

# 1.THE INDIAN POLICE SERVICE (CADRE) RULES, 1954

In exercise of the powers conferred by sub-section (1) of Section 3 of the All India Services Act, 1951 (LXI of 1951), the Central Government, after consultation with the Governments of the States concerned, hereby makes the following rules, namely:-

**1. Short title and commencement.--** These rules may be called the Indian Police Service (Cadre) Rules, 1954.

**2. Definitions.--** In these rules unless the context otherwise requires, -

2(a) 'Cadre officer' means a member of the Indian Police Service:

<sup>1</sup>2(b) 'Cadre post' means any of the posts specified under item 1 of each cadre in schedule to the Indian Police Service (Fixation of Cadre Strength) Regulations, 1955.

2(c) 'State' means <sup>2</sup>[a State specified in the First Schedule to the constitution and includes a Union Territory.]

<sup>3</sup>2(d) 'State Government concerned', in relation to a Joint cadre, means the Joint Cadre Authority.

**3. Constitution of Cadres.--** 3(1) There shall be constituted for each State or group of States an Indian Police Service Cadre.

3(2) The Cadre so constituted for a State or a group of States are hereinafter referred to as a 'State Cadre' and a 'Joint Cadre' respectively.

**4. Strength of Cadres.--** 4(1) The strength and composition of each of the cadres constituted under rule 3 shall be determined by regulations made by the Central Government in consultation with the State Governments in this behalf and until such regulations are made, shall be as in force immediately before the commencement of these rules.

4(2)<sup>4</sup> The Central Government shall, at the interval of every five years, re-examine the strength and composition of each such cadre in consultation with the State Government or the State Governments concerned and may make such alterations therein as it deems fit:

Provided that nothing in this sub-rule shall be deemed to affect the power of the Central Government to alter the strength and composition of any cadre at any other time:

Provided further that State Government concerned may add for a period not exceeding<sup>5</sup> two years <sup>6</sup>[and with the approval of the Central Government for a further period not exceeding two years,] to a State or Joint Cadre one or more posts carrying duties or responsibilities of a like nature to cadre posts.

**5. Allocation of members to various cadres.--** 5(1) The allocation of cadre officers to the various cadres shall be made by the Central Government in consultation with the State Government or State Governments concerned.

<sup>1</sup>Substituted vide MHA Notification No.14/3/65-AIS(III)-B, dated the 04.05.1966.

<sup>2</sup>Substituted with effect from 01.11.1956 vide MHA Notification No.13/2/56-AIS(III) dated 28.02.1958 and further amended with effect from 04.09.1958 vide MHA Notification No.5/2/58-AIS(II)-(I), dated 08.07.1959.

<sup>3</sup>Substituted vide D.P. Notification No. 13/4/71-AIS (I), dated 11.01.1972.

<sup>4</sup>Amended vide DP&T Notification No. 11033/7/94-AIS(II) dated 10.03.1995.

<sup>5</sup>Substituted vide DP&T Notification No. 11033/3/2000-AIS(II) dated 14.07.2000.

<sup>6</sup>Added vide M.H.A. Notification No. 6/8/64-AIS(I)-B, dated 30.11.1964.

5(2) The Central Government may, with the concurrence of the State Governments concerned, transfer a cadre officer from one cadre to another cadre.

<sup>7</sup>**6. Deputation of cadre officers.--** 6(1) A cadre officer may, with the concurrence of the State Government or the State Governments concerned and the Central Government, be deputed for service under the Central Government or another State Government or under a company, association or body of individuals, whether incorporated or not which is wholly or substantially owned or controlled by the Central Government or by another State Government.

<sup>8</sup>Provided that in case of any disagreement, the matter shall be decided by the Central Government and the State Government or State Governments concerned shall give effect to the decision of the Central Government.

6(2) A cadre officer may also be deputed for service under :-

6(2)(i) a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by a State Government, a Municipal Corporation or a Local Body, by the State Government on whose cadre he is borne; and

6(2)(ii) an international organisation, an autonomous body not controlled by the Government, or a private body, by the Central Government in consultation with the State Government on whose cadre he is borne:

Provided that no cadre officer shall be deputed to any organisation or body of the type referred to in item (ii), except with his consent:

Provided further that no cadre officer shall be deputed under sub rule (1) or sub-rule (2) to a post carrying a prescribed pay which is less than, or a pay scale, the maximum of which is less than, the basic pay he would have drawn in the cadre post but for his deputation.

<sup>9</sup>Provided further that no cadre officer shall be deputed under sub rule (1) or sub-rule (2) to a post (other than a post under the Central Government or under a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by the Central Government), carrying a prescribed pay which is less than, or a pay scale, the maximum of which is less than, the basic pay he would have drawn in the cadre post but for his deputation.]

**7. Postings.--** All appointments to cadre posts shall be made:-

7(a) in the case of a State Cadre, by the State Government and;

7(b) in the case of a Joint Cadre, by the State Government concerned.

<sup>10</sup>“Provided that for the purpose of filling leave vacancies or for making temporary arrangements<sup>11</sup> for a period not exceeding three months, the State Government may, delegate to Heads of Departments, its power of making appointments to cadre posts.”

<sup>12</sup>7(c)(i) The Central Government in consultation with the State Government or State Governments concerned may determine the tenure of all or any of the cadre posts specified for the State concerned in item 1 of the Schedule to the Indian Police Service

<sup>7</sup> Substituted vide M.H.A. Notification 6/69/63-AIS(I) dated 21.05.1969.

<sup>8</sup> Inserted vide Notification 11052/4/85-AIS(II), dated 29.07.1985.

<sup>9</sup> Amended vide D.P.&T Notification No.11052/6/89-AIS(II), dated 13.05.89.

<sup>10</sup> M.H.A. Notification No.13/21/56-AIS(III), dated 28.02.1958.

<sup>11</sup> Modified by DPAR Notification No. 11051/1/76-AIS(I) dated 10.01.1977.

<sup>12</sup> Inserted vide G.S.R. 503 (E) dated 24.08.2006.

(Fixation of Cadre Strength) Regulation, 1955.

7(c)(ii) A cadre officer, appointed to any post for which the tenure has been so determined shall hold the minimum tenure as prescribed except in the event of promotion, retirement, deputation outside the State or training exceeding two months.

7(c)(iii) An officer may be transferred before the minimum prescribed tenure only on the recommendation of a Committee on Minimum Tenure as specified in the Schedule annexed to these rules.

<sup>13</sup>**8. Cadre and ex-cadre posts to be filled by cadre officers.--** 8(1) Save as otherwise provided in these rules every cadre post shall be filled by a cadre officer.

8(2) A Cadre officer shall not hold an ex-cadre post in excess of the number specified for the concerned State under item 5 of the Schedule to the Indian Police Service (Fixation of Cadre Strength) Regulations, 1955.

