

CCS (Pension) Rules, 1972

1. Short title and commencement

- (1) These rules may be called the Central Civil Services (Pension) Rules, 1972.
- (2) They shall come into force on the 1st June, 1972.

2. Application

Save as otherwise provided in these rules, these rules shall apply to Government servants appointed on or before 31st day of December, 2003 including civilian Government servants in the Defence Services appointed substantively to civil services and posts in connection with the affairs of the Union which are borne on pensionable establishments, but shall not apply to -

- (a) railway servants ;
- (b) persons in casual and daily rated employment ;
- (c) persons paid from contingencies ;
- (d) persons entitled to the benefit of a Contributory Provident Fund ;
- (e) members of the All India Services ;
- (f) persons locally recruited for service in diplomatic, consular or other Indian establishments in foreign countries ;
- (g) persons employed on contract except when the contract provides otherwise ; and
- (h) persons whose terms and conditions of service are regulated by or under the provisions of the Constitution or any other law for the time being in force.

GOVERNMENT OF INDIA'S DECISIONS

(1) Employees of Union Territories are also governed by CCS (Pension) Rules, 1972. - Reference UO Note No. 115-Audit/95-83, dated 31-1-1984, from the Office of the Comptroller and Auditor-General of India, on the above subject. The employees of the Delhi Administration as well as other Union Territories Administrations in the matter of pensionary benefits are governed by the Central Civil Services (Pension) Rules, 1972. The pay scales and other conditions of service of the Union Territories employees, except those of Chandigarh Administration, have been fixed on the basis of the recommendations of the Third Pay Commission, and as such, all the conditions of service as applicable to the Central Government employees are applicable to the employees of the Union Territory Administrations.

[G.I., M.H.A., U.O. No. U. 14026/1/84 Delhi (D.III), dated the 24th March, 1984.]

(2) No distinction between permanent and temporary employees in the application of Pension Rules. -

(i) Confirmation will be made only once in the service of an official which will be in the entry grade.

(ii) Confirmation is delinked from the availability of permanent vacancy in the grade. In other words, an officer who has successfully completed the probation may be considered for confirmation.

(iii) Since all the persons who complete probation in the first appointment will be declared as permanent, the present distinction between permanent and temporary employees for grant of pension and other pensionary benefits will cease to exist.

[G.I., Dept., of Per. & Trg., O.M. No. 18011/1/86-Estt. (D), dated the 28th March, 1988][4.1. (A) and 4.4.]

For pensionary/death benefits for temporary Government servants see Rule 10 of CCS (TS) Rules, 1965

(3) Temporary Government servant with less than ten years' service who retires on superannuation, discharged from service, etc., is eligible for gratuity as for permanent Government servant. 2 2

The Fifth Central Pay Commission in Para 133.94 of its report have recommended that the distinction between temporary and permanent Government servant having rendered a qualifying service of less than ten years may be done away with regard to payment of terminal benefits. The above recommendation of the Pay Commission has been considered and it has been decided that a temporary Government servant who retires on superannuation or discharged from service or declared invalid for further service or absorbed in an autonomous body before completing ten years of continuous service, shall be eligible to gratuity on the same scale and rates as are applicable to permanent Civil Government servants under the provisions of Central Civil Services (Pension) Rules, 1972.

3. Definitions¹

In these rules, unless the context otherwise requires -

(1) 1(a) 'Accounts Officer' means an officer, whatever his official designation, who maintains the accounts of a Ministry, Department or Office of the Central Government or Union Territory and includes an Accountant-General, who is entrusted with the functions of maintaining the accounts or part of accounts of the Central Government or Union Territory ;

Footnote : 1 Substituted by G.I., Dept. of Per. & A.R., Notification No. 6 (1) Pen. (A)/79, dated the 19th May, 1980.

2(aa) 'Allottee' means a Government servant to whom Government accommodation has been allotted on payment of licence fee or otherwise ;

Footnote : 2. Inserted by G.I., Dept. of Per. & A.R., Notification No. 6 (1) Pen. (A)/79, dated the 19th May, 1980.

(b) 'Average emoluments' means average emoluments as determined in accordance with Rule 34;

(c) 'Child' means a child of the Government servant who, if a son, is under 1[twenty-five] years of age and if a daughter, is unmarried and is under 1[twenty-five] years of age and the expression 'children' shall be construed accordingly ;

Footnote : 1. Substituted by G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988, published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988.

2[(cc) 'Dearness relief' means relief as defined in Rule 55-A ;]

Footnote : 2. Inserted by G.I., Dept. of P. & P.W., Notification No. 42 (30) P. & P.W./89-E, dated the 22nd January, 1991, published as S.O. No. 409 in the Gazette of India, dated the 9th February, 1991.

(d) 'Defence Service' means services under the Government of India in the Ministry of Defence, and in the Defence Accounts Department under the control of the Ministry of Finance (Department of Expenditure) (Defence Division), paid out of the Defence Services Estimates and not permanently subject to the Air Force Act, 1950 (45 of 1950) or the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957) ;

(e) 'Emoluments' means emoluments as defined in Rule 33 ;

3[(f) 'Family pension' means 'Family Pension, 1964', admissible under Rule 54 but does not include dearness relief ;]

Footnote : 3. Substituted by G.I., Dept. of P. & P.W., Notification No. 42 (30) P. & P.W./89-E, dated the 22nd January, 1991, published as S.O. No. 409 in the Gazette of India, dated the 9th February, 1991.

(g) 'Foreign service' means services in which a Government servant receives his pay with the sanction of the Government from any source other than the Consolidated Fund of India or 4[the Consolidated Fund of a State or the Consolidated Fund of a Union Territory] ;

Footnote : 4. Substituted by G.I., M.F., Notification No. 19 (3)-E. V (A)/73, dated the 28th February, 1973.

(h) 'Form' means a Form appended to these rules ;

(i) 'Government' means the Central Government ;

5(ii) 'Government dues' means dues as defined in sub-rule (3) of Rule 71 ;

Footnote :

5. Inserted by G.I., Dept. of Per. & A.R., Notification No. 6 (1) Pen. (A)/79, dated the 19th May, 1980.

(j) 'gratuity' includes -

(i) 'service gratuity' payable under sub-rule (1) of Rule 49 ;

(ii) 1[retirement gratuity/death gratuity] payable under sub-rule (1) of Rule 50 ;

and

(iii) 'residuary gratuity' payable under sub-rule (2) of Rule 50 ;

(k) 'Head of Department' means an authority specified in Schedule I to the Delegation of Financial Powers Rules, 1[1978], and includes such other authority or person whom the President may, by order, specify as Head of a Department ;

Footnote : 1. Substituted by G.I., Dept. of Per. & A.R., Notification No. 6 (1)-Pen. (A)/80, dated the 30th July, 1981.

(l) 'Head of Office' means a Gazetted Officer declared as such under 1[Rule 14 of the Delegation of Financial Powers Rules, 1978], and includes such other authority or person whom the competent authority may, by order, specify as Head of Office ;

Footnote : 1. Substituted by G.I., Dept. of Per. & A.R., Notification No. 6 (1)-Pen. (A)/80, dated the 30th July, 1981.

(m) 'Local Fund administered by Government' means the fund administered by a body which, by law or rule having the force of law, comes under the control of the Government and over whose expenditure the Government retains complete and direct control ;

(n) 'Minor' means a person who has not completed the age of eighteen years ;

(o) 2['Pension' includes gratuity except when the term pension is used in contradistinction to gratuity, but does not include dearness relief] ;

Footnote : 2 Substituted by G.I., Dept. of P. & P.W., Notification No. 42 (30) P. & P.W./89-E, dated the 22nd January, 1991, published as S.O. No. 409 in the Gazette of India, dated the 9th February, 1991.

3(p) 'Pension Disbursing Authority' means -

Footnote : 3 Substituted by G.I., Dept. of Per. & A.R., Notification No. 6 (1) Pen. (A)/79, dated the 19th May, 1980.

(i) Branch of a nationalised bank, or

(ii) Treasury including sub-treasury, or

(iii) Accounts Officer ;

(q) 'Qualifying Service' means service rendered while on duty or otherwise which shall be taken into account for the purpose of pensions and gratuities admissible under these rules ;

(r) 'Retirement Benefits' includes pension or service gratuity, and 4[retirement gratuity], where admissible ;

Footnote : 4. Substituted by G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988, published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988.

5(rr) 'Service Book' includes service roll, if any ;

Footnote : 5. Inserted by G.I., Dept. of Per. & A.R., Notification No. 6 (1) Pen., (A)/79, dated the 19th May, 1980.

(s) 'Treasury' includes a Sub-Treasury.

(2) Words and expressions used herein and not defined but defined in the Fundamental Rules have the meanings respectively assigned to them in those Rules.

4. Government servants transferred from services and posts to which these rules do not apply

(1) A Government servant who is transferred permanently to a service or post to which these rules apply from a service or post to which these rules do not apply shall become subject to these rules :

Provided that it shall be open to him, within six months of the date of issue of the order of his permanent transfer or, if he is on leave on that day, then, within six months of his return from leave, whichever is later, to elect to be governed by the pension rules to which he was subject immediately before the date of his transfer.

(2) The option under the proviso to sub-rule (1) shall be exercised in writing and communicated to the authority making such order of transfer.

(3) The option, once exercised, shall be final.

5. Regulation of claims to pension or family pension

(1) Any claim to pension or family pension shall be regulated by the provisions of these rules in force at the time when a Government servant retires or is retired or is discharged or is allowed to resign from service or dies, as the case may be.

1(2) The day on which a Government servant retires or is retired or is discharged or is allowed to resign from service, as the case may be, shall be treated as his last working day. The date of death shall also be treated as a working day :

2Provided that in the case of a Government servant who is retired prematurely or who retires voluntarily under Clauses (j) to (m) of Rule 56 of the Fundamental Rules or Rule 48 3[or Rule 48-A], as the case may be, the date of retirement shall be treated as a non-working day.

Footnote ; 1. Substituted by G.I., M.F., Notification No. 7 (1)-E. V. (A)/74, dated the 7th February, 1975.

2. Inserted by G.I., M.F., Notification No. 7 (8)-E. V. (A)/77, dated the 22nd August, 1977.

3. Inserted by G.I., Dept. of Per. & A.R., Notification No. 31 (4)-Pen./80, dated the 21st April, 1981.

GOVERNMENT OF INDIA'S DECISION

Day of death of an official on EXOL/EL on MC, to be treated as a part of leave. - In a particular case, the Director of Accounts (Postal), Madras, made a reference for clarification whether the day of death of an official who is on EXOL/EL on MC can be treated as a working day where the disbursing officer has drawn the full duty pay and allowances for the day of death by quoting Rule 5 (2) of CCS (Pension) Rules, 1972, as per which the day of death shall be treated as a "working day".

The Department of Personnel and Training have been consulted and the advice given by them is reproduced below for information and reference.

"In the case under reference, the Government servant immediately before his death while in service had been absent from duty on extraordinary leave on medical grounds. It cannot be presumed that had he not died, he would have reported for duty. For resuming duty he was required to submit medical fitness certificate which it appears had not been issued in his favour. A medically unfit person cannot be treated as on duty. As such in the instant case, the day of death of the Government servant has to be treated as a part of leave which he was availing of on the day previous to the day of death."

[G.I., Dept. of Posts, Lr. No. 4-14/93-Pen., dated the 24th August, 1993.]

6. Omitted vide Notification No. 11(6)-E.V(A)/Pen/76 dated 3-3-1980

7. Limitations on number of pensions

(1) A Government servant shall not earn two pensions in the same service or post at the same time or by the same continuous service.

(2) Except as provided in Rule 19, a Government servant who, having retired on a superannuation pension or retiring pension, is subsequently re-employed shall not be entitled to a separate pension or gratuity for the period of his re-employment.

8. Pension subject to future good conduct

(1) (a) Future good conduct shall be an implied condition of every grant of pension and its continuance under these rules.

2(b) The appointing authority may, by order in writing, withhold or withdraw a pension or a part thereof, whether permanently or for a specified period, if the pensioner is convicted of a serious crime or is found guilty of grave misconduct.

Footnote 2. Substituted by G.I., Dept. of Per. & A.R., Notification No. 6 (A), Pen.(A)/79, dated the 19th May, 1980.

3 Provided that where a part of pension is withheld or withdrawn, the amount of such pension shall not be reduced below the amount of 4[rupees three hundred and seventy-five] per mensem.

Footnote 3. Inserted by G.I., Dept. of Per. & A.R., Notification No. F. 38 (4) Pen. (A)/80, dated the 8th August, 1980.

4. Substituted by G.I., Dept. of P. P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988, published as S.O. No. 2388 in the Gazette of India, date the 6th August, 1988.

(2) Where a pensioner is convicted of a serious crime by a Court of Law, action under sub-rule (1) shall be taken in the light of the judgment of the court relating to such conviction.

(3) In a case not falling under sub-rule (2), if the authority referred to in sub-rule (1) considers that the pensioner is prima facie guilty of grave misconduct, it shall before passing an order under sub-rule (1),

(a) serve upon the pensioner a notice specifying the action proposed to be taken against him and the ground on which it is proposed to be taken and calling upon him to submit, within fifteen days of the receipt of the notice or such further time not exceeding fifteen days as may be allowed by the 1[appointing authority] such representation as he may wish to make against the proposal; and

Footnote : 1. Substituted by G.I., Dept. of Per. & A.R., Notification No. 6 (A), Per. (A)/79, dated the 19th May, 1980.

(b) take into consideration the representation, if any, submitted by the pensioner under Clause (a).

(4) Where the authority competent to pass an order under sub-rule (1) is the President, the Union Public Service Commission shall be consulted before the order is passed.

(5) An appeal against an order under sub-rule (1), passed by any authority other than the President, shall lie to the President and the President shall, in consultation with the Union Public Service Commission, pass such orders on the appeal as he deems fit.

EXPLANATION. - In this rule, -

(a) the expression 'serious crime' includes a crime involving an offence under the Official Secrets Act, 1923 (19 of 1923);

(b) the expression 'grave misconduct' includes the communication or disclosure of any secret official code or password or any sketch, plan, model, article, note, document or information, such as is mentioned in Section 5 of the Official Secrets Act, 1923 (19 of 1923) (which was obtained while holding office under the Government) so as to prejudicially affect the interests of the general public or the security of the State.

GOVERNMENT OF INDIA'S DECISIONS

(1) Stoppage or reduction of pension for reasons other than misconduct not permissible. - Pension are not in the nature of reward but there is a binding obligation on Government which can be claimed as a right. Their forfeiture is only on resignation, removal or dismissal from service. After a pension is sanctioned, its continuance depends on future good conduct vide Article 351, CSR [Rule 8, CCS (Pension) Rules, 1972] but it cannot be stopped or reduced for other reasons.

[G.I., M.F., U.O. No. D-2776/E, V/52, dated the 8th May, 1959.]

(2) Intimation of cases of convicted pensioners. - Under Article 351, CSR [Rule 8, CCS (Pension) Rules, 1972] future good conduct is an implied condition of the grant of every pension and Government has the right to withhold or withdraw a pension or any part of it if the pensioner is convicted of a serious crime or found guilty of grave misconduct. It is, therefore, necessary to ensure that cases where pensioners are convicted by a Court of any crime are also brought to the notice of Government. The Government of India, Ministry of Home Affairs, therefore, request that if the State Government have no objection, instructions may kindly be issued to prosecuting officers under the control of the State Government to ensure the prompt intimation of such cases to the administrative authorities concerned in future.

[G.I., M.H.A., O.M. No. 50/2/59-Ests. (A), dated the 7th October, 1959.]

9. Right of President to withhold or withdraw pension

1[(1) The President reserves to himself the right of withholding a pension or gratuity, or both, either in full or in part, or withdrawing a pension in full or in part, whether permanently or for a specified period, and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused to the Government, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of service, including service rendered upon re-employment after retirement :

Footnote : 1. Substituted by G.I., Dept. of P. & P.W., Notification No. 7/14/90-P. & P.W. (F), dated the 23rd August, 1991, published as S.O. No. 2287 in the Gazette of India, dated the 7th September, 1991.

Provided that the Union Public Service Commission shall be consulted before any final orders are passed :

Provided further that where a part of pension is withheld or withdrawn the amount of such pensions shall not be reduced below the amount of rupees three hundred and seventy-five per mensem.]

(2) (a) The departmental proceedings referred to in sub-rule (1), if instituted while the Government servant was in service whether before his retirement or during his re-employment, shall, after the final retirement of the Government servant, be deemed to be proceedings under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service :

Provided that where the departmental proceedings are instituted by an authority subordinate to the President, that authority shall submit a report recording its findings to the President.

(b) The departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement, or during his re-employment, -

(i) shall not be instituted save with the sanction of the President,

(ii) shall not be in respect of any event which took place more than four years before such institution, and

(iii) shall be conducted by such authority and in such place as the President may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service.

(3) Deleted

Footnote : 1. Deleted by G.I., Dept. of P. & P.W., Notification No. 38/189/88-P. & P.W. (F), dated the 4th February, 1992, published as G.S.R. 55 in the Gazette of India, dated the 15th February, 1992.

(4) In the case of Government servant who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued under sub-rule (2), a provisional pension as provided in 2[Rule 69] shall be sanctioned.

Footnote : 2. Substituted by G.I., Dept. of Per. & A.R., Notification No. 6(1), Pen. (A)/79, dated the 19th May, 1980.

(5) Where the President decides not to withhold or withdraw pension but orders recovery of pecuniary loss from pension, the recovery shall not ordinarily be made at a rate exceeding one-third of the pension admissible on the date of retirement of a Government servant.

(6) For the purpose of this rule, -

(a) departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the Government servant or pensioner, or if the Government servant has been placed under suspension from an earlier date, on such date ; and

(b) judicial proceedings shall be deemed to be instituted -

- (i) in the case of criminal proceedings, on the date on which the complaint or report of a police officer, of which the Magistrate takes cognizance, is made, and
- (ii) in the case of civil proceedings, on the date the plaint is presented in the court.

9. GOVERNMENT OF INDIA'S DECISIONS

(1) Scope of the expression 'grave misconduct'. - The term 'grave misconduct' used in Article 351-A of CSR [Rule 9, CCS (Pension) Rules, 1972] is wide enough to include 'corrupt practices'. In cases where the charge of corruption is proved after pension has been sanctioned, action to withhold or withdraw pension may be taken under Article 351-A ibid [Rule 9, CCS (Pension) Rules, 1972].

The property or pecuniary resources in respect of which the departmental or judicial proceedings are instituted under Article 351-A, CSR or Rule 9 of the CCS (Pension) Rules, 1972, should have been in possession of the person concerned or of any other person on his behalf at any time within the period of four years before the institution of such proceedings, if the same were not instituted while the officer was on duty either before his retirement or during re-employment.

[G.I., M.F., O.M. No. F. 5 (75)-E. V/59, dated the 28th August, 1959 and the 6th October, 1960 and No. 5 (4)-E. V (A)/78, dated the 28th June, 1978.]

Instructions contained above issued with reference to Article 351-A of CSR will continue to apply in relation to action under Rule 9 of the CCS (Pension) Rules, 1972, which has replaced Article 351-A of CSR subject to modification made.

[G.I., M.F., O.M. No. 5 (4)-E, V (A)/78, dated the 28th June, 1978.]

(2) President's right to withhold or withdraw pension in full is absolute - There is nothing in the language of Article 351-A (Rule 9) to restrict the right of the President to withholding only a part of the pension in the case dealt with by this provision. On the other hand, the words "withholding or withdrawing a pension" clearly convey that the President is competent to withhold or withdraw the

full pension. While to "restrict the amount of withheld pension to one-third of the pension originally sanctioned" in the order may be applied under the new Article in cases where the order is for recovery of losses from pension, it has no bearing on the question of Government's right to withhold or withdraw the pension and Government may order the full pension to be withheld or withdrawn.

[G.I., M.F., U.O. No. 2497/63-Adv. (B), dated the 21st May, 1960, in File No. 37 F. (4)-E. V/60.]

(3) Final order under Rule 9 will be issued in the name of President. - It has been clarified in consultation with the Ministry of Home Affairs and the Law Ministry that the function of the Disciplinary Authority is only to reach a finding on the charges and to submit a report recording its findings to the Government. It is then for the Government to consider the findings and take a final decision under Article 351-A, CSRs (Rule 9). In case Government decide to take action under Article 351-A, CSRs (Rule 9), in the light of the findings of the Disciplinary Authority, the Government will consult the Union Public Service Commission. If as a result of such consideration in consultation with the Commission, it is decided to pass an order, necessary orders will be issued in the name of the President.

2. The procedure outlined in the preceding paragraph will also apply to a case where the President functions as the Disciplinary Authority.

[G.I., M.F., O.M. No. F. 19 (9)-E. V/66, dated the 6th June, 1967.]

