APPENDIX I

THE WEST BENGAL PUBLIC SERVICE COMMISSION (CONSULTATION BY GOVERNOR) REGULATIONS

In exercise of the powers conferred by the proviso to clause (3) of Article 320 of the Constitution of India, the Governor of West Bengal is pleased hereby to make the following regulations, namely,-

1. These regulations may be called "The West Bengal Public Service Commission (Consultation by Governor) Regulations, 1955". They shall take effect from 1st September, 1955.

2. In these regulations, unless there is anything repugnant in the subject or context-

(a) "Commission" means the West Bengal Public Service Commission.

(b) "Government" means the Government of the State of West Bengal.

(c) "State service" means the services that have been or may, hereafter, be included in note 1 to sub-rule (4) of rule 5 of the West Bengal Service Rules, Part I.

(d) "Regularly constituted State service" means the services (other than the West Bengal General Service) that have been or may hereafter be included in note 1 to sub-rule (4) of rule 5 of the West Bengal Service Rules, Part I. It also includes Central Service, Class I, or Central Service, Class II, in cases where appointment to West Bengal General Service posts by promotion or transfer from such services is provided for in the recruitment rules.
(e) "Promotion" means the appointment of a person to a post on a pay or a scale of pay higher than that attached to the post on which he holds a lien or a suspended lien or in which he was appointed on contract.

(f) "Pay" has the same meaning as in rule 5(25) of the West Bengal Service Rules, Part I.

3. Except in the case of direct recruitment to the services or posts included in the schedule annexed hereto and subject to the provisions of regulation 4 below, it shall not be necessary to consult the Commission with respect to the matters specified in sub-clauses (a) and (b) of clause (3) of Article 320 of the Constitution for any service or post, permanent or temporary, the appointing authority for which is an authority subordinate to the State Government.

4. Unless otherwise provided in the recruitment rules of the services or posts included in the schedule mentioned in regulation 3, appointment by direct recruitment to officiating vacancies in the services or posts mentioned in the schedule or to temporary posts created as additions to the cadre of the services or posts included in the schedule, is subject to the provisions of regulations 7, 8 and 10.

5. (1) It shall not be necessary to consult the Commission with respect to the filling of a permanent post in the West Bengal General Service, whether in a substantive or in an officiating capacity, when such post is, subject to the provisions of the recruitment rules, filled up.
(a) By promotion of a person having lien on a post in that service subordinate to such post;

Illustrations

i) The Assistant Secretary, Legislative Department, is subordinate to Deputy Secretary, Legislative Department.

ii) An Electric Inspector is subordinate to the Electrical Adviser and Chief Inspector.

iii) The Registrar, Court of Small Causes, Calcutta, is not subordinate to the Administrator-General and Official Trustee.

(b) By promotion or transfer of a person having lien on a regularly constituted State service.

(2) Notwithstanding anything contained in sub-regulation (1), consultation with the Public Service Commission will be necessary in the case of promotion of Registrars of the Secretariat to the posts of Assistant Secretaries.

6. It shall not be necessary to consult the Commission with respect to the matters specified in sub-clauses (a) and (b) of clause (3) of Article 320 of the Constitution when filling a post by a specialist appointed on contract for a period not exceeding five years provided that -

i) the post in question is deemed by the Government to be of such a technical nature or involves such specialised type of work as to require a specialist to be appointed; and

ii) the specialist to be appointed on contract is selected after open advertisement by a Selection Committee composed of experts in the line and appointed with the approval of Government.

7. It shall not be necessary to consult the Commission with respect to the filling of any officiating appointment in a permanent post by a person not already confirmed in a civil service
or employed in a civil post on a contract, when the period for
which such appointment is made is not likely to exceed six months;
but if at the initial stage or at any time subsequently it appears
that the period for which the appointment is made is likely to
exceed six months, the Commission shall, as soon as possible
thereafter, be consulted on the matters specified in sub-clauses
(a) and (b) of clause (3) of Article 320 of the Constitution.

8. It shall not be necessary to consult the Commission with
respect to the matters specified in sub-clauses (a) and (b) of
clause (3) of Article 320 of the Constitution for any temporary
post, which is filled up by a person not already confirmed in a
civil service or employed in a civil post on a contract, when the
post is not likely to last more than one year:

Provided that

i) such appointment shall be reported to the Commission
   as soon as it is made;

ii) if the appointment continues beyond the period of six
    months, a fresh estimate as to the period for which
    the person appointed is likely to hold the post shall
    be made and reported to the Commission; and

iii) if such estimate indicates that the person appointed
    is likely to hold the post for a period of more than
    one year from the date of appointment, the Commission
    shall immediately be consulted on all matters specified
    in sub-clauses (a) and (b) of clause (3) of Article 320
    of the Constitution.

