



**दक्षिण रेलवे/SOUTHERN RAILWAY**

No.P(S)171/P.Com.Ver/2013/Vol.I

प्रधानकार्यालय/ Headquarters Office  
कार्मिक शाखा/ Personnel Branch  
चेन्नै/Chennai - 600 003  
दि./ Dated:02-08-2016

**पी बी सी सं/ PBC No.100 / 2016**

All PHODs / DRMs / CWMs / CEWE / CAO / CPM / Dy.CPOs / Sr.DPOs /  
DPOs / SPOs / WPOs / APOs of HQ / Divisions / Workshops / Other Units, etc.,  
(As per mailing list - 'A' )

Sub : Complaints regarding Community Certificate cases

Ref : CPO/MAS letter No.P(S)171/Policy/Comm.Ver  
Dt.24.03.2008 (circulated as PBC No.41/2008)

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Detailed guidelines have been prescribed vide PB Circular No.41/2008 for dealing with community certificate cases in so far as effecting promotion, release of retirement benefits, contesting court cases, etc., Due to some of the decisions rendered by the Central Administrative Tribunal and High Court, it has become imperative to have a revisit to some of the instructions/ guidelines contained in PBC No.41/2008. Hence, following revised guidelines are issued for strict compliance.

**A. Procedure to be followed at the time of initial appointment :**

- a) Personal File/File relating to initial appointment papers should invariably be maintained along with SR.
- b) Whenever a candidate belonging to Reserved Community (OBC, SC or ST) is to be appointed based on open competition through RRB or RRC, compassionate ground, sports ground appointment, appointment under LARSGESS etc, as the case may be, the candidate to be appointed should be advised to submit the original community certificate along with two copies (attested) of Original community certificate on the day of reporting.
- c) The Cadre Personnel Officer should compare the Original with the attested copies. He should ensure that the copies of the community certificate are attested by a Gazetted Officer.
- d) The Cadre Personnel Officer should examine whether the Community Certificate has been issued in the prescribed form by the prescribed Competent Authority. This verification becomes all the more important since various authorities have been designated/prescribed for issuance of community certificate by various States depending upon the communal status of the employee concerned and steps should also be taken to ensure that "Particulars regarding the place where the candidate ordinarily resides and his caste/tribe status, etc., as mentioned in the certificate produced by

him in support of his claim, conform to those as given in his appointment application/Service Book and that the particular Scheduled Caste/Scheduled Tribe to which the candidate claims to belong, is mentioned in the approved list of Castes/Tribes circulated by the Board from time-to-time.

- e) After ensuring that the community certificate has been issued in the prescribed form only by the competent authority (designated/ prescribed), the Cadre Personnel Officer should return back the original community certificate to the candidate, under proper acknowledgement in writing.
- f) In case the community certificate has not been issued in the prescribed form by the competent authority, the candidate should be categorically advised to submit the prescribed community certificate issued by the competent authority only, for which suitable time may be given to him.
- g) In case where the prescribed community certificate submitted by the candidate has been issued by the competent authority, the Cadre Personnel Officer after returning back the original community certificate to the candidate under proper acknowledgement in writing, should advise the concerned Personnel Branch Clerk/Office Superintendent as the case may be to keep one of the attested copies of the community certificate in the candidate's Personal File and another copy should be pasted in the Service Register along with the medical certificate as is being done for medical certificate.
- h) While issuing the Appointment Order (after accepting the offer of appointment by the candidate in writing), even where the prescribed certificates have been produced, the appointing authorities should include a clause in the offer of appointment as follows :-

*"The appointment is provisional and is subject to the Caste/Tribe certificates being verified through the proper channels and if the verification reveals that the claim to belong to Scheduled Caste or Scheduled Tribe, as the case may be, is false, the services of the candidate will be terminated forthwith without assigning any further reasons and without prejudice to such further action as may be taken under the provisions of the Indian Penal Code for production of false certificates."*

Further, appropriate entry in the Service Register of the candidate should also be recorded. As a measure of abundant caution, a written undertaking from the candidate on the above lines should also be obtained and kept in his/her Personal File.

