

APPENDICES

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APPENDIX I

No. 10237-Gen.

GOVERNMENT OF ORISSA

GENERAL ADMINISTRATION DEPARTMENT

RESOLUTION

The 20th March 2002

Subject – Seniority of the Scheduled Castes and Scheduled Tribes Government servants on promotion by virtue of rule of reservation/roster.

The principle of fixation of *inter se* seniority of General, Scheduled Caste and Scheduled Tribe Government servants in the promotional posts has engaged the attention of the Government for sometime past. Earlier Government in their Resolution No. 39734 (e)-Gen., dated the 2nd November 2000 has adopted the principle of fixation of seniority between General, Scheduled Castes and Scheduled Tribes candidates in the promotional posts in the State Civil Services/posts as an interim measure in pursuance of the guidelines contained in Office Memorandum No. 20011/1/96-Esst. (D), dated the 30th January 1997 and No. 20011/2/97-Esst. (D), dated the 21st March 1997 of the Government of India, Ministry of Personnel, P. G. and Pensions (Department of Personnel and Training). Meanwhile the Government of India, Ministry of Personnel, Public Grievance and Pension (Department of Personnel and Training) in their Office Memorandum No. 20011/1/2001-Esst. (D), dated the 21st January 2002 have decided to negate the effects of the Office Memorandum, dated the 30th January 1997 and 21st March 1997 after amending Article 16 (4-A) of the constitution right from the date of its inclusion in the constitution, i.e., 17th June 1995 with a view to allowing the Government servants belonging to Scheduled Castes and Scheduled Tribes to retain their seniority in the case of promotion by virtue of rule of reservation.

2. In the above premises, the Government after careful consideration, have been pleased to decide to withdraw the G. A. Department Resolution No. 39734 (e)-Gen., dated the 2nd November 2000 along with the previous Resolution No. 21260-Gen., dated the 16th June 2000 and Office Order No. 30083-Gen., dated the 27th July 2000 on the subject. The guidelines issued by the Government of India, Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training) in their Office Memorandum No. 20011/1/2001-Esst. (D), dated the 21st

January 2002 (Copy enclosed) shall be followed in letter and spirit for fixation of seniority of SC/ST Government servants on promotion by virtue of rules of reservation in the State Civil Services/Posts. In other words, consequent upon withdrawal of DOPT O. M. No. 20011-1/1996-Estt. (D), dated the 30th January 1997, read with DOPT. O. M. No. 20011/2/1997-Estt. (D), dated the 21st March 1997, the catch up principle enunciated therein and adopted by the State Government in G. A. Department Resolution No. 39734, dated the 2nd November 2000 shall not be followed any longer. The Government servants belonging to S.Cs./S.Ts. shall retain their seniority in the case of promotion by virtue of rule of reservation. On the other hand the Government servants belonging to General/O. B. C. category promoted later will be placed junior to the S.C./S.T. government servants promoted earlier even though by virtue of the rule of reservation.

3. All the Departments of Government are requested to implement the above decision and issue necessary instructions to all the Heads of Departments, Public Sector Undertakings and other Appointing Authorities under their administrative control for taking immediate action accordingly.

4. This has been concurred in by the Law Department in their U. O. R. No. 363-L., dated the 2nd March 2002.

By order of the Governor

B. C. DAS

Additional Secretary to Government

No. 20011/1/2001-Estt. (D)

GOVERNMENT OF INDIA

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES & PENSIONS DEPARTMENT OF PERSONNEL AND TRAINING

New Delhi, dated the 21st January 2002

OFFICE MEMORANDUM

Subject – Seniority of SC/ST Government servants on promotion by virtue of rule of reservation/roster.

The seniority of a person appointed to a post is determined according to the general principle 5 (i) contained in MHA O. M. No. 9-11/55-RPS., dated the 22nd December 1959 and Para. 2.2 in DOPT O. M. No. 2211-7/86/Estt. (D), dated the 3rd July 1986 read with DOPT O. M. No. 20011-5/90-Estt. (D), dated the 4th November 1992 (copy enclosed). Seniority of such person is determined by the order of merit indicated at the time of initial appointment and seniority of persons promoted to various grades is determined in the order of selection for such promotion. Thus, as per the aforementioned instructions persons appointed through an earlier selection would enbloc be senior to those promoted through subsequent selection.