9. It shall not be necessary to consult the Commission with
respect to the matters specified in sub-clauses (a) and (b) of
clause (3) of Article 320 of the Constitution for any temporary
post which is filled up by a person who has already been confirmed
in a civil service or is already employed in a civil post on a contract;

Provided that if the post has been sanctioned for or
is likely to last for more than six months and the appointment
of the person thereto is in effect a promotion and would have
required consultation with the Commission, had the post been
permanent, the Commission shall, as soon as possible, be
consulted on all matters specified in sub-clauses (a) and (b) of
clause (3) of Article 320 of the Constitution.

10. Notwithstanding anything contained in regulations 7 and
8, it shall not be necessary to consult the Commission with
respect to any of the matters specified in sub-clauses (a) and
(b) of clause (3) of Article 320 of the Constitution, when it is
proposed to re-employ a person after superannuation provided
that before or but for superannuation, he was eligible for
appointment to the post without consultation with the Public
Service Commission and provided further that his pay on re-
employment plus the pension, if any, does not exceed the pay
drawn by him at the time of his retirement.

11. It shall not be necessary to consult the Commission
with respect to any appointment to a part-time post, when such
post is filled by an officer who is already confirmed in a civil
service or is already employed in a civil post on a contract.

12. It shall not be necessary to consult the Commission
before making an appointment in cases in which recruitment is
made overseas through the agency and on the advice of the Ambassadors or the High Commissioners for India, as the case may be.

13. It shall not be necessary to consult the Commission with regard to the termination of employment of a person appointed on probation during or at the end of the period of probation in accordance with the rules governing the probationary service.

14. It shall not be necessary to consult the Commission with regard to -

(a) the discharge of a temporary employee on termination of the temporary post or in accordance with the terms of his employment; and

(b) reversion of an officer from an officiating or a temporary post, otherwise than as a penalty.

15. It shall not be necessary to consult the Commission regarding the termination of the employment of any person in accordance with the terms of his employment or in pursuance of the terms of any contract entered into with the officer.

16. It shall not be necessary to consult the Commission with respect to the imposition of any penalty laid down in any rule or order for failure to pass any test or examination within a specified time.

17. It shall not be necessary to consult the Commission with respect to any case in which the Commission at any previous stage has given advice in regard to the orders to be passed and no fresh question has thereafter arisen for determination.
18. In regard to petitions and memorials in disciplinary cases it shall not be necessary for the Commission to be consulted before an order rejecting such a petition is passed by the Government or by the Governor as *persons designata*.

19. It shall not be necessary to consult the Commission with respect to the matters specified in sub-clauses (a) and (b) of clause (3) of Article 320 of the Constitution in the case of posts in the Eastern Frontier Rifles (West Bengal Battalion).

20. It shall not be necessary to consult the Commission with respect to any matter in the case of officers of the Indian Armed Forces to be appointed on deputation to civil posts under the Government.

21. It shall not be necessary to consult the Commission with respect to the matters specified in sub-clauses (a) and (b) of clause (3) of Article 320 of the Constitution in the case of all Law Officers under the establishment of the Legal Remembrancer.

22. It shall not be necessary to consult the Commission with respect to the matters specified in sub-clauses (a), (b) and (c) of clause (3) of Article 320 of the Constitution in the case of the following posts:

(a) Chairman and Members of the Public Service Commission;
(b) Advocate-General;
(c) Personal staff of His Excellency the Governor other than the clerical establishment and stenographers in Governor's Secretariat or in the office of the Military Secretary to the Governor; and
(d) Posts to be filled by members of All-India Services.
23. With respect to the matters specified in sub-clause (c) of clause (3) of Article 320 of the Constitution —

(a) It shall not be necessary to consult the Commission prior to the passing of orders by any authority subordinate to the Government and competent to pass such orders;

(b) It shall not be necessary to consult the Commission prior to the passing of an original order by the Government imposing on members of a subordinate service any of the following punishments:

i) formal censure;

ii) withholding an increment or promotion, including stoppage at an efficiency bar; and

iii) suspension where such suspension is imposed not as a punishment, but to facilitate the proper investigation of a case against a suspended officer;

(c) it shall not be necessary to consult the Commission before an order of suspension, being an order imposed not as punishment but to facilitate the proper investigation of a case against the suspended officer, is passed against a member of a State service; and

(d) it shall not be necessary to consult the Commission in respect of any action taken or any order passed under the West Bengal Civil Services (Safeguarding of National Security) Rules, 1949.