8(3) The State Government may, with the prior approval of the Central Government, appoint a cadre officer to hold an ex-cadre post in excess of the number specified for the concerned State in item 5 of the Schedule to the Indian Police Service (Fixation of Cadre Strength) Regulations, 1955 and, for so long as the approval of the Central Government remains in force, the said ex-cadre post shall be deemed to be an addition to the number specified in item 5 of the said Schedule."

**9. Temporary appointment of non-cadre officer to cadre posts -** 9(1) A cadre post in a State shall not be filled by a person who is not a cadre officer except in the following case; namely:-

(a) if there is no suitable cadre officer available for filling the vacancy:

Provided that when a suitable cadre officer becomes available, the person who is not a cadre officer, shall be replaced by the cadre officer;

Provided further that if it is proposed to continue the person who is not a cadre officer beyond a period of three months, the State Government shall obtain the prior approval of the Central Government for such continuance;

(b) if the vacancy is not likely to last for more than three months:

Provided that if the vacancy is likely to exceed a period of three months, the State Government shall obtain the prior approval of the Central Government for continuing the person who is not a cadre officer beyond the period of three months.

9(2) A cadre post shall not be filled by a person who is not a cadre officer except in accordance with the following principles, namely:

(a) if there is a Select List in force, the appointment or appointments shall be made in the order of the names of the officers in the Select List;

(b) if it is proposed to depart from the order of names appearing in the Select List, the State Government shall forthwith make a proposal to that effect to Central Government together with reasons therefor and the appointment shall be made only with the prior approval of the Central Government:

(c) if a Select List is not in force and it is proposed to appoint a non-Select List Officer, the State Government shall forthwith make a proposal to that effect to the Central Government together with reasons therefor and the appointment shall be made only with the prior approval of the Central Government.

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<sup>13</sup> Substituted vide D.P &T. notification No. 14022/1/88-AIS(I), dated 05.04.1988.

9(3) Where a cadre post is likely to be filled by a person who is not a cadre officer for a period exceeding six months, the Central Government shall report the full facts to the Union Public Service Commission with the reasons for holding that no suitable officer is available for filling the post and may in the light of the advice given by the Union Public Service Commission give suitable direction to the State Government concerned.

**10.<sup>14</sup> Report to the Central Government of vacant cadre posts.-** Cadre posts shall not be kept vacant or held in abeyance for periods exceeding six months without the approval of the Central Government. For this purpose, the State Government shall make a report to the Central Government in respect of the following matters, namely:-

- 10(a) the reasons for the proposal;
- 10(b) the period for which the State Government proposes to keep the post vacant or hold it in abeyance;
- 10(c) the provision, if any, made for the existing incumbent of the post; and
- 10(d) whether it is proposed to make any arrangements for the performance of the duties of the post to be kept vacant or held in abeyance, and if so, the particulars of such arrangements.

**11.<sup>15</sup> Holding of more than one post by a cadre officer.--** 11(i) The State Government concerned in respect of the posts borne on the State Cadre or the Joint Cadre as the case may be, may, for the purpose of facilitating leave arrangements for a period not exceeding six months, direct that any two cadre posts or a cadre post and an equivalent post may be held simultaneously by one single cadre officer.

<sup>16</sup>Provided that for the purpose of filling leave vacancies or for making temporary arrangements, for a period not exceeding three months, <sup>17</sup>the State Government may, delegate to Heads of Departments, the powers of making appointments to cadre posts.

11(ii) Where the State Government is of the opinion that it is necessary so to do, it may, with the prior approval of the Central Government, order that the posts directed by it to be held simultaneously by one single cadre officer under sub-rule (i), may continue to be so held for a period beyond six months but, in any case, not beyond twelve months from the date with effect from which the posts were first directed to be so held under sub-rule(i).

**11A.<sup>18</sup> Authority to exercise certain powers in respect of members of the Service serving in connection with the affairs of the State constituting a Joint Cadre.--** The powers of the State Government under the second proviso to sub-rule (2) of rule 4, under clause (1) of sub-rule (2) of rule 6 and under Rules 7, 10 and 11, in relation to the members of the Service serving in connection with the affairs of any of the Constituent States shall be exercised by the Government of that State.

**11B.<sup>19</sup> Authority to exercise certain powers in respect of members of the Service serving in connection with the affairs of the State constituting a Joint Cadre.--** The powers of the State Government under rule 9, in relation to the members of the Service serving in connection with the affairs of any of the Constituent State shall be exercised by the Government of that State.

**12.<sup>20</sup> Interpretation.—**If any question arises as to the interpretation of these rules, the

<sup>14</sup> Substituted vide D.P. & A.R Notification No.9/22/72-AIS(I) -B, dated 23.05.1974.

<sup>15</sup> Substituted vide M.H.A. Notification No.6/19/62-AIS(I), dated 26.12.1963.

<sup>16</sup> Inserted vide DP & AR Notification No.17/2/73-AIS(I), dated 06.07.1974.

<sup>17</sup> Modified vide DP & AR Notification No.11051/1/76-AIS(I)-B, dated 10.01.1977.

<sup>18</sup> Substituted vide D.P. Notification No. 13/4/71-AIS(I), dated 11.01.1972.

<sup>19</sup> Substituted vide D.P. & A.R. Notification No. 11/2/72 - AIS(I), dated 21.06.1974.

<sup>20</sup> Substituted vide D.P. & A.R. Notification No. 7/1/73 AIS(II), dated 04.01.1975.

Central Government shall decide the same.

**13. Repeal and saving.**-- All rules corresponding to these rules in force immediately before the commencement of these rules are hereby repealed:

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules.

#### <sup>21</sup>Schedule

#### [See Rule 7 (c) (iii)]

1. Composition of the State Committee to review minimum tenure.—(a) The Committee of Minimum Tenure constituted by the State Government shall consist of –

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| Chief Secretary  | – Chairman;         |
| Senior most Additional Secretary or Chairman, Board of Revenue or Financial Commissioner or an officer of equivalent rank and status | – Member;           |
| Principal Secretary or Secretary, Department of Personnel in the State Government  | – Member Secretary; |
| Principal Secretary or Secretary, Home;  |                     |
| Director General of (Police).  |                     |

(b) In States where the Civil Services Board has been constituted, the State Government may entrust the work of the Committee to the Board.

2. Functions.—(a) The Committee on Minimum Tenure or Civil Services Board shall examine the cases of officers who are proposed to be transferred before completion of minimum tenure as determined for Item 1 of the Schedule to the Indian Police Service (Fixation of Cadre Strength) Regulations, 1955.

(b) The Committee on Minimum Tenure or the Civil Services Board may consider for transfer before the tenure fixed under sub-clause (i) of clause (c) of rule 7 of the Indian Police Services (Cadre) Rules, 1954 based on the necessary circumstances regarding which the Committee or the Civil Services Board shall satisfy itself.