(4) When full-fledged enquiry is held no further opportunity to show-cause necessary before imposing cut in pension. - The question whether a second show-cause notice is necessary before taking action under Rule 9 of the CCS (Pension) Rules, 1972, when a full-fledged enquiry under the CCS (CCA) Rules, was conducted and the person concerned was given an opportunity to show cause in the proceedings, was examined in consultation with the Department of legal Affairs and it has been decided that if a full-fledged enquiry in accordance with the CCS (CCA) Rules has been conducted and the person concerned has been given an opportunity to show cause in the proceedings, it is not necessary to give the pensioner concerned any further opportunity to show cause before imposing the cut in pension.

[G.I., Dept. of P. & P.W., O.M. No. 38/31/86-P. & P.W., dated the 1st January, 1987.]

(5) Standard forms for proceedings. - The following forms have been standardized in consultation with the Ministry of Law :-

(i) Order conveying the sanction of the President for taking departmental action against a pensioner under Rule 9 of CCS (Pension) Rules, 1972; and

(ii) Memorandum of charges, etc., to be communicated to the pensioner concerned in a departmental action under Rule 9 of CCS (Pension) Rules, 1972.

In cases of departmental proceeding against retired Government servants under Rule 9 of CCS (Pension) Rules, 1972, the sanction of the President and the memorandum of charges may be issued in the standard forms.

[G.I., M.H.A., O.M. No. 238/4/66-AVD-II, dated the 4th August, 1964.]

I

STANDARD FORM OF SANCTION UNDER Rule 9 OF THE
CENTRAL CIVIL SERVICES (PENSION) RULES, 1972

No.....

Government of India

Ministry/Department of.....

ORDER

Dated the.....

WHEREAS it has been made to appear that Shri.....while serving as.....in the Ministry/Department.....from.....to.....was (here specify briefly the imputations of misconduct or misbehavior in respect of which it is proposed to institute departmental proceedings):

NOW, THEREFORE, in exercise of the powers conferred on him by sub-clause (i) of Clause (b) of sub-rule (2) of Rule 9 of the Central Civil Services (Pension) Rules, 1972, the President hereby accords sanction to the departmental proceedings against the said Shri

The President further directs that the said departmental proceedings shall be conducted in accordance with the procedure laid down in Rules 14 and 15 of the CCS (CCA) Rules, 1965, by(here specify the authority by whom the departmental proceedings should be conducted) at (here specify the place at which the departmental proceedings would be conducted).

By order and in the name of the President

Name and designation

of the competent authority*

Footnote ; * - To be signed by an officer in the appropriate Ministry/Department authorized under Article 77 (2) of the Constitution to authenticate orders on behalf of the President.

No.

Copy forwarded to Shri.....

Copy also forwarded to Shri.....

II

STANDARD FORM OF CHARGE-SHEET FOR PROCEEDINGS UNDER RULE 9

OF THE CENTRAL CIVIL SERVICES (PENSION) RULES, 1972

No.....

Government of India

Ministry/Department of.....

MEMORANDUM

Dated the.....

In pursuance of the sanction accorded by the President under Rule 9 of the Central Civil Services (Pension) Rules, 1972, for instituting departmental proceedings against Shri....., vide Ministry/Department of.....Order No....., dated,.....it is proposed to hold an inquiry against the said Shri..... in accordance with the procedure laid down in Rules 14 and 15 of the CCS (CCA) Rules, 1965. The enquiry shall be conducted by.....(here specify the authority by whom the departmental proceedings are to be conducted in accordance with the Presidential sanction) at (here specify the name of the place where proceedings are to be conducted).

2. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexures III and IV).

3. Shri.....is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

4. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

5. Shri.....is further informed that if he does not submit his written statement of defence on or before the date specified in para. 3 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rules 14 and 15 of the CCS (CCA) Rules, 1965, or the orders/directions issued in pursuance of the said Rules the inquiring may hold the inquiry against him ex parte.

6. The receipt of this Memorandum may be acknowledged.

By order and in the name of the President

Name and designation of

competent authority*

Footnote ; * - To be signed by an officer in the appropriate Ministry/Department authorized under Article 77 (2) of the Constitution to authenticate orders on behalf of the President.

To

Shri.....

.....

ANNEXURE - I

Statement of articles of charge framed against Shri.....(names of the retired Government servant) formerly.....

Article - I

That the said Shri.....while functioning as.....during the period.....

Article - II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri.....

Article - III

That during the aforesaid period and while functioning in the aforesaid office, the said Shri.....

ANNEXURE - II

Statement of imputations of misconduct or misbehaviour in support of the articles of charge framed against Shri..... (name of the retired Government servant) formerly.....

Article - I

Article - II

Article - III

ANNEXURE - III

List of documents by which the articles of charge framed against Shri.....(name of retired Government servant) formerly.....are proposed to be sustained.

ANNEXURE - IV

List of Witnesses by whom the articles of charge framed against Shri..... (name of the retired Government servant) formerly.....are proposed to be sustained.

(6) Minor penalty proceedings have no effect on pension. -

No.134/9/86-AVD.I

Government of India

Ministry of Personnel, Public Grievances and Pensions

(Department of Personnel & Training)

New Delhi dated the 31st July, 1987.

(AV SERIES CIRCULAR No.695)

OFFICE MEMORANDUM

Subject:- Minor Penalty proceedings initiated while in service-Question whether it is necessary to hold an oral inquiry for effecting a cut in pension as a result of-

This Department's Office Memorandum No.134/10/80-AVD.I, dated the 28th Feb, 1981 may be treated as cancelled.

2. It is clarified that, in terms of Rule 9 (2) (a) of the CCS (Pension) Rules, 1972, the Central Government has the power to withhold or withdraw pension even as a result of a minor penalty proceedings instituted while the charged officer was in service and which was continued after his retirement, provided grave misconduct or negligence is established.

3. The question whether the procedure followed in the conduct of a minor penalty proceedings would amount to affording a reasonable opportunity to the charged officer so as to impose the penalty of withholding or withdrawing his pension has also been considered. It is clarified that, even though there is no statutory requirements in Rule 9 (1) ibid for giving a show-cause notice, the principles of natural justice would have to be followed. This would require giving an opportunity to the pensioner to represent against the proposed penalty. It would, therefore, be necessary to issue a show-cause notice to the pensioner and to take his representation into consideration before obtaining the advice of the Union Public Service Commission and passing the final order. However,

there is no need to issue a show-cause notice, where an oral inquiry, in which the Government servant/pensioner has had a reasonable opportunity to defend his case, was held.

4. It is, however, reiterated that it should be the endeavour of the disciplinary authority to see that a minor penalty proceeding instituted against a Government servant, who is due to retire, is finalised quickly and normally before his retirement so that the need for continuing such proceeding beyond the date of retirement does not arise.

Sd/-

(K.N.K. KARTHIAYANI)

DIRECTOR

To

All the Ministries/Deptts. of
the Government of India

Disciplinary authority who instituted proceedings can drop them without submitting its findings to the President. - Under Rule 9 (2) (a) of CCS(Pension Rules), 1972, the disciplinary proceedings instituted against an official during the course of his service automatically becomes Presidential proceedings after retirement of the official and the disciplinary authority, if it is subordinate to the President, is required to submit a report recording its findings to the President. A question has been raised whether the disciplinary authority which instituted the proceedings against the official before his retirement, can drop the proceedings itself after superannuation of the official without submitting its findings to the President, if it, on the basis of the defence of the official or the report of the inquiring authority, comes to the conclusion, to drop such proceedings. The issue was examined in consultation with the Department of Personnel who have advised that if the disciplinary authority comes to the conclusion that action under Rule 9 of the Pension Rules, is not justified and that the proceedings should be dropped, it would be within the competence of the disciplinary authority to drop the proceedings, since the proceedings have been instituted by that authority. In such cases, therefore, there is no need to submit a report regarding the findings of the disciplinary authority to the President.

[D.G., P. & T., Letter No. 13/6/83-Vig. III, dated the 28th February, 1984.]

(8) Disciplinary proceedings can continue after retirement even in case where there is no pecuniary loss to Government. - The question whether disciplinary proceedings pertaining to a serious or grave act of misconduct/negligence committed by a Government servant can be continued or instituted in terms of Rule 9 of CCS (Pension) Rules, 1972, or other corresponding rules, even if no pecuniary loss was caused to the Government, has been the subject-matter of a number of Court/Tribunal cases.

Because of the fact that divergent views were expressed by different Courts and the Benches of the Central Administrative Tribunal, this issue was referred to a Full Bench of the Central Administrative Tribunal, in case of Amarjit Singh v. Union of India [Administrative Tribunal Reporter 1988 (2) CAT 637]. The Full Bench, after examining the matter at length, have held that institution/continuance of the proceedings is not dependent upon any pecuniary loss being occasioned to the Government. Even in the absence of any pecuniary loss, the pension of a pensioner can be withheld or withdrawn in whole or part, after following the prescribed procedure, for an act of misconduct/negligence committed while in service.

[G.I., Dept. of Per. & Trg., O.M. No. 28027/3/87-Estt. (A), dated the 29th June, 1990.]

10. Commercial employment after retirement

(1) If a pensioner who immediately before his retirement was a member of Central Service Group 'A' wishes to accept any commercial employment before the expiry of two years from the date of his retirement, he shall obtain the previous sanction of the Government to such acceptance 1[by submitting an application in Form 25] :

Footnote 1. Inserted by G.I., Dept. of Per. & A.R., Notification No. 29/4/83-Pension Unit, dated the 15th November, 1984 and takes effect from 1st December, 1984.

Provided that a Government servant who was permitted by the Government to take up a particular form of commercial employment during his leave preparatory to retirement or during refused leave shall not be required to obtain subsequent permission for his continuance in such employment after retirement.

2(2) Subject to the provisions of sub-rule (3), the Government may, by order in writing, 3[on an application made under sub-rule (1)] by a pensioner grant, subject to such conditions, if any, as it may deem, necessary permission, or refuse for reasons to be recorded in the order, permission, to such pensioner to take up the commercial employment specified in the application.

Footnote 2. Inserted by G.I., M.F., Notification No. F.5 (5)-E. V (A)/76, dated the 10th August, 1976.

3. Substituted by G.I., Dept. of Per. & A.R., Notification No. 29/4/83-Pension Unit, dated the 15th November, 1984.

1(3) In granting or refusing permission under sub-rule (2) to a pensioner for taking up any commercial employment, the Government shall have regard to the following factors, namely :-

- (a) the nature of the employment proposed to be taken up and the antecedents of the employer;
- (b) whether his duties in the employment which he proposes to take up might be such as to bring him into conflict with Government;

- (c) whether the pensioner while in service had any such dealing with the employer under whom he proposes to seek employment as might afford a reasonable basis for the suspicion that such pensioner had shown favours to such employer ;
- (d) whether the duties of the commercial employment proposed involve liaison or contact work with Government departments ;
- (e) whether his commercial duties will be such that his previous official position or knowledge or experience under Government could be used to give the proposed employer an unfair advantage ;
- (f) the emoluments offered by the proposed employer ; and
- (g) any other relevant factor.

Footnote : 1. Inserted by G.I., M.F., Notification No. F. 5 (5)-E. V (A)/76, dated the 10th August, 1976.

(4) Omitted vide DOPT's Notification No. 27012/5/2000-ESst(a) dated 30-1-2002 published as GSR 75(E) in Gazette India dated 1-2-2002.

1(5) Where the Government grants the permission applied for subject to any conditions or refuses such permission, the applicant may, within thirty days of the receipt of the order of the Government to that effect, make a representation against any such condition or refusal and the Government may make such orders thereon as it deems fit :

Provided that no order other than an order cancelling such condition or granting such permission without any conditions shall be made under this sub-rule without giving the pensioner making the representation an opportunity to show cause against the order proposed to be made.

1(6) If any pensioner takes up any commercial employment at any time before the expiry of two years from the date of his retirement without the prior permission of the Government or commits a breach of any condition subject to which permission to take up any commercial employment has been granted to him under this rule, it shall be competent for the Government to declare by order in writing and for reasons to be recorded therein that he shall not be entitled to the whole or such part of the pension and for such periods as may be specified in the order :

Provided that no such order shall be made without giving the pensioner concerned an opportunity of showing cause against such declaration :

Provided further that in making any order under this sub-rule, the Government shall have regard to the following factors, namely :-

- (i) the financial circumstances of the pensioner concerned;
- (ii) the nature of, and the emoluments from the commercial employment taken up by the pensioner concerned; and
- (iii) any other relevant factor.

1(7) Every order passed by the Government under this rule shall be communicated to the pensioner concerned.

Footnote : 1. Inserted by G.I., M.F., Notification No. F. 5 (5)-E. V (A)/76, dated the 10th August, 1976.

2(8) In this rule, -

Footnote : 2 Renumbered by G.I., M.F., Notification No. F. 5 (5)-E. V (A)/76, dated the 10th August, 1976.

(a) the expression "commercial employment" means :-

(i) an employment in any capacity including that of an agent, under a company, co-operative society, firm or individual engaged in trading, commercial, industrial, financial or professional business and includes also a directorship of such company and partnership of such firm, but does not include employment under a body corporate, wholly or substantially owned or controlled 3[by the Central Government or a State Government] ;

Footnote : 3 .Substituted by G.I., M.H.A., Dept. of Per. & A.R., Notification No. F. 38/2/81-Pension Unit, dated the 30th April, 1981.

(ii) setting up practice, either independently or as a partner of a firm, as adviser or consultant in matters in respect of which the pensioner -

(A) has no professional qualifications and the matters in respect of which the practice is to be set up or is carried on are relatable to his official knowledge or experience, or

(B) has professional qualifications but the matters in respect of which such practice is to be set up are such as are likely to give his clients an unfair advantage by reason of his previous official position, or

1[(C) has to undertake work involving liaison or contact with the offices or officers of the Government.]

Footnote : 1. Inserted by G.I., Dept. of Per. & A.R., Notification No. 6 (2)-Pen. (A)/79, dated the 1st August, 1980.

2(iii) [Omitted, vide Notification No. 6(2) - Pen(A)/79 dated 1-8-1980.]

Footnote : 2. Deleted by G.I., Dept. of Per. & A.R., Notification No. 6 (2)-Pen. (A)/79, dated the 1st August, 1980.

EXPLANATION. - For the purpose of this clause, the expression "employment under a co-operative society" includes the holding of any office, whether elective or otherwise, such as that of President, Chairman, Manager, Secretary, Treasurer and the like, by whatever name called in such society;

(b) the expression "date of retirement", in relation to a Government servant re-employed after retirement, without any break, either in the same or in another Group 'A' post under the Government or in any other equivalent post under a State Government, means the date on which such Government servant finally ceases to be so re-employed in Government service.

NOTE : Govt. of India orders relating to this Rule will be put on website on receipt of information from Estt. Division of DOPT.

11. Restriction on practice in Income Tax and other cases after retirement

Text of this rule will be added on receipt of information from Estt. Division of DOPT. w.r.t. court orders.

12. Employment after retirement under a Government outside India -

If a pensioner, who immediately before his retirement was a member of Central Service, Group 'A', wishes to accept any employment under any Government outside India, he shall obtain the previous permission of the Central Government for such acceptance, and no pension shall be payable to a pensioner who accepts such an employment without proper permission in respect of any period for which he is so employed or such longer period as the Government may direct :

Provided that a Government servant who was permitted by the Central Government to take up a particular form of employment under any Government outside India during his leave preparatory to retirement shall not be required to obtain subsequent permission for his continuance in such employment after retirement.

EXPLANATION. - For the purposes of this rule, the expression "employment under any Government outside India" includes employment under a local authority or corporation or any other institution or organization which functions under the supervision or control of a Government outside India, or an employment, under an International Organization of which the Government of India is not a member.

GOVERNMENT OF INDIA'S DECISION

(1) Competent authority. - Requests for permission to accept the aforesaid employment (viz., employment after retirement under a Government outside India) shall be considered by the Ministry/Department under which the officer concerned served last prior to his retirement and a decision taken in consultation with the Ministry of External Affairs.

[Para. 6.2 of Chapter XXI, Handbook for Personnel Officers, published by Dept. of Per. and Trg. - 1987 Edition.]

13. Commencement of qualifying service

Subject to the provisions of these rules, qualifying service of a Government servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity :

Provided that officiating or temporary service is followed without interruption by substantive appointment in the same or another service or post :

Provided further that -

(a) in the case of a Government servant in a Group 'D' service or post who held a lien or a suspended lien on a permanent pensionable post prior to the 17th April, 1950, service rendered before attaining the age of sixteen years shall not count for any purpose, and

(b) in the case of a Government servant not covered by clause (a), service rendered before attaining the age of eighteen years shall not count, except for compensation gratuity.

*(c) the provisions of clause (b) shall not be applicable in the cases of counting of military service for civil pension under Rule 19

* Inserted vide Notification No. 28/19/2001-P&PW(B) dated 11-11-2003 published as so no. 3205 in Gazette of India dated 22-11-2003.

14. Conditions subject to which service qualifies

(1) The service of a Government servant shall not qualify, unless his duties and pay are regulated by the Government, or under conditions determined by the Government.

(2) For the purposes of sub-rule (1), the expression "Service" means service under the Government and paid by that Government from the Consolidated Fund of India or a Local Fund administered by that Government but does not include service in a non-pensionable establishment unless such service is treated as qualifying service by that Government.

(3) In the case of a Government servant belonging to a State Government, who is permanently transferred to a service or post to which these rules apply, the continuous service rendered under the State Government in an officiating or temporary capacity, if any, followed without interruption by substantive appointment, or the continuous service rendered under that Government in an officiating or temporary capacity, as the case may be, shall qualify :

Provided that nothing contained in this sub-rule shall apply to any such Government servant who is appointed otherwise than by deputation to a service or post to which these rules apply.

(1) Counting half of the service paid from contingencies with regular service. - Under Article 368 of the CSRs (Rule 14) periods of service paid from contingencies do not count as qualifying service for pension. In some cases, employees paid from contingencies are employed in types of work requiring services of whole-time workers and are paid on monthly rates of pay or daily rates computed and paid on monthly basis and on being found fit brought on to regular establishment. The question whether in such cases service paid from contingencies should be allowed to count for pension and if so, to what extent has been considered in the National Council and in pursuance of the recommendation of the Council, it has been decided that half the service paid from contingencies will be allowed to count towards pension at the time of absorption in regular employment subject to the following conditions, viz. :-

- (a) Service paid from contingencies should have been in a job involving whole-time employment (and not part-time for a portion of the day).
- (b) Service paid from contingencies should be in a type of work or job for which regular posts could have been sanctioned, e.g., malis, chowkidars, khalasis, etc.
- (c) The service should have been one for which the payment is made either on monthly or daily rates computed and paid on a monthly basis and which though not analogous to the regular scale of pay should bear some relation in the matter of pay to those being paid for similar jobs being performed by staffs in regular establishments.
- (d) The service paid from contingencies should have been continuous and followed by absorption in regular employment without a break.
- (e) Subject to the above conditions being fulfilled, the weightage for past service paid from contingencies will be limited to the period after 1st January, 1961, for which authentic records of service may be available.

[G.I., M.F., O.M. No. F. 12 (1)-E. V/68, dated the 14th May, 1968.]

It has been decided that half the service paid from contingencies will be allowed to be counted for the purpose of terminal gratuity as admissible under the CCS (TS) Rules, 1965, where the staff paid from contingencies is subsequently appointed on regular basis. The benefit will be subject to the conditions laid down in OM, dated the 14th May, 1968, above.

[G.I., Dept. of Per. & Trg., O.M. No. 12011/1/85-Est. (C), dated the 10th March, 1986.]

(2) Counting of service rendered in Central Government autonomous bodies before their take-over by Central Government. - 1. A question has been raised whether the service rendered in the Central Government autonomous bodies prior to their being taken over by the Central Government and who later on joined the service under the Central Government with or without break, can be allowed to be counted towards pension under the Central Government rules. At present service rendered in the Central Government autonomous bodies which are taken over by the Central Government is allowed to be counted towards pension only in respect of those employees of the Central autonomous bodies who were in the service of those bodies at the time of their being taken over by the Central Government, subject to the condition that the retirement benefits, if any, available to the employees in respect of the service rendered in the autonomous body are made over to the Central Government. The service rendered in the autonomous body in respect of those employees who were not in position at the time of the take-over of the bodies by the Central Government is not allowed to be counted towards pension.

2. It had been represented that this is causing great hardship to the concerned employees who in some cases had considerable length of service in such bodies. This question has, therefore, been carefully considered and it has been decided that the service rendered in the Central autonomous bodies by the employees who left the service of those bodies any time prior to their take-over by the Central Government, and who later on joined service under the Central Government, with or without break, will be allowed to be counted towards pension and/or gratuity to the extent admissible under the rules at the time such persons retire or retired from Government service, the period of break, if any, being condoned. This will, however, be subject to the condition that the gratuity/employer's contribution received in respect of the service rendered in the autonomous bodies will be refunded to the Government with simple interest at the rate of six per cent per annum from the date of receipt to the date of refund.