2. This position was reviewed subsequent to the Judgement of the Supreme Court, dated the 10th October 1995 in the case of Union of India *Vs.* Virpal Singh Chauhan, etc. [JT 1995 (7) SC 231] and it was decided vide DOPT O. M. No. 20011-1/96-Estt. (D), dated the 30th January 1997, to modify the then existing policy by addition of the proviso to general principle 5 (i) contained in MHA (Now DOPT) O. M. No. 9-11/55-RPS, dated the 22nd December 1959 and Para. 2.2 in DOPT O. M. No. 22011-7/786-Estt. (D), dated the 3rd July 1986, which stipulated that if a candidate belonging to the Scheduled Caste or the Scheduled Tribe is promoted to an immediate higher post/grade against a reserved vacancy earlier than his senior general/OBC candidates who is promoted later to the said immediate higher post/grade, the general/OBC candidate will regain his seniority over such earlier promoted candidate of the Scheduled Caste and the Scheduled Tribe in the immediate higher post/grade.

3. The Government have now decided to negate the effects of the DOPT O. M., dated the 30th January 1997 by amending Article 16 (4-A) of the Constitution right from the date of its inclusion in the Constitution i.e. the 17th June 1995 with a view to allow the Government servants belonging to SCs/Sts. to retain the seniority in the case of promotion by virtue of rule of reservation. In other words, the candidates belonging to general/OBC category promoted later will be placed junior to the SC/ST Government servants promoted earlier even though by virtue of the rule of reservation.

4. Therefore in pursuance of the aforementioned Constitution (Eighty-fifth) Amendment Act, 2001, it has been decided as follows :

- (i) (a) SC/ST Government servants shall, on their promotion by virtue of rule of reservation/roster, be entitled to consequential seniority also; and

- (b) the above decision shall be effective from the 17th June 1995
- (ii) The instructions contained in DOPT O. M. No. 20011-1/96-Estt. (D), dated the 30th January 1997 as well as the clarifications contained in DOPT O. M. No. 20011-2/97-Estt. (D), dated the 21st March 1997 shall stand withdrawn w.e.f. the 30th January 1997 itself.
- (iii) Seniority of Government servants determined in the light of O. M., dated the 30th January 1997 shall be revised as if that O. M. was never issued.
- (iv) (a) On the basis of the revised seniority, consequential benefits like promotion, pay, pension, etc. should be allowed to the concerned SC/ST Government servants (but without arrears by applying principle of 'no work no pay').
- (b) For this purpose, senior SC/ST Government servants may be granted promotion with effect from the date of promotion of their immediate junior general/OBC Government servants.
- (c) Such promotion of SC/ST Government servant may be ordered with the approval of Appointing Authority of the post to which the Government servant is to be promoted at each level after following normal procedure of DPC (including consultation with UPSC).
- (d) Except seniority other consequential benefits like promotion, pay, etc. (including retrial benefits in respects of those who have already retired) allowed to general/OBC Government servant by virtue of implementation of O. M., dated the 30th January 1997 and/or in pursuance of the directions of CAT/Court should be protected as personal to them.

5. All Ministries/Departments are requested to bring the above decisions to the notice of all concerned for guidance and compliance. Necessary action to implement the decisions contained in Para. (iii) above may be completed within three months from the date of issue of these instructions and necessary action to implement the decision at Para. (iv) above may be completed within 6 months from the date of issue of these instructions.

6. Hindi version will follow.

ALOK SAXENA

Deputy Secretary to Government of India

No. 24896-S.C./6-34/2001-Gen.

GOVERNMENT OF ORISSA

GENERAL ADMINISTRATION DEPARTMENT

The 3rd August 2002

To

All Departments of Government

All Heads of Departments

All Collectors.

Subject – Timely holding of meeting of Departmental Promotion Committee/Selection Board.

It has been noticed that some times Departmental Promotion Committee/Selection Board do not meet in time to select suitable persons for promotion to higher ranks. Consequently a good number of posts in higher ranks remain vacant, which affects the Administration of various programmes.