(c) The Committee on Minimum Tenure or the Civil Services Board may recommend the names of officers to the Competent Authority for transfer before completion of minimum tenure with reasons to be recorded in writing.

3. Procedure.—(a) The Committee on Minimum Tenure or the Civil Services Board shall seek detailed justification for the transfer of an officer before the prescribed tenure from the Administrative Department concerned of the Government.

(b) The Committee on Minimum Tenure or the Civil Services Board shall.—(i) consider the report of the Administrative Department alongwith any other inputs it may have from other reliable sources.

(ii) The Committee may have the option to obtain the comments/ views of the officer proposed to be transferred regarding the circumstances prescribed to it in justification of the proposal.

(iii) The Committee shall satisfy itself regarding the inevitability of the premature transfer before making a recommendation to the government based on clear findings.

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<sup>21</sup> Inserted vide G.S.R. 503 (E). dated 24.08.2006.

(c) The Committee on Minimum Tenure or the Civil Services Board shall also submit a quarterly report in the prescribed form to the Central Government clearly stating the details of officers recommended to be transferred before the minimum prescribed tenure, with the reasons for the same.

## GOVERNMENT OF INDIA DECISIONS

### Government of India's Decisions under Rule 2:

1. The Government of India have held that a cadre post as defined in the Rules means only the post specified under item 1 of the cadre strength of each State. A non-cadre post does not become a cadre post simply, on being declared equivalent to a cadre post. It would become a cadre post only after it has been included in and specified as such item I of the cadre strength of each State as shown in the schedules to the I.A.S., I.P.S. (Fixation of Cadre Strength)

*[G.I M.H.A. letter No. 14/51/65-AIS(III), dated 21-2-1966].*

### Government of India's Decisions under Rule 4:

1. Posts included in the cadre acquire the character of permanency.

*[G.I., M.H.A. letter No. 6/25/64-AIS(I), dated 1.6.1964]*

2. Temporary additions to or subtractions from a cadre are not to be taken into account for cadre calculations or for calculating the number of selection grade posts.

*[G.I., M.H.A. letter No. 5/24/58-AIS(II), dated 5.5.1958]*

3.1 The second proviso requires that the posts added temporarily to the cadre should carry duties and responsibilities of a like nature of cadre posts. The exercise of this power by the State Government with reference to a post involves an objective assessment of the nature of the duties and responsibilities attached to that post in comparison to those attached to a cadre post. Thus posts cannot be added temporarily to the cadre unless such posts already exist in the cadre.

3.2. The scale of pay of the post, temporarily added to the cadre, should also be the same as that of the cadre post to which it corresponds. Thus, where the pay of the post of Secretary in the cadre is in the senior time-scale, it would not be in order, to add temporarily to the cadre post of Secretary in the super time-scale.

*[G.I., MHA letter No. 6/9/63-AIS(I), dated 9-2-1965].*

4.1. A doubt was raised whether ex-cadre posts equated to cadre posts under rule 9 of (pay) Rules, 1954 would be treated as automatic temporary additions to the cadre and would fall within the scope of the second proviso to rule 4(2) of the Cadre Rules.

4.2. Both these provisions are independent of each other and are not inter-connected. The second proviso to rule 4(2) of the Cadre Rules empowers the State Government to make temporary additions to the cadre for the period not exceeding the limit indicated therein. Rule 9 of the Pay Rules, on the other hand, provides for regulation of pay of cadre officers appointed to non-cadre (ex-cadre) posts. The State Governments are competent to appoint cadre officers to such posts under their control to the extent that the appointments should not exceed the number of posts in the deputation reserve of the State cadre. The non-cadre (ex-cadre) posts to which cadre officers are appointed would not result in the posts becoming temporary additions to the cadre within the scope of the second proviso to rule 4(2) of the Cadre Rules.

*[G.I MHA letter No. 6/25/65-AIS(I), dated 12-4-1965].*

5.1. The Government of India have clarified the scope of the second proviso to Rule 4(2) of the IAS (Cadre) Rules, 1954, as follows:-

The provision regarding addition of extra cadre posts for short periods did not exist in the ICS/IPS (Cadre) Rules corresponding to the present ICS/IP Cadre Rules, nor did it exist in the Indian Civil Administrative Cadre Rule, 1950 or the Indian Police Cadre Rules, 1950. Even the original draft of the present IAS/IPS (Cadre) Rules did not contain such proviso. It was only in the Chief Secretaries' Conference held in 1954 to consider the drafts of the various All India Services Rules & Regulations, that the question of making such a provision in the Cadre Rules, was raised by the Government of West Bengal. The discussion which took place in the Conference on this question indicates clearly the scope of this provision in the Cadre Rules. The relevant extracts from the proceedings, of the meeting of the Conference, held on 13th April, 1954, are reproduced below:-

**West Bengal** - *In the rule regarding the alteration of strength, I have to make the same point that I raised this morning. The State Government should have the power to make temporary additions to the cadre for a period not exceeding one year, when the duties of the posts are closely analogous to those of the scheduled cadre posts. This would be necessary, if suddenly we feel the necessity to increase the number of say, the Superintendents of Police.*

**Shri Bapat** - *I think that will be a useful provision. We can have it.*

**Shri Dutt** – *Please let us have a draft. Of course, there is the obligation of posting only a cadre officer to such a post.*

5.2. It would appear from the above discussion that the provision was made to meet the sudden and immediate need for extra posts carrying duties or responsibilities analogous to cadre posts subject to the condition that such posts will be held by cadre officers only. In actual practice occasions for resorting to this provision will be rare and ordinarily the need for such extra cadre post is not for a period exceeding one year. If the need for such extra cadre posts is for a period exceeding one year generally the need is considered to be a permanent one unless the State Government are certain that they will not need such posts beyond a particular fixed period not exceeding three years in all. Therefore, steps should be taken for the inclusion of such posts in the permanent cadre on the expiry of one year. The idea is that by including such posts in the permanent cadre, the State Government will be able to assess correctly their needs for recruitment on the basis of the competitive examination.

5.3. If no cadre officer is available, temporary post created with whatever designation, should not be added to the IAS/IPS cadre. If the post is held by State Civil/Police Service Officer whether in the Select List or not, it will be a temporary addition to the State Civil/Police cadre of the State or an ex-cadre post counted against deputation reserve, if any, provided in that cadre or it would be an isolated post in the State Civil/Police Service to which the State Civil/Police Service Officer could be appointed with the approval of the State Public Service Commission, if so required by the State Rules.

*[G.I. MHA letter No. 14/53/65-AIS(III), dated 21-3-1966].*

6. It has been held that State Government are not competent to exceed the number of posts specified against items 2 and 5 to 8 of the cadre schedules without the prior sanction of the Central Government under rule 4(2) of the proviso there to.

