

Salient Aspects of DPC Proposal

1. Zone of Consideration

In reference to the DOP&T OM No. 22011/1/90-Estt.(D) dated 22.4.1992, the zone of officers to be considered for promotion till 6th January, 2006, was as under:-

No. of vacancies	No. of officers to be considered
1	5
2	8
3 and above	Twice the number of vacancies + 4

The zone for consideration could be extended to 5 times the number of vacancies for SC/ST candidates in respect of promotions from Group B to the lowest rung of Group A, in case required number of SC/ST officers against the vacancies reserved for them were not available in the panel from within the normal zone.

The DOP&T, vide OM No.22011/2/2002-Estt.(D) dated 6th January, 2006 has, however revised the zone of officers to be considered for promotion as under:-

(i) For vacancies upto (and including) 10, existing provisions relating to normal size of zone of consideration will continue to be applicable;

(ii) For vacancies exceeding 10, the normal size of zone of consideration will be one and a half times the number of vacancies, rounded off to next higher integer plus three but shall not be less than the size of zone of consideration for 10 vacancies;

(iii) The existing size of extended zone of consideration for SC/ST officers, viz. five times the total number of vacancies, will continue to be applicable.

The following table will make it easier to understand the zone of consideration for different number of vacancies:-

No. of vacancies	Normal size of zone consideration	Extended zone of consideration for SC/ST
1	5	5
2	8	10
3	10	15
4	12	20
5	14	25

6	16	30
7	18	35
8	20	40
9	22	45
10	24	50
11	24	55
12	24	60
13	24	65
14	24	70
15	26	75
16	27	80
17	29	85
18	30	90
19	32	95
20	33	100
30	48	150
40	63	200
50	78	250
60	93	300
70	108	350
80	123	400
90	138	450
100	153	500

2. BENCH MARK

In so far as the DPC meetings chaired by the Chairman/Member of the Union Public Service Commission are concerned, the Bench Mark for promotion from Group B to the lowest rung of Group A posts, as provided for in the DOP&T OM No.22011/5/86-Estt.(D) dated 10th March, 1989 read with subsequent Office Memoranda dated 10th April, 1989, 27th March, 1997 and 8th February, 2002, is Good. In respect of all posts in Group A, which are in the level of Rs.12,000-16,500 and above, the Bench Mark grade is Very Good.

3. CRUCIAL DATE FOR DETERMINING ELIGIBILITY

The crucial date for determining eligibility of officers for promotion, as prescribed in the DOP&T OM No.22011/9/98-Estt.(D) dated 8th September, 1998, is 1st January of the vacancy year irrespective of whether the vacancy year commences from 1st January or 1st April or from any other date, unless otherwise provided for in the statutory Recruitment Rules.

Crucial date of eligibility in respect of the vacancy year 2015-16:

It has been provided vide DOP&T O.M No.22011/6/2013-Estt(D) dated 28th May, 2014 that the crucial date of eligibility shall be 1st April of the vacancy year in case of financial year based vacancy year i.e. where the Annual Performance Appraisal Reports (APARs) are written financial year-wise. In case of calendar year based vacancy year, i.e. where APARs are written calendar year-wise, the crucial date of eligibility shall remain as 1st January of the vacancy year. These instructions shall come into force in respect of vacancy year 2015-16 (financial year) commencing from April 1, 2015 and vacancy year 2015 (calendar year) commencing from January 1, 2015 and shall, accordingly, be applicable to all such subsequent vacancy years.

4. ASSESSMENT OF ACRs

The DOP&T OM No.22011/7/98-Estt.(D) dated 6th October, 2000 provides as under:-

The DPC should assess the suitability of the employees for promotion on the basis of their service records and with particular reference to the CRs for five preceding years irrespective of the qualifying service prescribed in the Service/Recruitment Rules. The preceding five years for the aforesaid purpose shall be decided as per the guidelines contained in the DOP&T OM No.22011/9/98-Estt. (D) dated September 8, 1998 which prescribe the Model Calendar for DPC, read with OM of even number dated June 16, 2000. (If more than one CR have been written for a particular year, all the CRs for the relevant years shall be considered together as the CR for one year)

The DOP&T O.M. dated September 8, 1998 read with O.M. dated June 16, 2000 provide that only such ACRs should be considered by the DPCs which became available during the year immediately preceding the vacancy/panel year even if DPCs are held later than the schedule prescribed in the Model Calendar. For example, for the vacancy/panel year 2000-01, ACRs upto the year 1998-99 are required to be considered irrespective of the date of convening of DPC.

