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The Principle of Merit in the Appointment to Public Positions in Algerian Legislation

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Abstract:

The article aims on the criterion of merit in accessing public employment, considering it a fundamental right of citizens and an embodiment of the principles of equality and fairness. The Algerian legislator has emphasized this principle by adopting the competitive examination system as the primary mechanism for recruitment under the Civil Service Law. However, the absence of an objective assessment of competence has at times hindered the achievement of the desired outcomes in public service management.

This article demonstrates that equality alone is insufficient unless supported by precise selection criteria, and concludes that the transparent application of the merit principle ensures the selection of the most competent candidates, thereby guaranteeing the public interest and enhancing the quality of public service delivery.

Keywords: public employment, citizens, examination system, public service management, public service delivery, public interest

Introduction:

The principle of merit in assuming public positions occupies a central place in most civil service systems seeking to provide modern and high-quality public service. These systems rely on a set of objective and technical criteria based on the competencies and qualifications of candidates for public employment. This principle is primarily implemented through legally established mechanisms that ensure the selection of the most competent and capable candidate, whether through

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competitive examinations governing recruitment or other procedures related to promotion, including tests and competitions.

Thus, the principle of merit in public employment constitutes one of the most essential foundations of the civil service, enabling administrative bodies to select the best and most suitable employees—those capable of effectively managing public institutions, assuming responsibility, and ensuring exemplary public service. Most civil service legislations have enshrined this principle, recognizing competence and ability as two fundamental criteria for selecting public employees so as to guarantee the outcomes expected from public administration. In line with this approach, the Algerian legislator, like many international lawmakers, has placed significant emphasis on this criterion to achieve the objectives set within the State's public service policy.

The establishment of the merit principle in public employment did not emerge by chance; rather, it has been the focus of scholars and specialists in public administration who, drawing on their expertise, consider investment in human resources—guided by the criterion of competence—to be an essential tool for achieving effective and high-quality outcomes. The public employee is the cornerstone and intellectual engine of the State through its various institutions, responsible for implementing national policies across sectors. Hence

the merit principle holds considerable importance in human resource management, as it is viewed as a key factor of productivity. The achievement of administrative goals depends largely on the ability to select qualified human resources capable of contributing to the improvement of public service quality.

Today, the principle of merit in assuming public functions has become an effective mechanism adopted by various international legislations, shaped by their experiences in the field of public administration. To address the question concerning the nature and applications of this principle, the present study is divided into three main sections: the first examines the concept of merit as a criterion for accessing public employment; the second explores the practical applications of the merit principle throughout the civil service career path; and the third analyzes its implementation at the international level

The principle of meritocracy in assuming public office and its role in improving public service are key issues. This problem raises several sub-questions: What is the concept of the meritocracy principle in Algerian legislation? What are the types of meritocracy criteria? And from where does the criterion derive its constitutional and legal basis?

E.ISSN: 2661-7404 Academic Journal of Legal and Political Researchs P.ISSN:2571-9971
Year: 2026 Vol : 10 No : 02 Page : 792 - 810

First section: The Concept of the Merit Criterion for Access to Public Employment

Achieving the principle of merit in access to public employment represents the most effective and appropriate method for selecting civil servants, particularly within modern approaches aimed at ensuring the highest quality of public service. This principle is therefore considered one of the fundamental pillars of recruitment across various legal systems worldwide, as it seeks to guarantee genuine fairness and equality in public employment while reinforcing true transparency and distancing administrative practices from favoritism and nepotism. Through diverse appointment mechanisms adopted by different legislations, this objective is pursued, which has led the Algerian legislator—like many others—to implement it in practice. Consequently, it becomes essential to define the merit criterion, identify its characteristics and legal foundations, and highlight its importance

First Requirement : The Concept of the Merit Principle and Its Types

The principle of merit in assuming public positions emerged long ago as part of the historical efforts of nations to eliminate the negative problems that previously affected public administration. Over time, the concepts of competence and merit took shape and were adopted by various civil service legislations, which sought to implement them in practice across the different stages of appointment to public positions.

Accordingly, this subsection addresses the concept of the merit principle in two parts: the first devoted to defining the principle of merit, and the second to outlining its characteristics.