*[G.I. MHA letter No. 14/51/66-AIS(III), dated 21-2-1966 and file No. 14/14/65-AIS(II)].*

7.1. A question was raised whether posts temporarily added to the IAS/IPS cadre of a State under the second proviso to rule 4(2) of the IAS/IPS (Cadre) Rules, 1954, should be deemed to have been included temporarily in Schedule III-A or III-B to the

IAS/IPS (Pay) Rules, 1954.

7.2. The legal position in respect of the posts temporarily added to the IAS/IPS Cadre has been clarified in the Ministry of Home Affairs letter No. 14/51/66-AIS(III) dated the 21st February, 1966 and 14/53/65-AIS(III), dated the 21st March, 1966. It would appear therefrom that a post temporarily added to the cadre is not a 'cadre post' as defined in the IAS/IPS(Cadre) Rules, 1965.' It is also not a cadre post for the purposes of IAS/IPS (Fixation of Cadre Strength) Regulations, 1955. An extra post (carrying duties and responsibilities analogous to cadre posts) could be temporarily added to the cadre, when a cadre officer is available to man such posts. If no cadre officer is available, a temporary post created with whatever designation when held by a State Civil/Police Service officer whether in the Select List or not, would be a temporary addition to the State Civil/Police Service cadre of the State of an ex-cadre post counted against deputation reserve, if any, provided in that cadre or it may be an isolated post in the State Civil/Police Service. It would have no connection whatsoever with the IAS/IPS cadre of the State.

7.3. When a post temporarily added to the IAS/IPS cadre is held by a cadre officer, a declaration of equivalence under rule 9 of the IAS/IPS (Pay) Rule, 1954, it will not be necessary for the purpose of fixation of his pay under the IAS/IPS (Pay) Rules, 1954, the duties and responsibilities of such post being already analogous to a cadre post vide the second proviso to rule 4(2) of the IAS/IPS (Cadre), Rules 1954.

*[G.I MHA letter No. 15/39/66-AIS(III), dated 22-4-1966.]*

8.1. The Government of India have clarified that purely temporary posts may be divided into two categories- (i) Posts created to perform the ordinary work for which permanent cadre posts in the IAS/IPS cadre already exist, the only distinction being that the new posts are temporary and not permanent and (ii) isolated posts created for the performance of special tasks unconnected with the ordinary work which the Service is called upon to perform. An example of the latter type of post would be a post on a Commission of Enquiry. A distinction by strict verbal definition is difficult, but in practice there should be little difficulty in applying the distinction in individual cases. The former class of posts should be considered to be temporary additions to the Cadre of the Service. The second proviso to rule 4(2) of the IAS/IPS (Cadre) Rules, 1954 gives power to the State Government concerned to add for a period not exceeding one year, and with the approval of the Central Government for a further period not exceeding two years to a State Cadre, one or two posts carrying duties or responsibilities of a like nature to cadre posts. The latter class of temporary post should be considered as unclassified and isolated ex-cadre posts, the power to create such post will depend on the provisions contained in the Book of Financial Powers of the State Government concerned.

8.2. The posts which are temporary additions to the IAS/IPS Cadre are to be created when cadre officers are available to man them, otherwise, these should be temporary additions of the cadre to which the holders of the post belong as clarified in Ministry of Home Affairs letter No. 15/39/66-AIS(III), dated 22-4-1966.

8.3. The posts which are ex-cadre of IAS/IPS Cadre are to be manned by cadre officers and counted against deputation reserve provided in the Cadre. There is restriction on the powers of the State Government for the creation of such posts as the number of such posts is not to exceed the number shown against deputation reserve in the Cadre. If a member of service is not going to be appointed to an ex-cadre post, the temporary post can be created either as an ex-cadre post of the State Civil/Police Service or just *an ad-hoc post without equivalence as clarified in paras 6-9 of Ministry of Home Affairs' D.O. letter No.27/28/64-AIS(III), dated 24-3-1966. It would, however, be appropriate that when the temporary post is to be held by a State Civil/Police Service Officer, it should be created in the time-scale of the State Civil/Police Service.*

*[G.I. MHA letter No. 40/5/66-AIS(III). dated 27-12-1966].*

**Government of India Instructions under Rule 4:**

1.1. The Government of India have clarified certain fundamentals regarding the management of the All India Services cadres, as follows:

1.2. At the time of the constitution of the IAS/IPS in 1947, it was decided to include the following categories of posts in the IAS cadre:-

(a) All superior posts in the administrative departments of and above the rank of District Officers, i.e., Collectors, Commissioners Members, Board of Revenue, Secretaries, Deputy Secretaries, etc.

(b) A proportion of miscellaneous posts including those of Heads of Departments.

In the IPS, corresponding ranks were substituted, the principle remaining the same.

Provision was made in the rules for triennial review of the cadre strength to adjust it according to the growing and changing needs of each State.

1.3. The senior posts as notified in the schedule of each State cadre were divided into three main categories, viz:-

(a) Senior posts under the State Government;

(b) Central Deputation Quota;

(c) Deputation Reserve.

The other categories and reserves, such as leave and training reserves and the junior posts are ancillary to the three main categories described above.

1.4. Posts that fulfill the qualifications described in 2 above should therefore, be enumerated as the senior posts under the State Government. The intention also has always been that all posts in the State which are required on a long term basis and which carry duties and responsibilities similar to such senior cadre posts, should be included in the cadre. At the time of the triennial review a realistic estimate should be made of the new posts required during the next 4 to 6 years on the basis of the previous rate of expansion of the cadre and of the additional posts required in connection with the Five Year Plans and the growing business of Government and the cadre strength should be fixed after taking these needs into consideration.

1.5. The Central Deputation Quota fixes the share of the Government of India out of the State cadre for the various requirements of the Centre. By and large this quota may be taken to be the limit of deputation to the Government of India.

1.6. The Deputation Reserve is intended to provide a cushion to the State Government for its temporary and unforeseen demands of cadre officers for manning such ex-cadre posts which are required temporarily for short periods and which do not qualify for inclusion in the IAS cadre. The very name suggests that it is intended to cover short-term needs; long-term posts being brought into the cadre as soon as it is known that they would continue over a period of time.

1.7. Select Lists are intended to provide a ready list of screened State Service Officers who can be appointed to vacancies that may occur in the promotion quota during a particular year. It can also be utilized to fill short-term vacancies and to meet any minor emergency requirements on a temporary basis. It has never been intended to become a parallel cadre for manning long-term vacancies either in the

cadre or in ex-cadre equivalent posts.

1.8. If the cadre strength is adequately fixed keeping in view the normal rate of growth of the cadre and the requirements of the Plan etc. and if recruitment to the cadre has been on an adequate scale, the need for filling cadre posts by Select List Officers should rarely arise. There should be no long-term ex-cadre posts. If there are any, they ought to go into the cadre. For short term ex-cadre posts, the deputation reserve in the cadre should be adequate. If there is an imbalance between the number of the ex-cadre posts and the deputation reserve, then it can be redressed either by reducing the number of ex-cadre posts or increasing the deputation reserve.