5.MODE OF PROMOTION

As per the DOP&T OM No.35034/7/97-Estt.(D) dated 8th February, 2002, the mode of promotion is selection. The element of selectivity shall be determined with reference to the relevant Bench Mark (Very Good or Good) prescribed for promotion. It is further provided that the DPC shall determine the merit of those being assessed for promotion with reference to the prescribed Bench Mark and accordingly grade the officers as Fit or Unfit only. Only those who are graded Fit (i.e. who meet the prescribed Bench Mark) by the DPC shall be included and arranged in the select panel in order of their inter se seniority in the feeder grade. Those officers who are graded Unfit (in terms of the prescribed Bench Mark) by the DPC shall not be included in the select panel. Thus, there shall be no supersession in promotion among those

who are graded Fit (in terms of the prescribed Bench Mark) by the DPC. The Commission, in exercise of their constitutional functions as envisaged in Article 320 of the Constitution took a conscious decision that an officer attaining at least four bench mark gradings out of 5 ACRs, as prescribed by the Govt. of India in Department of Personnel and Training OM No.22011/9/98-Estt.(D) dated 8.9.1998, read with subsequent OM of even number dated 16.6.2000, should be assessed as fit for promotion and this decision is applicable to all DPCs pertaining to the vacancy year 2003-04 and subsequent years.

DoP&T, vide their OM No. 22011/3/2007-Estt(D) dated 18.02.2008, have issued instructions regarding benchmark for promotion at the level of JS and above from the panel year 2008-09. In their OM it has been mentioned that the DPC may ensure that for the promotion to the scale of Rs. 18,400-22,400 and above, the prescribed benchmark of 'Very Good' is invariably met in all ACRs of five years under consideration.

6. NON-AVAILABILITY OF ONE OR MORE CRs

Para 6.2.1 (c) of the DOP&T OM No.22011/5/86-Estt.(D) dated 10.4.1989 provides that where one or more CRs have not been written for any reason during the relevant period, the DPC should consider the CRs of the years preceding the period in question and if in any case even these are not available, the DPC should take the CRs of the lower grade into account to complete the number of CRs required to be considered. If this is also not possible, all the available CRs should be taken into account.

The Commission have decided that the Department should place in the CR folder a No Report Certificate duly signed by an officer of appropriate status giving reasons for non-availability in lieu the CR not available.

7. POWERS OF THE DPC

Para 5 of the DOP&T OM dated 10.4.1989 provide that each DPC should decided its own method and procedure for objective assessment of the suitability of the candidates. No interviews should be held unless it has been specifically provided for in the Recruitment Rules.

Para 6.1.2 of the said OM further provides that the DPCs enjoy full discretion to devise their own methods and procedures for objective assessment of the suitability of candidates who are to be considered by them.

Para 6.2.1 (e) of the OM provides that the DPC should not be guided merely by the overall grading, if any, that may be recorded in the CRs but should make its own assessment on the basis of the entries in the CRs, because it has been noticed that sometimes the overall grading in ACR may be in consistent with the grading under various parameters or attributes.

The Supreme Court of India has, in a number of judgments, held that the decision of the duly constituted DPC cannot be interfered with and a review of assessment in respect of an officer made by it cannot be directed except on the limited ground of malafides or procedural irregularity. Some of such cases are as follows:-

- (i) Nutan Arvind Vs UOI & Anr. [(1996) 2 SUPREME COURT CASES 488];
- (ii) UPSC Vs H.L. Dev and Ors. [AIR 1988 SC 1069];
- (iii) Dalpat Abasahab Solanke Vs B.S. Mahajan [AIR 1990 SC 434];
- (iv) Anil Katiyar Vs UOI and Ors. [1997(1) SLR 153];
- (v) Union of India and Anr. Vs S.K. Goel and Ors. in Appeal (Civil) No. 689 of 2007.

8. VALIDITY OF RECRUITMENT RULES

The Supreme Court, in their judgement dated 24.3.1983 in Civil Appeal No.2954-55 and 2956-57 of 1980-Y.V. Rangaiah and Ors. Vs J. Sreenivasa Rao and Others held that the vacancies are governed by the Recruitment Rules in force as on the date of occurrence of vacancies, and that the vacancies which occurred prior to the amended rules would be governed by the old rules and not by the amended rules.

9. SEALED COVER PROCEDURE

The DOP&T, vide Office Memorandum No. 22011/4/91-Estt.(A) dated 14.9.1992, in implementation of judgement dated 27.8.1991 of the Supreme Court in the case of Union of India etc., Vs K.V. Jankiraman etc. (AIR 1991 SC 2010) decided that at the time of consideration of the cases of government servants for promotion, details of government servants in the consideration zone for promotion falling under the following categories should be specifically brought to the notice of the DPC:-

- (i) Government servants under suspension;
- (ii) Government servants in respect of whom a charge sheet has been issued and the disciplinary proceedings are pending; and
- (iii) Government servants in respect of whom prosecution for a criminal charge is pending. The DPC shall assess the suitability of the government servants coming within the purview of the circumstances mentioned above along with other eligible candidates without taking into consideration the disciplinary case/criminal prosecution pending. The assessment of the DPC including Unfit for promotion, and the grading awarded by it will be kept in a Sealed Cover. The

proceedings of the DPC need only contain the note the findings are contained in the attached sealed cover.