3. It has also been decided that in relaxation of the relevant rules, the orders above will be applicable in the case of the following categories of the employees referred to above :-

- (i) Those who are still in service of the Central Government.
- (ii) Those who have retired from service, but are still alive and are receiving pension on the basis of the service rendered under the Government of India only.
- (iii) Those who have retired from service and are still alive, but did not receive any pension due to non-counting of the service rendered in the autonomous bodies prior to their joining the service under the Central Government.

[G.I., M.F., O.M. No. F. 3 (15)-E. V (A)/76, dated the 3rd December, 1977.]

(3) No allocation of pensionary liability between Department of Central Government. - The rules in regard to allocation or sharing of the liability on account of pensionary charges of Government

servants with service under more than one Department among the Departments of the Government of India including Railways, Posts and Telegraphs and Defence Departments contained in Appendix 3-B-II and B-IV to Account Code, Volume I, have been under review of the Government of India for some time. After consideration of the various issues and keeping in view the need for simplifying inter-departmental adjustments it has been decided to dispense with the system of allocation of pension. The liability for pension including gratuity will be borne in full by the Department to which the Government servant permanently belongs at the time of retirement. No recovery of proportionate pension need be made from other Central Department under whom he had served.

It has been decided to extend the above provisions to the Union Territory Governments with or without legislature. Accordingly, there will be no allocation of leave salary/pension contribution among Central Government departments including Railways, P & T, Defence and Union Territory Governments with or without legislature.

Clarification. - The term pension may be treated as including interim/ad hoc relief on pension for the above purpose.

[G.I., M.F., O.M. No. F. 2 (117)/76/SC, dated the 26th December, 1977 and Joint Controller-General of Accounts, O.M. No. S. 11031/1/78/TA/725, dated the 23rd February, 1979.]

The above provision shall also cover cases of all Government servants (temporary/quasi-permanent/permanent), who have rendered technical resignation on their selection for service in another department (including Railways/P & T/Defence Departments) within the Government of India and hence the question of allocation of pension (or incidence of leave salary) between such Departments would not arise.

[G.I., M.F., Controller-General of Accounts, O.M. No. S. 11031/1/80/TA/1494, dated the 21st April, 1980.]

(4) Allocation of leave salary and pension contribution between Central and State Governments and between two State Governments dispensed with. - 1. The Government of India appointed a Committee to review the existing General Financial Rules and Treasury Rules and Account Code, Volume I and to make conceptual suggestions for their revision so as to simplify and rationalise these rules. The Committee in Chapter 5 of its Second Report has examined the existing system of allocating the liability on account of leave salary and pensionary charges of the Government servants who have served under the Central Government and State Governments as contained in Appendix 3-B-II and B-IV to Account Code, Volume I and made the following recommendations :-

(a) The practice of realising leave salary contributions may be dispensed with altogether as this is a very small fraction of amounts payable to State Governments on account of deputation of their officers to the Central Government.

(b) Recovery of leave/pension contributions in respect of inter-State transactions, which must be few and far between and could be given up.

(c) In regard to pensionary liability the Central Government may forgo any contribution recoverable from State Governments and to whom Central Government Officers are deputed.

(d) In lieu of Central Government liability towards pension of State Government Officers (mainly All India Service Officers) who are deputed to Centre for varying spells an ad hoc grant payable to each State Government may be worked out at the beginning of the financial year and disbursed to them in one lump sum as Grant-in-aid (Non-Plan) on the basis of a simple formula which takes into account cadre strength, and average length of deputation of All India Service Officers to Central Government.

2. Pursuant to the above, it has been decided in consultation with the State Governments to dispense with the system of allocation of leave salary and pension between Central and State Governments as specified below :-

(a) Leave Salary. - The existing system of allocation or sharing of the liability on account of leave salary contributions by Central Government to State Governments or vice versa will be dispensed with. The liability of leave salary will be borne in full by the Department from which the Government servant proceeds on leave, whether it be his parent Department or a borrowing Department with whom he is on deputation.

(b) Pension. - The liability for pension including gratuity will be borne in full by the Central/State Department to which the Government servant permanently belongs at the time of retirement. No recovery of proportionate pension will be made from Central/State Government under whom he had served.

(c) Contributory Provident Fund. - The liability for Government contributions will be borne by the Parent Department of the Central or State Government and no share of contributions will be recovered from any borrowing Department.

3. It has also been proposed to extend the above provisions to exchange of officers between two State Governments. Accordingly, there will be no allocation of leave salary/pension contribution among the Departments of the various State Governments.

4. These orders will take effect from 1-4-1987 and will apply to all cases of leave salaries with pensions sanctioned on or after that date.

5. This issues with the concurrence of the Comptroller and Auditor-General of India vide his UO No. 114-AC. I/163-86, Vol. II, dated 3-10-1986.

[G.I., M.F., C.G.A., O.M.No. 14 (5)/86/TA/1029, dated the 9th October, 1986.]

Clarification. - References are being received from Union Ministries/Departments as also the State Governments in regard to the applicability of the above OM to Government employees (temporary/permanent), moved from Central Government to State Governments and vice versa in terms of the Department of Per. & AR, OM No. 3 (20)/Pen. (A)/79, dated 31-3-1982 The matter was taken up with the Ministry of Personnel, Public Grievances and Pension (Department of Pension and Pensioners' Welfare), who have since clarified this point as under -

"The Controller-General of Accounts, OM No. 14 (5)/86/TA/1929, dated 9-10-1986, seeks to dispense with the system of sharing pension liability between Centre and State Governments as contemplated in Appendix 3-B-IV of Account Code, Volume I. It would, therefore, be naturally applicable to all cases where the system of apportionment of pension liability was in vogue prior to its issue, i.e., in respect of both permanent and temporary employees of the Central/State Government, as the case may be."

[G.I., M.F., C.G.A., O.M. No. 14 (5)/86/TA/1112, dated the 5th December, 1989.]

(5) Counting of temporary service under the State/Central Governments. - 1. The Government of India have been considering in consultation with the State Government, the question of sharing on a reciprocal basis, the proportionate pensionary liability in respect of those temporary employees who had rendered temporary service under the Central Government/State Governments prior to securing posts under the various State Governments/Central Government on their own volition in response to advertisements or circulars, including those by the State/Union Public Service Commissions and who are eventually confirmed in their new posts. It has since been decided in consultation with the State Governments that proportionate pensionary liability in respect of temporary service rendered under the Central Government and State Governments to the extent such service would have qualified for grant of pension under the rules of the respective Government, will be shared by the Governments concerned, on a service share basis, so that the Government servants are allowed the benefit of counting their qualifying service both under the Central Government and the State Governments for grant of pension by the Government from where they eventually retire. The gratuity, if any, received by the Government employee of temporary service under the Central or State Governments will, however, have to be refunded by him to the Government concerned.

2. The Government servants claiming the benefit of combined service in terms of the above decision are likely to fall into one of the following categories :-

(1) Those who having been retrenched from the service of Central/State Governments secured on their own employment under State/Central Governments either with or without interruption between the date of retrenchment and date of new appointment;

(2) Those who while holding temporary posts under Central/State Governments apply for posts under State/Central Governments through proper channel with proper permission of the administrative authority concerned;

(3) Those who while holding temporary posts under Central/State Governments apply for posts under State/Central Governments direct without the permission of the administrative authority concerned and resign their previous posts to join the new appointments under State/Central Governments.

The benefit may be allowed to the Government servants in categories (1) and (2) above. Where an employee in category (2) is required for administrative reasons, for satisfying a technical requirement, to tender resignation from the temporary post held by him before joining the new appointment, a certificate to the effect that such resignation had been tendered for administrative reasons and/or to satisfy a technical requirement, to join, with proper permission, the new posts,

may be issued by the authority accepting the resignation. A record of this certificate may also be made in his service book under proper attestation to enable him to get this benefit at the time of retirement. Government servant in Category (3) will obviously, not be entitled to count their previous service for pension.

3. The above arrangement will not apply to the employees of the Governments of Jammu and Kashmir and Nagaland.

4. These orders come into force with effect from the date of issue and cases of all such Government servants retiring on this date and thereafter will be regulated accordingly.

[G.I., Dept. of Per. & A.R., Letter No. 3 (20)/Pen. (A)/79, dated the 31st March, 1982, addressed to all State Governments except Jammu and Kashmir and Nagaland.]

NOTE. - Sharing of pension liability between Central and State Governments has since been dispensed with from 1-4-1987. .

(6) Special provision in the case of these State Government servants appointed to Central Service Group 'A'. - According to the existing instructions, the benefit of counting of pension the continuous temporary service under the State Government immediately preceding the service under the Central Government will not be allowed to those who secure jobs to the Centre on their own volition in response to advertisements or circulars including those by UPSC.

2. It has been observed in this connection that the position of All India Service officers under the relevant rules is different. If State Government employees are successful in the competitive examinations and are appointed to Indian Administrative Service/Indian Police Service/Indian Forest Service, they get the benefit of their past service for pension under Rule 8 (2) of the All India Services (Death-cum-Retirement Benefits) Rules, 1958. In case such an officer allotted to the cadre of a State different to the one in which temporary service has been rendered, such service counts subject to the concurrence of the concerned State Government. As against this, persons appointed to Central Service Group 'A' like IA and AS, IRS, etc., do not get the benefit of their past temporary service rendered in a State for pension. This position is discriminatory. It has been decided that the service rendered by temporary State Government servants who are appointed to Central Service Group 'A' as a result of competitive examination held by UPSC, will also count towards pension on the lines of the concessions admissible in the case of All India Service officers as explained above. ***

3. The arrangements envisaged in para. 2 above will not apply to the employees belonging to the State Governments of West Bengal, Madhya Pradesh, Tamil Nadu, Tripura and Maharashtra as Governments of these States have not agreed to the arrangements mentioned in para. 2 above.

[G.I., M.F., O.M. No. F. 3 (38)-E. V (A)/74, dated the 30th June, 1976.]

(7) Counting of service under State Governments - sharing of pension liability dispensed with. - The orders contained in this Department's Letter No. 3 (20)/Pen. (A)/79, dated 31-3-1982 (Decision (6) above) and Ministry of Finance O.M. No. 3 (38) E. V (A)/74, dated 30-6-1976 lay down the procedure for counting of the service rendered by a Central Government employee in State Governments. This

reciprocal arrangement is, however, not applicable in the case of certain specified State Governments.

2. A doubt has been expressed in the above context about the applicability of the orders contained in Ministry of Finance O.M. No. 14(5)/86/TA/1029, dated 9-10-1986 which dispenses with the sharing of pension and leave salary liability between Central and State Governments. The matter has been considered in consultation with the Ministry of Finance (Department of Expenditure), Controller-General of Accounts. It is clarified that according to the provisions of Part-A (Introductory) of Appendix 5 to Government Accounting Rules, 1990 the liability for pension including gratuity should be borne in full by the Central/State Governments to which the Government servant permanently belongs at the time of retirement. These provisions do not exempt any State Government from the applicability of the reciprocal arrangement which dispenses with sharing of pension liability. However, in the matter of processing proposals for counting of service rendered by an employee in the State Government, the procedure laid down in O.M., dated 31-3-1982 (Decision (6) above) and 30-6-1976 (Decision (7) above) would continue to be followed.

3. Ministry of Defence, etc., are requested to clarify this position to all concerned authorities under their administrative control.

[G.I., Dept. of Pen. & Pen. Welfare, O.M. No. 28/10/95-P & PW (B), dated the 25th October, 1996.]

15. Counting of service on probation -

Service on probation against a post if followed by confirmation in the same or another post shall qualify.

16. Counting of service as apprentice -

Service as an apprentice shall not qualify, except in the case of SAS apprentice in the Indian Audit and Accounts Department or the Defence Accounts Department.

17. Counting of service on contract -

(1) A person who is initially engaged by the Government on a contract for a specified period and is subsequently appointed to the same or another post in a substantive capacity in a pensionable establishment without interruption of duty, may opt either :-

(a) to retain the Government contribution in the Contributory Provident Fund with interest thereon including any other compensation for that service ; or

(b) to agree to refund to the Government the monetary benefits referred to in Clause (a) or to forgo the same if they have not been paid to him and count in lieu thereof the service for which the aforesaid monetary benefits may have been payable.

(2) The option under sub-rule (1) shall be communicated to the Head of Office under intimation to the Accounts Officer within a period of three months from the date of issue of the order of permanent transfer to pensionable service, or if the Government servant is on leave on that day, within three months of his return from leave, whichever is later.

(3) If no communication is received by the Head of Office within the period referred to in sub-rule (2), the Government servant shall be deemed to have opted for the retention of the monetary benefits payable or paid to him on account of service rendered on contract.

Note : (Refer order on rate of interest payable on delayed payment of DCRG and rate of interest chargeable on refund of pensionary benefits already drawn, in connection with counting of past service under CCS (Pension) Rules, 1972 and Department of Pension & Pensioners' Welfare OM No. 28/10/84-PU dated 29.8.1984 as amended from time to time – reg.vide DP&PW O.M. no. 38/34/2001-P&PW(F) dated 29-4-2002)

18. Counting of pre-retirement civil service in the case of re-employed Government servants :

(1) A Government servant who, having retired on compensation pension or invalid pension or compensation gratuity or invalid gratuity, is re-employed and appointed substantively to a service or post to which these rules apply may exercise option either -

(a) to continue to draw the pension or retain the gratuity sanctioned for his earlier service, in which case his former service shall not count as qualifying service, or

1[(b) to cease to draw his pension and refund -

Footnote :1. Substituted by G.I., M.H.A., Dept. of Per. & A.R., Notification No. 6 (1)-Pen. (A)/80, dated the 30th July, 1981.

(i) the pension already drawn,

(ii) the value received for the commutation of a part of pension, and

(iii) the amount of 1[retirement gratuity] including service gratuity, if any,

Footnote :1. Substituted by G.I., Dkept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988. Published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988.

and count the previous service as qualifying service :

Provided that -

(i) the pension drawn prior to the date of re-employment shall not be required to be refunded,

(ii) the element of pension which was ignored for fixation of his pay including the element of pension which was not taken into account for fixation of pay shall be refunded by him,

(iii) the element of pension equivalent of gratuity including the element of commuted part of pension, if any, which was taken into account for fixation of his pay shall be set off against the amount of 1[retirement gratuity] and the commuted value of pension and the balance, if any, shall be refunded by him.

Footnote :1. Substituted by G.I., Dkept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988. Published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988.

EXPLANATION. - In this clause, the expression `which was taken into account' means the amount of pension including the pension equivalent of gratuity by which pay of the Government servant was reduced on initial re-employment, and the expression `which was not taken into account' shall be construed accordingly.]

(2) 2(a) The authority issuing the order of substantive appointment to a service or post as is referred to in sub-rule(1) shall along with such order require in writing the Government servant to exercise the option under that sub-rule within three months of the date of issue of such order, or if he is on leave on that day, within three months of his return from leave, whichever is later and also bring to his notice the provisions of Clause (b).

Footnote :2. Substituted by G.I., M.F., Notification No. F.3 (6)-E. V (A)/75, dated the 24th February, 1976.

(b) If no option is exercised within the period referred to in Clause (a), the Government servant shall be deemed to have opted for Clause (a) of sub-rule (1).

(3) In the case of a Government servant who opts for Clause (a) of sub-rule (1) the pension or gratuity admissible for his subsequent service is subject to the limitation, that service gratuity, or the capital value of the pension and 1[retirement gratuity], if any, shall not be greater than the difference between the value of the pension and 1[retirement gratuity] if any, that would be admissible at the time of the Government servant's final retirement if the two periods of service were combined and the value of retirement benefits already granted to him for the previous service.

Footnote :1. Substituted by G.I., Dkept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988. Published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988.

Note:- The capital value of pension shall be calculated in accordance with the table prescribed by the President under the * Civil Pension (Commutation) Rules applicable at the time of the second or final retirement.

(4) (a) A Government servant who opts for Clause (b) of sub-rule (1) shall be required to refund the gratuity received in respect of his earlier service, in monthly instalments not exceeding thirty-six in number, the first instalment beginning from the month following the month in which he exercised the option.

(b) The right to count previous service as qualifying service shall not revive until the whole amount has been refunded.

(5) In the case of a Government servant, who, having elected to refund the gratuity, dies before the entire amount is refunded, the amount of unrefunded gratuity shall be adjusted against the 1[death gratuity] which may become payable to his family.

GOVERNMENT OF INDIA'S DECISION

Re-employed pensioner in receipt of invalid/compensation pension entitled to option under Rule 18 on rendering not less than/expected to complete twenty (now ten) years' temporary service in re-employed post. - According to Rule 10 (1-B) of CCS (TS) Rules, 1965, a Government servant who on his retirement from service on attaining the age of superannuation or on his being declared to be permanently incapacitated for further service by the appropriate medical authority after he has rendered temporary service of not less than 20 (now 10) years, shall be brought within the purview of the CCS (Pension) Rules, 1972 and the condition of holding a pensionable post in a substantive capacity shall be dispensed with in his case.

Footnote * - Now Central Civil Services (Commutation of Pension) Rules, 1981

2. Cases can occur where a permanent Government servant who has been granted invalid pension under Rule 38 or compensation pension on abolition of permanent post under Rule 39 of the CCS (Pension) Rules, 1972, at a comparatively younger age, is re-employed subsequently and after rendering temporary service of not less than 20 (now 10) years is either declared to be permanently incapacitated for further service, or finally retires from service on attaining the age of superannuation. Such a servant will become eligible to earn a second pension in respect of his temporary service. A question arises whether such a person will be eligible to exercise the option available to a re-employed pensioner under sub-rule (1) of Rule 18 of the CCS (Pension) Rules, 1972, which is to be exercised by a re-employed pensioner within three months of his confirmation in a permanent post. The exercise of such option enables him either -

- (a) to continue to draw the pension (or to retain the gratuity sanctioned for earlier service) in which case his former service shall not count as qualifying service ; or
- (b) to cease to draw his pension and refund the pension and pensionary equivalent of retirement benefits already drawn, in which case the previous service will count as qualifying service.

The condition of holding a post in a substantive capacity for the purpose of eligibility to pension having been relaxed in the case of a Government servant retiring on superannuation pension or on being declared to be permanently incapacitated for further service, after rendering temporary service of not less than 20 (now 10) years, the said condition may also be deemed to be relaxed for the purpose of bringing such a person within the ambit of Rule 18 of the CCS (Pension) Rules, 1972. Therefore a Government servant in receipt of invalid or compensation pension in respect of his earlier service, if subsequently re-employed in a pensionable post and retiring as aforesaid will be eligible to exercise option under sub-rule (1) of Rule 18 of the CCS (Pension) Rules, 1972.

3. Re-employed Government servants, who in respect of the second spell of their service have rendered 20 (now 10) years' temporary service before attaining the age of superannuation or who

expect to complete 20 (now 10) years' service at the time of attaining the age of superannuation, shall be eligible to exercise option under sub-rule (1) of Rule 18 of the CCS (Pension) Rules, 1972. If such a Government servant after exercising the option but before attaining the age of superannuation, ceases to be in service for any reason, the option exercised shall be treated as null and void. If the Government servant concerned opts for the alternative (a) of sub-rule (1) of Rule 18 *ibid*, i.e., to continue to draw the pension (or to retain the gratuity) sanctioned for his earlier service, he shall continue to draw pension for the earlier service in addition to the pension earned for the second spell of service. If he opts for the alternative (b) of sub-rule (1) of Rule 18 *ibid*, i.e., to cease to draw the pension or refund the gratuity, including the retirement gratuity, if any, as the case may be, and to opt to count the previous service as qualifying service, he will draw only one pension based on the sum total of his previous qualifying service and the subsequent spell of service. The amount of pension including gratuity, if any, to be refunded by the Government servant, shall be determined by the Head of Office in accordance with the provisions of Clause (b) of sub-rule (1) of Rule 18 of the CCS (Pension) Rules, 1972.

4. The option referred to in the preceding paragraph may be exercised at the time of completing the application for pension in the form prescribed for the purpose (Form 5), i.e., about eight months prior to attaining the age of superannuation. If no option is exercised within the aforesaid period, the Government servant concerned shall be deemed to have opted for the alternative (a) of sub-rule (1) of Rule 18 of the CCS (Pension) Rules, 1972, in which case he will draw pensions for both spells of service separately.

5. The provisions of paragraphs 2, 3 and 4 above shall also apply to a military pensioner who is re-employed in a civil service or civil post and completes not less than 20 (now 10) years' temporary service before attaining the age of superannuation. Such a pensioner will exercise option under Rule 19 of the CCS (Pension) Rules, 1972, in the right of the position stated in paragraphs 2,3 and 4 above.

[G.I., Dept. of Per. & A.R., O.M. No. 38/5/81-Pension Unit, dated the 5th March, 1982.]