1.9. It is not at all necessary that new senior posts which are created must be declared equivalent to cadre posts. Rule 9(1) of the Indian Administrative Service (Pay) Rules, 1954, requires that members of the service should not be appointed to an ex-cadre post unless the State Government had declared it equivalent to a cadre post. In exceptional circumstances, of course for reasons to be recorded in writing, the equation may not be made [Sub-rule (4) of rule 9]. It is, therefore, only when a member of the service is to be appointed to an ex-cadre post that it has to be declared equivalent to a cadre post and even then it is not necessary in all cases. If a member of the service is not going to be appointed to an ex-cadre post, declaration of equivalence is not required at all. These can be created either as ex-cadre post of the State Civil or Police Services or just ad hoc posts without equivalence.

1.10. The adequacy of the recruitment rate for the all India Services is vital to the proper functioning and management of Government. Two measures are needed to ensure this. The first is the prompt encadrement of new posts likely to last over an extended period and the second is to assess future needs in advance on the basis of the past experience and the future plans. A failure in either of the two requirements will affect the adequacy of cadre strength thus leading to strains and stresses which some of the States are facing today.

1.11 Once the cadre strength has been determined at the \*triennial review, which can be made more frequent if required, the rate of annual recruitment must be adequate to fill up all the posts within two or three years. In some of the States the recruitment rate has been rather low with the result that gaps continue in the cadre for years and longer. Select Lists are required to meet the cadre shortages. This has two-fold disadvantages; it affects the seniority of the direct recruits and the State Service Officers develop hopes and expectations beyond those provided for in the scheme of the All India services.

*[G.I. M.H.A. D.O. letter no. 27/28/64-AIS(III), dated 24.3.1966]*

2. The Government of India have issued the following clarifications regarding rule 4 of the Cadre Rules and the various reserves against which officers holding posts, other than cadre posts are to be shown:-

2.1 Under Rule 3 of the Cadre Rules, Cadres have been constituted for each State or group of States. The strength and composition of each of these cadres have been determined by the regulations, framed under the Cadre Rules and have been shown in the Schedule to those Regulations. The term 'Cadre Post' has been defined as any post specified under item 1 of each cadre in the Cadre Schedule vide clause (b) of Rule 2 of the Cadre Rules.

2.2. The power to alter the strength and composition of a cadre vests in the Central Government, *vide*, sub-rule (1) of Rule 4 of the Cadre Rules. With a view to meeting emergent needs of the State Administration the State Government concerned has been authorised, *vide* the second proviso under sub rule (2) of Rule 4 of the Cadre Rules, to add for a period not exceeding one year to a State Cadre one or more posts

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\* Now quinquennial.

carrying duties or responsibilities of like nature to cadre posts. However *the posts so added by the State Government do not become cadre posts.*

2.3 With a view to ensuring that members of the Indian Administrative Service\* are not deployed on posts which do not require to be manned by officers of that calibre, it has been provided *vide* sub-rule (1) of Rule 9 of the Indian Administrative Service\* (Pay) Rules 1954 (hereinafter referred to as "the Pay Rules" that no such members shall be appointed to a post other than a post specified in Schedule III to those Rules (hereinafter referred to as "the Pay Schedule"), unless a declaration is made that the said post is equivalent in status and responsibility to a post specified in Pay Schedule. However, for sufficient reasons to be recorded in writing such a declaration may be dispensed with, *vide* sub- rule (4) of Rule 9 of the Pay Rules.

2.4 *Neither a post which is declared equivalent in status and responsibility to a post included in the Pay Schedule nor a post in respect of which such declaration has been dispensed with, is a cadre post.*

2.5 Powers under the second proviso under sub-rule (2) of Rule 4 of the Cadre Rules are to be invoked only for increasing the number of posts with a particular designation already included in the Cadre Schedule. If a post with a particular designation does not figure in the cadre schedule, it cannot be created by invoking these powers. It will have to be created, where necessary, by the State Government, under their inherent powers and if a member of the Indian Administrative Service is to be appointed thereto such appointment should be regulated under rule 9 of the Pay Rules.

2.6 When a post is created by invoking the powers under the second proviso to sub-rule (2) of Rule 4 of the Cadre Rules, further action under Rule 9 of the Pay Rules is not necessary, because the post will already be figuring in the Pay Schedule.

2.7 Thus, powers under sub-rule (2) of Rule (4) of the Cadre Rules and under Rule 9 of the Pay Rules, are mutually exclusively and together are exhaustive, in so far as posts under the State Government are concerned.

*[G.I. DP&AR letter no. 4/12/70-AIS dated 26-5-1971 as modified vide M.H.A letter no.11031/19/75-AIS II dtd. 16.4.75] (Remaining part superseded by the Department of Personnel & Training letter no. 11033/1/98-AIS(II) dated 13.6.2000 vide Instruction No.5 below).*

3.1 A question was raised as to how the scale check prescribed in the Ministry of Home Affairs Endorsement No. 14/51/65/AIS(III), dated 21.2.1966 should be conducted. The Government of India have considered the matter carefully and they have decided that the scale check in respect of the I.A.S./I.P.S cadre of each State should be carried out by the Accountant General concerned with reference to the I.A.S./I.P.S. (Fixation of Cadre Strength) Regulations, 1955 in relation to each State. In other words, it should be examined whether the posts shown against each item have been properly utilised. It is also to be checked up whether any of the cadre post is held by a non-cadre officer and if so whether it is with the proper approval of the competent authority under Rule 9 of the I.A.S./I.P.S (Cadre) Rules, 1954, and whether the non-cadre officers (Select Lists officers) have been appointed to officiate in cadre posts in the order in which their names appear in the current Select List.

3.2 The intention is that the quarterly check should be conducted for the quarters ending 31<sup>st</sup> March, 30<sup>th</sup> June, 30<sup>th</sup> September and 31<sup>st</sup> December and the result should be communicated by the Accountant General concerned to the Government of India as also the State Government concerned within one month i.e., the report for the quarter ending 31<sup>st</sup> March should be communicated by the 30<sup>th</sup> April, and so on.

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\* Equally applicable to Indian Police Service.

3.3 The Government of India have also decided that the copies of the current Select Lists and the orders issued under Rule 9 of the I.A.S./I.P.S. (Cadre) Rules, 1954, from time to time should be supplied to the Accountants General to enable them to carry out the above mentioned scale check. They will, no doubt, treat the Select Lists as confidential documents and utilise them for official use only, as required under the existing instructions.