- i) The Cadre Personnel Officer should send one of the two attested copies of the community certificate to the authority which issued the same under a proper covering letter requesting that authority to certify to the effect that the said community certificate is issued from his office by the competent authority and the same is genuine or otherwise within a reasonable time.

- j) In case the authority to whom the letter was sent has not responded within a month's time, suitable reminder(s) should be sent in those cases, duly deputing staff to the office of the certificate issuing authority also for getting expeditious reply.
- k) If the authority which issued the certificate has certified its genuineness, the copy of such letter should be pasted in the Service Register of that employee, in addition to keeping the original in the Personal File of that employee. Further, appropriate/suitable entry to this effect should also be made in the Service Register of that employee under proper attestation.
- l) In case the certificate issuing authority has certified that the community certificate is not issued by his office and the same is a bogus/fake one, the disciplinary proceedings should be initiated against the employee immediately as per the guidelines issued by the DOPT vide OM No.36011/1/2012-Estt(Res) dated 10<sup>th</sup> January 2013.

**B) Complaints against the employees gained appointment/ promotion on the strength of false/bogus community certificate cases :**

As per the extant instructions, the Railway Administration is at liberty to verify the communal status of an employee at any point of time on genuine reasons, in addition to verifying the genuineness of the community certificate at the time of initial appointment and promotion as per the instructions communicated by the Railway Board from time to time. Despite stringent procedure adopted to verify the communal status of an employee, chances of receiving complaints regarding the communal status of an employee/officer cannot be ruled out altogether. Wherever such a complaint is received, it should be examined whether it is a signed complaint or anonymous or pseudonymous complaint and the following procedure must be followed :

- i) If the complaint is an anonymous or pseudonymous one, no action should be taken on the same.

**Ref :** CVC's following circulars.

- a) No.3(v)/99/2 dated 29<sup>th</sup> June 1999.
- b) No.98/DSP/9 dated 31<sup>st</sup> January 2002
- c) No.98/DSP/9 dated 11<sup>th</sup> October 2002
- d) No.07/11/2014 dated 25<sup>th</sup> November 2014.

- ii) If the complaint is a signed one, the complainant should be addressed a letter asking him/her to say in writing whether he/she owns the complaint or disowns the same, within a period of 15 days time. If no reply is received, a reminder should be sent asking him/her to respond to the letter within a period of 15 days. If the complainant fails/omits/refuses/ neglects to respond or confirm in writing, the complaint should be merely filed without taking any action.

- iii) If the complainant responds and confirms that he/she only has given that complaint, he/she should be asked to submit proof (documentary evidence) in support of his/her complaint. In addition, the complainant may also be heard in person. Thereafter, the preliminary enquiry may be conducted with the particulars available as well as the details given by the complainant in order to ascertain the prima facie evidences if any found available substantiating the allegations made by the complainant.

iv) Thereafter, only if so required based on the prima facie evidences revealed from the Preliminary Enquiry conducted, the copy of the complaint, the copies of documents along with the preliminary enquiry report should be sent to SLSC or DLVC, as the case may be, for giving a finding on the genuineness or otherwise of the communal status of that employee concerned. If the DLVC/SLSC furnishes the proceedings/ report recording its findings that the certificate obtained was false, necessary action is to be taken immediately, for the termination of the service including criminal action and also to recover the dues paid to that employee as per the Judgment of the Supreme Court in ***R.Vishwanatha Pillai Vs State of Kerala – (2004) 2 SCC 105.***

However, the provisions contained in Chapter IV of Indian Railway Vigilance Manual 2006 should also be invariably kept in view while dealing with anonymous/pseudonymous complaint cases.

iv) In addition to referring the cases to DLVC/SLSC, based on the complaint as narrated above, as advised by SDGM and CVO vide his letter No.VO/A/ST/1995/2005 dated 05.07.2005 based on the direction of the Hon'ble High Court of Delhi in CWP No.5976/03, the ST certificates of all candidates appointed from 1995 onwards must be sent for verification to the concerned issuing authorities under intimation to the Chief Secretary of the State Government concerned for confirming the authenticity of the certificates.

