासनिक सेवा (चयन द्वारा नियुक्ति) विनियम, 1997 की धारा-4 के उद्देश्यार्थ राज्य सिविल सेवा के उपसमाहर्ता के समकक्ष घोषित किया जाए। इस वेतनमान वाले पदों एवं इससे उच्चतर वेतनमान वाले पदों पर कुल मिलाकर कम-से-कम आठ वर्षों की सेवा होने के उपरान्त ही संबंधित पदाधिकारी इस विनियम के अन्तर्गत भारतीय प्रशासनिक सेवा में चयन द्वारा नियुक्त होने के विचार क्षेत्र में आ सकते हैं”

के स्थान पर

‘बिहार वन सेवा’, ‘बिहार आरक्षी सेवा’ एवं ‘राज्य प्रशासनिक सेवा’ से भिन्न अन्य राज्य सेवाओं एवं संवर्गों के 8,000-13,500/-रूपये का अपुनरीक्षित वेतनमान (पुनरीक्षित वेतनमान पे0 बैंड-3, रू0 15,600- 39,100+ग्रेड पे0-रू0 5,400/-) तथा उच्चतर वेतनमान के पदों को भारतीय प्रशासनिक सेवा (चयन द्वारा नियुक्ति) विनियम, 1997 की धारा-4 के उद्देश्यार्थ राज्य सिविल सेवा के उपसमाहर्ता के पदों के समकक्ष घोषित किया जाय। इस वेतनमान वाले पदों एवं इससे उच्चतर वेतनमान वाले पदों पर कुल मिलाकर कम-से-कम आठ वर्षों की सेवा होने के उपरान्त ही संबंधित पदाधिकारी इस विनियम के अन्तर्गत भारतीय प्रशासनिक सेवा में चयन द्वारा नियुक्त होने पर विचार क्षेत्र में आ सकते हैं”।

2. यह निर्णय तात्कालिक प्रभाव से लागू माना जायेगा।

आदेश:- आदेश है कि सर्व-साधारण की जानकारी के लिए इसे राजकीय गजट में प्रकाशित किया जाय एवं इसकी प्रति सभी संबंधित को उपलब्ध करायी जाय।

बिहार राज्यपाल के आदेश से,
ह०/-

(आनन्द बिहारी प्रसाद)

सरकार के संयुक्त सचिव

ज्ञापांक : 1/सी०-1019/2011 (खंड-1)-सा०प्र०- /पटना, दिनांक :

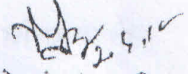
प्रतिलिपि-अधीक्षक, ई गजट कोषांग, वित्त विभाग, बिहार, पटना को संकल्प की दो प्रति एवं तत्संबंधी सी०डी० के साथ राजपत्र के असाधारण अंक में प्रकाशनार्थ तथा इसकी 500 (पांच सौ) मुद्रित प्रतियाँ सामान्य प्रशासन विभाग, बिहार, पटना (प्रशाखा-1) को उपलब्ध कराने हेतु प्रेषित।

ह०/-

सरकार के संयुक्त सचिव

ज्ञापांक : 1/सी०-1019/2011 (खंड-1)-सा०प्र०- 4900 /पटना, दिनांक : 2.4.12.

प्रतिलिपि-राज्यपाल के प्रधान सचिव/सरकार के सभी विभाग/सभी विभागाध्यक्ष/विकास आयुक्त/सदस्य, राज्य पर्वद/सभी प्रमंडलीय आयुक्त/सभी जिला पदाधिकारी/सामान्य प्रशासन विभाग के सभी पदाधिकारियों/प्रशाखाओं को सूचना एवं आवश्यक कार्रवाई हेतु प्रेषित।



सरकार के संयुक्त सचिव