*[G.I. M.H.A. letter No. 16/5/66-AIS(III), dated 23<sup>rd</sup> June 1966].*

4. DOPT letter No. 11033/1/98-AIS(II) dated 23.4.98:-

4.1 Under second proviso to sub-rule 2 of Rule 4 of the Cadre Rules, the State Government is competent to add for a period not exceeding one year and, with the approval of the Central Government, for a further period not exceeding two years, to a State or Joint Cadre one or more posts, carrying duties or responsibilities of a like nature to cadre posts. Doubts have been raised whether such posts are to be considered as cadre posts or as ex-cadre posts against the State Deputation Reserve. It is hereby clarified that the posts which are created in exercise of the powers of the State Governments under the second proviso under sub-rule 2 of rule 4 of the Cadre Rules are to be counted as temporary cadre posts added temporarily to the Cadre Schedule and as such, they are not to be counted against the State Deputation Reserve. However, only such posts which are created for increasing the number of posts with a particular designation already included in the Cadre Schedule would be counted in this category.

4.2 Doubts have been raised whether such posts are to be considered as cadre posts or as ex-cadre posts against the State Deputation Reserve. It is hereby clarified that the posts which are created in exercise of the powers of the State Government under the second proviso under sub-rule (2) of Rule 4 of the cadre rules are to be counted as temporary cadre posts added temporarily to the cadre schedule and as such. They are not to be counted against the State Deputation Reserve. However, only such posts which are created for increasing the number of posts with a particular designation already included in the cadre schedule would be counted in this category.

4.3 On the other hand, if a post with a particular designation does not figure in the Cadre Schedule, it cannot be created by invoking this power. It can be created as per necessity by the State Government under their inherent powers and the members of the All India Services cannot be deployed to such a post unless a declaration is made that the post is equal in status and responsibility to a post mentioned in Schedule III to the respective Pay Rules under sub-rule 1 of rule 9 of the same Rules. However, for sufficient reasons to be recorded in writing such a declaration may be dispensed with, vide sub-rule 4 of rule 9 of the respective Pay Rules.

4.4 Neither a post which is declared equivalent in status and responsibility to a post included in the pay schedule, nor a post in respect of which such a declaration has been dispensed with, is a cadre post. Such a post is to be counted against the State Deputation Reserve. Apart from these posts, the other kinds of posts which are to be counted against the State Deputation Reserve are as follows:-

*[Remaining part superseded by letter No. 11033/1/98-AIS(II) dated 13.6.2000 (quoted below)]*

5. Copy of the letter no. 11033/1/98-AIS(II) of Government of India, Ministry of Personnel, P.G. & Pensions (Department of Personnel & Training) addressed to the Chief Secretaries of All States/UTS clarifying the composition of Central and State Deputation Reserve – Clarification regarding.

5.1 Reference is invited to this Department's letter of even number dated

24.3.1998 and 6.8.99 and letter no. 11031/19/75-AIS(II), dated 16.4.1975 as well as letter no. 4/12/70-AIS(I) of DP&AR dated 26.5.1971. In respect of the composition of the State deputation Reserve and the Central Deputation Reserve, the matter has been further considered in this Department and it has been decided that this will comprise different components as described below:

- (i) The State Deputation Reserve will comprise the following:-
  - (a) All ex-cadre posts held by cadre officers under the control of the State Government including those on inter-cadre deputation to another State Government.
  - (b) All posts under a Company, Association or a body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by the State.
  - (c) All posts under a Municipal Corporation or Local Body under the control of the State Government.
- 5.2 The Central Deputation will comprise the following:-

All posts held by the All India Services officers under the control of the Central Government including posts under a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by the Central Government and all posts under Rule 6(2)(ii) of the IAS/IPS/IFS (Cadre) Rules, i.e. the posts in an international organisation, an autonomous body not controlled by the Government or private body.

6. Rule 4 of the Cadre Rules provides for a review of the strength and composition of the cadre at the interval of every three years. The State Governments are, therefore, requested to sponsor their triennial\* review proposals after taking into consideration their requirements at least for 3 years to avoid frequent proposals for amendments to the cadre schedule. However, cases where changes in the cadre are considered unavoidable and cannot be delayed till the next triennial review, in such circumstances proposals may be made once in a year i.e. in the month of January. The State Governments are therefore requested to adhere to this procedure for proposing amendments to the cadre schedule.

*[G.I. DP&AR letter no. 10/68-AIS(I), dated 27.2.1968].*

7. It has been decided that, while allocating candidates selected on the basis of the annual competitive examinations to the various State Cadres, the recommendation of the States Reorganisation Commission, that at least 50 % of the new entrants in any State Cadres should be from outside the State concerned, shall be borne in mind.

*[G.I. M.H.A. File No. 1/66/50-AIS(I)].*

#### **Government of India's Decisions under Rule 6:**

1. The terms of deputation of a cadre officer deputed to another State shall be finalised by the borrowing Government in consultation with the lending Government. If there is any point of difference between them, it may be referred to the Government of India.

*[G.I. MHA Letter No. 22/6/57-AIS(II), dated 30.5.1957.]*

2. The terms of deputation of an officer, deputed on foreign Service are normally issued by the lending authority, in consultation with the borrowing authority. In the case of the All India Services, however, the All India Services (Leave) Rules, 1955, the All India Services (Conduct) Rules, 1968 and the All India Services (Discipline and Appeal) Rules, 1969 provide that a member of an All India Services whose services

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\*Now quinquennial.

are placed at the disposal of a company, corporation etc. by the Central Government or the Government of a State shall, for the purpose of these rules, be deemed to be a member of the Service serving in connection with the affairs of the Union or in connection with the affairs of that State, as the case may be. By virtue of the provision contained in these rules, if the terms of deputation of a member of an All India Service deputed to a public sector undertaking controlled by the Central Government, are issued by a State Government, 'Government' in his case will be a State Government concerned. It is, however, only proper that such a member of an All India Service should be under the control of the Central Government for the purposes of these Rules. In view of this, the terms of deputation of a member of an All-India service who is serving in connection with the affairs of a State and who is deputed to a public sector undertaking etc. controlled by the Central Government should be issued by the Ministry/Department of the Central Government which is administratively concerned with that organization in consultation with the State Government or Joint Cadre Authority on whose cadre the officer is borne.

*[G.I. DOPT Letter No. 13/27/74-AIS(II), dated 17.1.1975.]*

3. Standard terms and conditions for deputation –

See below Rule 6 of IAS (Cadre) Rules, 1954 (Volume I)

4.1 Rule 6(2)(ii) of the IAS(Cadre) Rules, 1954 and corresponding rules governing the Indian Police Service and Indian Forest Service enables deputation of a member of the service to a non-Government body by the Central Government in consultation with the State Governments concerned.

4.2. The Rajya Sabha Committee on Subordinate Legislation in their 93rd report has observed that members of the All India Service should be deputed to such bodies only in exceptional circumstances for reasons to be recorded in writing. The above observations of the Rajya Sabha Committee may be kept in mind while recommending the deputation of members of All India Service to non-Government bodies.