Firstly: : Definition of the Merit Principle in Public Employment

1- LinguisticDefinition:

The term is derived from the verb *"jadara"* (to be worthy), meaning *"to possess merit"* or *"to be suitable and deserving."* The adjective *"jadir"* (capable) denotes someone who is qualified, capable, or worthy, while the plural form is *"judaraa."* (capables) It conveys the idea of being free from defects, well-prepared for a task, and capable of executing it effectively.[1]

1- **Mohamed Youssef El-Madawi**, *A Study on Public Service in Comparative Systems and Algerian Legislation*, University Publications Office, Algeria, 1988, p. 1.

2- **Terminological and Jurisprudential Definition:**

Since defining legal concepts falls within the domain of jurisprudence, the Algerian legislator has not provided a direct definition of the merit principle in public employment. However, it is implicitly referenced in the Constitution, particularly through provisions related to the principle of equality in assuming public positions. From this, one can deduce the merit principle and its standard, which encompasses the qualifications and legal conditions reflecting the criterion of merit. This approach is similarly addressed in foundational civil service laws and other relevant legal texts.[2]

Accordingly, the principle of merit involves **selecting the most competent individuals** to occupy vacant positions of higher responsibility and authority. This selection is conducted by the administrative authority, whether it has restricted or discretionary powers, and in accordance with specific conditions and procedures[3]

It has also been defined as the requirement that a person assuming public positions possesses the **physical and moral capacity** to perform a specific job or function, meaning the existence of two essential conditions: **the requirement of physical and mental health** and **the requirement of full knowledge and mastery of the employment tasks.**[4]

Egyptian jurisprudence has also defined the merit criterion. For example, the Administrative Court of Egypt, particularly in the context of promotion, described merit as a **set of elements**, including technical competence, administrative ability in primary positions, diligence, good conduct, and other factors. These are considered at the discretion of the administration, and the Court will not intervene unless there is an abuse of authority.[5]

[2] **Ahcen Gharbi**, "Employment Based on Merit in Algerian Law," *Al-Nibras Journal of Legal Studies*, Vol. 4, No. 2, September 2019, University of 20 August, Skikda, Algeria. Published on 30/09/2019.

[3] Belarani Abdelkrim, The Promotion System in the Public Service, Journal of Studies in the Public Service, Issue 1, December 2013, University of El Bayadh, 49.

Sharif Youssef Helmy, Public Service: A Comparative Study, Dar Al-Nahda Al-Arabiya, 32, Cairo, 2006-2007, p. 149[4]

[5] **Bachir Chérif Shamseddine**, *The Principle of Merit in Public Service in Algerian Legislation*, Master's Thesis in Legal Sciences, Administrative Law and Public Administration, Faculty of Law, University of Hadj Lakhdar, Batna, 2011, p. 21.

In another ruling, the Court defined merit and competence as **personal qualities** that encompass several elements: knowledge of administrative and technical information, skill, intelligence, initiative, readiness and commitment to work, dedication, care in execution, as well as good conduct and reputation, among other qualities. While these qualities primarily relate to knowledge, they serve as comparative elements in evaluating candidates.[6]

Thus, the principle of merit refers to the **aggregate of personal qualities** in an individual, which may include knowledge of technical and administrative information, intelligence, acumen, good conduct, and reputation.[7]

Secondly : Types of the Merit Principle in Public Employment

1- Ethical Merit: Ethical merit is considered one of the most important conditions that a candidate must fulfill to occupy a public position, and it is evaluated through several criteria, including:

A- Good Reputation and Conduct: This is a fundamental requirement established by the Basic Law on Public Service for candidacy to public positions. The condition of good reputation and conduct aims to reinforce trust between the public employee and the citizen, ensuring that the employee possesses sound ethics and a respectable reputation.

However, this condition is subject to the discretionary authority of the administrative body. Problems may arise due to the lack of objective criteria for assessing the employee's reputation, as it is often difficult to prove. To address this, the legislator, through Order 06-03, which establishes the Basic Law on Public Service, replaced it with the condition of **absence of partial incompatibility**, which is easier to verify through administrative procedures conducted prior to appointment.