19. Counting of military service rendered before civil employment

(1) A Government servant who is re-employed in a civil service or post before attaining the age of superannuation and who, before such re-employment, had rendered military service, may, on his confirmation in a civil service or post, opt either -

(a) to continue to draw the military pension or retain gratuity received on discharge from military service, in which case his former military services shall not count as qualifying service; or

(b) to cease to draw his pension and refund -

Footnote : 2. Substituted by G.I., M.H.A., Dept. of Per. & A.R., Notification No. 6 (1)-Pen. (A)/80, dated the 30th July, 1981.

(i) the pension already drawn, and

(ii) the value received for the commutation of a part of military pension, and

- (iii) the amount of 3[retirement gratuity] including service gratuity, if any,

Footnote : 3. Substituted vide G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988. Published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988.

and count previous military service as qualifying service, in which case the service so allowed to count shall be restricted to a service within or outside the employee's unit or department in India or elsewhere which is paid from the Consolidated Fund of India or for which pensionary contribution has been received by the Government :

Provided that -

(i) the pension drawn prior to the date of re-employment shall not be required to be refunded.

(ii) the element of pension which was ignored for fixation of his pay including the element of pension which was not taken into account for fixation of pay on re-employment shall be refunded by him,

(iii) the element of pension equivalent of gratuity including the element of commuted part of pension, if any, which was taken into account of fixation of pay shall be set off against the amount of 1[retirement gratuity] and the commuted value of pension and the balance, if any, shall be refunded by him.

Footnote : 1. Substituted vide G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 30th July, 1988. Published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988.

EXPLANATION. - In this clause, the expression 'which was taken into account' means the amount of pension including the pension equivalent of gratuity by which the pay of the Government servant was reduced on initial re-employment, and the expression 'which was not taken into account' shall be construed accordingly.

(2) 2(a) The authority issuing the order of substantive appointment to a civil service or post as is referred to in sub-rule (1) shall along with such order require in writing the Government servant to exercise the option under that sub-rule within three months of date of issue of such order, if he is on leave on that day, within three months of his return from leave, whichever is later and also bring to his notice the provisions of Clause (b).

Footnote : 2. Substituted by G.I., M.F., Notification No. F. 3 (6)-E. V (A)/75, dated the 24th February, 1976.

(b) If no option is exercised within the period referred to in Clause (a), the Government servant shall be deemed to have opted for Clause (a) of sub-rule (1)

(3) (a) A Government servant, who opts for Clause (b) of sub-rule (1) shall be required to refund the pension, bonus or gratuity received in respect of his earlier military service, in monthly instalments not exceeding thirty-six in number, the first instalment beginning from the month following the month in which he exercised the option.

(b) The right to count previous service as qualifying service shall not revive until the whole amount has been refunded.

(4) In the case of a Government servant, who, having elected to refund the pension, bonus or gratuity, dies before the entire amount is refunded, the unrefunded amount of pension or gratuity shall be adjusted against the³[death gratuity] which may become payable to his family.

Footnote : 3. Substituted by G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W., (PIC), dated the 20th July 1988. Published as S.O. No. 2388 in the Gazettee of India dated the 6th August, 1998.

(5) When an order is passed under this rule allowing previous 1[] military service to count as part of the service qualifying for civil pension, the order shall be deemed to include the condonation of interruption in service, if any, in the military service and between the military and civil services.

Footnote : 1. The word `regular' omitted by G.I., M.H.A., Dept. of Per. & A.R., Notification No. 6 (1)-Pen. (A)/80, dated the 30th July, 1981.

2NOTE.

Footnote : 2. Omitted by G.I., M.H.A., Dept. of Per. & A.R., Notification No. 6 (1)-Pen. (A)/80, dated the 30th July, 1981.

GOVERNMENT OF INDIA'S DECISIONS

(1) Re-employed military pensioners should exercise option under Rule 19 (1) within one year from the date of re-employment. - Under Rule 19 (1) of the CCS (Pension) Rules, 1972, a Government servant who is re-employed in a civil service or post is required to give an option at the time of his confirmation in the civil post whether he would like to get past military service counted for pension in the civil post whether he would like to get past military service counted for pension in the civil post or service. The Government had issued orders vide OM No. 38/16/Pension Unit/80, dated the 30th December, 1980, allowing the Government servants to get pension after completion of twenty years of service either on invalidation or superannuation. In pursuance of Government decisions on the recommendations of the Fourth Central Pay Commission, the Government has further decided vide OM No. 2/4/87-PIC, dated the 14th April, 1987, that a Government servant will get pension

under the CCS (Pension) Rules, either on superannuation or on invalidation after rendering ten years of temporary service in the Government. In view of the relaxation allowed recently to temporary Government servants, the matter has been engaging attention of the Government to allow benefit under Rule 19 (1) of the CCS (Pension) Rules, 1972, also to Government servant who retire on superannuation without confirmation. It has been decided that all those Government servants who retire on superannuation or invalidation without confirmation after rendering not less than ten years of combined military and civil service shall be entitled to the benefit of counting of service under Rule 19 (1). The provision of Rule 19 (1) may be deemed to have been modified accordingly. Necessary amendment to the Rule will be issued in due course.

2. It has also been decided that a Government servant applying for counting of service under Rule 19 (1) may be allowed to exercise option for the same within a period of one year from the date of joining the civil service or post. The refund of pension, gratuity, etc., already drawn by such Government servants from the Military authorities shall be refunded to the Government with interest from the date of their joining the civil service. The rate of interest would be simple interest at 6% per annum [Now rate of interest as applicable to GPF deposits refer to DP&PW's O.M.No.38/34/2001-P&PW (F) dated 29-04-2002] The other conditions as mentioned under Rule 19 of the CCS (Pension) Rules, will remain unaltered.

3. In order to facilitate compliance with the requirement of exercising option in time, it has been further decided that the administrative authorities concerned should incorporate in the order of re-employment itself a clause to the effect that if the re-employed ex-serviceman desires to take advantage of the retirement benefits based on combined military and civil services, he should exercise option within a period of one year from the date of his re-employment.

4. These orders take effect from the date of issue.

[G.I., Dept. of P. & P.W., O.M. No. 28/50/87-P. & P.W., dated the 31st May, 1988 and O.M. No. 28/49/87-P. & P.W., dated the 26th February, 1988.]

(2) Counting of service in the case of civilians working in lieu of combatants. - It has been decided that the service rendered by the civilians working in lieu of combatants in the three Service Headquarters and other Defence Establishments will count for pension when followed by other pensionable civil service, in the same manner as extra-temporary establishment/casual service, subject to the normal conditions for counting casual service when followed by pensionable civil service being fulfilled.

[G.I., M.F., Defence, Letter No. 18(8)/70/4300/D(Civ.II), dated the 25th April, 1970.]

(3) Counting of service in the case of Ex-DSC personnel. - It has been decided that ex-Defence Security Corps personnel of their re-employment in any civil post will be permitted to count in full of the former service rendered by them in the Defence Security Corps for the purpose of pension and gratuity.

[G.I., Min. of Defence, Letter No. 77956/GS/DSC-2/1674/D (Civ. II), dated the 17th February, 1968 and No F. 18 (5)/75/D (Civ. II), dated the 25th July, 1978.]

(4) Counting of non-regular/purely temporary military service for civil pension. - Continuous military (non-regular/purely temporary) service not rendered in conjunction with war service in the Army, the Navy and the Air Force will count in full towards civil pension if such service is followed without interruptions by appointment to and eventual confirmation in a pensionable post in civil service. The grant of this concession is subject to the following conditions :-

(1) The officer concerned should not have earned a pension under the military rules in respect of the service in question.

(2) In the case of services or posts in respect of which a minimum age is fixed for recruitment, no military service rendered below that age shall be allowed to count for pension.

(3) If the officer has been granted any retirement gratuity in respect of such service, such gratuity shall be refundable.

[G.I., M.F., O.M. No. F. 3 (58)-E. V (A)/61, dated the 3rd February, 1962.]

(5) Counting of Enlisted/Commissioned Military Service shown as non-pensionable/war time engagement for the purpose of civil pensions. - A question has arisen as to whether the Enlisted/Commissioned Military Service which is shown as non-pensionable by the Defence Authorities in the Certificate of Verification of Military Service, should count towards civil pension in the case of persons who are permanently appointed to civil posts.

The position is that, in the Defence Services there are no non-pensionable establishments and the service officers/personnel are either on regular or non-regular terms. Those who are on regular terms are entitled to pension/gratuity after rendering the prescribed periods of service and others who are not on regular terms are entitled to gratuity as admissible under the rules/orders in accordance with which they are engaged. Non-regular Military service when followed by service on regular terms counts for Military pension. In the circumstances, the service which is shown as non-pensionable/war time engagement is in fact non-regular (purely temporary) military service and will be allowed to count towards civil pension.

[G.I., M.F., O.M. NO. F. 3 (71)-E. V (A)/63, dated the 1st October, 1964.]

(6) No limitation on civil pension for re-employed military pensioners drawing separate military pension.

20. Counting of war service rendered before civil employment

(1) A Government servant who, prior to his appointment in a civil service or post against war reserved or other permanent vacancy which arose for direct recruitment before the 1st January, 1948, had rendered satisfactory paid whole-time, enlisted or commissioned war service in the Armed Forces of India or in similar forces of a Commonwealth country during the period from the 3rd September, 1939 to the 1st April, 1946, which did not earn a service pension under the military rules, shall be allowed to count such service, including all kinds of leave on full rates of pay and sick leave taken during such service, as qualifying service, subject to the following conditions, namely :-

- (a) in the case of a service or post in respect of which a minimum age is fixed for recruitment, no war service rendered below that age shall count as qualifying service ;
- (b) no contribution towards or share of pension earned as a result of counting war service rendered in a force of a Commonwealth country shall be claimed from the Government of that country ;
- (c) no refund of bonus or gratuity in respect of war service shall be demanded from the Government servant concerned.

(2) War service rendered by a Government servant who was appointed substantively to a civil service or post against vacancies which arose after the 31st December, 1947, shall, subject to the conditions specified in sub-rule (1), be treated as military service as provided in Rule 19.

21. Counting of periods spent on leave

All leave during service for which leave salary is payable 1[and all extraordinary leave granted on medical certificate] shall count as qualifying service :

Provided that in the case of extraordinary leave 1[other than extraordinary leave granted on medical certificate] the appointing authority may, at the time of granting such leave, allow the period of that leave to count as qualifying service if such leave is granted to a Government servant -

Footnote : 1. Inserted by G.I., M.F., Notification No. F. 3 (12)-E. V (A)/73, dated the 5th September, 1973.

- (i) Omitted by G.I., M.F., Notification No. F. 3 (12)-E. V (A)/73, dated the 5th September, 1973.
- (ii) due to his inability to join or rejoin duty on account of civil commotion; or
- (iii) for prosecuting higher scientific and technical studies.

GOVERNMENT OF INDIA'S DECISIONS

(1) Need for making proper entries for treatment of extraordinary leave for pensionary benefits. - Under Rule 21 of the CCS (Pension) Rules, 1972, extraordinary leave granted on medical certificate qualifies for pension. The Appointing Authority may, at the time of granting extraordinary leave, also allow the period of such leave to count as qualifying for pension if the leave is granted to a Government servant -

- (i) due to his inability to join or rejoin duty on account of civil commotion, or
- (ii) for prosecuting higher technical and scientific studies.

Extraordinary leave taken on other grounds is treated as non-qualifying and, therefore, a definite entry is to be made in the service records to that effect. Entries regarding service being qualifying or otherwise are required to be made simultaneously with the event. Even where this is not done, it should still be possible to rectify the omission during the period allowed for preparatory action, i.e., from two years in advance of the retirement date up to eight months before retirement. At the end of that period, however (i.e., when the actual preparation of the pension papers is taken in hand), no further enquiry into past events or check of past records should be undertaken. Specific entries in the service records regarding non-qualifying periods will be taken note of and such periods excluded from the service. All spell of extraordinary leave not covered by such specific entries will be deemed to be qualifying service.

[G.I., M.F., O.M. No. F.11 (3)-E. V (A)/76, dated the 28th February, 1976 - Paragraph 3 (a).]

(2) Counting of leave taken during military service for civil pension. - Doubts have been expressed in regard to the extent to which leave taken during military service should count for civil pension. The intention is that, leave taken during military service counts as service for civil pension to the extent to which such leave would count as service for the purpose of pension if the officer concerned had been a temporary civil employee throughout.

[G.I., M.F., O.M. No. F. 3 (26)-E. V (A)/60, dated the 7th September, 1960.]

(3) Extraordinary leave granted for prosecuting higher technical and scientific studies, etc., automatically counts as qualifying service. - It has been decided that extraordinary leave sanctioned

for the following purposes shall automatically count as qualifying service for pension and for increments without any further sanctions :-

- (i) EOL granted due to inability of a Government servant to join or rejoin duty on account of civil commotion.
- (ii) EOL granted to a Government servant for prosecuting higher technical and scientific studies.

[G.I., Dept. of Per. & Trg., O.M. No. 13017/20/85-Estt. (L), dated the 18th February, 1986.]

22. Counting of periods spent on training

The Government may, by order, decide whether the time spent by a Government servant under training immediately before appointment to service under that Government shall count as qualifying service.

GOVERNMENT OF INDIA'S DECISIONS

- (1) Pre-appointment training period counts as qualifying service. - The Staff Side to the National Council (JCM) had suggested inter alia that the service rendered by an employee during the training period before his regular appointment to the grade may be treated as qualifying service for pension.
2. The request made by the Staff Side of the National Council (JCM) has been examined and it has now been decided that in respect of Groups `C' and `D' employees, who are required to undergo departmental training relating to jobs before they are put on regular employment, training period may be treated as qualifying service for pension, if the training is followed immediately by an appointment. This benefit will be admissible to all Groups `C' and `D' employees even if the officers concerned are not given the scale of pay of the post but only a nominal allowance.
3. The Ministry of Finance, etc., are requested to bring the above decision to the notice of all officers working under them including those in the attached and subordinate offices for their guidance.
4. These orders come into force with effect from 22nd December, 1983.
5. Benefit of these orders will be available to all those employees who retired on or after 22nd December, 1983.
6. No restriction is imposed on the admissibility of the above benefit to the employees who were recruited in `C' and `D' posts but retired from Groups `A' and `B' posts.

[G.I., Dept. of Per. & A.R., O.M. No. 28/32/81-Pension Unit, dated the 22nd December, 1983 ; Dept. of P. & P.W.. O.M. No. 28/37/86-P. & P.W., dated the 12th September, 1986, deleting the words 'up to one year', dated the 6th June, 1989].

23. Counting of periods of suspension

Time passed by a Government servant under suspension pending inquiry into conduct shall count as qualifying service where, on conclusion of such inquiry, he has been fully exonerated or the suspension is held to be wholly unjustified ; in other cases, the period of suspension shall not count unless the authority competent to pass orders under the rule governing such cases expressly declares at the time that it shall count to such extent as the Competent Authority may declare.

GOVERNMENT OF INDIA'S DECISIONS

(1) Need of making proper entries of counting of periods of suspension. - Rule 23 of the CCS (Pension) Rule, 1972, requires that in cases other than those in which suspension has been held to be wholly unjustified, the Competent Authority should at the appropriate time declare whether and to what extent the period of suspension will count towards the qualifying service. Specific entries in this regard in the service book/records will be taken note of at the time of reckoning qualifying service. In the absence of any specific entry, period of suspension shall be taken as counting towards the qualifying service.

[G.I., M.F., O.M. No. F. 11 (3)-E. V (A)/76, dated the 28th February, 1976 - Paragraph 3 (b).]

(2) Suspension should be held wholly unjustified when the proceedings end with minor penalty. - The Staff Side of the Committee of the National Council set up to review the CCS (CCA) Rules, 1965, had suggested that in cases where a Government servant, against whom an inquiry has been held for the imposition of a major penalty, is finally awarded only a minor penalty, the suspension should be considered unjustified & full Pay & Allowances paid for suspension period. Government have accepted this suggestion of the Staff Side. Accordingly, where departmental proceedings against a suspended employee for the imposition of a major penalty finally end with the imposition of minor penalty, the suspension can be said to be wholly unjustified in terms of FR 54-B and the employee concerned should, therefore, be paid full pay and allowances for the period of suspension by passing a suitable order under FR 54-B.

2. These orders will become effective from 3rd December, 1985. Past cases already decided need not be reopened.

[G.I., Dept. of Per. & Trg., O.M. No. 11012/15/85-Estt. (A), dated the 3rd December, 1985.]

[For regularization of periods of suspension Fundamental Rules 54,54-A, 54-B and Administrative Instructions thereunder-may be refer to]

24. Forfeiture of service on dismissal or removal

Dismissal or removal of a Government servant from a service or post entails forfeiture of his past service.

GOVERNMENT OF INDIA'S DECISION

Termination of service under Temporary Service rules or under the term of appointment for failure to pass prescribed examination, does not entail forfeiture of past service. - The Government of India in consultation with the Ministry of Home Affairs, have held that the termination of service either under CCS (TS) Rules, 1965 or under the terms of appointment for failure to pass a prescribed examination does not amount to dismissal or removal within the meaning of Article 418 (a) of CSR [now Rule 24 of CCS(P) Rules,1972]. A Government servant whose services are terminated for failure to pass prescribed examination and who is appointed to another post without any break, will count his previous service towards leave and pension.

[C.A.G.'s Letter No. 2092-NGEI/73-67, dated the 23rd September, 1967.]

25. Counting of past service on reinstatement

(1) A Government servant who is dismissed, removed or compulsorily retired from service, but is reinstated on appeal or review, is entitled to count his past service as qualifying service.

(2) The Period of interruption in service between the date of dismissal, removal or compulsory retirement, as the case may be, and the date of reinstatement, and the period of suspension, if any, shall not count as qualifying service unless regularized as duty or leave by a specific order of the authority which passed the order of reinstatement.

[Fundamental Rules 54 and 54-A may be referred.]

126. Forfeiture of service on resignation

Footnote : 1. Substituted by G.I., M.F., Notification No. F. 6 (12)-E. V (A)/72, dated the 7th April, 1977.

- (1) Resignation from a service or a post, unless it is allowed to be withdrawn in the public interest by the appointing authority, entails forfeiture of past service.
- (2) A resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment, whether temporary or permanent, under the Government where service qualifies.
- (3) Interruption in service in a case falling under sub-rule (2), due to the two appointments being at different stations, not exceeding the joining time permissible under the rules of transfer, shall be covered by grant of leave of any kind due to the Government servant on the date of relief or by formal condonation to the extent to which the period is not covered by leave due to him.
- (4) The appointing authority may permit a person to withdraw his resignation in the public interest on the following conditions, namely :-
 - (i) that the resignation was tendered by the Government servant for some compelling reasons which did not involve any reflection on his integrity, efficiency or conduct and the request for withdrawal of the resignation has been made as a result of a material change in the circumstances which originally compelled him to tender the resignation ;
 - (ii) that during the period intervening between the date on which the resignation became effective and the date from which the request for withdrawal was made, the conduct of the person concerned was in no way improper ;
 - (iii) that the period of absence from duty between the date on which the resignation became effective and the date on which the person is allowed to resume duty as a result of permission to withdraw the resignation is not more than ninety days ;
 - (iv) that the post, which was vacated by the Government servant on the acceptance of his resignation or any other comparable post, is available.
- (5) Request for withdrawal of a resignation shall not be accepted by the appointing authority where a Government servant resigns his service or post with a view to taking up an appointment in or under a private commercial company or in or under a corporation or company wholly or substantially owned or controlled by the Government or in or under a body controlled or financed by the Government.
- (6) When an order is passed by the appointing authority allowing a person to withdraw his resignation and to resume duty, the order shall be deemed to include the condonation of interruption in service but the period of interruption shall not count as qualifying service.
- 1[(7) A resignation submitted for the purpose of Rule 37 shall not entail forfeiture of past service under the Government.]

Footnote : 1. Inserted by G.I., Dept. of P. & P.W., Notification No. 4/15/88-P. & P.W. (D), dated the 9th October, 1991, published as S.O. No. 2740 in the Gazette of India, dated the 2nd November, 1991.

GOVERNMENT OF INDIA'S DECISIONS

(1) When resignation a technical formality and when it subsists. - A Government servant intending to apply for a post or posts outside his parent office/department under the Government of India should have his application forwarded through the competent authority under whom he was serving at the time of applying for the post. Such an authority should either forward the application or withhold it according as the exigencies of public service may indicate but it should not forward the application conditionally, for example, that in the event of the applicant coming out successful, he will be required to resign his post before taking up the new one. Once the application has been forwarded unconditionally and the person concerned is offered the post applied for, he should be relieved of his duties to join the new post as a matter of course and the question of his resigning the post held by him in such circumstances should not arise. Accordingly the amended article is intended to cover the cases where even though the applications were forwarded by the competent authority, the applicant had been asked for one reason or the other to resign his post before taking up the new one. The above position holds good whether the Government servant held the post in permanent or temporary capacity, before resigning the post.