**C) Procedure to be followed in cases where an employee is going to retire or already retired from Railway service, against whom verification of the genuineness of the community certificate is pending at SLSC/ DLVC with regard to withholding/releasing of settlement dues in supersession of Para 12 of PBC 41/2008 :**

A number of cases have been referred to SLSC/DLVC for verification of the genuineness of the communal status while in service and such cases are still under adjudication before SLSC/DLVC notwithstanding the fact that the concerned employees have already retired from service on attaining the age of superannuation.

In some cases, the retired employees have approached Central Administrative Tribunal, Madras Bench and obtained orders in their favour. The Writ Petitions filed by the Railway Administration have been dismissed. In addition to this, the Railway Board have also stated that the pendency of a case in SLSC/DLVC cannot be equated with a proceeding pending in a Court of Law. In these circumstances, the Railway Administration has no other option than to release the retirement benefits to such retired employees. At the same time, the Railway Administration's interest is also to be protected in view of the decision rendered by the Supreme Court in ***Vishwanatha Pillai's case***. Therefore, following procedure should be followed in the case of retired/retiring employees

1) In cases which have been referred to SLSC/DLVC and subsequently pending before various Courts as the matters are sub-judice, no action could be taken until the matter is disposed of by the courts.

2) No pension or gratuity of the whole or part can be withheld excepting in the cases referred in Para (9) & (10) of Railway Services (Pension) Rules 1993. Hence, entire settlement dues can be made **provisionally**, subject to the condition that he/she shall execute an undertaking that he/she will co-ordinate with SLSC/DLVC as the case may be even after retirement and also execute an indemnity bond to the employer that at a later date, if it is held by SLSC/DLVC that employee/officer does not belong to SC/ST and his/her community is false or bogus then action shall be initiated for recovery of terminal benefits/dues as per the Judgment of the Supreme Court in ***R.Vishwanatha Pillai Vs State of Kerala –***

**(2004) 2 SCC 105** including criminal action, in terms of Railway Board's letter No.9 -E(SCT) 1/31/1 dt.31.05.1990. An illustrative format for offering the necessary Indemnity Bond is enclosed which would have to be notarized by the employee/retired employee before submitting the same to the concerned office.

As per the earlier practice, only **provisional Pension** was sanctioned, withholding all the other retirement benefits, now it has been decided that pension and all other retirement benefits admissible to an employee are payable provisionally subject to submission of necessary undertaking and bond ; unless covered by Rule 9 & 10 of Railway Services Pension Rules and any other rules in this regard.

3) In case the employee who are to retire but internal enquiry/SLSC/ DLVC enquiry is still pending, in their cases too, an undertaking and bond should be taken in regard to their co-operation to SLSC/DLVC for conducting enquiry even after retirement and also before making full settlement **provisionally** as indicted at Para 2 above.

4) However, the system of granting only provisional pension would continue to be followed in the following cases :

- i) If the community certificate of the employee has already been cancelled by the competent Revenue Authority or declared as does not belong to the community (SC/ST) as claimed, however continued/ continuing in their service based on the orders of the Hon'ble Courts with a direction to approach the SLSC/DLVC as the case may be.
- ii) Not produced the community certificate by the employee (retired/retiring) when insisted for the same by the Railway Administration/ DLVC/SLSC, or not attending the enquiry at SLSC/ DLVC along with the required documents/evidences to establish his communal status as claimed even though the burden of proof of social status is always on the person who professes it to seek constitutional socio-economical advantages, as law laid down by the Hon'ble Supreme Court of India in the case of Director of Tribal Welfare, Government of AP – Vs – Laveti Giri (1995) 4 SCC 32.