If any penalty is imposed on the government servant as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the sealed cover/covers shall not be acted upon. His case for promotion shall be considered by the next DPC in the normal course and having regard to the penalty imposed on him.

10. ADVERSE ENTRIES IN ACRs

The procedure for dealing with the adverse entries in the CRs by the DPC, as provided for in the DOP&T OM No.22011/3/88-Estt.(D) dated 11.5.1990 is as under:-

(i) Where the DPC find that the adverse remarks in the CR of an officer have not been communicated to him but the adverse remarks are of sufficient gravity to influence their assessment of the officer concerned, then the Committee shall defer consideration of the case of the officer, provided these remarks have been recorded in any of the CRs pertaining to three immediately preceding years prior to the year in which the DPC is held and direct the Cadre Controlling authority concerned to communicate the adverse remarks to the officer concerned so that he may have an opportunity to make a representation against the same. Where the uncommunicated adverse remarks pertain to a period earlier than the above or where the remarks are not considered of sufficient gravity to influence the assessment of the officer concerned, the DPC may proceed with consideration of the case but may ignore the remarks while making the assessment;

(ii) After a decision is taken by the Competent Authority on the representation made by the government servant or in the event of the government servant not making any such representation after the period therefor has expired, the DPC shall assess the suitability of the government servant on the basis of entries now contained in the CR . While considering the deferred case as above, if the DPC find the officer fit for promotion, it would place him at the appropriate place in the relevant select list/list of officers considered fit for promotion after taking into account the toned down remarks or expunged remarks;

(iii) In case where a decision on the representation of an officer against adverse remarks has not been taken or the time allowed for submission of representation is not over, the DPC may in their discretion defer the consideration of the case until a decision on representation;

(iv) In both the cases referred to at (i) and (iii) above, where the consideration of a case is referred on account of adverse remarks contained in the CR, the concerned authority should intimate the result of the representation of the officer against the adverse remarks within a period of three months from the date of submission of the said representation, if any.

11. EXTENDED PANEL

The preparation/recommendation of extended panel by the DPC is governed by the DOP&T OM No.22011/18/87-Estt.(D) dated 9.4.1996. As per this OM, the DPCs will prepare an extended panel only in the following contingencies:-

(i) When persons included in the panel are already on deputation or whose orders of deputation have been issued and will be proceeding on deputation shortly for a period of more than a year.

(Commission recommends an extended panel only if the period of deputation of an officer outside the cadre is more than an year as on the date of DPC); or

(ii) When persons included in the panel have refused promotion on earlier occasions and are under debarment for promotions; or

(iii) When officers included in the panel have retired/are retiring within the same year provided there is no change in the zone of consideration by the expected date of their retirement.

12. MODEL CALENDAR FOR DPCs

The DOP&T vide their OM No.22011/4/2013—Estt(D) dated 8th May, 2017, in partial modification to the previously existing instructions on the subject, have issued detailed guidelines to the Ministries/Department which inter -alia contain a Model Calendar envisaging time schedule to be followed by the Ministries/Departments in sending the cases to UPSC for convening DPC. The revised guidelines envisage the following:

- (i) The vacancy year may be shifted to Calendar Year from the year 2018 onwards, wherever the financial year based vacancy year being followed now.
- (ii) The crucial date of eligibility will be 1st of January of the Vacancy year w.e.f 2019.
- (iii) The APARs for five years preceding T-2nd year may be taken as reckoning APARs, i.e. for the vacancy year 2019 (January 2019 to December, 2019), the reckoning APARs shall be 2016-17, 2015-16, 2014-15, 2013-14 and 2012-13.
- (iv) The year of 2018 being the transitional year, the vacancy period shall be from 1st April 2018 to 31st December, 2018. The reckoning APARs for this vacancy year shall be 2015-16, 2014-15, 2013-14, 2012-13 and 2011-12. The crucial date of eligibility shall be 1st April, 2018 for the transitional year.

This Model Calendar provides separate time schedule for cases requiring approval of ACC and cases which do not require such approval. The underlying idea in framing this time

schedule is that the DPCs are not only convened in time but sufficiently in advance so as to utilize the prepared panel as and when the vacancies arise during the course of vacancy year. The Model Calendar not only provides specific time frame for the Ministries/Departments for processing the proposal after compiling relevant information/documents and, thereafter, sending the case to UPSC but also provides specific time lines for holding of DPC and seeking approval of ACC etc.