Situations may arise where the application of a Government servant was not forwarded and the Government servant resigned his appointment of his own volition with a view to his taking up the new post or where it was not possible to forward his application in the public interest but the Government servant had volunteered to resign his post or where the conditions of service in an office demand as a matter of policy that the Government servant should resign his post in the event of his taking up another post outside. In all such cases, it has been held that resignation of public service will subsist and entail forfeiture of past service.

It has been decided that in cases where Government servants apply for posts in the same or other departments through proper channel and on selection, they are asked to resign the previous posts for administrative reasons, the benefit of past service may, if otherwise admissible under rules, be given for purposes of fixation of pay in the new post treating the resignation as a 'technical formality'. The pay in such cases may be fixed under FR 27.

[G.I., M.F., Letter No. 35 (15)-E. V/60, dated the 21st September, 1960, to the Secretary to the Government of Orissa, Finance Department, Bhubaneshwar and G.I., M.F., O.M. No. 3379-E. III (b)/65, dated the 17th June, 1965.]

According to M.H.A., O.M. NO. 60/37/63-Ests. (A), dated the 14th July, 1967 (not printed), permanent/quasi-permanent Central Government servant appointed under another Central Government department has to resign from his parent department unless he reverts to that Department within a period of two years (three years in exceptional cases) of his appointment in the other department. The Government of India have been considering whether this resignation should entail forfeiture of past service for purpose of leave and pension of the Government servant concerned. It has been decided that such a resignation should be deemed to be resignation within the meaning of Article 418 (b) of CSRs [Rule 26 (2) of CCS(P) Rules,1972] for pension. As a consequence of this decision, continuity of service benefit should be allowed in the matter of leave also.

[Extract from M.H.A., O.M. No. 8/5/68-Ests. (C), dated the 19th December, 1969.]

(2) Procedure to be followed in accepting resignation from service.- Instructions issued from time to time on resignation have now been consolidated for facility of reference and guidance of all the Ministries/Departments of the Government of India.

1. Format of resignation. - Resignation is an intimation in writing sent to the competent authority by the incumbent of a post, of his intention or proposal to resign the office/post either immediately or from a future specified date. A resignation has to be clear and unconditional.

2. Circumstances under which resignation should be accepted. - It is not in the interest of Government to retain an unwilling Government servant in service. The general rule, therefore, is that a resignation of a Government servant from service should be accepted, except in the circumstances indicated below :-

(i) Where the Government servant concerned is engaged on work of importance and it would take time to make alternative arrangements for filling the post, the resignation should not be accepted straightaway but only when alternative arrangements for filling the post have been made.

(ii) Where a Government servant, who is under suspension, submits a resignation, the competent authority should examine, with reference to the merit of the disciplinary case pending against the Government servant, whether it would be in the public interest to accept the resignation. Normally, as Government servants are placed under suspension only in cases of grave delinquency, it would not be correct to accept a resignation from a Government servant under suspension. Exceptions to this rule would be where the alleged offences do not involve moral turpitude or where the quantum of evidence against the accused Government servant is not strong enough to justify the assumption that if the departmental proceedings were continued, he would be removed or dismissed from service, or where the departmental proceedings are likely to be so protracted that it would be cheaper to the public exchequer to accept the resignation.

In those cases where acceptance of resignation is considered necessary in the public interest, the resignation may be accepted with the prior approval of the Head of the Department in respect of Groups 'C' and 'D' posts and that of the Minister-in-charge in respect of holders of Groups 'A', and 'B' posts. In so far as officers of Groups 'A', 'B', 'C' and 'D' cadres of the Indian Audit and Accounts Department are concerned, the resignation may be accepted by the Heads of Departments as designated by the Comptroller and Auditor-General of India. Concurrence of the Central Vigilance Commission should be obtained before submission of the case to the Minister-in-charge/Comptroller and Auditor-General, if the Central Vigilance Commission had advised initiation of departmental action against the Government servant concerned or such action has been initiated on the advice of the Central Vigilance Commission.

3. A resignation becomes effective when it is accepted and the Government servant is relieved of his duties. If a Government servant who had submitted a resignation, sends an intimation in writing to the appointing authority withdrawing his earlier letter of resignation before its acceptance by the appointing authority, the resignation will be deemed to have been automatically withdrawn and there is no question of accepting the resignation. In case, however, the resignation had been accepted by the appointing authority and the Government servant is to be relieved from a future date, if any request for withdrawing the resignation is made by the government servants before he is actually relieved of his duties, the normal principal should be to allow the request of the government servant to withdraw the resignation. If, however, the request for withdrawal is to be refused, the grounds for the rejection of the request should be duly recorded by the appointing authority and suitably intimated to the Government servant concerned.

4. Rules governing temporary Government servants. - Since a temporary Government servant can sever his connection from Government service by giving a notice of termination of service under Rule 5 (1) of the Central Civil Services (TS) Rules, 1965, the instructions contained in this Office Memorandum relating to acceptance of resignation will not be applicable in cases where a notice of termination of service has been given by a temporary Government servant. If, however, a temporary Government servant submits a letter of resignation in which he does not refer to Rule 5 (1) of the CCS (TS) Rules, 1965, or does not even mention that it may be treated as a notice of termination of service, he can relinquish the charge of the post held by him only after the resignation is duly accepted by the appointing authority and he is relieved of his duties and not after the expiry of the notice period laid down in the Temporary Service Rules.

5. Withdrawal of resignation - statutory rule regulating cases of withdrawal of resignation from Government service. - The procedure for withdrawal of resignation after it has become effective and the Government servant had relinquished the charge of his earlier post, are governed by the statutory provisions in sub-rules (4) to (6) of Rule 26 of the CCS (Pension) Rules, 1972, which corresponds to Article 418 (b) of the Civil Service Regulations.

6. Since the CCS (Pension) Rules, 1972, are applicable only to holders of permanent posts, the above provisions would apply only in the case of a permanent Government servant who had resigned his post. The cases of withdrawal of resignation of permanent Government servants which involve relaxation of any of the provisions of the above rules will need the concurrence of the Ministry of Personnel, Public Grievances and Pensions, as per Rule 88 of the CCS (Pension) Rules, 1972.

7. Release of Government servants for appointment in Central Public Enterprises. - A Government servant who has been selected for a post in a Central Public Enterprise/Central Autonomous Body may be released only after obtaining and accepting his resignation from the Government service. Resignation from Government service with a view to secure employment in a Central Public Enterprise with proper permission will not entail forfeiture of the service for the purpose of retirement/terminal benefits. In such cases, the Government servant concerned shall be deemed to have retired from service from the date of such resignation and shall be eligible to receive all retirement/terminal benefits as admissible under the relevant rules applicable to him in his parent organization.

8. When resignation is a 'technical formality'. - In cases where Government servants apply for posts in the same or other departments through proper channel and on selection, they are asked to resign the previous posts for administrative reasons, the benefit of past service may, if otherwise admissible under rules, be given for purposes of fixation of pay in the new post treating the resignation as a 'technical formality'.

[G.I., Dept. of Per. & Trg., O.M. NO. 28034/25/87-Estt. (A), dated the 11th February, 1988 and O.M. 28034/4/94 -Estt.A dated 31-5-1994.]

(3) Procedure to be followed when benefit of past service is allowed. -

Order(i)

No. F.3(6)-E.V(A) /71

Government of India

Ministry of Finance

(Department of Expenditure)

New Delhi , the 4th December, 1971.

OFFICE MEMORANDUM

Subject:- Benefit of past service under Art.418 (b) of CSRs [Now Rule 26(2) of Central Civil Services (Pension) Rules, 1972]- procedure to be followed.

Under Article 418 (b) of CSRs [now Rule 26 (2) of CCS (P) Rules, 1972] resignation of an appointment to take up, with proper permission, another appointment, whether permanent or temporary, service in which counts in full or in part, is not resignation from public service. A question has been raised whether in such cases a separate sanction should be issued indicating that resignation has been accepted under the above provisions, in order to enable the Audit/Administrative Officer to regulate the consequential benefits in the matter of pay fixation, carry forward of leave, pension etc. The matter has been considered in consultation with the Comptroller and Auditor General and it has been decided that in cases of the above type the order accepting the resignation should clearly indicate that the employee is resigning to join another appointment with proper permission and that the benefits under CSR 418 (b) [Now Rule 26(2) of Central Civil Services (Pension) Rules, 1972] will be admissible to him. The contents of the above order should also be noted in the service books of the individuals concerned under proper attestation. The issue of any separate sanction has not been considered necessary.

Sd/-

(S.S.L. MALHOTRA)

UNDER SECRETARY TO THE GOVERNMENT OF INDIA

To

All Ministries/Departments of the Government of India , etc.

Order(ii)

No. F.3(6)-E.V(A) /71

Government of India

Ministry of Finance

Department of Expenditure

New Delhi , the 20th May, 1972.

OFFICE MEMORANDUM

Subject: Benefit of past service under Article 418(b) [Now Rule 26(2) of Central Civil Services (Pension) Rules, 1972] of CSRs – Procedure to be followed.

The undersigned is directed to refer to this Ministry's Office Memorandum of even No. dated the 4th December, 1971 and to say that a question has been raised whether the instructions contained in the aforesaid Office Memorandum will also apply to cases decided before the date of issue of these instructions. It has been decided that an entry may be made in the Service Book of the Government Servant concerned under proper attestation as laid down in the aforesaid instructions in past cases also where it has been decided to allow the benefits of Article 418 (b) [Now Rule 26(2) of Central Civil Services (Pension) Rules, 1972] of the CSRs.

2. In so far as the employees of the Indian Audit and Accounts Service are concerned, these orders issue in consultation with the Comptroller and Auditor General of India .

Sd/-

(S.S.L. MALHOTRA)

UNDER SECRETARY TO THE GOVERNMENT OF INDIA

To

All Ministries/Departments of the Government of India , etc.

(4) Prior vigilance clearance should be obtained before taking decision on the request for resignation. In recent times, cases have come to notice where resignation of officials not falling in the two categories, viz.,

- (i) requests from officials under suspension for resignation,
- (ii) requests from officials against whom inquiry/investigation is pending (whether he had been placed under suspension or not) for resignation, have been accepted without insisting on vigilance clearance and subsequently it comes to light that the said official while in service had been involved in serious irregularities.

In view of this, it has now been decided that in all cases of acceptance of resignation, the Competent Authority, shall insist, as a mandatory measure, on prior vigilance clearance, before

taking decision on the request for resignation. When an authority refers a case for vigilance clearance, the authority competent to accord vigilance clearance should ensure expeditious consideration of the request.

[Dept. of Personnel & Training's O.M.No.28034/4/94-Estt.(A), dated the 31st May, 1994.]

(5) Check-list of points for consideration of cases of resignation. For the purpose of expeditious disposal of cases of resignation from Government service including notices given by temporary Government servants under Rule 5 of CCS (TS) Rules, the following check-list of points with reference to which such cases may be examined has been prescribed by the Government.

CHECK-LIST OF POINTS FOR CONSIDERATION

Part-I - General Information

1. Name and present designation
2. Post held including name of establishment:
 - (i) Substantive
 - (ii) Officiating
3. Any post, other than the present appointment, held during 6 months prior to the month in which resignation is tendered
4. Permanent residential address

Part-II – Points to be checked up before accepting resignation

5. The date on which the Government servant wants to be relieved from service
6. (i) Whether any inquiry or investigation or disciplinary case is pending or contemplated
(ii) Whether under suspension
7. Whether the Government servant concerned has executed any Bond for serving the Government for a specified number of years on account of his being given specialised training, fellowship/ scholarship for studies or deputed for training whether in India or abroad, and if so, the Bond period is over
8. Time required for filling up the post and/or making alternative arrangements

9. Authority competent to accept resignation, i.e., Appointing Authority

Part-III ☐ If the resignation is accepted, points to be checked

up before relieving the Government servant

10. Whether alternative arrangements have been made for discharge of the duties of the post including arrangements for taking over charge of cash/stores in the custody of Government servant (wherever applicable).

Controlling Officer:

11. Whether the Government servant has surrendered and obtained 'No Demand Certificates' in respect of ☐

- (i) MHA/Department Identity Card
- (ii) Library cards/Tokens of the Central Sectt . Library and/or Departmental Library, etc.
- (iii) CGHS Identity Card
- (iv) Typewriters, brief-cases, cycles, Liveries, etc. (wherever applicable)
- (v) Headgear set and locker in case of TO and other tools in case of other cadres

12. Arrangement made for recovery of outstanding advance/loans, if any, taken or any other category of dues, viz.,☐

- (i) Training allowance paid to the official
- (ii) House Building Advance
- (iii) Advance for purchase of Motor Car/
Motor Cycle/Scooter/Cycle
- (iv) Festival Advance/Flood Advance
- (v) Any other dues, such as ☐

(a) Amounts due to be recovered from or settled by, the employee in respect of money/material entrusted to him in the course of his official duties in this or earlier posts

(b) Recoveries ordered to be made as a result of disciplinary proceedings

13. Whether the Government servant is in occupation of Government accommodation. If so, whether the dues in respect of such accommodation (including electrical appliances, etc.) been settled and a No Demand Certificate obtained.

14. Whether accounts in respect of water and electricity charges in respect of Government accommodation held by the Government servant have been settled with the concerned Municipality/Corporation.

15. In case where the Government servant has not been in occupation of any Government residential accommodation during the service, whether 'No Demand Certificate' has been issued by the Ministry/Department as required in Ministry of W.H. & R. Memo. No.15-362-ACC.I, dated the 19th October, 1963.

16. Whether any cash deposit/security of sufficient value has been taken where it is not found possible to make a correct assessment of the dues immediately.

17. Leave sanctioned to the official from previous half-year and any leave sanctioned extra, if so leave salary paid. The Personal File and Service Book may also be forwarded

18. Any other section concerned.

[G.I., MHA, (D.P. & A.R.), OM No.24011/1/76-Estt.(B), dated the 17th May, 1976.]

27. Effect of interruption in service

(1) An interruption in the service of a Government servant entails forfeiture of his past service, except in the following cases :-

(a) authorized leave of absence ;

(b) unauthorized absence in continuation of authorized leave of absence so long as the post of absentee is not filled substantively ;

- (c) suspension, where it is immediately followed by reinstatement, whether in the same or a different post, or where the Government servant dies or is permitted to retire or is retired on attaining the age of compulsory retirement while under suspension ;
 - (d) transfer to non-qualifying service in an establishment under the control of the Government if such transfer has been ordered by a competent authority in the public interest ;
 - (e) joining time while on transfer from one post to another.
- (2) Notwithstanding anything contained in sub-rule (1), the 1[appointing authority] may, by order, commute retrospectively the periods of absence without leave as extraordinary leave.

Footnote : 1. Substituted by G.I., D.P. & A.R., Notification No. 6 (1), Pen. (A)/79, dated the 19th May, 1980.

128. Condonation of interruption in service

Footnote : 1. Substituted by G.I., D.P. & A.R. Notification No. 6 (1), Pen. (A)/79, dated the 19th May, 1980.

- (a) In the absence of a specific indication to the contrary in the service book, an interruption between two spells of civil service rendered by a Government servant under Government including civil service rendered and paid out of Defence Services Estimates or Railway Estimates shall be treated as automatically condoned and the pre-interruption service treated as qualifying service.
- (b) Nothing in Clause (a) shall apply to interruption caused by resignation, dismissal or removal from service or for participation in a strike.
- (c) The period of interruption referred to in Clause (a) shall not count as qualifying service.

GOVERNMENT OF INDIA'S DECISIONS

(1) Opportunity of representation to be given to Government servant before making entry in service book regarding forfeiture of past service. - FR 17-A provides that a period of an unauthorized absence, in the category of cases mentioned therein, shall be deemed to cause an interruption or break in the service of the employee, unless otherwise decided by the competent authority for certain purposes. An order passed by the P & T authorities in the case of some of their employees invoking FR 17-A was struck down by the Lucknow Bench of Allahabad High Court on the ground that issue of such an order without giving a reasonable opportunity of representation and being heard in person, if so desired, to the person concerned, would be against the principle of natural justice. In this Department's OM of even number, dated 20/23-5-1985 [Order No.(2) below], it was accordingly brought to the notice of all Ministries/Departments that an order under FR 17-A, etc., should be preceded by extending to the person concerned a reasonable opportunity of representation and being heard in person, if so desired by him/her.

2. The Committee on Subordinate Legislation of Rajya Sabha which examined the provision of Rule 28 of the CCS (Pension) Rules, 1972, has recommended that opportunity of representation should be given to the Government employee before making entry in the Service Book regarding forfeiture of past service because of his participation in strike. While giving evidence before it, the Committee has been assured that the provisions of this Department's OM of even number, dated 20/23-5-1985, will be strictly adhered to in each and every case falling within the scope of Clause (b) of Rule 28 of the CCS (Pension) Rules, 1972.

3. These instructions are, therefore, brought to the notice of the various Ministries/Departments of the Government of India for careful compliance.

[G.I., Dept. of Per. & Trg., O.M. No. 33011/2(S)/84-Estt. (B), dated the 10th March, 1988.]

(2) Reasonable opportunity to be given before invoking the penal provision. – FR 17-A provides that a period of an unauthorized absence, in the category of cases mentioned therein, shall be deemed to cause an interruption or break in the service of the employees, unless otherwise decided by the competent authority for certain purposes. An order passed by the P & T authorities in the case of some of their employees, invoking FR 17-A was struck down by the Lucknow Bench of Allahabad High Court on the ground that issue of such an order without giving a reasonable opportunity of representation and being heard in person, if so desired, to the person concerned, would be against the principle of natural justice. The question of amending FR 17-A as also Rule 28 of the CCS (Pension) Rules and SR 200 is under consideration in consultation with the Ministry of Law.

2. The above position is brought to the notice of all Ministries/Departments so that if there are occasions for invoking FR 17-A, etc., they may keep in mind the procedural requirement that an order under FR 17-A, etc., should be preceded by extending to the person concerned a reasonable opportunity of representation and being heard in person if so desired by him/her.

[G.I. Dept. of Per. & Trg. OM No. 33011/2 (S)/84-Estt. (B), dated the 20th/23rd May, 1985].

The Committee on Subordinate Legislation of Rajya Sabha which examined the provision of Rule 28 of the CCS (Pension) Rules, 1972, has recommended that opportunity of representation should be given to the Government employee before making entry in the Service Book regarding forfeiture of past service because of his participation in strike. While giving evidence before it, the Committee has been assured that the provisions of the above order will be strictly adhered to in each and every case falling within the scope of Clause (b) of Rule 28 of the CCS (Pension) Rules, 1972.

These instructions are, therefore, brought to the notice of the various Ministries/Departments of the Government of India for careful compliance.

[G.I. Dept. of Per. & Trg. OM No.33011/2/ (S)/84-Estt. (B), dated the 10th March, 1988.]

129. Addition to qualifying service when a Government servant is declared surplus

Footnote : 1. Substituted by G.I., Dept. of P. & P.W., Notification No. 38/57/87-P. & P.W., dated the 27th July, 1987, published in the Gazette of India as S.O. No. 1966, dated the 8th August, 1987.

A Government servant who, on being declared surplus to the establishment in which he was serving, is eligible for the facility of being re-deployed through the Central (Surplus Staff) Cell located in the Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions or in the case of a Group 'D' employee, through the Directorate General, Employment and Training and opts to retire voluntarily, instead of seeking re-deployment, shall be entitled to have five years added to the qualifying service rendered by him :

Provided that -

- (a) notwithstanding anything contained in the first proviso to Rule 13, the qualifying service rendered by such Government servant shall be not less than fifteen years on the date on which he exercises such option and the qualifying length of service after taking into account the aforesaid addition is not more than the service he could have rendered had he retired on the date of his superannuation; and
- (b) the option to retire is exercised and is communicated to the authority competent to sanction pension within a period of two months from the date from which the employee concerned has been declared surplus.

130. Addition to qualifying service in special circumstances

Footnote : 1. Substituted by G.I., M.F., Notification No. 3 (11)-E. V (A)/73, dated the 2nd April, 1975.

(1) 2[A Government servant who retires from a service or post after the 31st March, 1960], shall be eligible to add to his service qualifying for superannuation pension (but not for any other class of pension) the actual period not exceeding one-fourth of the length of his service or the actual period by which his age at the time of recruitment exceeded twenty-five years or a period of five years, whichever is less, if the service or post to which the Government servant is appointed is one -

Footnote : 2. Substituted by G.I., Dept. of P. & P.W., Notification No. 28/51/86-P. & P.W., dated the 10th February, 1988, published as S.O. No. 662 in the Gazette of India, dated the 19th March, 1988.

- (a) for which post-graduate research, or specialist qualification or experience in scientific, technological or professional fields, is essential; and
- (b) to which candidates of more than twenty-five years of age are normally recruited;

Provided that this concession shall not be admissible to a Government servant unless his actual qualifying service at the time he quits Government service is not less than ten years :

Provided further that this concession shall be admissible only if the recruitment rules in respect of the said service or post contain a specific provision that the service or post is one which carries the benefit of this rule.