*[G.I., DOPT Letter No. 28020/4/91-AIS-II dated 26.7.1993.]*

5.1. Rule 6(2)(ii) of the IAS(Cadre) Rules and the corresponding rules governing the IPS and IFS enable the deputation of a member of the Service to an international organisation, an autonomous body not controlled by Government or a private body, etc. In such cases, the Central Government is the authority competent to order such deputation and the consent of the State Government and the officer concerned is also required.

5.2. It is seen that in several instances officers of the All India Services are required to be sent on deputation to the Universities/teaching or training institutions of repute which are autonomous organisations and which are not controlled by the Government, and therefore, such deputations fall within the purview of Rule 6(2)(ii). It has now been decided that in all such cases, the State Government may themselves order the deputations in institutions located within the State, for a period of upto three years, provided that prior consent of the officer is obtained and the Central Government is kept informed of all such deputations. This provision will not apply to deputations to Central Universities/Deemed Universities or institutions established by the Government of India.

5.3. In regard to the question of the 'cooling-off' period required to be completed by an officer who was on Central deputation before being eligible to be deputed to a body referred to under Rule 6(2)(ii), presently there are no such requirements of a 'cooling-off' period. However, in order to ensure that officers at the end of Central deputation return to serve their States, it has been decided that all such officers will be required to 'cool-off' in their States at the end of their period of

Central deputation before they can be considered for deputation under Rule 6(2)(ii) if their place of posting is located outside their own allotted States.

*[G.I. DOPT Letter No. 14017/16/91-AIS-II dated 13.10.1993.]*

6. See also Instruction No. 4 below IAS (Cadre) Rules.

**Government of India's Decisions under Rule 9:**

1. One of the objects of the procedure laid down in this rule is to ensure that a non-cadre officer is not appointed to a cadre post, if a suitable cadre officer is available. Thus, while the suitability of an officer included in the Select List for officiation in a cadre post cannot ordinarily be in doubt, the question to be examined in making all appointments to cadre posts is whether a suitable cadre officer is available or not. It has, therefore, been decided that even in a case where an officer included in the Select List is appointed in an officiating capacity of a cadre post, the requirements of this rule should be fully complied with.

*[G.I., MHA letter No. 9/30/62-AIS(I), dated 31.8.1962.]*

2. As the filling of a cadre post by a non-cadre officer is permitted under rule 9, it has been held that it would be within its scope if a non-cadre officer, while holding a non-cadre post in addition discharges the duties and functions of a cadre post. Such arrangements should not, however, last for more than three months.

*[G.I., MHA letter No. 6/17/64-AIS-(I), dated 8.4.1965.]*

3.1. The Government of India have been advised that while making temporary appointments of Select List Officers to cadre posts under rule 9 of the Cadre Rules, the order in which their names appear on the Select List should be followed. Where administrative needs so require, a State Civil Service Officer may be appointed temporarily to a cadre post out of turn for a period not exceeding three months to the extent permitted by rule 9 of the Cadre Rules. If the out of turn officiation of Select List Officer exceeds the period of three months it would be incumbent on the part of the Central Government to refuse the continuance of the Select List Officer in such temporary officiation, and to require that the post be filled by the Select list officer who is next in order in the Select List. It is also open to the Central Government under rule 9 of the Cadre Rules to give directions for the appointment of a cadre officer to a cadre post in place of or instead of, a Select List officer.

3.2. It was further being held that no benefit in the matter of seniority, pay and probation will be admissible to a Select List officer appointed to a cadre post out of turn beyond the period of three months from the date of temporary appointment.

*[G.I., MHA letter No. 14/51/65-AIS(III) dated 21.2.1966].*

4. The Government of India have held that it is *ultra vires* of the all India Services Act, 1951, to regulate appointments of non-cadre officers (whether in the Select List or not) in non-cadre posts (whether declared equivalent to a cadre post or not) under Rule 9 of the Cadre Rules. Consequently, there is no question of approval of the Government of India being accorded in the case of a Select List Officer holding a non-cadre post or a post temporarily added to the cadre, under rule 9 of the Cadre Rules.

*[G.I. MHA letter No. 15/79/66-AIS(III), dated 17.10.1966.]*

**Government of India's Instructions under Rule 9:**

1.1. The Government of India have advised the State Governments that they

should keep in view the legal position explained in the note appended to the Ministry of Home Affairs letter No. 14/51/65 AIS(II), dated 21-2-1966 regarding the scope of regulation 8 of the I.A.S. (Appointment by Promotion) Regulation, 1955, and rule 9 of the I.A.S. (Cadre) Rules, 1954, while appointing non-cadre officers (Select List officers) to officiate in cadre posts.

1.2. The State Governments have also been advised that while making reference to the Government of India, they should furnish information in the revised proforma, reproduced below:-

### PROFORMA

#### Part I

1. Name of the State

2. Name of the Officer proposed to be appointed to the IAS/IPS cadre post for a period exceeding six months

3. Designation of the post held

4. Is the post mentioned against Col.3 above a cadre post specified in item I of the Cadre Schedule

5. Date of appointment

6. The period upto which the appointment is proposed to be made

7. The reasons for holding that no suitable cadre officer is available for filling the IAS/IPS cadre post

Sanctioned

Actual

8. (a) Cadre strength  
(b) Direct Recruitment Quota  
(c) Promotion Quota

9. No. of non-cadre officers holding cadre posts

10. (a) Whether the officer(s) proposed for appointment in cadre post(s) figure(s) in the current Select List for Promotion to the IAS/IPS

(b) If so, whether, all the officers placed above him/them in the Select List are officiating in cadre posts

11. Particulars of the senior most officer in the Junior Scale of the IAS/IPS in the State

12. Whether there are any officers senior to those in 10 above who are not holding cadre posts. (Please furnish details in Part II).

## Part II

*Position of officers in the current select list senior to the officer(s) mentioned in column 2 of Part I*

S no.	Name of the officer (arranged in the order of names in the current select list)	Date from which continuously officiating in cadre post	Designation of the cadre post (Specified in item (1) of the cadre schedule held by officer)	No. & Date of the GOI's communication approving the officiation	Departure if any from the order of the names in the current Select List in making officiation arrangements. Give reasons.

**Note** - The phrase 'Cadre Post' wherever used in Part I & II of this proforma means a senior duty post specified in item I of the Cadre strength.

*[G.I., MHA letter No. 6/54/64-AIS(I), dated 26.3.1966.]*

2.1. The Government of India have clarified the scope of Rule 9 of the Cadre Rules as follows:-

(a) The report under rule 9 of the I.A.S./I.P.S. (Cadre) Rules, 1954, is to be made when a non-cadre officer is appointed to a cadre post for a period exceeding three months, i.e., the period may be six months or more than six months, but it should exceed three months. The period exceeding 6 months has, therefore, no relevance whatsoever to the report to be made under rule 9 of the Cadre Rules. The report under the said sub-rule may not be made only once in all cases but it may be made subsequently every time, if it is proposed by the State Government to further extend the initial period of the appointment exceeding three months.

