

Part II (A) The ASSAM GAZETTE, JUNE. 23,
1999 313

The 27th May, 1999

No ABP. 20/ 89/ PC -11/50 --in exercise of the powers conferred by the proviso to Article 309 of the Constitution of the India. The Governor of ASSAM is pleased to make the following rules regulating appointment in the public Services under the Government of the Assam of the next of the kin of persons who sacrificed their lives or the who have rendered physical disabled permanently by the Bullet injury or other wise while participating in the Assam movement on the problem of the foreigners namely:-

**SHORT TITLE AND
COMMENCEMENT**

1.
 - i) These Rules may be called the Assam Public Service (preferential Appointment) Rules 1999.
 - ii) They shall come into force on the date of the publication in the Official Gazette.

Definition

- 2) In these Rules, unless there is anything repugnant in the subject on context.
 - (a) "Affected Candidate" means candidate who is the member of the family of a martyr or a member of a family of a person who has been rendered physically

disable and process a certificate to that effect issued by the Deputy Commissioner of the respective District in such form as specified in the schedule to these Rules.

(b) "Government" means the state Government of Assam

(c) "Martyr" means person who was killed in the connection with his participation in the Assam movement on the problem of foreigners.

(d) "Member of the family" means a son or daughter of the spouse or a brother or sister of the a martyr or the physically disabled person .

(e) "Normal Rules" means the rules framed under the proviso to Article 309 of the constitution of India regulation recruitment and other conditions of the service and where no such Rules have been framed, the others, resolutions, directives, issued by the Government from time to time in this regard.

(f) "Physically Disabled" means a person disabled by the any major part his body leading to total disablement due to bullet injury or the otherwise in connection with assam movement on the problem of foreigners.

Application

3. These rules shall apply to all the services and posts under the Government of Assam recruitment to which are made through the Assam public service

commission or otherwise then through the assam public Service commission.

Preference for Appointment

4. (i) Subject to the provisions of these rules wherever any recruitment to services and posts referred to in rule 3 is made, one affected candidate who is otherwise eligible under the normal rules shall ceteris paribus be given preference in the making appointment :

Provided that such preference shall be subjects to reservation in the favour of the candidates who are member of the Scheduled Tribes (plain & Hills). Other Backward Classes (including More other Backward Classes), EX- servicemen and physically handicapped persons :

Provided further that appointment of the any affected candidate who is also a candidate of the category mentioned in the preceeding proviso shall be set of against the percentage reserved for the members of that particular category.

EXPLANATION:- For the purposes of this Rule the expression “who is otherwise eligible under the normal rules” shall means an affected candidate whose name is the included within the range of the 3 (three) times of the number of vacancies in the result sheet of the candidates arranged in order of merit.

2) if any affected candidate applies for any post claiming preference he shall enclose a certificate from the Deputy Commissioner concerned to the effect that he is an affected person being member of the family of a martyr or the family of a physically disabled person

3) One affected candidate only of a family of a martyr or a physically disable person having no earning member at all in his family shall be given preference for such appointment subject to the provisions under sub- rules (1) of the rules.

4) Before making an appointment, the appointing authority shall ascertain from Deputy Commissioner of the District of which the martyr or the physically disabled person was a resident that no other member of the family of the martyr or the family of the physically disable person of which the affected candidate is member has been appointed under sub-rules.(1) or in accordance with the directives or instruction of the government for appointment of affected candidates under its public sector undertaking, companies, corporation and bodies like mohkuma parishods, municipalities, Town Committers etc.

Over riding provision

(5) Not withstanding anything contained in any normal rules for recruitment to the services and posts referred to in rule 3, the provisions of these rules shall have overrieing effect.

Reporting of Appointment

(6). All appointments of the affected candidates shall be immediately reported by the appointing authority concerned to the Implementation of Assam Accord Department and to the Deputy Commissioners of the District of the which the martyr or the physically disabled person was a resident by sending a copy of the order of appointment or notification, as the case may be.

Interpretation

(7). If any question arises as to the interpretation of the Rules the same shall be decided by the Government of Assam.

Secretary to the Government of Assam .
Personal Department.

Schedule

In pursuance of Rule 2 (a) of the Assam public Services (Preferential Appointment) Rules, 1999, this is to certify that Shri/Smt..... of Village /Town.....P.S..... Sub-Division.....of District was killed/physical disable, in connection with this participation in the Assam Movement on the problem of Foreigners and that Shri/Smti..... is son/daughter/wife/husband/brother/sister/ of the said deceased/physically disabled.

N.B -please strike-out whichever is not applicable.

(COPY OF ASSAM ACCORD)
PROBLAME OF FOREGIGNERS IN ASSAM

MEMORANDUM OF SETTLEMENT

Government have all along been most anxious to find a satisfactory solution to the problem of foreigners in Assam. The all Assam students union (AASU) and the all Assam Gana sangaram parishad (AAGSP) have also expressed their keenness to kind such a solution.

2. The ASSU through their memorandum dated 2nd February, 1980 presented to the late prime minister Smti Indira Gandhi, conveyed their profound sense of apprehensions regarding the continuing influx of foreign national into Assam and the fear about adverse effects upon the political, social, cultural and economic life of the State.

3. Being fully alive to the genuine apprehensions of the people of Assam, the then Prime Minister initiated the dialogue with the AASU/AAGSP. Subsequently, talks were held at the Prime Minister's and Home Minister's levels during the period 1980-83. Several rounds of informal talks were held during 1980. Formal discussions were resumed in March, 1985.