3[Provided also that this concession shall not be admissible to those who are eligible for counting their past service for superannuation pension unless they opt before the date of their retirement, which option once exercised shall be final, for the weightage of service under this sub-rule forgoing the counting of the past service.]

Footnote : 3. Inserted by G.I., Dept. of P. & P.W., Notification No. 28/40/88-P. & P.W. (B), dated the 9th January, 1992, published as G.S.R. No. 39 in the Gazette of India, dated the 1st February, 1992.

* (2) A Government servant who is recruited at the age of thirty-five years or more, may, within a period of three months from the date of his appointment, elect to forgo his right to pension whereupon he shall be eligible to subscribe to a Contributory Provident Fund.

Footnote : * -. Regarding change over to pension scheme from CPF, please see Appendix 13.

(3) The option referred to in sub-rule (2) once exercised, shall be final.

31. Period of deputation to United Nations and other organizations

A Government servant deputed on foreign service, for a period of 1[five years or more], to the United Nations `Secretariat or other United Nations' Bodies, the International Monetary Fund, the International Bank of Reconstruction and Development, or 1[the Asian Development Bank or the Commonwealth Secretariat], may at his option -

Footnote : 1. Substituted by G.I., M.F., Notification No. 19 (28)-E. V (A)/74, dated the 17th June, 1975.

(a) pay the pension contributions in respect of his foreign service and count such service as qualifying for pension under these rules ; or

(b) avail of the retirement benefits admissible under the rules of the aforesaid organization and not count such service as qualifying for pension under these rules :

Provided that where a Government servant opts for Clause (b), retirement benefits shall be payable to him in India in rupees from such date and in such manner as the Government may, by order, specify :

Provided further that pension contributions, if any, paid by the Government servant, shall be refunded to him.

GOVERNMENT OF INDIA'S DECISIONS

(1) Period of deputation reduced to three years - The International Organisations like world Bank (IBRD) have since reduced the aforesaid period of five years to three years to become eligible for

pension. The question of amending the instructions above has been considered by Government and it has been decided in consultation with the Ministry of Finance that, if a Government officer becomes entitled to pensionary benefits (as distinguished from withdrawal benefits) from any International Organisation and opts to avail of the retirement benefits under the rules of aforesaid Organisation, he will not be required to make pension contributions for that period and that period will not qualify for pension under Government. Pension contribution, if any, made for such a period to Government of India by the Officer, will be refunded to him.

The Department of Expenditure, OM, dated, the 20th November, 1976 may therefore, be treated as amended accordingly. Other conditions therein will remain unchanged.

The provisions of Rule 31 of CCS (Pension) Rules, 1972, will also be amended accordingly in due course.

[G.I. Dept. of Per. & Trg. OM No.1/3/95-Estt. (Pay-II), dated the 11th June, 1995.]

232. Verification of qualifying service after 25 years service, or 5 years before retirement

Footnote : 2. Substituted by G.I., M.F., Notification No. 11 (1)-E. V (A)/73, dated the 14th July, 1975.

3(1) On a Government servant completing twenty-five years of service or on his being left with five years of service before the date of retirement, whichever is earlier, the Head of Office in consultation with the Accounts Officer shall, in accordance with the rules for the time being in force, verify the service rendered by such a Government servant, determine the qualifying service and communicate to him, in Form 24, the period of qualifying service so determined.

Footnote : 3. Substituted by G.I., Dept. of Per. & A.R., Notification No. 6 (1), Pen. (A)/79, dated the 19th May, 1980.

(2) Notwithstanding anything contained in sub-rule (1), where a Government servant is transferred to another department from a temporary department or on account of the closure of the department he had been previously serving or because the post he held had been declared surplus, 1[] the verification of his service may be done whenever such event occurs.

Footnote : 1. Deleted by G.I., Dept. of Per. & A.R., Notification No. 6 (1), Pen. (A)/79, dated the 19th May, 1980.

2(3) The verification done under sub-rules (1) and (2) shall be treated as final and shall not be reopened except when necessitated by a subsequent change in the rules and orders governing the conditions under which the service qualifies for pension.

Footnote : 2. Substituted by G.I., M.F., Notification No. 4 (2)-E. V (A)/77, dated the 12th December, 1977.

GOVERNMENT OF INDIA'S DECISION

(1) Strict compliance of the requirements of sub-rule (1). - Sub-rule (1) of Rule 32 of the CCS (Pension) Rules, 1972, provides that on a Government servant completing twenty-five years of service, or on his being left with five years of service before the date of retirement, whichever is earlier, the Head of Office in consultation with the Accounts Officer, shall, in accordance with the rules for the time being in force, verify the service rendered by such a Government servant, determine the qualifying service and communicate to him, in Form 24, the period of qualifying service so determined.

Even though these provisions have statutory force, it is noticed that the qualifying service is not invariably communicated to the Government servant as required under the rules. All Ministries/Departments, etc., are requested to bring these provisions to the notice of Heads of Offices for strict compliance. If the Head of Office does not comply with the requirements of the aforesaid rule or in case any mistake in the calculation of qualifying service is detected later, the Head of Office will be held personally accountable.

Ministry of Agriculture, etc., may take all measures to ensure that Head of Offices in fact follow the rules as above and to take up cases of default by the Heads of Offices with a view to fixing personal responsibility.

[G.I., Dept. of Per. & A.R., O.M. No. 40/17/81-Pension Unit , dated the 26th November, 1981 and Dept. of P. & P.W., O.M. No. 38/44/88-P. & P.W., dated the 26th May, 1988.]

(2) Verification of qualifying service should be done as provided in the statutory rules. -

The Study Team came to the conclusion that verification of qualifying service takes a lot of time in the absence of proper entries and verification of service recorded in the service book. The Study Team, therefore, recommended verification of qualifying service should be done as provided in the statutory rules.

[G.I., Dept. of Pen. & P.W., O.M. No. 38/116/93-P. & P.W. (F), dated the 2nd May, 1994. - Para. 3.]

33. Emoluments

1[The expression 'emoluments' means basic pay as defined in Rule 9 (21) (a) (i) of the Fundamental Rules which a Government servant was receiving immediately before his retirement or on the date of his death ; and will also include non-practising allowance granted to medical officer in lieu of private practice.]

Footnote : 1. Substituted by G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W., (PIC), dated the 20th July, 1988. Published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988. Takes effect from 1st January, 1986.

2[EXPLANATION. - Stagnation increment shall be treated as emoluments for calculation of retirement benefits.]

Footnote : 2. Inserted by G.I., Dept. of P. & P.W., Notification No. 38/52/90-P. & P.W./A, dated the 5th March, 1991, published as S.O. No. 1294 in the Gazette of India, dated the 11th May, 1991. Takes effect from 1st January, 1986, vide O.M. No. 38/52/90-P. & P.W./A, dated the 31st October, 1990.

NOTE 1. - If a Government servant immediately before his retirement or death while in service had been absent from duty on leave for which leave salary is payable or having been suspended had been reinstated without forfeiture of service, the emoluments which he would have drawn had he not been absent from duty or suspended shall be the emoluments for the purposes of this rule :

Provided that any increase in pay (other than the increment referred to in Note 4) which is not actually drawn shall not form part of his emoluments.

NOTE 2. - Where a Government servant immediately before his retirement or death while in service had proceeded on leave for which leave salary is payable after having held a higher appointment whether in an officiating or temporary capacity, the benefit of emoluments drawn in such higher appointment shall be given only if it is certified that the Government servant would have continued to hold the higher appointment but for his proceeding on leave.

NOTE 3. - If a Government servant immediately before his retirement or death while in service had been absent from duty on extraordinary leave or had been under suspension, the period whereof does not count as service, the emoluments which he drew immediately before proceeding on such leave or being placed under suspension shall be the emoluments for the purposes of this rule.

1[NOTE 4. - If a Government servant immediately before his retirement or death while in service, was on earned leave, and earned an increment which was not withheld, such increment, though not actually drawn, shall form part of his emoluments :

Footnote : 1. Substituted by G.I., Dept. of Per. & A.R., Notification No. 6 (2)-Pen. (A)/79, dated the 1st August, 1980.

Provided that the increment was earned during the currency of the earned leave not exceeding one hundred and twenty days, or during the first one hundred and twenty days of earned leave where such leave was for more than one hundred and twenty days.]

2NOTE 5. - Omitted by G.I., Dept. of Per. & A.R., Notification No. 6 (2)-Pen. (A)/79, dated the 1st August, 1980.

NOTE 6. - Pay drawn by a Government servant while on deputation to the Armed Forces of India shall be treated as emoluments.

NOTE 7. - Pay drawn by a Government servant while on foreign service shall not be treated as emoluments, but the pay which he would have drawn under the Government had he not been on foreign service shall alone be treated as emoluments.

3NOTE 8. - Where a pensioner who is re-employed in Government service elects in terms of clause (a) of sub-rule (1) of Rule 18 or clause (a) of sub-rule (1) of Rule 19 to retain his pension for earlier service and whose pay on re-employment has been reduced by an amount not exceeding his pension, the element of pension by which his pay is reduced shall be treated as emoluments.

Footnote : 3. Inserted by G.I., M.F., Notification No. 2 (3)-E. V (A)/73, dated the 16th July, 1975 and takes effect from the 3rd May, 1974.

2NOTE 9. - Omitted by G.I., Dept. of Per. & A.R., Notification No. 6 (2)-Pen. (A)/79, dated the 1st August, 1980.

4NOTE 10. - When a Government servant has been transferred to an autonomous body consequent on the conversion of a Department of the Government into such a body and the Government servant so transferred opts to retain the pensionary benefits under the rules of the Government, the emoluments drawn under the autonomous body shall be treated as emoluments for the purpose of this rule.

Footnote : 4. Inserted by G.I., M.F., Notification No. F. 2 (5)-E. V (A)/77, dated the 30th June, 1977 and takes effect from the 16th July, 1977.

GOVERNMENT OF INDIA'S DECISIONS

(1) Counting of emoluments drawn by officers while on deputation from State to Centre. - When a State Government employee comes on deputation to the Central Government, he is generally granted a deputation special pay in addition to his usual pay. Till lately the question whether any part of this deputation special pay could be reckoned as 'emoluments' for calculating pension used to be decided by the Central Government with reference to their rules on the subject. Recently this practice was reviewed by the Government of India in consultation with the Comptroller and Auditor-General and the State Governments. It was held that since a State Government employee, while on temporary deputation to the Central Government, did not become subject to the rules and orders of the latter Government, and his pension was otherwise calculated under the rules of the State Government of which he was permanent employee, the practice of applying Central Government rules to determine the quantum of deputation special pay which should count for pension was incongruous. It has, therefore, been decided that henceforth in cases of deputation of State Government employees to the Central Government, the question whether any part of the deputation special pay received by such an employee will count for pension will be decided by the State Government concerned with reference to their own rules on the subject. If for proper application of the State Government rules any question arises regarding the exact nature and classification of the deputation special pay, the State Government will consult the Central Government who alone would be aware of the precise reasons for which the additional remuneration was granted. Similarly when a State Government employee on deputation to the Central Government holds a temporary or officiating appointment on a regular time-scale, the

question whether any part of the difference between the pay, which he actually draws while on deputation and that which he would have drawn from the State Government but for his deputation, should count for pension will be decided by the State Government with reference to their pension rules.

The same arrangement will apply in reverse in the case of Central Government employees who are sent on deputation to State Governments.

The above instructions will not apply in cases of officers on deputation to the Central Government from the State of Jammu and Kashmir or vice versa.

The Jammu and Kashmir Government's arrangement in cases of deputation from and to that Government is different from that of other Governments. They pay or recover leave and pension contributions monthly, as the case may be, and thus the pensionary liability of the borrowing Government is discharged concurrently.

[G.I., M.F., O.M. No. F. 8 (5)-E. V (C)/61, dated the 2nd July, 1962 and O.M. No. F. 2 (6)-E. V (A)/72, dated the 10th January, 1974 and M.H.A., Dept. of Per. & A.R., O.M. No. 27/4/81-Pension Unit, dated the 22nd May, 1982, extending the scope to the States of Punjab and Haryana respectively.]

(2) Nursing allowance, uniform allowance, washing allowance, special pay and qualifications pay received by nursing personnel do not count as emoluments. - Enquiries are being received from time to time whether the Nursing Allowance, Uniform Allowance, Washing Allowance, Special Pay and Qualification Pay granted to nurses working in Central Government institutions under the following orders :-

- (i) No. Z-29016/4/87-PMS, dated 11-2-1987, about Nursing Allowance :
- (ii) Z-28016/2/87-PMS, dated 11-2-1987, about Uniform Allowance :
- (iii) No. Z-28016/3/87-PMS, dated 11-2-1987, about Washing Allowance :
- (iv) No. Z-28016/17/89-PMS, dated 23-10-1989, about Special Pay ; and
- (v) No. Z-28016/8/87-PMS, dated 23-3-1988, about qualification Pay ;

are counted for the purpose of determining pension/gratuity, etc.

2. It is clarified that as per the Pension Rules, the term 'emoluments' for purpose of calculating various retirement and death benefits shall mean basic pay as defined in FR 9 (21) (a) (i) which the Government servant was receiving immediately before his/her retirement or on the date of his death, i.e., it includes only basic pay (substantive or officiating) drawn by him/her but does not include Special Pay, Personal Pay, Deputation (Duty) Allowance, etc. However, Non-Practising Allowance and Stagnation Increments count as "emoluments".

3. In view of the above definition of "emoluments" for purpose of determining pension/gratuity, the allowances such as Nursing Allowance, Uniform Allowance, Washing Allowance, Special Pay and Qualification Pay drawn by nursing personnel working in the Central Government Hospital/Institutions/Hospital run by the Delhi and New Delhi Municipal Committee and Centrally

funded autonomous bodies like All India Institute of Medical Sciences, New Delhi, Postgraduate Institute of Medical Education and Research, Chandigarh etc., do not count as 'emoluments' for purposes of retirement benefits.

4. This issues with the concurrence of Department of Pension and Pensioners' Welfare (Pension Unit), New Delhi, vide their Dy. No. 7464, dated 7-5-1992.

[G.I., Min. of Health and F.W., O.M. No. Z-28016/14/90-PMS, dated the 20th July, 1992.]

(3) DA admissible on the date of retirement/death shall be treated as "emoluments" for all types of gratuity under 49 & 50 from 1-1-1996.

Refer DP&PW's O.M. No. F45/86/97-P&PW(A) Part I dated 27-10-1997 & DP&PW's O.M. No. F45/86/97-P&PW(A) Part I dated 4-12-2001.

34. Average Emoluments

Average emoluments shall be determined with reference to the emoluments drawn by a Government servant during the last 1[ten months] of his service.

NOTE 1. - If during the last 1[ten months] of his service a Government servant had been absent from duty on leave for which leave salary is payable or having been suspended had been reinstated without forfeiture of service, the emoluments which he would have drawn had he not been absent from duty or suspended shall be taken into account for determining the average emoluments :

Provided that any increase in pay (other than the increment referred to in Note 3) which is not actually drawn shall not form part of his emoluments.

NOTE 2. - If, during the last 1[ten months] of his service, a Government servant had been absent from duty on extraordinary leave, or had been under suspension the period whereof does not count as service, the aforesaid period of leave or suspension shall be disregarded in the calculation of the average emoluments and equal period before the 1[ten months] shall be included.

Footnote : 1. Substituted by G.I., Dept. of Per. & A.R., Notification No. 6 (1), Pen. (A)/79, dated the 19th May, 1980. Takes effect from 1st March, 1976.

2[NOTE 3. - In the case of a Government servant who was on earned leave during the last ten months of his service and earned an increment, which was not withheld, such increment though not actually drawn shall be included in the average emoluments :

Provided that the increment was earned during the currency of the earned leave not exceeding one hundred and twenty days or during the first one hundred and twenty days of earned leave where such leave was for more than one hundred and twenty days.]

Footnote : 2.Substituted by G.I., Dept. of Per. & A.R., Notification No. 6 (2) Pen. (A)/79, dated the 1st August, 1980.

GOVERNMENT OF INDIA'S DECISIONS

(1) Average emoluments during erroneous reversion. - Some cases have come to notice of the Government in which owing to administrative errors, persons not due for reversion were reverted and repromoted after lapse of some period resulting in decrease in their pensions due to non-inclusion of the emoluments which they would have received but for their reversion for the purpose of calculation, vide Rule 3 under Article 487 of the CSRs [Rule 34 of CCS(P) Rules, 1972]. It is considered that in such cases it would not be fair to put the persons concerned to a recurring loss in the form of reduced pension. It has, therefore, been decided that in cases of wrongful reversion, where on repromotion the pay of the individual is fixed in accordance with the provisions of subparagraph 2 (1) (a) of G.I., M.H.A., O.M. No. 9/49/54, R.P.S., dated the 24th April, 1958, for purpose of the pension, the pay the individual would have drawn but for his reversion should be taken into account.

[G.I., M.H.A., O.M. No. 50/6/59-Estt. (A), dated the 5th December, 1959.]

(2) "Emoluments" in cases where pay and allowances for the period of suspension is restricted to subsistence allowance and pay scale revised meanwhile. - 1. A question has been raised as to what emoluments are to be taken into account for calculating the pension in the case of a person who has been suspended and subsequently reinstated without forfeiture of past service, the pay and allowances for the suspension period being restricted to the subsistence allowance already drawn. The Ministry of Finance had clarified that the difference between the subsistence allowance and emoluments which he would have drawn had he not been suspended cannot be treated as increase in pay for the purpose of proviso to Note 1 below Rule 34 of CCS (Pension) Rules, 1972.

2. A case has come to notice where an official was placed under suspension in 1965, but was reinstated in 1974 and the orders of re-instatement stated that the period of suspension would be counted as duty for all purposes but the pay and allowances in respect of the period of suspension would be restricted to the subsistence allowance already drawn. In this case, as per rules, the pay on reinstatement was to be fixed in the revised scale introduced with effect from 1-1-1973 and notionally regulated increments due duly allowed. In this connection, for the purpose of determining pensionary benefits, it is hereby clarified that having fixed the pay in the revised scale it would not be correct to certify that having fixed the pay in the revised scale it would not be correct to certify that the employee concerned would continue to draw pay in the old scale from 1-1-1973 onwards, had he not been suspended. The old scale, having been replaced by the revised scale with effect from 1-1-1973, the correct course would be to take into account the notional pay in the revised scale for the period from 1-1-1973 onwards.

[G.I., Dept. of Per. & A.R., O.M. No. 27/1/81-Pension Unit, dated the 5th April, 1982.]

(3) Determination of the period of ten months for Average Emoluments. - In accordance with item 18 (i) of Form 7 (Form for assessing pension and gratuity) and note (ii) under item (19) of Part I, Section I of Form 18, of the CCS (Pension) Rules, 1972, the calculation of average emoluments is to be based on the actual number of days contained in each month. Doubts have been expressed in regard to the exact manner of calculation in the case of a Government servant who retires on a date other than the last date of the month. A point has also been raised whether the period of ten months should be taken to be continuous period beginning from a date ten months prior to the date of retirement or the number of days in the month in which the Government servant retires should be counted separately together with the balance number of days during the ten months anterior, to make a full month. This can best be explained by the illustration below -

Suppose a Government servant retires on the 17th June, 1981. The intention is that the average emoluments for ten months should be reckoned for the periods as follows :-

Period	Year	Months	Days		
18-8-80 to 31-8-80	0	0	14
1-9-80 to 31-5-81	0	9	0
1-6-81 to 16-6-81	0	0	16

It will be noted that at one end there are 14 days of August and at the other 16 days of June. In order that the fractions of a month at either end, when added, work out to one full month, a month for this purpose may be reckoned as consisting of thirty days so that fractions at either end will be expressed as $\frac{14}{30}$ and $\frac{16}{30}$. The addition of fractions totalling 30 days together with 9 full months will work out to 10 months. Emoluments for fractional periods may be computed by multiplying the emoluments by the factor $\frac{14}{30}$ and $\frac{16}{30}$ irrespective of the number of days in the month. This formula will also apply in the case of the month of February, irrespective of whether the month has 28 days or 29 days.

[G.I., M.H.A., O.M. No. 27/3/81-Pension Unit, dated the 13th November, 1981.]

(4) Computation of average emoluments for the period of leave prior to retirement without return to parent department while on reversion from deputation. - The procedure for determining the emoluments and average emoluments for purpose of pension under the Central Civil Services (Pension) Rules, 1972, has been laid down under Rules 33 and 34. The position in respect of Government servants who is on deputation to the Armed Forces or foreign service or on deputation from one Department to another in this regard has also been clarified vide Notes 6 and 7 below Rules 33 *ibid*. There is, however, no provision as to what should be the pay for computing the average emoluments in respect of deputation from one Department to another, who while under orders for reversion to parent Department instead of joining duty under parent Department (where the pay of the post might be different) gives notice to retire voluntarily and also applies for leave coterminous with the period of notice. It has been decided that in such cases, the emoluments for the leave period for the purpose of calculation of retirement benefits should be taken as what they

would have been, had he not been absent from duty from the post he was holding under the borrowing Department before he proceeded on such leave.