The above instructions also require the Ministries/Departments to strictly adhere to the time schedules prescribed in the model calendar with a view that panels for promotion are ready on the first day of the vacancy year.

13. CALCULATION OF VACANCIES

Para 4.1 of the DOP&T OM No.22011/5/86-Estt.(D) dated 10.4.1989 provides that for the purpose of calculation of vacancies for consideration by the DPC, all clear vacancies arising in a post/grade/service due to death, retirement, resignation, regular long term promotion and deputation or from creation of additional posts on long term basis should be taken into account. As regards vacancies arising out of deputation, only those cases of deputation for periods exceeding one year should be taken into account, due note, however, being kept also of the number of the deputationists likely to return to the cadre and who would have to be provided for. Purely short term vacancies created as a result of officers proceeding on leave, or on deputation for shorter period, training etc., should not be taken into account for the purpose of preparation of a panel. In cases where there has been delay in holding DPCs for a year or more, vacancy should be indicated year wise separately.

The DOP&T, in OM No.22011/9/98-Estt.(D) dated October 6, 1999 has clarified that the chain vacancies on account of a retirement, etc., in the higher grades in a vacancy (panel) year shall include the vacancies which can be clearly anticipated as likely to become available in the concerned grade by promotion of officers of the service to higher grades during the vacancy (panel) year.(Expected promotion to the higher grades under the model calendar for DPCs would normally be against vacancies arising by retirement in all higher grades/hierarchy.

For the sake of illustration, if a panel being prepared for promotion to JTS, the chain vacancies in the higher grades in that vacancy (panel) year shall include vacancies arising on account of retirement in STS, JAG, NFSG and SAG in the panel year, i..e. if four officers are retiring in STS, three officers in JAG, and two in NFSG and one in SAG in the panel year, the total number of anticipated chain vacancies for JTS in the said panel year shall be 10.

14. CONSIDERATION OF RETIRED OFFICERS FOR PROMOTION

The DOP&T , in consultation with the Department of Legal Affairs, has clarified in OM No.22011/4/98-Estt.(D) dated October 12, 1998 that it would not be in order if eligible employees, who were within the zone of consideration for the relevant year(s) but are not actually in service when the DPC is being held, are not considered while preparing year wise zone of consideration/panel and, consequently, their juniors are considered (in their places) who would not have been in the zone of consideration if the DPC(s)has been held in time. Consideration of such officers is, therefore, considered imperative to identify the correct zone of consideration for relevant year(s). Names of the retired officers may also be included in the panel(s). Such retired officials would, however, have no right for actual promotion. The DPC(s) may, if need be, prepare extended panel(s) following the principles prescribed in the DOP&T O.M. No.22011/18/87-Estt.(D) dated April 9, 1996.

15. REVIEW DPC

The proceedings of a DPC may be reviewed only if the DPC has not taken all material facts into consideration or if material facts have not been brought to the notice of the DPC or if there have been grave errors in the procedure followed by the DPCs. The illustrative (and not exhaustive) situations in which review DPC can be held are as under:-

- (a) Non-reporting of vacancies due to error or omission (i.e. though the vacancies were available at the time of holding of DPC meeting, these were not reported to the DPC). This leads to injustice to the officers concerned by artificially restricting the zone of consideration; or
- (b) Where eligible persons were omitted to be considered; or
- (c) Where ineligible persons were considered by mistake; or
- (d) Where the seniority of a person was revised with retrospective effect resulting in a variance of seniority list placed before the DPC; or
- (e) Where some procedural irregularities was omitted by a DPC; or
- (f) Where adverse remarks in the CRs were toned down or expunged after the DPC had considered the case of the officer.

In case of over-reporting of vacancies to the DPC, a review DPC is to be held only if the change in the number of vacancies would result in exclusion of any person (s) empanelled by the original DPC on account of over-reporting of vacancies which led to inflated zone of consideration.

Supplementary DPC:

The instructions issued by the DOP&T vide OM No. 22011/5/86-Estt (D) dated 10.4.89 [para 6.4.2 (i)] provide that vacancies occurring due to death, voluntary retirement, new creations etc. could not be foreseen at the time of placing facts and material before the DPC, therefore, another meeting of DPC (commonly referred to supplementary DPC) should be held for drawing up a panel for these vacancies. Further to the above instructions DOP&T vide O.M No. 22011/2/2014- Estt.(D) dated 30th January, 2015 has laid down the procedure for Supplementary DPC.