(b) [deleted].

(c) Under sub-rule (3) of rule 9 the matter is to be referred to the Union Public Service Commission when the Central Government comes to the conclusion that no suitable cadre officer is available for filling the cadre post in question and does not want to terminate the appointment of the non-cadre officer. Suitable directions are then issued by the Central Government to the State Government concerned in the light of the advice given by the Union Public Service Commission. Such directions may contemplate termination of appointment of the non-cadre officer on availability of a suitable cadre officer or after a specified period or may stipulate other conditions.

(d) According to rule 8 read with rule 9, of the IAS/IPS (Cadre) Rules, 1954, a non-cadre officer has to be replaced by a suitable cadre officer as soon as one becomes available. The appointment of non-cadre officer (Select List Officer etc.) to hold the cadre post as a stop gap arrangement pending availability of a suitable cadre officer does not give him any right to continue to hold the cadre post even after a suitable cadre officer becomes available.

(e) The mere inclusion of the name of a State Civil Service officer in the Select List does not confer any right on him, nor does he become a promoted officer merely by virtue of such inclusion. Appointment of non-cadre officers (Select List Officer) to cadre posts under rule 9 of the Cadre Rules is a purely temporary arrangement which may be terminated at any time when the Central Government or the State Government or

the State Government concerned finds that suitable cadre officers have become available. The Select List officers cannot be equated with the direct recruits who are members of the service and are entitled to hold senior posts.

2.2. The State Government has been advised to keep the above instructions in view while sending reports/proposals under rule 9 of the Cadre Rules to the Government of India.

*[G.I., MHA letter No. 1/1/67-AIS(III), dated 11.1.1967.]*

#### **Government of India's Decision under Rule 10:**

1.1. Instances have come to the notice of the Government of India in which State Government kept in abeyance I.A.S. cadre posts under their control, under this rule and simultaneously created, in lieu, ex-cadre posts involving identical duties and responsibilities but carrying remunerations different from (generally above) that laid down for the corresponding cadre posts.

1.2. The Government of India are of the view that, as a general rule, an action of this nature not only has the effect of altering the structure of the State I.A.S. cadre concerned, but also tends to defeat more than one object embodied in the All India Services Rules. The rules do not necessarily require the appointment of a cadre officer to an ex-cadre post of this type. The appointment of a non-cadre officer to what should really be a cadre post would be open to obvious objection; but so also would the appointment of a cadre officer to an ex-cadre post which, by the very nature of duties and responsibilities involved, should actually be a cadre post. The holding in abeyance of certain cadre posts, and their substitution by ex-cadre posts carrying different scales or rates or pay as well as status would thus result in an artificial exclusion of certain posts from the cadre. Such appointments generally mean a departure from the Pay Rules, and result in a distortion of the cadre structure. In certain circumstances, there may well be reason to consider the upgrading of a cadre post from the senior time-scale to super time-scale on account of enhanced responsibilities. The proper course to adopt in such cases, would, however, be for the State Government to justify the upgrading of the post in question and make appropriate proposals to the Central Government for a revision of the State Cadre Schedule. In considering such proposals, the need for maintaining a broad measure of all-India uniformity would, no doubt, have to be borne in mind.

1.3. Under this rule, the State Governments are required to make a report to the Central Government in all cases in which the State Government propose to keep a cadre post vacant for a period exceeding six months. The rule also lays down the various particulars which are required to be furnished to the Central Government in such reports. The purpose of the rule is to ensure that there is adequate justification for the extension of such extraordinary arrangement beyond a period of six months and its spirit is generally to discourage their indefinite continuance. The rule, as at present worded, leaves it to the State Government to hold cadre posts in abeyance when required. The corresponding arrangements in the case of the ex-Secretary of State's Services was different. The then Provincial Governments were advised by the then Home Department that, although it was correct that Provincial Governments had power to create posts and to fix the pay there of, it was never intended that the provisions of the Reserve Posts (I.C.C.S.) Rules should be used in conjunction with those powers to alter the construction, of the cadre of a Service sanctioned by the Secretary of State. They were also advised that the holding in abeyance of a "reserved post" and the substitution for it of a superior "unreserved post" would render nugatory the relevant Provisions of the Act of 1935 relating to All-India Services, created by the Secretary of State. It was therefore, enjoined on the Provincial Governments that Secretary of State's sanction would be necessary to the holding in abeyance of a reserved post and creation in its place of a temporary post different in status.

1.4. The general considerations relating to the organisation and working of All India Services broadly continue to be the same. A suggestion has, therefore, been made that a provision be added in this rule to the effect that cadre posts shall not be kept vacant or held in abeyance for periods exceeding six months without the approval of the Central Government. Such an amendment would not only be justified on the basis of past precedent, but on the requirements of the present situation as well, and above all, on account of the need for maintaining the all-India character of the I.A.S. In fact, it has always been the intention that the holding of cadre posts in abeyance should be resorted to only in exceptional circumstances, and although this rule does not specifically provide for the Central Government's approval to the continued holding in abeyance of a cadre post for period exceeding six months, the spirit of the rule, no doubt, is to discourage the practice and to ensure that in every case in which it is resorted to, the action is fully justified on the basis of various important consideration of which some find mention in these rules itself.

1.5. The Government of India is of the view that it would be quite inappropriate to hold a cadre post in abeyance and simultaneously to create in lieu an ex-cadre post involving identical duties and responsibilities, but with a different status and pay attached to it. However, they do not wish to suggest the addition of a provision of this rule on the lines indicated above, and trust that the State Governments would agree to act according to the views expressed in the preceding paragraphs and to the spirit of this rule, thereby obviating the need for any formal amplification of the rule in the manner proposed.

1.6. It is also observed that instances of cadre officers holding ex-cadre posts, and of non-cadre officers holding cadre posts generally tend to be large in number. The Government of India are of the view that this is not a satisfactory position and the State Governments might as a matter of general policy employ cadre officers as far as possible on cadre posts.

*[G.I. M.H.A. letter No. 6/43/62-AIS(I), dated 2.9.1963.]*

#### **Government of India's Decisions under Rule 11:**

1.1. The term "equivalent post" includes a post in a body incorporated or not which is wholly or substantially owned by the Government i.e., a post of foreign service, in view of the provisions contained in sub-rules (2) and (3) of rule 9 of the Pay Rules. Thus the provisions of rule 11 of the Cadre Rules are attracted where a cadre officer holds a cadre post and a post on foreign service simultaneously.

1.2. Combination of Government service with foreign service in one officer, is, however, not desirable and should be resorted to only in exceptional circumstances.

*[G.I. M.H.A. letter No. 5/2/65-AIS(I), dated 30.4.1965.]*