[G.I., Dept. of Per. & A.R., O.M. No. 35 (1)/83-Pen. Unit, dated the 30th December, 1983.]

(5) Higher Pay Scales to the Organised Accounts Departments - Revision Of Pension --

(Refer DP&PW O.M 38/86/03-P&PW(A)- Part III date 26-04-2004)

(6) W.e.f 1.1.2006, Pension is calculated with reference to average emoluments namely, the average of the basic pay drawn during the last 10 months of the service or last basic pay drawn whichever is beneficial. Full pension with 10/20 years of qualifying service is 50% of the average emoluments or last basic pay drawn whichever is beneficial. Before 1.1.2006, for qualifying service of less than 33 years, amount of pension was proportionate to the actual qualifying service broken into completed half-year periods. For example, if total qualifying service is 30 years and 4 months (i.e. 61 half-year periods), pension will be calculated as under:-

Pension amount = $R/2(X)61/66$

where R represents average reckonable emoluments for last 10 months of qualifying service or the last pay drawn as opted by the govt servant.

Minimum pension presently is Rs. 3500 per month. Maximum limit on pension is 50% of the highest pay in the Government of India (presently Rs. 45,000) per month. Pension is payable up to and including the date of death.

35. Superannuation pension

A superannuation pension shall be granted to a Government servant who is retired on his attaining the age of compulsory retirement.

GOVERNMENT OF INDIA'S DECISIONS

(1) Retirement on the afternoon of last day of the month in which superannuation falls. - It has been decided that as from 1st day of November, 1973, the Civilian Government servants in Groups 'B', 'C' and 'D' services of posts and as from 1st days of April, 1974, the Civilian Government servants in Group 'A' services or posts, shall retire from service with effect from the afternoon of the last day

of the month in which their date of retirement according to Fundamental Rule 56 falls, without prejudice to clauses (j), (k), (l) and (m) of that rule.

[G.I., C.S. (Dept. of Per.), O.M. No. 33/12/73-Ests. (A), dated the 24th November, 1973 and the 2nd May, 1974.]

A Government servant whose date of birth is the first of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the age of fifty-eight or sixty years, as the case may be.

[Note 7 below F.R. 56.]

(2) No specific orders are necessary for retirement on due date. - A question has been raised whether the retirement of a Government servant is automatic on the date on which he attains the age of compulsory retirement or some specific orders by a competent authority are necessary specifying the date on which they should retire.

The rules regulating the age of superannuation or the terms and conditions may provide for the compulsory retirement of a Government servant on his attaining a specific age or after completion of a specified period of service. In all such cases retirement is automatic and in the absence of specific orders to the contrary by the competent authority a Government servant must retire on the due date. It is the responsibility of the administrative authorities concerned to ensure that the Government servants under their control so retire. The date of compulsory retirement of a Government servant is known in advance and there should be no question of failure to make arrangements for his relief sufficiently in advance and complete any formalities required in that behalf. For this purpose, the authorities concerned should maintain a proper record of the date of retirement of the Government servants working under them and take such appropriate action as may be necessary for their retirement on the due dates.

At the same time, a Government servant cannot take advantage of the non-receipt of formal orders regarding his relief, etc., to say that he has been granted an extension of service. If the Government servant desires to take any leave preparatory to retirement he will naturally apply for it in good time. If not, he should bring the fact that he is attaining the age of superannuation or completing the period of service after which he has to retire, to the notice of the Head of the Office in which he is serving or if he is himself the Head of the Office to that of his immediate superior. Unless he receives specific orders that he should continue in service, he should make over charge on the due date to the Head of the Office (or such officer as may be nominated by the latter), or if he is himself the Head of the Office to the next seniormost officer in the office who would normally be placed in charge of the office in his absence.

[G.I., M.H.A., O.M. No. 33/6/56-Ests. (A), dated the 10th December, 1965.]

(3) Relinquishment of charge on a holiday. - 1. A question has been raised regarding the procedure to be followed for relinquishment of charge of office in the case of a retiring Government

servant when the day on which he is due to retire happens to be a closed holiday. Since a Government servant shall retire from service with effect from the afternoon of the last day of the month in which his/her date of retirement falls, the retiring Government servant should formally relinquish charge of office on the afternoon of that day itself even if it happens to be a closed holiday.

2. In cases in which handing over of cash, stores, etc., is involved, these may be made over by the retiring officer (to the relieving officer or, in the absence of the relieving officer, to the next senior officer of the Department present) on the close of the previous working day on the analogy of Government of India's Decision No. (3) below Rule 78 of the General Financial Rules. Therefore, the actual relinquishment of charge of office shall be made in the prescribed form on the last day of service for which the physical presence of the officer in the office need not be insisted upon.

[G.I., M.F., O.M. No. 19050/8/76-E. IV (B), dated the 21st February, 1977.]

36. Retiring pension

A retiring pension shall be granted -

(a)

to a Government servant who retires, or is retired, in advance of the age of compulsory retirement in accordance with the provisions of 1[] Rule 48 2[or 48-A] of these rules, or Rule 56 of the Fundamental Rules or Article 459 of the Civil Service Regulations ; and

(b) to a Government servant who, on being declared surplus, opts for voluntary retirement in accordance with the provisions of Rule 29 of these rules.

Footnote : 1. Omitted by G.I., M.H.A., Dept. of Per. & A.R., Notification No. 6 (1)-Pen. (A)/80, dated the 30th July, 1981.

2. Inserted by G.I., Dept. of Per. & A.R., Notification No. 7 (2)-E. V (A)/73, dated the 28th November, 1978.

3[37. Pension on absorption in or under a corporation, company or body

(1) A Government servant who has been permitted to be absorbed in a service or post in or under a Corporation or Company wholly or substantially owned or controlled by the Central Government or a State Government or in or under a Body controlled or financed by the Central Government or a State Government, shall be deemed to have retired from service from the date of such absorption

and subject to sub-rule (3) he shall be eligible to receive retirement benefits if any, from such date as may be determined, in accordance with the orders of the Central Government applicable to him].

EXPLANATION. - Date of absorption shall be -

(i) in case a Government employee joins a corporation or company or body on immediate absorption basis, the date on which he actually joins that corporation or company or body;

(ii) in case a Government employee initially joins a corporation or company or body on foreign service terms by retaining a lien under the Government, the date from which his unqualified resignation is accepted by the Government.

(2) The provisions of sub-rule (1) shall also apply to Central Government servants who are permitted to be absorbed in joint sector undertakings, wholly under the joint control of Central Government and State Governments/Union Territory Administrations or under the joint control of two or more State Governments/Union Territory Administrations.

(3) Where there is a pension scheme in a body controlled or financed by the Central Government in which a Government servant is absorbed, he shall be entitled to exercise option either to count the service rendered under the Central Government in that body for pension or to receive pro rata retirement benefits for the service rendered under the Central Government in accordance with the orders issued by the Central Government.

EXPLANATION. - Body means autonomous body or statutory body.]

Footnote : 3. Substituted by G.I., Dept. of P. & P.W., Notification No. 4/42/91-P & PW(D), dated the 25th June, 1997.

GOVERNMENT OF INDIA'S DECISION

(1) Grant of pro rata retirement benefits on permanent absorption in ESI Corporation. - 1. At present pro rata retirement benefits are admissible to the Central Government employees who are permanently absorbed in autonomous bodies controlled or financed wholly or substantially by the Central Government. The Staff Side made a suggestion in the National Council (JCM) that pro rata retirement benefits may be granted to all Central Government employees who have been or may be absorbed permanently in autonomous bodies like Employees' State Insurance Corporation which are not controlled or financed wholly or substantially by the Central Government, if the employees have been permitted to forward their application for such absorption by the Department concerned.

2. This question has been considered in detail but it has not been found possible to accept the demand of the Staff Side that the pro rata retirement benefits should be granted to Central Government employees who are absorbed in autonomous bodies not controlled or financed wholly or substantially by the Central Government. In this connection attention is invited to the provisions of Rule 37 of the CCS (Pension) Rules, 1972. Since the criterion is satisfied in the case of ESIC in view of the statutory provisions of the ESI Act. which confers on the Central Government the power to

constitute or supersede the Corporation, to appoint Principal Officer, to accord approval to recruitment rules and to approve the budget, etc., the benefits in terms of the provision of Rule 37 of the CCS (Pension) Rules, are clearly available to the Central Government employees absorbed by ESIC. Accordingly, it is hereby clarified that the Central Government employees who have been and may be permanently absorbed therein, shall be eligible for retirement benefits as admissible under the orders in force from time to time according to the dates of their permanent absorption.

3. These orders shall not apply in the case of Medical Officers who after having rendered service in the Central Health Scheme (Ministry of Health) were transferred to ESIC and have been allowed the benefit of pension on combined service basis, by payment of pensionary liability by Ministry of Health for the period of service rendered under Central Government.

[G.I., Dept. of Per. & A.R., O.M. No. F. 27 (16)-PU/79, dated the 27th September, 1980.]

37-A. Payment of lump sum amount to persons on absorption in or under a corporation, company or body

For 37-A Rule details refer DP&PW's O.M. No.4/61/99-P&PW(D) dated 30/9/2000 & DP&PW's O.M. No.4/66/2005-P&PW(D) dated 14th October,2005

Government Decision

(Refer- GOI No. DP&PW's O.M. No. 4/61/99-P&PW(D) dated 20/12/2002)

238. Invalid pension

(1) Invalid pension may be granted if a Government servant retires from the service on account of any bodily or mental infirmity which permanently incapacitates him for the service.

(2) A Government servant applying for an invalid pension shall submit a medical certificate of incapacity from the following medical authority, namely :-

(a) a Medical Board in the case of a Gazetted Government servant and of a non-gazetted Government servant whose pay, as defined in Rule 9 (21) of the Fundamental Rules, exceeds 3[Two thousand and two hundred rupees] per mensem ;

(b) Civil Surgeon or a District Medical Officer or Medical Officer of equivalent status in other cases.

NOTE 1. - No medical certificate of incapacity for service may be granted unless the applicant produces a letter to show that the Head of his Office or Department is aware of the intention of the applicant to appear before the medical authority. The medical authority shall also be supplied by the Head of the Office or Department in which the applicant is employed with a statement of what

appears from official records to be the age of the applicant. If a service book is being maintained for the applicant, the age recorded therein should be reported.

NOTE 2. - A lady doctor shall be included as a member of the Medical Board when a woman candidate is to be examined.

(3) The form of the Medical Certificate to be granted by the medical authority specified in sub-rule (2) shall be as in Form 23.

(4) Where the medical authority referred to in sub-rule (2) has declared a Government servant fit for further service of less laborious character than that which he had been doing, he should, provided he is willing to be so employed, be employed on lower post and if there be no means of employing him even on a lower post, he may be admitted to invalid pension.

Footnote : 2. Substituted by G.I., M.F., Notification No. F. 19 (3)-E. V (A)/74, dated the 29th January, 1976.

3. Substituted vide G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988. Published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988.

GOVERNMENT OF INDIA'S DECISION

(1) Report of Medical Board to precede or coincide with the actual date of retirement applied for. - The Study Team had recommended that in case of invalid pension, the report of Medical Board should precede or coincide with the actual date of retirement applied for on the grounds of invalidation. According to the provisions contained in Rule 38 of the CCS (Pension) Rules, 1972, a Government servant is required to make known his intention of retirement on invalid grounds to the Head of Office who will then refer the Government servant to a Medical Board or a Civil Surgeon, etc., as the case may be. The invalid pension in such cases is sanctioned after a Medical Certificate of incapacity from the appropriate medical authority is received. Cases have come to notice where invalid pension was sanctioned after considerable delay. All Heads of Offices are, therefore, advised that whenever a Government servant applies for retirement on grounds of invalidation, the case may be referred to the concerned medical authority immediately so that their findings are available without delay.

[G.I., Dept. of Pen. & P.W., O.M. No. 38/116/93-P. & P.W. (F), dated the 24th August, 1994.]

(2) Refer DP&PW's O.M.No. 45/86/97-P&PW(A) dated 7/8/2001

39. Compensation pension

(1) If a Government servant is selected for discharge owing to the abolition of his permanent post, he shall, unless he is appointed to another post the conditions of which are deemed by the authority competent to discharge him to be at least equal of those of his own, have the option -

(a) of taking compensation pension to which he may be entitled for the service he had rendered, or

(b) of accepting another appointment on such pay as may be offered and continuing to count his previous service for pension.

(2)

(a)

Notice of at least three months shall be given to Government servant in permanent employment before his services are dispensed with on the abolition of his permanent post.

(b) Where notice of at least three months is not given and the Government servant has not been provided with other employment on the date on which his service are dispensed with, the authority competent to dispense with his services may sanction the payment of a sum not exceeding the pay and allowances for the period by which the notice actually given to him falls short of three months.

(c) No compensation pension shall be payable for the period in respect of which he receives pay and allowances in lieu of notice.

(3) In case a Government servant is granted pay and allowances for the period by which the notice given to him falls short of three months and he is re-employed before the expiry of the period for which he has received pay and allowances he shall refund the pay and allowances so received for the period following his re-employment.

(4) If a Government servant who is entitled to compensation pension accepts instead another appointment under the Government and subsequently becomes entitled to receive a pension of any class, the amount of such pension shall not be less than the compensation pension which he could have claimed if he had not accepted the appointment.

40. Compulsory retirement pension

(1) A Government servant compulsorily retired from service as a penalty may be granted, by the authority competent to impose such penalty, pension or gratuity or both at a rate not less than two-thirds and not more than 1[full compensation pension] or gratuity or both admissible to him on the date of his compulsory retirement.

2[]

(2) Whenever in the case of a Government servant the President passes an order (whether original, appellate or in exercise of power of review) awarding a pension less than the 1[full compensation pension] admissible under these rules, the Union Public Service Commission shall be consulted before such order is passed.

EXPLANATION. - In this sub-rule, the expression "pension" includes gratuity.

(3) A pension granted or awarded under sub-rule (1) or, as the case may be, under sub-rule (2), shall not be less than the amount of 3[Rupees three hundred and seventy-five] per mensem.

Footnote : 1. Inserted by G.I., M.F., Notification No. Q-18011/2/75-E. V (A), dated the 10th April, 1975.

2. Deleted by G.I., Dept. of Per. & A.R., Notification No. 6 (2), Pen. (A)/79, dated the 1st August, 1980.

3. Substituted by G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988. Published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988. Takes effect from 1st January, 1986.

GOVERNMENT OF INDIA'S DECISION

(1) Guiding principles for reduction of pensionary benefits under Rule 40 (1). - Rule 40 prescribes the limit of retirement benefits which would be admissible to an officer on whom the penalty of compulsory retirement may be imposed. This form of penalty has been introduced to provide for cases in which the continuance of a Government servant in service is considered to be undesirable but the extreme penalties of removal or dismissal, with the consequent loss of pension, is considered to be too severe.

The intention is that persons on whom the penalty of compulsory retirement is imposed should ordinarily be granted the full compensation pension and retirement gratuity, admissible on the date of compulsory retirement. Where, however, the circumstances of a particular case so warrant, the authority competent to impose the penalty of compulsory retirement may make such reductions in the pensionary benefits, within the limits prescribed, as it may think appropriate. In the case of a person governed by the New Pension Rules reduction may be made either in the retirement gratuity or in the pension or in both.

[G.I., M.F., Letter No. F.7 (22)-E. V/56, dated the 3rd June, 1957.]

41. Compassionate allowance

(1) A Government servant who is dismissed or removed from service shall forfeit his pension and gratuity :

Provided that the authority competent to dismiss or remove him from service may, if the case is deserving of special consideration, sanction a compassionate allowance not exceeding two - thirds of pension or gratuity or both which would have been admissible to him if he had retired on 1[compensation pension].

(2) A compassionate allowance sanctioned under the proviso to sub-rule (1) shall not be less than the amount of 2[Rupees three hundred and seventy-five] per mensem.

Footnote : 1. Substituted by G.I., M.F., Notification No. Q-18011/2/75-E. V (A), dated the 10th April, 1975.

2. Substituted by G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988. Published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988. Takes effect from 1st January, 1986.

GOVERNMENT OF INDIA'S DECISIONS

(1) Guiding principles for the grant of Compassionate Allowance. - It is practically impossible in view of the wide variations that naturally exist in the circumstances attending each case, to lay down categorically precise principles that can uniformly be applied to individual cases. Each case has, therefore, to be considered on its merits and a conclusion has to be reached on the question whether there were any such extenuating features in the case as would make the punishment awarded, though it may have been necessary in the interests of Government, unduly hard on the individual. In considering this question it has been the practice to take into account not only the actual misconduct or course of misconduct which occasioned the dismissal or removal of the officer, but also the kind of service he has rendered. Where the course of misconduct carries with it the legitimate inference that the officer's service has been dishonest, there can seldom be any good case for a compassionate allowance. Poverty is not an essential condition precedent to the grant of a compassionate allowance, but special regard is also occasionally paid to the fact that the officer has a wife and children dependent upon him, though this factor by itself is not, except perhaps in the most exceptional circumstances, sufficient for the grant of a compassionate allowance.

[G.I., F.D., Office Memo. No. 3(2)-R-II/40, dated the 22nd April, 1940.]

(2) Commutation of Compassionate Allowance permissible. - A question has been raised whether Government servants drawing Compassionate Allowance under Rule 41 of the Central Civil Services (Pension) Rules, 1972, are entitled to commute a part of such Compassionate Allowance as in the case of other kinds of pension or not. The matter has been considered and it is clarified that the Compassionate Allowance is one of the various kinds of pensions enumerated in the CCS (Pension) Rules, 1972, and as such the CCS (Commutation of Pension) Rules, 1981, would apply to the Compassionate Allowance in the same manner as in respect of any other class of pension.

[G.I., M.F., O.M. No. F.14 (3)-E. V (A)/76, dated the 23rd April, 1977.]

(3) Procedure for the grant of Compassionate Allowance. - In order to avoid delay in the payment of compassionate allowance, the following procedure should be adopted in cases relating to officers removed from service :-

(i) On receipt of the orders of the competent authority removing an officer from service for misconduct, insolvency or inefficiency, the Head of the Office, if he proposes to recommend the grant of a compassionate allowance, should fill in the application for pension and send it to the Accounts Officer concerned for report on the title to pension. The Head of the Office should not wait for an application from the officer.

(ii) If the competent authority in issuing orders of removal states that certain proportion of the compensation pension is to be granted as compassionate allowance, no further sanction to pension is necessary, and all that is required is that the Accounts Officer should certify to the admissibility of the pension on a pension application completed and signed by the Head of the Office as provided in (i) above.

[G.I., F.D., No. F. 3-X-R. II/34, dated the 3rd May, 1934.]

(4) Eligible for reliefs granted from time to time. - A clarification has been sought in regard to admissibility to reliefs to a retired Government servant who is in receipt of compassionate allowance sanctioned under Article 353 of CSRs or Rule 41 of the CCS (Pension) Rules, 1972. It is clarified that the reliefs in pension would be admissible to a retired Government servant who is in receipt of compassionate allowance from the respective dates from which various reliefs have been sanctioned.

[G.I., M.F., O.M. No. F. 19 (26)-E V (A)/75, dated the 14th November, 1975.]

49. Amount of Pension

5[(1) In the case of a Government servant retiring in accordance with the provisions of these rules before completing qualifying service of ten years, the amount of service gratuity shall be calculated at the rate of half month's emoluments for every completed six monthly period of qualifying service.

(2) (a) In the case of a Government servant retiring in accordance with the provisions of these rules after completing qualifying service of not less than twenty years, the amount of pension shall be calculated at fifty per cent of average emoluments or last month emoluments, subject to a Minimum pension three thousand five hundred per month, maximum of forty five thousand rupees per month.];

(b) in the case of a Government servant retiring in accordance with the provisions of these rules before completing qualifying service of thirty three years, but after completing qualifying service of ten years, the amount of pension shall be proportionate to the amount of pension admissible under Clause (a) and in no case the amount of pension shall be less than 1[Rupee three hundred and seventy-five] per mensem ;

(c) notwithstanding anything contained in Clause (a) and Clause (b) the amount of invalid pension shall not be less than the amount of family pension admissible under sub-rule (2) of Rule 54.

2(3) In calculating the length of qualifying service, fraction of a year equal to 3[three months] and above shall be treated as a completed one half-year and reckoned as qualifying service.

2(4) The amount of pension finally determined under Clause (a) or Clause (b) of sub-rule (2), shall be expressed in whole rupees and where the pension contains a fraction of a rupee it shall be rounded off to the next higher rupee.