4. Keeping all aspects of the problem including constitutional and legal provisions, international agreements, national commitments and humanitarian considerations, it has been decided to proceed as follows :-

Foreigners Issue :

Sd/-

(Biraj Sarma) 5.1. For purposes of detection and deletion of foreigners, 1.1.1966 shall be the base date and year.

Sd/-

(P.K.Mahanta) 5.2. All persons who came to Assam prior to 1.1.1966 including those amongst them whose names appeared on the electoral rolls in 1967 elections, shall be regularised.

Sd/-

(B.K.Phukan) 5.3. Foreigners who came to Assam after 1.1.1966 (inclusive) and upto 24th March,1971 shall be detected in accordance with the provisions of the Foreigners Act,1946 and Foreigners (Tribunals) Order, 1964.

5.4. Names of foreigners so detected will be deleted from the electoral rolls in force. Such persons will be required to register themselves before the Registration Officers of the respective districts in accordance with the provisions of the Registration of Foreigners Act, 1939 and the Registration of Foreigners Rules,1939.

5.5. For this purpose, Government of India will undertake suitable strengthening of the governmental machinery.

5.6. On the expiry of a period of ten year following the date of detection, the names of all

such persons which have been deleted from the electoral rolls shall be restored.

5.7. All persons who were expelled, earlier, but have since re-entered illegally into Assam, shall be expelled.

5.8. Foreigners who came to Assam on or after March 25, 1971 shall continue to be detected, deleted and expelled in accordance with law, Immediate and practical steps shall be taken to expel such foreigners.

5.9. The Government will give due consideration to certain difficulties expressed by the AASU/AAGSP regarding the implementation of the Illegal Migrants (Determination by Tribunals) Act, 1983.

Safeguards and Economic Development :

Sd/-

(Biraj Sarma)

6. Constitutional, legislative and administrative safeguards, as may be appropriate, shall be provided to protect, preserve and promoted the cultural, social, linguistic identity and heritage of Assamese people.

Sd/-

(P.K.Mahanta)

Sd/-

(B.K.Phukan)

7. The Government take this opportunity to renew their commitment for the speedy all round economic development of Assam, so as to improve the standard of living of the people.

Special emphasis will be placed on education and science & technology through establishment of national institutions.

OTHER ISSUES :

- 8.1. The Government will arrange for the issue of citizenship certificates in future only by the authorities of the Central Government.
- 8.2. Specific complaints that may be made by the AASU/AAGSP about irregular issuance of Indian Citizenship Certificates (ICC) will be looked into.
9. The international border shall be made secure against future infiltration by erection of physical barriers like walls, barbed wire fencing and other obstacles at appropriate places. Patrolling by security forces on land and riverine routes all along international border shall be adequately intensified. In order to further strengthen the security arrangements, to prevent effectively future infiltration, an adequate number of check posts shall be set up.
- 9.2. Besides the arrangements mentioned above and keeping in view security considerations, a road all along the international border shall be constructed so as to facilitate patrolling by security forces-Land between border and the road would be kept free of human habitation, wherever possible. Riverine patrolling along the

international border would be intensified. All effective measures would be adopted to prevent infiltrators crossing or attempting to cross the international border.

10. It will be ensured that relevant laws for prevention of encroachment of Government lands and lands in tribal belts and blocks are strictly enforced and unauthorized encroachers evicted as laid down under such laws.
11. It will be ensured that the relevant law restricting acquisition of immovable property by foreigner in Assam is strictly enforced.
12. It will be ensured that Birth and Death Registers are duly maintained.

Restoration of Normalcy :

Sd/-

(Biraj Sarma)

Sd/-

(B.K.Phukan)

Sd/-

(P.K. Mahanta)

13. The All Assam Students Union (AASU) and the All Assam Gana Sd/- Sangram Parishad (AAGSP) call off the agitation, assure full co - operation and dedicate themselves towards the development of the country.

14. The Central and the State Government have agreed to :-

(a) Review with sympathy and withdraw cases of disciplinary action taken against employees in the context of the agitation and to ensure that there is no victimization;

(b) frame a scheme for ex-gratia payment to next of kin of those who killed in the course of the agitation.

(c) give sympathetic consideration to proposal for relaxation of upper age limit for employment in public services in Assam, having regard to exceptional situation that prevailed in holding of academic and competitive examinations, etc. in the context of agitation in Assam;

(d) undertake review of detention cases, if any, as well as cases against persons charged with criminal offences in connection with the agitation, except those charged with commission of heinous offences;

(e) consider withdrawal of the prohibitory orders/notifications in force, if any.

1.5. The Ministry of Home Affairs will be the nodal Ministry for the implementation of the above.

Signed/-
(P.K..Mahanta)
President
All Assam Students Union

Signed/-
(R.D. Pradhan)
Home Secretary
Govt. Of India.

Signed/-
(B.K. Phukan)
General Secretary,
All Assam Students Union

Signed/-
(Biraj Sharma)
Convenor
All Assam Gana Sangram Parishad.

Signed/-
(Smti P.P. Trivedi)
Chief Secretary
Govt. of Assam

In the presence of

Date : 15 th August, 1985.
Place : New Delhi.

SIGNED/-
(RAJIV GANDHI)
PRIME MINISTER OF INDIA.

1. Election Commission will be requested to ensure preparation of fair electoral rolls.
2. Time for submission of class and objections will be extended by 30 days, subject to this being consistent with the Election Rules.
3. The Election Commission will be requested to send Central Observers.

Signed/-
HOME SECRETARY

1. Oil refinery will be established in Assam.
2. Central Government will render full assistance to the State Government in their efforts to re-open :-

- i) Ashok Paper Mill.
- ii) Jute Mills.

3. I.I.T. will be set up in Assam.