B- Absence of Criminal Incompatibility:

This refers to the absence of any prior criminal conviction resulting in deprivation of liberty for a felony or misdemeanor; as such a conviction is considered evidence of a lack of moral merit:

[6] Sabri Jalabi Abdel Aal, Meritocratic Systems in Public Service Appointments, Dar Al-Jami'a Al-Jadeeda, Cairo, 2008, p. 129

[7]. Ibid ,p.13

1- Good reputation and conduct :

According to Article 75, Paragraph 04 of Order 06-03:

"No one may be employed in a public position unless the following conditions are met… their criminal record does not contain notes incompatible with the performance of the intended public position, particularly in positions with special requirements.[8],[9]

From this provision, it can be observed that the legislator should have clarified the ambiguity present in the text, which constitutes the core of administrative discretion. This discretion may lead to deviations from the merit standard, as the law does not specify which observations on the criminal record are considered incompatible with the position.[10]

. 2/- No Prior Disciplinary Dismissal:

This condition is based on the principle that an employee who has previously been dismissed from a position for disciplinary reasons is prohibited from being re-employed, as this confirms the lack of merit for holding a public position. Specifically, Article 55 of Order No. 66-133 addresses dismissal from a position, which results in a ban on re-employment in public administration.

Moreover, Article 185 of Order 06-03, which establishes the Basic Law on Public Service, reinforces this principle by stating:

"An employee who has been subject to dismissal or removal cannot be re-employed in public service."

However, this provision has been criticized for not distinguishing between **removal**, which is a non-disciplinary separation allowing for possible re-employment and does not indicate a lack of merit, and **dismissal**, which is a disciplinary separation due to a serious infraction punishable by a fourth-degree penalty, preventing any

[8] order 06-133 of June 2, 1966, containing the Basic Law of the Civil Service, Article 25, Official Gazette No. 46, amended and supplemented by Law 06-03 of Jumada II 19, 1427 AH, corresponding to July 15, 2006

[8] Mohammed Youssef Al-Madawi, A Study of Public Service in Comparative Systems and Algerian Legislation, Second Edition, University Publications Office, Algiers, 1988, p. 54

future re-employment. The law also does not specify the duration of the dismissal or the re-employment ban.[11]

2- **B. Health and Professional Merit:**

In addition to moral merit, a candidate must also possess **health and professional merit**. These can be further detailed as follows:

1. Health Merit:

Health merit refers to the **physical and mental capacity** of the candidate, meaning the individual must be physically and mentally sound, free from contagious, neurological, or other illnesses. Health fitness standards vary depending on the position and function to be held. In certain public service sectors, full health fitness is an essential requirement due to the nature of the duties, which demand good physical and mental condition[12].

Health fitness is verified through a **medical certificate** submitted to the administration, which reviews it and exercises discretion in assessing suitability. This is outlined in Circular 16, issued on April 29th, 2006, by the Directorate General of Public Service for Human Resources management in public institutions, requiring the candidate to provide a valid medical certificate from a physician specialized in the relevant field.[13]

The medical examination is considered a routine procedure in competitive recruitment processes. It ensures that the candidate is free from infectious and serious illnesses. Once a candidate passes the medical examination, their appointment recommendation is reinstated, confirming their eligibility for the position.[14]

2. Professional Merit:

This criterion is common across various civil service laws and systems and serves as a foundation for achieving a professional workforce capable of enhancing public service in accordance with modern standards. Professional merit primarily depends on the candidate's **academic and technical qualifications**, which vary depending on the

[11]Ibid ,p.22

[12]Article 55 of Order 66-133, mentioned above

[13]Article 185 of Order 06-03 containing the basic law of the civil service

[14] Article 185 of Order 06-03 containing the basic law of the civil service

position and employment category. It can be divided into **academic merit** and **professional experience**.[15]

Academic Merit: Academic merit refers to the candidate holding an educational degree of a certain level, which differs according to the position, employment category, and rank. Higher-level positions, such as university professors, ministers, and similar roles, require advanced academic qualifications. In contrast, simpler or manual labor positions, which are primarily physical in nature, do not require high academic qualifications; basic literacy and numeracy skills are sufficient.[16]

Professional Experience or Technical Merit: Also known as practical merit, this refers to prior experience in specific positions for a defined period, which generally results in the acquisition of expertise and skills in the relevant specialization. This criterion is particularly emphasized for specialized positions, especially in security, medical, and other precise technical roles[17].