2. In order to hold the meetings of Departmental Promotion Committee/Selection Board promptly and allow promotions in time, henceforth the following guidelines shall be strictly adhered to:

2.1. After computing the vacancies pertaining to the year, the list of eligible persons shall be prepared in advance before the Departmental Promotion Committee/Selection Board meets. Simultaneously, reports on criminal case/disciplinary proceedings, if any pending against such persons and also their confidential character rolls for the relevant periods shall be called for from the concerned authorities. Necessary compliance shall be made by the concerned authorities to the requisitioning authorities within one month of requisition.

2.2 On receipt of clearance reports on criminal cases/disciplinary proceedings and the confidential character rolls, necessary memorandum/statement to be placed before the Departmental Promotion Committee/Selection Board shall be prepared by the end of the month immediately preceding the month in which the Departmental Promotion Committee/Selection Board shall meet.

2.3. At least three days' notice shall be given to the members while convening the meeting of Departmental Promotion Committee/Selection Board.

2.4. The relevant Cadre rules, the O. C. S. (Criteria for Promotion) Rules, 1992, the O. C. S. (Zone of Consideration) Rules, 1988, the O. R. V. Act, 1975 and rules framed thereunder, the sealed cover procedure prescribed in G. A. Department O. M. No. 3928, dated the 18th February 1994 and subsequent instructions thereon shall be properly kept in view while preparing the memorandum and the same shall also be placed before the Departmental Promotion Committee/Selection Board for correct and fair selection.

S. SRINIVASAN
Special Secretary to Government

APPENDIX II

No. 36908 (e) – SC. 3/34/2002-Gen.

GOVERNMENT OF ORISSA

GENERAL ADMINISTRATION DEPARTMENT

The 30th November 2002

To

All Departments of Government

All Heads of Departments

All Collectors.

Subject – Framing of charges in major penalty proceedings U/R 15 (2) of the O. C. S. (C. C. & A.) Rules, 1962 – Use of standard Forms regarding -

The Orissa Civil Services (Classification, Control and Appeal) Rules, 1962 U/R 15 envisages detailed procedures regulating imposition of major penalty on a Government servant. Sub-rule (2) of the said Rule implies that the disciplinary authority shall frame definite charges on the basis of allegations on which the inquiry is to be conducted and that the charges together with a statement of allegations shall be communicated to the Government servant calling upon him to submit his written statement of defence within a specified time.

Instances have come to the notice of Government that charge-sheet in major penalty proceedings are at present being drawn up by the disciplinary authorities using non-standard forms which vary from one another. With a view to ensuring uniformity in all such major penalty proceedings, it has been decided to follow the enclosed standard form comprising four parts viz (i) memorandum, (ii) Articles of charge, (iii) Statement of imputation of misconduct and (iv) Memos. of evidence. This form and format should be uniformly adopted in future.

It is requested that all the disciplinary authorities should strictly adhere to the above standard forms henceforth. All subordinate offices functioning under their control may be informed accordingly.

R. N. BOHIDAR
Special Secretary to Government

MEMORANDUM

No.....

Date

Shri is hereby informed that it is proposed to hold an inquiry against him under Rule 15 of the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962. The substance of the imputations of misconduct in respect of which the inquiry is proposed to be held is set out in the

enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct in support of the articles of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained is also enclosed (Annexure-III).

2. Shri is directed to submit his written statement of defence within 30 days from the date of this memorandum and also to state if he desires to be heard in person.

3. He may peruse the relevant records in the office of the and take relevant extract thereof to submit his written statement of defence with permission from the competent authority.

4. If he fails to submit his written statement of defence within the stipulated period of 30 days from the date of receipt of this memorandum, it will be presumed that he has no explanation to offer and action will be taken as deemed proper *ex parte*.

5. The receipt of the memorandum should be acknowledged by him.

*

By order of the Governor

Secretary to Government

or

Designation of the Disciplinary/Authority

* To be used in cases where the Appointing/Disciplinary Authority are the Government.

ANNEXURE I ARTICLES OF CHARGE

Shri has been committed following irregularities :-

*(That)

Thus the following articles of charge are framed against him for violation of Rule of the Orissa Government Servant’s Conduct Rules, 1959.