#### **D. DAR action :**

DAR action can also be initiated by the Administration, wherever required on examining the merit of each case for the strong reasons such as clear prima facie evidences found available to substantiate that the employee does not belong to the community as claimed i.e., SC/ST, not producing the required documents/information i.e, personal bio-data of the parents/grand parents and their permanent abode and suppression of the facts or intentionally furnishing false information in order to prevent the administration to conduct the preliminary enquiry and ascertain the factual position of the case etc.,

#### **E. Challenging the verdict of DLVC/SLSC :**

Sometimes situation may arise in which DLVC/SLSC may give conflicting verdict holding community certificate valid/genuine, either without taking into the consideration of the valid prima facie oral and documentary evidences produced by the administration based on the preliminary enquiry conducted by the administration including the investigation conducted by the Vigilance Organisation or not following the guidelines/procedure laid down by Hon'ble Supreme Court of India in the case of ***Kumari Madhuri Patil (1994) 6 SCC 241*** . In such a case, Railway Administration may request the DLVC/SLSC to review its earlier decision, duly furnishing the reasons for making such a request. For sound rea-

soning, (if the administration has valid documentary evidences to contest) the Railway Administration may also challenge the verdict of SLSC/DLVC before the Hon'ble High Court under Article 226 of Constitution of India, the administration may file a Writ Petition against the decision of the SLSC/DLVC as the case may be, duly supported with documents available with the administration. Decision to challenge the verdict of SLSC/DLVC may be taken at the highest level i.e., the level of CPO, so that a final decision is taken duly taking an objective assessment of the case.

This issues with the approval of Competent Authority.

Encl: as above

  
(R.M. RAVIKUMAR)  
Senior Personnel Officer/RP  
for Chief Personnel Officer.

Copy to : The Genl Secy / SRMU  
The Genl Secy / AISCSTREA  
The Genl Secy / AIOBCREA

The Genl Secy / NFIR

## **INDEMNITY BOND**

(This deed shall be made on Rs. 80/- Non-judicial Stamp Paper)

This deed of Indemnity made on \_\_\_\_ th day of \_\_\_\_\_, 20\_\_ by Shri \_\_\_\_  
aged \_\_\_\_ son of Shri \_\_\_\_\_ residing at \_\_\_\_\_  
\_\_\_\_\_ who hereinafter shall be referred to as em-  
ployee/ retired employee as may be read in the context required in favour of the President  
of India acting through \_\_\_\_\_, Southern Railway, \_\_\_\_\_ who shall be hereinaf-  
ter referred as Employer.

The term employee/ retired employee and the Employer unless repugnant shall mean and include their respective heirs, legal representatives, successors.

The employee retired/retiring from service of Southern Railway on \_\_\_\_\_ while working as \_\_\_\_\_ at \_\_\_\_\_.

Whereas the Employee has submitted Community certificate at the time of entering into service or during the course of service which the Employer has forwarded to State/ District Level Scrutiny Committee for verification and the same is pending with them.

Whereas the Employer has agreed to arrange payment of settlement benefits to the employee/ retired employee on his retirement even during pendency of Community Certificate verification with State/District Level Scrutiny Committee. The Employee/ retired employee has to submit a deed of Indemnity to receive payment as the Community Certificate submitted by him is under scrutiny before State/District Level Scrutiny Committee. Hence by this deed the employee / retired employee shall indemnify and keep the employer indemnified against any loss or damages suffered by the employer owing to payment of settlement benefits/dues that in case State/District Level Scrutiny Committee gives a finding that the employee does not belong to the community mentioned in the Certificate produced by him and cancels the certificate.

IN WITNESS WHEREOF, the employee/retired employee has set his hand hereunto on the day, month and year written above.

Signature of the Employee/  
Retired Employee

Witnesses:

1. \_\_\_\_\_ Name \_\_\_\_\_, age \_\_\_\_ address \_\_\_\_\_
2. \_\_\_\_\_ Name \_\_\_\_\_, age \_\_\_\_ address \_\_\_\_\_