

CHAPTER VI
DOMICILE

1. *Constitutional provisions.*

(i) No citizen shall, on grounds only for religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

[Article 16(2) of the Constitution.]

(ii) Parliament may by law prescribe, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union Territory, any requirements as to residence within that State or Union Territory prior to such employment or appointment.

[Article 16(3) of the Constitution.]

2. *Standard rules*

(i) A candidate for appointment to any Central Service or post must be—

(a) a citizen of India, or

(b) a subject of Nepal, or

(c) a subject of Bhutan, or

(d) a Tibetan refugee who came over to India before the 1st January, 1962, with the intention of permanently settling in India, or

(e) a person of Indian origin who has migrated from Pakistan, Burma, Sri Lanka, East African Countries of Kenya, Uganda, the United Republic of Tanzania (formerly Tanganyika and Zanzibar), Zambia, Malawi, Zaire, Ethiopia and Vietnam (amended by OM dated 19-6-1978) with the intention of permanently settling in India.

(1) Provided that a candidate belonging to categories (b), (c), (d) and (e) shall be a person in whose favour a certificate of eligibility has been issued by the Government of India.

(2) Provided further that candidates belonging to categories (b), (c) and (d) above will not be eligible for appointment to the Indian Foreign Service.

(ii) A candidate in whose case a certificate of eligibility is necessary may be admitted to an examination or interview conducted by the Union Public Service Commission or other recruiting authority but the offer of appointment may be given only after the necessary eligibility certificate has been issued to him by the Government of India.

[DOP&AR Resln. No. 15014/3(S)/76-Estt(B), dt. 1-3-1977.]

3. *Eligibility Certificate*

(1) Necessary for candidates belonging to categories (b), (c), (d) and (e) mentioned in paragraph 2(i) above.

[MHA Resln. No. F.11/11/65-Ests(B), dt. 9-9-65 as amended by Resln. No. F.11/11/65-Ests(B), dt. 18-7-67 and Resln. No. 15014/3(S)/76-Ests(B), dt. 1-3-77.]

(2) Not necessary for the following categories of persons :—

(i) Persons who migrated to India from Pakistan before the 19th July, 1948 and have been ordinarily resident in the territory of India since the date of migration. (Such persons are deemed to be citizens of India at the commencement of the Constitution).
[Article 6(a) & (b) (i) of the Constitution].

- (ii) Non-Citizens who entered service under the Union before the commencement of the Constitution viz., 26th January, 1950, and continued in service since then. Any such person who re-entered, or may re-enter, such service with a break after 26-1-50, will however require a certificate of eligibility in the usual way.

[MHA OM No. 43/21/51-Ests. dt. 27-3-51 (para 1.)]

- (3) The eligibility certificate will be issued by the Department of Personnel and Training in the prescribed form (Annexure).

[MHA OM No. 43/21/51-Ests, dt. 19-2-51.]

- (4) Not necessary to insist on prior production of certificates of eligibility. Proper course is to consider the application of a candidate on merits and select and/or appoint him on a provisional basis, pending issue of the necessary certificate in his favour by the Department of Personnel & Training. Steps should, however, be taken at the same time to verify the character and antecedents of the candidate and thereafter to make reference to the Department of Personnel and Training (which should invariably be through the Ministry concerned in the case of subordinate offices) without delay for the issue of the necessary certificate. A candidate so appointed on a provisional basis should, however, be required to sign an undertaking in the following form :—

“I understand that my appointment to the post of————— is purely provisional pending the issue of a certificate of eligibility in my favour and that in the event of such a certificate being refused by appointment shall stand cancelled.

[MHA OM No. 43/24/50-Ests., dt. 19-7-50.]

- (5) Following particulars should be invariably given in respect of the persons concerned while forwarding any proposals to the Deptt. of Personnel and Training for issue of certificate of eligibility :—

- (1) Name
- (2) Father's Name.
- (3) State, territory, etc. of which he is a subject or to which he belongs or his nationality.
- (4) Post/Service and office in which appointed.
- (5) Date of appointment.
- (6) Whether appointed in a purely temporary capacity, for a definite period, for an indefinite period or in a permanent capacity.
- (7) Whether character and antecedents have been verified and found satisfactory.

[MHA OM No. 43/21/51-Ests., dt. 19-2-51, OM No. 43/24/50-Ests, dt. 19-7-50.]

4. *Provision for determination of Domicile.*

1. A person can have only one domicile.
2. The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domiciled, or if he is a posthumous child, in the country in which his father was domiciled at the time of the father's death.
3. The domicile of origin of an illegitimate child is in the country in which at the time of his birth his mother was domiciled.
4. The domicile of origin prevails until a new domicile has been acquired, a new domicile continues until the former domicile has been resumed or another has been acquired.
5. (1) A person acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin.
 - (2) Any person may, if the law of any country so provides, and subject to any such provisions, acquire a domicile in the country by making in accordance with the said provisions a declaration of his desire to acquire such domicile.

EXPLANATION 1 :—A person is not to be considered as having taken his fixed habitation in a country merely by reason of his residing there in the Government's civil or military service or in the exercise of any profession or calling.

EXPLANATION 2 :—A person does not acquire a new domicile in any country merely by reason of residing as part of the family or as a servant of any ambassador, consul or other representative of the Government of another country.

6. The domicile of a minor follows the domicile of the parent from whom he derives his domicile of origin :

Provided that the domicile of a minor does not change with that of his parent if the minor is married or holds any office or employment in the Government or has set up with consent of the parent in any distinct business.

7. After marriage a woman acquires the domicile of her husband if she had not the same domicile before and her domicile during the marriage follows the domicile of her husband :

Provided that if the husband and wife are separated by the order of a competent court or if the husband is undergoing a sentence of transportation, the wife becomes capable of acquiring an independent domicile.

8. Save as otherwise provided above a person cannot during minority acquire a new domicile.
9. An insane person cannot acquire a new domicile in any other way than by his domicile following the domicile of another person.

[Appx. B to Schedule IV of Superior Civil Services Rules.]

ANNEXURE

GOVERNMENT OF INDIA

DEPARTMENT OF PERSONNEL AND A. R.

CABINET SECRETARIAT

Serial No.

File No.....

New Delhi, dated.....

CERTIFICATE OF ELIGIBILITY

In pursuance of para 3 of the Ministry of Home Affairs Resolution No. 11/11-65-ESTS(B) dated the 9-9-1965 the President is pleased to direct that.....

.....
son/daughter/wife of.....
being a subject/native ofshall be
eligible to hold any civil office in connection with the affairs of the Union.....
with effect from the.....

*Under Secretary to the
Government of India*