- I.
- II.
- III.

* Definite and distinct articles of charge drawn from substance of imputations of misconduct or misbehaviour.

ANNEXURE II STATEMENT OF IMPUTATIONS OF MISCONDUCT

Statement of imputations of misconduct in support of the articles of charge framed against Shri..... (name and designation of the Government servant).

* **Article I**

* **Article II**

* **Article III**

* Statement of all relevant facts in support of each articles of charge.

ANNEXURE III

MEMOS. OF EVIDENCE

Articles of Charge	Documents by which the charge is proposed to be sustained	Witness by whom the charge is proposed to be sustained
1.		
2.		
3.		

No. 36911 (e) – SC. /3-34/2002-Gen.

GOVERNMENT OF ORISSA

GENERAL ADMINISTRATION DEPARTMENT

The 30th November 2002

To

All Departments of Government

All Heads of Departments

All Collectors.

Subject – Suspension of Government Servant U/R 12 (2) of the O. C. S. (C. C. & A.) Rules, 1962 – Use of prescribed forms regarding -

Elaborate provisions have been envisaged under rule 12 in Chapter IV of the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962 on placing a Government Servant under suspension. In order to ensure that orders of suspension so made under these rules are comprehensive and consistent in each case, all Departments of Government have been provided with model standard Forms i.e. Form No. I and Form No. II under clauses (a) and (b) respectively of sub-rule (1) and Form No. III under sub-rule (2) of Rule 12 vide G. A. Department letter No. 12429/Gen., dated the 27th May 1993, (copy along with copies of Forms I, II, and III enclosed) for guidance. But instances have come to the notice that the said Forms are not being strictly adhered to while issuing orders of suspension.

It is therefore, impressed upon all the Administrative Departments/Heads of Departments/Collectors to use the said prescribed Forms while placing a Government Servant under suspension henceforth.

This may also be brought to the notice of all subordinate authorities working under their control.

R. N. BOHIDAR

No. 12429– SC/3-4/92-Gen.

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT

The 27th May 1993

To

All Departments of Government.

Subject – Suspension of Government Servants circulation of forms under Rule 12 of O. C. S. (C. C. & A.) Rules, 1962.

The undersigned is directed to send herewith three draft forms i.e. Form No. I under clause (a), Form No. II under clause (b) both under sub-rule (1) of Rule 12 and Form No. III under sub-rule (2) of Rule 12 of O. C. S. (C. C. & A.) Rules, 1962 for their information and guidance.

M. B. K. RAO

Deputy Secretary to Government

FORM NO. I

OFFICE ORDER

WHEREAS a disciplinary proceeding against Shri (name and designation of the Government Servant) is contemplated/pending, NOW, THEREFORE, the Governor of Orissa/the Appointing Authority/the Competent Authority, in exercise of the powers conferred by clause (a) of sub-rule (1) of Rule 12 of the Orissa Civil Services (Classification Control and Appeal) Rules, 1962, hereby places the said Shri..... under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force, the Headquarters of Shri..... (name and designation of the Government Servant) shall be (name of the place) and the said Shri shall not leave the Headquarters without obtaining the previous permission of the undersigned/Competent Authority and he shall be entitled to the payment of subsistence allowance in accordance with Rule 90 of the Orissa Service Code.

*

By order of the Governor

Secretary to Government

or

Designation of the Suspending Authority

* To be used in cases where the Appointing/Disciplinary Authority are the Government.

FORM NO. II

OFFICE ORDER

WHEREAS a case against Shri (Name and designation of the Government Servant) in respect of any Criminal Offence is under investigation/inquiry/trial. NOW, THEREFORE, the Governor of Orissa/the Appointing Authority/the Competent Authority, in exercise of the powers conferred by clause (b) of sub-rule (1) of Rule 12 of the Orissa Civil Services (Classification Control and Appeal) Rules, 1962, hereby places the said

Shri..... under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force, the Headquarters of Shri..... (Name and designation of the Government Servant) shall be (Name of the place) and the said Shri shall not leave the Headquarters without obtaining the previous permission of the undersigned/Competent Authority and he shall be entitled to the payment of subsistence allowance in accordance with Rule 90 of the Orissa Service Code.