According to Article 75/06 of Order No. 06-03, the qualifications required for public service positions are mentioned without strict specification. Therefore, in addition to academic qualifications, professional experience may also be required under certain foundational civil service laws for specific employment categories[18].

Second Requirement: Legal Basis of the Merit Principle in Assuming Public Positions:

The merit principle in public employment derives its **legal foundation** from various legislations, international laws, conventions, and treaties, such as the **Universal Declaration of Human Rights** and the **International Covenant on Economic, Social, and Cultural Rights of 1966**. Similarly, Algeria has aligned its legal framework with these international standards by embedding this principle through several mechanisms, which can be examined as follows:

1- **The Merit Principle in Public Employment in the Constitution:**

[15] Abdullah Ali Al-Mulqi, Civil Service Job Classification, A Guide for Preparing Projects and Plans, Second Edition, Dar Al-Kitab, Egypt, 208 pages, p. 9

[16] Hussein Othman Muhammad Othman, Principles of Administrative Law, University Press, Alexandria, Egypt, 2004, p. 679

[17] Muhammad Bahi Abu Yunus, Selection Based on Competency for Public Office, Nidal Al-Ghadari Al-Islami, 1st Edition, Dar Al-Jami'a Al-Jadeeda Publishing, Alexandria, Egypt, 1999, p. 67

[18] Ibid ,p.22

In successive Algerian constitutions, particularly since the **1963 Constitution**, the merit principle in assuming public positions was neither explicitly nor implicitly mentioned. This omission can be attributed to the limited experience at the time in drafting and formulating legal text

With the **1976 Constitution**, the principle was explicitly addressed in **Article 41**, which states:

"State positions and positions in affiliated institutions are accessible to all citizens and available to them equally, without any conditions other than those related to eligibility." Regarding the **1989 Constitution**, the merit principle was implicitly referenced. **Article 48** states:

"All employees are equal in assuming tasks and positions in the State, without any conditions other than those specified by law." From this text, it can be inferred that the merit principle is implicitly recognized, as the phrase *"other than those specified by law"* implies that the holder of a public position must meet the **competence requirement**. The **1996 Constitution** followed the same approach.[19]

The **2016 constitutional amendment**, however, did not explicitly or implicitly address the merit principle in public employment. In the **latest constitutional amendment**, it is noted in relevant provisions that public functions and duties are exercised based on **competence, merit, and equality**. From this, we can conclude that the merit principle is a fundamental standard in the process of assuming public positions. It is considered a **general principle** that states must apply, akin to other general legal principles, and it is underpinned by complementary constitutional foundations, particularly the principles of **equality** and **equal opportunity**.[20]

2- The Merit Principle in Laws and Regulations :

The merit principle in assuming public positions derives its **legal basis** from various legal texts governing public service. For example, the **Basic Law on Public Service** explicitly references the merit principle in **Articles 5 and 26**. Article 5 states:

[19] Constitution of the People's Democratic Republic of Algeria, Article 41 of the Constitution of November 22, 1976, Official Gazette No. 74 dated November 24, 1976

[20] Constitution of the People's Democratic Republic of Algeria, Article 48 of the Constitution of February 23, 1989, Official Gazette No. 9, dated March 8, 1989

E.ISSN: 2661-7404 Academic Journal of Legal and Political Researchs P.ISSN:2571-9971
Year: 2026 Vol : 10 No : 02 Page : 792 - 810

"There shall be no discrimination based on gender in the application of this Basic Law, while retaining conditions related to physical readiness." This provision refers to merit in employment, as *physical readiness* is considered one of the indicators of an employee's suitability for holding a public position. Algeria relies on laws and regulations that implement the **merit-based competitive system**. Article 26 of the same law provides:[21]

"Employees shall be recruited either through competitions by examinations or competitions by qualifications, or both." This demonstrates that the Algerian legislator has adopted the competitive system as a mechanism to guarantee the merit principle in public employment. The use of competitions as a guarantee of the merit principle is considered one of the most important means of selecting the most suitable employee. For instance, the **General Labor Law of 1987** enshrines this approach in **Article 55**, which states:[22]

