

Public Administration Circular No : 12/95

My No: IV-2/9/361/5(H)2

Ministry of Public Administration, Home Affairs,
Plantation Industries and Parliamentary Affairs
Independence Square
Colombo 07.

17 March, 1995

All Secretaries
Heads of Departments and
Chairman of Public Corporations

**Re-instatement of Officers / Employees taken into
custody under the Prevention of Terrorism
(Temporary Provisions) Act No. 48 of 1979 and
under the Emergency Laws**

This Circular is issued to replace Public Administration Circulars No. 48/89 of 06.10.1989 and No. 48/89 (i) of 10.04.1991 issued on the above subject.

02. The following categories of Public Officers and Corporation Employees should be re-instated in their posts subject to a formal inquiry held (based on finding of a preliminary inquiry) in accordance with the provisions of the Establishments Code:

- (i). Officers/Employees who were taken into custody under the Prevention of Terrorism (Temporary Provisions) Act No. 48 of 1979 and /or the Emergency Regulations and released by the Minister in charge of the subject or by the Secretary, to the Ministry of Defence in the absence of evidence, or taken into custody or kept in detention by the Inspector General or Police under Regulations 18 or 19 of the Emergency Regulations and released by him at the conclusion of the investigations.
- (ii). Officers/Employees who were charged under the above Act/Emergency Regulations and acquitted by a court of law or released on the withdrawal of indictment.
- (iii). Officers/Employees who were convicted in a court of law for offences committed under the above Act/Emergency Regulations.
- (iv). Officers/Employees who were released by the Minister in charge or by Secretary to the Ministry of Defence and subsequently charged in a court of law and convicted for the same offence for which he was earlier taken into custody.
- (v). Officers/Employees whose indictments were withdrawn by the Hon. Attorney-General on a Nolle Prosequi.

- (vi). Officers/Employees who had been taken into custody or had surrendered to the Police or any other authority appointed by the Government and do not fall under categories (ii), (iii), (iv) and (v) above, but have been detained for rehabilitation by the Commissioner General of Rehabilitation.

3. However, Officers/Employees under category (i), (ii) and (v) above may be re-instated without a formal inquiry if they have good service records and with the concurrence of the Minister concerned. Period of detention of such officers should be treated as full pay leave.

4. Officers/Employees taken into custody and released by the Indian Peace Keeping Force, should also be re-instated and the period of detention should be treated as full pay leave.

5. With regard to Officers/Employees who had been kept under detention in connection with the 1971 insurgency and who have not been re-instated in service, Ministers concerned may review each such case in consultation with the Secretary, to the Ministry of Defence.

6. In case of Officers/Employees in category (iii) where there is no sufficient evidence/proof to hold a disciplinary inquiry, they can be re-instated if they possess good service records, when vacancies occur in the posts, with the concurrence of the Minister concerned and the Secretary to the Ministry of Defence. The period with they were not in service should be treated as no pay leave.

7. The Officers/Employees in category (iv) can be re-instated without a disciplinary inquiry with the concurrence of the Minister concerned if they possess good service records. The period which they were not in service should be treated as no pay leave.

8. Officers/ Employees belonging to category (VI) may be re-instated without a formal disciplinary inquiry if they have good service records with the concurrence of the Minister concerned. Their period of absence should be treated as full pay leave.

9. Officers/Employees who have been discharged or exonerated as it was not possible to take legal action against them and who have good service records should be re-instated without formal disciplinary inquiry with the concurrence of the Minister concerned. Their period of detention should be treated as full pay leave.

10. Officers/Employees who have been discharged or exonerated as it was not possible to take legal action against them and who do not have good service records should be re-instated without a formal disciplinary inquiry with the concurrence of the Minister concerned. They should be placed on a probation period of one year from the date of re-instatement. The period of absence from service should be treated as full pay leave.

11. When the Officers/Employees mentioned in category (i), (ii), (v) and (vi) of 02 above, do not possess good service records a formal disciplinary inquiry should be held. If the disciplinary authority decides to re-instate them on the conclusion of the Inquiry they should be re-instated subject to a one year probation period. The period of absence should be treated as full pay leave.

12. Where the Officers / Employees mentioned in category (iii) and (iv) of 02 above do not have good service records a formal disciplinary inquiry should be held. If the disciplinary authority decides to re-instate them, on the conclusion of the inquiry, they should be re-instated subject to a one year probation period. The period of absence should be treated as no pay leave.

13. This circular is issued with the concurrence of the Secretary to the Ministry of Defence.

Sgd : R.S. Jayaratne

Secretary

Ministry of Public Administration, Home Affairs,
Plantation Industries and Parliamentary Affairs.