*

By order of the Governor
Secretary to Government
or
Designation of the Suspending Authority

* To be used in cases where the Appointing/Disciplinary Authority are the Government.

FORM NO. III OFFICE ORDER

WHEREAS a case against Shri (Name and designation of the Government Servant) in respect of any Criminal Offence is under investigation, and Whereas the said Shri was detained in custody on for a period exceeding forty-eight hours.

NOW, THEREFORE, the said Shri is deemed to have been suspended with effect from the date of detention i.e., the in terms of sub-rule (2) of Rule 12 of the Orissa Civil Services (Classification, Control and Appeal) Ruls, 1962 and shall remain under suspension until further orders.

*

By order of the Governor
Secretary to Government
or
Designation of the Suspending Authority

* To be used in cases where the Appointing/Disciplinary Authority are the Government.

APPENDIX III

No. 8596-2M-64/93-Gen.

GOVERNMENT OF ORISSA GENERAL ADMINISTRATION DEPARTMENT

The 2nd May 1994

To

All Departments of Government

All Heads of the Departments

All District Offices.

Subject – Action against Government servants to be taken if they are later found ineligible or unqualified for their initial recruitment.

It has been brought to the notice of Government that in some cases Government servants are appointed to different posts/services without possessing the requisite qualifications prescribed for the said post by furnishing false information or producing false certificate.

2. A question has now arisen as to whether a Government servant can be discharged from service where it is discovered later that the Government servant was not qualified or eligible for his initial recruitment in service. The Supreme Court in its judgement in the District Collector, Vizianagaram *V/s. M. Tripura Sundari Devi* [1990 (4) SLR 237] went into this issue and observed as under :-

“It must further be realized by all concerned that when an advertisement mentions a particular qualification and an appointment is made in disregard of the same, it is not a matter only between the appointing authority and the appointee concerned, the aggrieved are all those who had similar or better qualifications than the appointee or appointees but who had not applied for the post because they did not possess the qualifications mentioned in the advertisement. It amounts to a fraud on public to appoint a person with inferior qualifications in such circumstances unless it is clearly stated that the qualifications are relaxable. No Court should be a party to the perpetuation of the fraudulent practice.”

3. Government after careful examination and in consultation with the Law Department have decided that whenever it is found that a Government servant, who was not qualified or eligible in terms of the recruitment rules, etc. for initial recruitment in service or had furnished false information or produced a false certificate in order to secure appointment, he should not be retained in service. If he is a probationer or a temporary Govt. servant, he should be discharged or his services should be terminated. If he has become a permanent Government servant, an inquiry as prescribed under Rule 15 of O. C. S. (C. C. & A.) Rules, 1962 may be conducted and if the charges are proved, the Government servant should be removed or dismissed from service. In no circumstances should any other penalty be imposed.

4. Such discharge, termination, removal or dismissal from service would, however, be without prejudice to the right of the Government to prosecute such Government servants.

5. All Departments/Heads of Departments/Collectors are requested to bring the above to the notice of all concerned for information and necessary action.

The receipt of the letter may kindly be acknowledged.

PRITIMAN SARKAR

Special Secretary to Government

APPENDIX IV

No. 7902-O. S. S. C. - 30/2000-Gen.

GOVERNMENT OF ORISSA

GENERAL ADMINISTRATION DEPARTMENT

NOTIFICATION

The 2nd March 2001

In exercise of the powers conferred by the proviso to Rule 4 of the Orissa Staff Selection Commission Rules, 1993, the Governor of Orissa has been pleased to include in the list, the post of Inspector of Supplies under schedule I appended to the Orissa Staff Selection Commission (Amendment) Rules, 1998 as follows :-

In the said schedule in serial No. 8 against the Department “Food Supplies and Consumer Welfare” the following post shall be added in column (3), namely :-

“3. Inspector of Supplies.”

By order of the Governor

U. N. BEHERA**Special Secretary to Government**

No. 7906-O. S. S. C. - 23/2000-Gen.