"The recruitment of an employee and the selection of their position shall be determined based on an overall assessment of their abilities, professional review, and/or internal tests conducted by the employing institution."[23]

Thus, this article classifies positions according to objective criteria related to the candidate's merit for occupying a public position. Regarding decrees and regulations, **Decree 85-59**, which establishes the Model Basic Law for Public Institutions and Administration Employees, limits recruitment methods to those permitted under the principle of merit, as expressed in **Paragraphs 1 and 4 of Article 34** of the same law.[24]

Second Section: The Merit Principle in Salary Entitlement and Evaluation

First Requirement: Merit in Salary Entitlement

Salary refers to the **monetary compensation** that a public employee receives **monthly, regularly, and continuously** in exchange for the service provided to the employing administration within their area of expertise, as well as

[21] Order 66-133 dated June 2, 1966, containing the basic law of the civil service, Article 5, Official Gazette No. 46.

[22] Article 26 of Order 66-133, same source.

[23] Law No. 78-12 dated August 5, 1987, containing the model basic law for employees of public institutions and administrations, Official Gazette No. 13

[24] Decree No. 85-59 of March 23, 1985, containing the model basic law for employees of public institutions and administrations, Article 34, Official Gazette, No. 13

for dedicating themselves to public service. The amount of salary granted depends on the employee's **grade and rank**.

An employee is entitled to their salary from the date they **officially begin their duties**, i.e., the date of appointment and installation in accordance with legally established procedures. The salary is earned in return for fulfilling the obligations and responsibilities assigned to the employee.[25]

If an employee **fails to perform their duties** without legal leave or legitimate excuse, they are **deprived of their salary and any related allowances** for the duration of their absence, according to legally established procedures.

To further motivate employees, they may also be entitled to **financial allowances**, known as bonuses, premiums, rewards, or compensations, where provided for by law.[26]

A-Bonuses:

Bonuses are additional monetary amounts added to the base salary as a **financial incentive**, determined by the public service legal framework. Examples include the **annual bonus, special bonus, family and technical bonuses, and additional bonus**.

B-Allowances:

Allowances are monetary amounts granted to employees due to the requirements of the position or the nature of the work. They are **not considered part of the base salary**. Types of allowances include, among others: **transportation allowance, representation allowance, and occupational hazard allowance**.

C-**Incentive Rewards:**

Incentive rewards are provided to encourage employees to exert extra effort and improve the services they deliver. These financial rewards serve as motivation and recognition. Examples include **overtime bonuses, scientific research rewards**, and other similar forms of encouragement.

[25]**Mohamed Shata Hamada**, *General Theory of Wages and Salaries*, University Publications Office,Algeria,1982,pp. 8–10.

[26]**Article 119**, salary components as mentioned in Article 32 of the same order: base salary, **allowances**, and compensations.

E.ISSN: 2661-7404 Academic Journal of Legal and Political Researchs P.ISSN:2571-9971
Year: 2026 Vol : 10 No : 02 Page : 792 - 810

D-Compensations:

During the performance of their duties, employees, or their heirs, may be entitled to certain compensations for harm or risks incurred on the job, particularly in positions with inherent dangers, such as security roles. Types of compensation include **payments for partial or total disability** and **compensation to heirs in the event of death**.

According to **Article 32 of Order 06/03**, the employee has the right to receive a salary after performing their duties, which represents an explicit confirmation by the Algerian legislator of the right to remuneration. **Article 119** further outlines the components of the salary, including bonuses, compensations, and family-related allowances as provided in applicable regulations. The Algerian legislator also clarified this through **Presidential Decree 07/304**, which establishes the reference scale for employee salaries and the system of salary payments[27].

The employee's right to receive a salary is closely tied to the principles of **merit and entitlement**. A salary is not granted merely because an individual works in a public institution; it requires the fulfillment of essential conditions, including the issuance of an **official appointment decision** in accordance with legally prescribed procedures. This appointment subjects the employee to public law and obliges them to fulfill the duties imposed by their public office.

Once the appointment decision is valid—free of any defects, issued by the competent administrative authority, and endorsed by the financial controller—the employee becomes entitled to their salary and associated benefits. Following the appointment, the employee must also be officially installed in their position and perform their duties personally at the designated time and place in accordance with applicable legal provisions. Only then does the employee acquire a **vested right to salary**, as stipulated in **Article 32 of Order 06/03** [28].

