

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Andhra Pradesh State and Subordinate Service Rules, 1996 - Deletion of First Proviso to Rule 13 (a) related to passing of Language Test by the employees – Amendment – Orders – Issued.

GENERAL ADMINISTRATION (SERVICES-D) DEPARTMENT

G.O.Ms.No.31

Dated: 24-01-2006.

Read the following:-

1. G.O.Ms.No.436, G.A. (Ser.D) Dept., dt: 15-10-1996
2. G.O.Ms.No.167, G.A. (Ser.D) Dept., dt: 22-05-2000
3. Government Letter No. 8445/Ser.D/2002-16, dt: 3-11-2005 and dt: 13-12-2005.
4. From the Secretary, Andhra Pradesh Public Service Commission, Hyderabad Lr.No.1195/RR/2/2005, dated 03-01-2006.

ORDER:

Government in the G.O. second read above have issued orders amending Rule 13 (a) of APS&SS Rules, 1996 by substituting 1st proviso providing that a person who was appointed to a service but who has not passed the Language Test in Telugu shall be allowed time to pass the said test up to the 30th June, 2001 and no further extension shall be given beyond that period under any circumstances, and the person appointed on or after the 1st November, 1956 should pass the said test by 1st July, 2001 subject to those employees who are in service and not completed 45years of age as on the date of the order shall be discharged from service with effect from 1st July, 2001, if they fail to pass the said test by that date.

2. Against the above orders, certain O.A.'s were filed before the Hon'ble Tribunal questioning the validity of the orders issued in G.O. second read above. The Hon'ble Tribunal in its common order dated: 16-9-2004 allowing the O.A.'s have set aside the above said orders with the following observations among others:-

"The Supreme Court in the case of Madan Gopal Vs. VI Additional District Judge reported in AIR 1989 SC 155 held that a proviso need not be normally considered to take away a right clearly conferred by the enactment.

Keeping in view the above observations of the APEX Court in view, as the Language used in the rule 13(a) of the A.P. State and Subordinate Service Rules is clear regarding the consequence that follow, if an employee does not pass the Telugu Language Test within the period of probation, the provision contained in rule 13 (a) has to be given effect inspite of the 1st proviso substituted through G.O.Ms.No.167, G.A. (Ser.D) Department dated: 22-5-2000. The 1st proviso to rule 13 (a) of the State and Subordinate Service Rules cannot nullify as to what has been clearly provided in the main 13(a). The first proviso can provide an exception to the main rule. But it cannot take away the benefits conferred on the applicants by rule 13(a) of the A.P. State and Subordinate Service Rules."

3. In view of the above orders of the Hon'ble Tribunal and after careful consideration of the issue, Government have decided for deletion of the 1st proviso to Rule 13(a) of A.P. State and Subordinate Service Rules.

4. Consequent to the above, the following notification shall be published in the Andhra Pradesh Gazette.

NOTIFICATION

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and of all other powers hereunto enabling, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh State and Subordinate Service Rules, 1996 issued in G.O.Ms.No.436, G.A. (Ser. D) Dept., dt: 15-10-1996 and as subsequently amended from time to time.

AMENDMENT

In sub-rule (a) of rule 13 of the said Rules-

- (1) the first proviso shall be omitted.
- (2) Consequent on the omission of the first proviso, in the opening portion of the existing second proviso for the words "Provided further that" the word "Provided that", shall be substituted.
- (3) in the opening portion of the existing third proviso for the words "Provided also that" the words "Provided further that", shall be substituted.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**J.C. MOHANTY
PRL. SECRETARY TO GOVERNMENT (R&IAD) &
I/C PRL.SECRETARY TO GOVERNMENT (SER.)**