GOVERNMENT OF ORISSA**GENERAL ADMINISTRATION DEPARTMENT****NOTIFICATION**

The 2nd March 2001

In exercise of the powers conferred by the proviso to Rule 4 of the Orissa Staff Selection Commission Rules, 1993, the State Government do hereby include in the list, the posts of Gram Panchayat Extension Officer and Progress Assistant under schedule I appended to the Orissa Staff Selection Commission (Amendment) Rules, 1998 as follows :-

In the said schedule in serial No. 16 against the Department “Panchayati Raj” the following posts shall be added in column (3), namely :-

- “1. Gram Panchayat Extension Officer
2. Progress Assistant.”

By order of the Governor**U. N. BEHERA****Special Secretary to Government**

No. 20925-O. S. S. C. - 53/2002-Gen.

GOVERNMENT OF ORISSA**GENERAL ADMINISTRATION DEPARTMENT****NOTIFICATION**

The 1st July 2002

In exercise of the powers conferred by the proviso to Rule 4 of the Orissa Staff Selection Commission Rules, 1993, the State Government do hereby include in the list, the posts of Homoeopathic medical Officers (H.M.O.) and Ayurvedic Medical Officer (A. M. O.) under schedule I appended to the Orissa Staff Selection Commission (Amendment) Rules, 1998 as follows :-

In the said schedule in serial No. 10 against the Department “Health & Family Welfare” the following posts shall be added in column (3), namely :-

- “3. Homoeopathic Medical Officer
4. Ayurvedic Medical Officer.”

By order of the Governor**U. N. BEHERA****Special Secretary to Government****APPENDIX V**

No. 22392-O. & M. – 4-8/97-Gen.

GOVERNMENT OF ORISSA**GENERAL ADMINISTRATION DEPARTMENT****OFFICE MEMORANDUM**

The 3rd August 1999

Subject – Large scale transfer of Group ‘C’ officers.

The undersigned is directed to say that instance of large scale transfers, in some Departments of Group ‘C’ Officers of Government, thereby causing serious difficulties, both financial and physical to the low paid employees, have come to the notice of the Government. Analysis of some of these cases reveal that almost all such transfers have been ordered in the Administrative Departments and that the functions of the appointing authority or of the delegated Authorities have been taken over by the Departments of government. Such upward withdrawal of powers has resulted in longer chains of transfer, often not warranted by administrative expediency and sometime involving employees who have not even served a year at the previous station. Such transfers done in the Administrative Departments give raise to certain complications like :-

- (a) loss of the line of command because the transferred employee comes to believe that he (she) can easily bypass the controlling authority in the field formation, and

- (b) a longer chain of transfers in which a number of unwilling or suffering employees go on leave thereby leaving some posts vacant for long periods, and
- (c) the dust thrown up by large scale transfers does not settle down for months together and employees through the Secretariat corridors to modify/cancel their postings, and
- (d) the bills on account of their Transfer Travelling Allowance go on mounting and remain unpaid for years together for want of adequate allotment under T. A. head and when paid, it makes a heavy burden on the budget.

All Departments are therefore, impressed upon that the existing delegation of powers in respect of transfers and postings exercisable by authorities as per Orissa Service Code, read with Appendix I thereof, must be respected. Departments which have not made delegation should work out the same. The number of functionaries transferred should be confined to the barest minimum. No transfer should take place after 15th August 1999 ordinarily. Any deviation from these instructions without prior approval of the Chief Minister would be seriously viewed.

SAHADEV SAHOO
Chief Secretary, Orissa

No. 21642-O. & M. – 9/2002-Gen.

GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT
OFFICE MEMORANDUM

The 6th July 2002

Subject – Transfer Policy.

Subsequent to the issue of General Administration Department Office Memorandum No. 14357-Gen., dated the 30th April 2001 regarding transfer policy of Government servants, certain doubts have arisen in different quarters regarding implementation of transfer policy 2001-2002 for the current year (2002-2003).

It is clarified that the directives issued in G. A. Department O. M. No. 14357-Gen., dated the 30th April 2001 hold good in all respects for the current year, i.e., 2002-2003 and subsequent years, unless and otherwise any modification to this effect is issued by G. A. Department.

S. SRINIVASAN
Special Secretary to Government