Second requirement: The Merit Principle in Performance Evaluation

[27] **Article 4 of Presidential Decree 07/304**, establishing the reference framework for employee salaries and the salary payment system, No. 61, p. 11.

[28] **Mohamed Mahmoud Homam**, *Labor Law for Individuals*, New University Press, Alexandria, 2007, p. 467.

The performance evaluation system in public employment is a **specialized mechanism** adopted by civil service systems worldwide due to its effectiveness in measuring and assessing employees' competencies. Public positions involve significant duties and responsibilities, and this system, which assesses **competence or performance**, evaluates the public employee's work, conduct, professional relationships, and suitability for higher-level tasks and functions

The objectives of the evaluation system include:

a. Determining the employee's performance level relative to legally established standards.

b. Encouraging fair competition among employees to increase productivity and foster creativity, innovation, and modernization.

c. Identifying talented employees for optimal utilization while recognizing underperforming employees for potential reassignment, retraining, or corrective measures.

d. Serving as a basis for rewarding employees who perform effectively and successfully.

The Algerian legislator, in line with various international systems, has adopted a performance evaluation framework through several laws and regulations, starting with **Order No. 133/66**, the **General Basic Law on Public Service**. According to **Article 33**, public employees are subjected during their careers to an annual **competence reporting and scoring system**. The scoring authority lies with the administrative body responsible for appointments, which assigns numbered scores to each employee annually based on the recommendation of the head of the department. An overall evaluation accompanies these scores, reflecting the professional value of the employee. Employees have the right to review their numbered scores, but the overall evaluation is accessible only to the specialized equal-members committee, which may request a re-examination of the numbered scores.[29]

[29]**Anwar Ahmed Raslan**, "Moral Competence as a Condition for Public Service in Egypt and GCC Countries – A Comparative Study," *Public Administration Journal*, Kingdom of Saudi Arabia, Vol. 29,

Thus, the Algerian legislator has implemented an employee performance evaluation system with **legal and procedural safeguards**, making it an **objective system based on merit and entitlement**, free from negative considerations such as favoritism or nepotism. This system strengthens employee motivation and serves as a **performance incentive**, granting privileges to public employees based on their evaluation results—especially in positions requiring specialized skills, such as national security, healthcare, and other diverse public roles.[30]

Third requirement : The Merit Principle in Promotion

This subsection details the application of the **merit principle in promotions**, by defining the concept of promotion, its objectives, and the criteria that an employee must meet to benefit from it.

First Section : Concept of Promotion

1-.DefinitionofPromotion:

Promotion is one of the most important rights enjoyed by public employees during their professional careers. It serves as both a **material and moral incentive**, often reflected in an increase in salary. According to **Order 06/03**, general provisions regarding promotion are addressed in **Articles 38 and 106 to 111**, while specific details are further outlined in sector-specific foundational laws. Promotion may involve advancement in **grade** or **rank** and is incorporated into **annual human resource management plans**, which are prepared by the administration according to the needs of its institutions and the limits of the state budget.[31]

Every employee is subject to **periodic and continuous evaluation**, which aims to assess their professional qualifications according to three methods:

a. Promotion in grade

b. Promotion in rank

No. 65,January1990,p. 155.

[30] Ibid ,p.83

[31] Ibid ,p. 83

c. Granting special privileges for performance

Promotion is considered a **fundamental guarantee** for employees, ensuring recognition of their qualifications and efforts.[32]

2-CriteriaforPromotion:

Determining appropriate promotion criteria is one of the key challenges faced by public administration systems. Often, the number of employees eligible for promotion exceeds the available positions, making it essential to select the most competent employees. The criteria generally follow one of the following approaches:

A. Promotion Based on Seniority:

Employees who have spent a long period in their position are presumed to have gained sufficient experience and mastery in their work, thereby becoming more competent than others. In this case, the employee's right to promotion is derived directly from laws and regulations, and it is not within the administration's discretion to override these provisions.

b. Promotion Based on Merit:

Merit is the primary determinant for promotion. The goal of promotion is to **motivate employees** to increase their competence and improve their professional performance. Promotion on this basis is granted according to the **achievements and capabilities** of the employee, with the administrative authority applying **standardized measures** to assess merit in both quality and quantity.