24. Regulations 31-52 of the Bengal Public Service Commission Regulations, 1937, are hereby repealed though for the avoidance of doubt it is made clear that any action taken under the Bengal Public Service Commission Regulations, 1937, and prior to the promulgation of these regulations shall not be questioned merely on the ground of such repeal.
SCHEDULE
(Regulations 3 and 4)

1. Clerks and typists in the -
   a) Secretariat Departments of Government.
   b) Directorates, subordinate and other offices in Calcutta where the initial pay of the lower division clerks in the revised scale of 1961 is Rs. 134 or above.
   c) Governor's Secretariat and the office of the Military Secretary to Governor.
   d) Headquarters offices of the various Directorates under the Food and the Supplies Department of Government.
   f) Omitted.
   g) Office of the Director-General of Transportation.
   h) Office of the Chief Inspector of Smoke Nuisances.
   i) West Bengal Legislative Assembly and Council Departments.
   j) Office of the Chief Inspector of Factories.
   k) Office of the Chief Inspector of Boilers.
   l) Office of the Commissioner for Workmen's Compensation.
   m) Office of the Industrial Tribunal.

2. All posts of stenographers (including those in the West Bengal Legislative Assembly and Council Departments) the initial pay of which in the revised scale of 1961 is Rs. 175 or above.

3. Apprentices in the West Bengal Government Press.

4. Translating staff of the Bengali Translator.
5. Artist, Official Photographer, Sound Mechanic, Oil Engine Mechanic, Subdivisional Publicity Officer, and Translating staff (Bengali, Hindi and Urdu) in the Home (Publicity) Department.


7. Deputy Jailors and Sub-Jailors in the Jails Establishment.

8. Workshop Foreman, Presidency Jail.


11. Subordinate Agricultural Service, Class I (Executive).

12. Subordinate Agricultural Service, Class I (Research).


16. Sub-Inspectors of Excise.

17. Commercial Tax Inspectors.


19. Lecturers and Demonstrators in Government Colleges.

20. Subordinate Veterinary Service, Class I and Class II.
22. Overseers, Indian Botanic Gardens.
23. Additional Rehabilitation Officer in Refugee Relief and Rehabilitation Department.
25. Zilladers in the Irrigation and Waterways Department.
27. District Kanungoes.
28. Divisional Auditors and Assistant Auditors, Board of Revenue.
29. Assistant Inspectors and Assistant Inspectresses of Schools.
30. Assistant Headmasters and Assistant Headmistresses of Schools.
31. Assistant Masters, Assistant Mistresses, Physical Instructors, and Physical Instructresses and other posts in Government High and Junior High Schools in a scale not lower than Rs. 175-7-245-8-325.
32. Foreman in the Workshop of the Police Service Depot.
33. Assistant Psychologist, Vagrancy Directorate.
34. Jute Development Inspector in the Agriculture and Food Production Department.
35. Public Vehicles Officer, Grade II, Public Vehicles Deptt.
36. Lower Division Clerks, Public Vehicles Deptt.
37. Typist, Public Vehicles Deptt.
38. Co-ordination & Public Relations Officer, Forests Directorate.
40. Lady Social Worker under the Directorate of Social Welfare.
41. Inspector of Co-operative Societies under the Co-operation Directorate.
42. Junior Social Worker under the Home (Social Welfare) Department.
44. Administration and Programme Officer and Ex-officio Joint Stock Development Officer.
46. Model Maker under the Home (Publicity) Department.
47. Senior Technical Assistant in the State Statistical Bureau.
48. Assistant Archivist in the Education Department.
49. Horticultural Overseer in the Directorate of Medicinal Plants, West Bengal.
52. Assistant Translator in the Legislative Department.
53. Inspector of Film Censor in the Information and Public Relation Department.
54. Process Cameraman in the Agriculture & Community Development Department (Agri. Wing).

55. Librarian, Senior Technical Assistant, Assistant Librarian, Junior Technical Assistant and Cataloguers of the West Bengal Secretariat Library.

56. Assistant Statistical Officer, in the Socio Economic Evaluation Branch, C.D.Deptt.

57. Statistical Assistant, Deptt. of Agriculture and C.D.

58. Assessor in the Licensing Section of West Bengal Fire Service Directorate.