3. Promotion Based on Both Seniority and Merit:

In this approach, the two previously mentioned criteria—**seniority** and **merit**—are combined. Seniority reflects the experience gained over time, which contributes to the employee's effective competence. There are several methods for assessing employee competence under modern public management, including:

a. **Personal assessment** of employee competence by the manager or director of the institution,

[32] Ibid ,p.262

b. **Performance under probation or trial**,

c. **Promotion examinations**,

d. **Preparation of competence reports**.[33]

Second Requirement : Promotion in Algerian Legislation

The promotion system in public service was established in the **1966 Basic Law on Public Service**, which organized promotion in Algeria into three categories:

a. Promotion from one employment scale to a higher scale,

b. Promotion from one grade to another within the same scale,

c. Promotion from one employment category to a higher category.

In the first category, the Algerian legislator adopted **merit as the primary criterion**, based on **annual evaluation reports** provided for in **Article 33** of the law.[34]

In cases where candidates have equal evaluation reports, **seniority is used as a tiebreaker**, making seniority an exceptional criterion. For the second category, promotion is primarily based on **seniority**, supplemented by **numbered scores and the general evaluation report**, in accordance with **Article 34 of Order No. 66/133**.

For the third category, promotion from one employment category to a higher one is also governed by **both seniority and merit**, as stipulated in **Article 26** of the same order.

Similarly, **Decree 85/95**, which establishes the **Model Basic Law for Employees of Public Institutions and Administration**, recognizes two types of promotion: **promotion in grade** and **promotion across employment categories**.

[33]Ibid ,p. 83

[34]**Decree 85-59 dated 23 March 1985**, Model Basic Law for Employees of Public Institutions and Administrations

These promotions may be achieved through **competitions, professional examinations, selection among employees meeting seniority and sufficient professional experience requirements, or based on qualifications**.

Thus, **Order 06/03**, containing the Basic Law on Public Service, codifies the promotion system in **Articles 106 to 111**, dividing promotion into two main parts:

1. Promotion in Grades:
This mechanism primarily relies on seniority as the main criterion, with **periodic performance evaluation** serving as a secondary factor. It is governed by **Presidential Decree No. 07-304 dated September 29, 2007**, which establishes the reference framework for employee salaries and the system for salary payments.

2. Promotion in Ranks:
Article 107 of **Order 06/03** governs promotion in ranks. It is based on **examinations**, which may include results from specialized training, professional exams, or professional assessments, or may be based on **selection through qualification lists**. Additionally, the legislator introduced a new criterion: **promotion based on certificates obtained during the employee's professionalcareer**.[35]

Conclusion:

The Algerian legislator, in line with various international legal frameworks, has focused on **developing and consolidating the principle of merit** in the appointment to public positions. This has been achieved by drawing on both **international and national experiences** in public service and through the drafting of the current law, which enshrines the merit principle as a **constitutional principle**. This principle ensures the **selection of the most competent employees**, thereby enhancing the efficiency and effectiveness of administrative institutions and improving the quality of public service, ultimately serving the **public interest**.

Among the most important recommendations in our study regarding the principle of merit is that the Algerian legislator must strengthen the Algerian legislator's orientation towards establishing an open legal system in the field of public service, as an effective mechanism for establishing the principle of merit and equal opportunities among all candidates.

[35] *Ibid.*, p. 93

It also emphasizes the importance of continuing reform efforts in the civil service sector to keep pace with modern requirements and contribute to improving the performance of this vital sector. In the same vein, it is advisable to expand the application of the merit-based system to include all available positions in the civil service without exception.

This is achieved by ensuring the integrity of those responsible for the process and subjecting them to objective and transparent standards. The study also highlights the need for sound governance in organizing competitions, guaranteeing the selection of the most qualified candidates capable of efficiently carrying out public duties. Furthermore, the recommendations emphasize the activation of anti-corruption mechanisms.

At all levels, with renewed emphasis on continuous training and human resource development at all stages of career life, as two fundamental pillars for achieving the optimal and effective application of the merit-based principle in the public service.

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