4(5) & (6) Deleted

Footnote : 1. Substituted vide G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988. Published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988. Takes effect from 1st January, 1986.

2. Substituted by G.I., Dept. of Per. & A.R., Notification No. F. 38 (4)-Pen. (A)/80, dated the 8th August, 1980.

3. Substituted by G.I., Dept. of Per. & A.R., Notification No. 32/4/83-Pension Unit, dated the 26th August, 1983. Takes effect from 28th June 1983.

4. Deleted by G.I., Dept. of Per. & A.R., Notification No. F. 38 (4)-Pen. (A)/80, dated the 8th August, 1980.

5. Substituted vide G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988. Published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988. Takes effect from 1st January, 1986.

GOVERNMENT OF INDIA'S DECISIONS

(1) Final amount of service gratuity to be rounded off to the next higher rupee. - With a view to simplifying the procedure for payment of service gratuity as admissible under Rule 49 (1) of the CCS (Pension) Rules, 1972, it has been decided that the amount of service gratuity as finally calculated should be rounded off to the next higher rupee.

[G.I., Dept. of P. & P.W., O.M. No. 7 (12)/85-P. & P.W., dated the 30th September, 1986.]

(2) Three months and above but less than six months treated as one - half year. - The intention of sub-rule (3) of Rule 49 is that the period of three months and above but less than six months would be treated as a completed one-half year and reckoned as qualifying service for determining of pension. The period of nine months would, therefore, be two half years.

[D.O. No. 28 (15)/83-PU, dated the 13th October, 1983, from Shri K.S. Mahadevan, Under Secretary to the Government of India, Ministry of Home Affairs, addressed to Shri P. Muthuswamy.]

(3) Rounding off of pension/family pension when payable to more than one person/payable for part of a month. - 1. Rule 49 and 54 (2-A) of CCS (Pension) Rules, 1972, provide for fixation of pension and family pension at monthly rates and its expression in whole rupees where the pension contains a fraction of a rupee. A question was raised as to the manner in which family pension/pension in the following cases is to be rounded off :-

(a) In respect of family pension where the pension is payable to more than one person each share containing a fraction of a rupee ; and

(b) In respect of pension paid for a part of a month due to the death of a pensioner or for any other reasons where pension and relief thereon becomes payable in fraction of a rupee.

2. The matter has been examined in consultation with Department of Pension and PW and it is clarified that in respect of (a) above each share of family pension resulting in a fraction of a rupee may be rounded off to next higher rupee except in cases where family pension, if all the shares are put together exceed the maximum limit of family pension admissible. However in the exceptional and rare cases where the shares of family pension rounded as above when added cause an excess over the maximum limit, such cases should be referred to the Department of Pension and PW and decided in consultation with that Department.

In respect of (b) above also the payment of pension for part of a month if worked out in fraction of a rupee may be rounded off to the next higher rupee.

[G.I., M.F., O.M. No. G-19011/2/90-MF-CGA/Pen./635, dated the 9th October, 1990.]

Clarification. - *** The matter has been re-examined in consultation with the Department of Pension and Pensioners' Welfare and it is clarified that the expression, "maximum family pension" should be understood to mean not the whole amount of family pension payable in each case but the maximum family pension admissible under the rules, i.e., Rs. 3,500 at ordinary rates. The cases of family pension may, therefore, be decided accordingly before making reference to the Department of Pension and Pensioners' Welfare.

(4) Minimum and Maximum amount of pension from 1-1-1996

Minimum pension presently is Rs. 3500 per month. Maximum limit on pension is 50% of the highest pay in the Government of India (presently Rs. 45,000) per month. Pension is payable up to and including the date of death.

(5) Minimum pension of Rs. 3500/- to be applied separately for Civil Pension & Military Pension for re-employed Military Pensioners.

150. Retirement/Death Gratuity

(1) (a) A Government servant, who has completed five years' qualifying service and has become eligible for service gratuity or pension under Rule 49, shall, on his retirement, be granted 1[retirement gratuity] equal to one-fourth of his emoluments for each completed six monthly period of qualifying service, subject to a maximum of 16½ times the emoluments.

1[(b) If a Government servant dies while in service, the death gratuity shall be paid to his family in the manner indicated in sub-rule (1) of Rule 51 at the rates given in the Table below, namely:-

Length of qualifying service

Rate of death gratuity

(i) Less than 1 year... .. 2 times of emoluments.

(ii) One year or more but less than 5 years

...

...

6 times of emoluments.

(iii) 5 years or more but less than 20 years

...

...

12 times of emoluments.

(iv) 20 years or more Half of emoluments for every completed six-monthly period of qualifying service subject to a maximum of 33 times of emoluments.

Provided that the amount of retirement gratuity or death gratuity payable under this rule shall in no case exceed 2[tен lakh rupees;]

Provided further that where the amount of retirement or death gratuity as finally calculated contains a fraction of a rupee, it shall be rounded off to the next higher rupee.]

(2) If a Government servant, who has become eligible for a service gratuity or pension, dies within five years from the date of his retirement from service including compulsory retirement as a penalty and the sums actually received by him at the time of his death on account of such gratuity or pension including ad hoc increase, if any, together with the 2[] retirement gratuity admissible under sub-rule (1) and the commuted value of any portion of pension commuted by him are less than the amount equal to 12 times of his emoluments, a residuary gratuity equal to the deficiency may be granted to his family in the manner indicated in sub-rule (1) of Rule 51.

3(3) Deleted

4(4) Deleted.

(5) The emoluments for the purpose of gratuity admissible under this rule, 5[] shall be reckoned in accordance with Rule 33:

6[Provided that if the emoluments of a Government servant have been reduced during the last ten months of his service otherwise than as a penalty, average emoluments as referred to in Rule 34 shall be treated as emolument.]

(6) For the purposes of this rule and Rule 51,52 and 53, 'family', in relation to a Government servant, means -

- (i) wife or wives 7[including judicially separated wife or wives] in the case of a male Government servant,
- (ii) husband, 7[including judicially separated husband] in the case of a female Government servant,
- (iii) sons including stepsons and adopted sons,
- (iv) unmarried daughters including stepdaughters and adopted daughters,
- (v) widowed daughters including stepdaughters and adopted daughters,
- (vi) father, including adoptive parents in the case of individuals whose personal law permits adoption,
- (vii) mother, including adoptive parents in the case of individuals whose personal law permits adoption,
- (viii) brothers below the age of eighteen years including stepbrothers,
- (ix) unmarried sisters and widowed sisters including stepsisters,
- (x) married daughters, and
- (xi) children of a pre-deceased son.

Footnote ; 1.Substituted vide G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988, published in the Gazette of India as S.O. No. 2388, dated the 6th August, 1988. Takes effect from the 1st January, 1986.

2. Substituted by G.I., Dept. of Pen. & P.W., Notification No. 7/3/95-P & PW (F), dated the 17th March, 1997. This takes effect from 1st April, 1995.

3. Deleted by G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988, published in the Gazette of India as S.O. No. 2388, dated the 6th August, 1988.

4. Deleted by G.I., Dept. of Per. & A.R., Notification No. 6 (1) Pension (A)/79, dated the 19th May, 1980.

5. Deleted by G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988, published in the Gazette of India as S.O. No. 2388, dated the 6th August, 1988.

6. Substituted by G.I., Dept. of Per. & A.R., Notification No. 6 (1), Pen. (A)/79, dated the 19th May, 1980.

7. Inserted by G.I., M.F., Notification No. 7 (3)-E. V (B)/74, dated the 10th September, 1974.

GOVERNMENT OF INDIA'S DECISIONS

(1) Rounding off qualifying service of more than three months into a completed six-monthly period applies to both Pension and Death/Retirement Gratuity. - Point of doubt : Rule 49 (3) of Pension Rules provide for treating a period of service of more than three months as completed six-monthly period of purpose of calculation of pension, but a similar provision is not available under Rule 50 *ibid*.

(2) Benefits admissible in cases of suicide also. - The Pension Rules do not prohibit the grant of family pension/death gratuity to the family of a Government servant who commits suicide.

[G.I., M.F., Letter No. F. 29 (2)-E. V/56, dated the 11th September, 1956.]

(3) Exemption of Death/Retirement Gratuity from income tax. - Death/Retirement gratuity under these rules or under any similar schemes of State Government is exempt from income tax.

[Sec. 10(10) (i) of the Income Tax Act, 1961.]

(4) Determination of Death Gratuity when service records are incomplete. - (i) If the deceased Government servant had, at the time of death, rendered more than five years qualifying service but less than twenty years qualifying service, and the spell of last five years service has been verified and accepted by the Head of Office, the amount of death gratuity shall be equal to 12 times of deceased Government servant's emoluments as indicated in clause (b) of sub-rule (1) of Rule 50. Where the verified and accepted service is less than five years of qualifying service, the amount of death gratuity shall be equal to twice or six times of his emoluments as indicated in clause (b) of sub-rule (1) of Rule 50.

(ii) If the deceased Government servant had rendered more than twenty years of service and the entire service is not capable of being verified and accepted, but the service for the last five years has been verified and accepted under sub-clause (i), the family of the deceased Government servant shall be allowed on provisional basis the death gratuity equal to 12 times of the emoluments. Final amount of the gratuity shall be determined by the Head of Office on the basis of the entire spell of service which may be verified and accepted by the Head of Office within a period of six months from the date on which the authority for the payment of provisional gratuity was issued. The balance, if any, becoming payable as a result of determination of the final amount of death gratuity shall then be authorised to the beneficiary or beneficiaries.

[G.I., M.F., O.M. No. F. 11 (9)-E. V (A)/77, dated the 15th February, 1979 - Para. 3 (B) amended.]

(6) Extension of Retirement/Death Gratuity benefits to employees governed by CPF Scheme. - 1. Central Government employees who are subscribing to Contributory Provident Fund are not at present eligible for Death/Retirement Gratuity admissible to the employees on pensionable establishments. The Fourth Central Pay Commission have recommended that the benefit of Death/Retirement Gratuity may be extended to the Central Government employees governed by CPF Scheme on the same lines as it has been in operation in the case of Railway employees.

2. Orders are separately being issued that all CPF beneficiaries, who were in service on 1-1-1986, should be deemed to have come over to the Pension Scheme on and from that date unless they specifically opt out to continue under the CPF Scheme. In the case of Central Government employees who will continue under the CPF Scheme from 1-1-1986, it has been decided that they will be entitled to retirement gratuity and death gratuity at the same rate/scale as is admissible to temporary/quasi-permanent or permanent Government servants, as the case may be, borne on pensionable establishment.

3. These orders apply to all Civilian Central Government employees who are subscribing to the Contributory Provident Fund under the Contributory Provident Fund Rules (India), 1962. In the case of subscriber to other contributory provident funds, where similar provisions are not at present available, necessary orders will be issued by the respective administrative authorities. The concerned Administrative Ministries are advised to issue these orders in consultation with the Department of Pension and Pensioners' Welfare.

4. These orders do not apply to Central Government employees who, on re-employment, are allowed to subscribe to Contributory Provident Fund. These orders also do not apply to Central Government employees appointed on contract basis where the contribution to the Contributory Provident Fund is regulated in accordance with the terms of contract.

5. These orders issued with the concurrence of Ministry of Finance, Department of Expenditure, vide their U.O. No. 2038/JS (Pers)/87, dated 13-4-1987.

[G.I., Dept. of P. & P.W., O.M. No. 4/1/87-PIC-II, dated the 1st May, 1987.]

(8) Maximum Limit of Gratuity raised to Rs. 10 lacs from 1-1-2006.

51. Persons to whom gratuity is payable

(1) (a) The gratuity payable under Rule 50 shall be paid to the person or persons on whom the right to receive the gratuity is conferred by means of a nomination under Rule 53;

(b) If there is no such nomination or if the nomination made does not subsist, the gratuity shall be paid in the manner indicated below -

(i) if there are one or more surviving members of the family as in clauses (i), (ii), (iii) and (iv) of sub-rule (6) of Rule 50, to all such members in equal shares;

(ii) if there are no such surviving members of the family as in sub-clause (i) above, but there are one or more members as in clauses (v), (vi), (vii), (viii), (ix), (x) and (xi) of sub-rule (6) of Rule 50, to all such members in equal shares.

(2) If a Government servant dies after retirement without receiving the gratuity admissible under sub-rule (1) of Rule 50 the gratuity shall be disbursed to the family in the manner indicated in sub-rule (1).

(3) The right of a female member of the family, or that of a brother, of a Government servant who dies while in service or after retirement, to receive the share of gratuity shall not be affected if the female member marries or re-marries, or the brother attains the age of eighteen years, after the death of the Government servant and before receiving her or his share of the gratuity.

(4) Where gratuity is granted under Rule 50 to a minor member of the family of the deceased Government servant, it shall be payable to the guardian on behalf of the minor.

GOVERNMENT OF INDIA'S DECISIONS

(1) Share of a nominee who dies or becomes disqualified to be distributed equally among the others. - A question has been raised whether the shares of the members of the family of the deceased Government servant who are alive on the date of death of the Government servant, but die or become disqualified before the date on which the amount of the gratuity is actually disbursed, should be divided among the surviving members and the legal heirs of the members who in the meantime have died. The position in the matter is explained below -

Death/retirement gratuity is in the nature of a gift. Section 122 of the Transfer of Property Act, 1882, provides that if the donee of a gift dies before acceptance, the gift is void. In other words, the donee must be alive on the date of the gift and the representative of a person deceased at the date of the gift cannot take the gift from him. On this analogy the sanction of the gratuity in favour of a deceased person would also be void at law. It would not vest the gift in the pre-deceased donee and would not hence become part of his estate so as to pass on to his heirs by succession. It has accordingly been decided that, in the type of cases referred to, the share of the gratuity otherwise payable to a member of the family who has died or become disqualified before receiving actual payment, shall be distributed equally among the remaining members of the family.

Disbursing authorities should accordingly ascertain, before making actual payment of a death/retirement gratuity whether all the member of the family in whose favour the sanction was issued have continued to be qualified. If not, and if any of them is dead, the fact should be reported immediately to the sanctioning authority for the issue of a revised sanction in favour of the remaining members of the family.

[G.I., M.F., O.M. No. F. 48 (1)-E. V/58, dated the 5th May, 1958.]

(3) Payment of minor's share of death/retirement gratuity to guardian. - 1. Payment of the minor(s)' share of death/retirement gratuity is to be made to the natural guardian of the minor(s), and in the absence of a natural guardian, to the person who furnishes a guardianship certificate.

2. In a case where payment of the minor(s)' share of death/retirement gratuity is to be made to the natural/legal guardian, in order to issue the necessary payment authority in his/her favour, the Accounts Officer concerned must know this fact, as well as the name of the natural/legal guardian. If

the above information is not given in the sanction letter, the Accounts Officer has to make enquiries on this point from the sanctioning authority, resulting in avoidable delay in the payment of death/retirement gratuity. To obviate such delays, the Ministry of Home Affairs, etc., are requested to ensure that in future in all cases of this nature the aforesaid particulars are given in the sanction letter itself.

3. The legal position as to whom the share of a minor in the capacity of minor's natural/legal guardian would be payable is explained as under -

(1) Where no valid nomination subsists :

(a) When a share is payable to minor sons or minor unmarried daughters, it should be paid to the surviving parent except in the case when the surviving parent happens to be a Muslim lady. Where, however, there is no surviving parent, or the surviving parent is a Muslim lady, payment will have to be made to the person producing the guardianship certificate.

(b) When a share is payable to widowed minor daughter(s), production of a guardianship certificate would be necessary.

(c) If in a rare case the wife herself happens to be a minor, the death/retirement gratuity payable to her shall be paid to the person producing the guardianship certificate.

(d) When the death/retirement gratuity becomes payable to a minor brother or a minor unmarried sister, the payment should be made to the father or, in his absence the mother of the beneficiary except in a case where the mother happens to be a Muslim lady. In this case too, if there is no surviving parent or the surviving parent happens to be a Muslim lady, the payment will have to be made to the person producing the guardianship certificate. If any share is payable to a widowed minor sister the production of guardianship certificate would be necessary.

(2)

Where a valid nomination subsists :

(a) Where the nomination is in respect of one or more of the members of the family, the position stated against para. 3 (1) would apply.

(b) Where there is no family, the nomination in favour of an illegitimate child or married sister would also be valid. The position would, therefore, be as follows :-

(i) If the nominee is an illegitimate child, the share will be payable to the mother, and in her absence, the production of a guardianship certificate would be necessary.

(ii) If the share is payable to a married minor girl, the share will be payable to the husband.

[G.I., M.F., O.M. No. F. 24 (8)-E. V (A)/59, dated the 20th October, 1959.]

NOTE. - A surviving stepmother is not a natural guardian of the minor child, and is not, therefore, covered by the term 'surviving parent' used in para. 3 (1) (a) above.

[G.I., M.F., O.M. No. F. 24 (8)-E. V/59, dated the 1st September, 1960.]

(4) Special relaxation for payment of minor's share without guardianship certificate, up to the extent of Rs. 10,000. - 1. Decision No. (3) lays down that the payment of a minor's share of death/retirement gratuity is to be made to the person producing a guardianship certificate when there is no surviving parent or the surviving parent is a Muslim lady. It has been represented that in many cases, the production of guardianship certificate causes great inconvenience and entails delays in the settlement of the claims.

2. It has been decided in modification of the above decision that payment of death/retirement gratuity to the extent of Rs. 10,000 (or the first Rs. 10,000 where the amount payable exceeds Rs. 10,000) in favour of a minor may be made to his/her guardian, in the absence of a natural guardian, without the production of a formal guardianship certificate but subject to the production of an indemnity bond with suitable sureties to the satisfaction of the sanctioning authority. The balance in excess of Rs. 10,000, if any, would become payable on the production of a certificate of guardianship.

3. It is essential, however, that there should be adequate prima facie grounds for making payment as in paragraph 2 above, to the person claiming it. Such ground can exist only if he is shown by a sworn declaration to be a de facto guardian and his bona fides have been ascertained. Even if a guardian has not yet been appointed by the Court, if the minor and his property are in the custody of some person, such person is in law a de facto guardian. The authorities making the payment should, therefore, require the person who comes forward to claim payment on behalf of the minor, to satisfy them by an affidavit that he is in charge of the property of the minor and is looking after it or that, if the minor has no property other than the gratuity, the minor is in his custody and care. The affidavit so to be produced is in addition to the indemnity bond with suitable sureties.

4. The indemnity bond which is to be required to be produced by a de facto guardian of minor(s) for payment of death/retirement gratuity to the extent of Rs. 10,000 should be executed in the form appended below.

5. It has been decided that the stamp duty payable on the indemnity bond will be borne by the Government. The indemnity bond should, therefore, be executed on any durable plain paper.

6. The indemnity bond should be signed by the obligor and the surety/sureties or their respective attorneys appointed by power(s) of attorney. The indemnity bond on behalf of the President should be accepted by an officer duly authorised under Article 209 (1) of the Constitution.

[G.I., M.F's., O.M. No. 10 (3)-E. V (A)/61, dated the 29th June, 1971, O.M. No. F. 10 (6)-E. V (A)/65, dated the 11th February, 1966 and Dept. of P. & P.W's, O.M. No. 7/9/89-P. & P.W. (D), dated the 5th July, 1989.]

INDEMNITY BOND

KNOW ALL MEN by these presents that we (a).....(b).....the widow/son/brother, etc., of (c).....deceased, resident ofof and son/wife/daughter of resident of the sureties for and on behalf of the Obligor (hereinafter called "the Sureties") are held firmly bound to the President of India (hereinafter called " the Government") in tthe sum of Rs..... (Rupees.....only) well and truly to be paid to the Government on demand and without a demur for which payment we bind ourselves and our respective heirs, executors, administrators, legal representatives, successors and assigns by these presents.

Signed thisday oftwo thousand and

WHEREAS (c).....was at the time of his death in the employment of the Government/receiving a pension at the rate of Rs.....(Rupees.....only) per month from the Government.

AND WHEREAS the said (c).....died on theday of 20.... and there was due to him at the time of his death the sum of Rs.....(Rupees only) for and towards share of his minor son/daughter in the death/retirement gratuity.

AND WHEREAS the Obligor claims to be entitled to the said sum as de facto guardian of the minor son/daughter of the said (c).....but has not obtained till the date of these presents the certificate of guardianship from any competent Court of Law in respect of the said minor(s).

AND WHEREAS the Obligor has satisfied the (e).....that he/she is entitled to the aforesaid sum and that it would cause undue delay and hardship if the Obligor be required to produce the certificate of guardianship from the competent Court of Law before payment to him of the said sum of Rs.....

AND WHEREAS the Government has no objection to the payment of the said sum to the Obligor but under Government Rules and Orders, it is necessary for the Obligor to first execute a bond with one surety/two sureties to indemnify the Government against all claims to the amount so due as aforesaid to the said (c).....before the said sum can be paid to the Obligor.

AND WHEREAS the Obligor and at his/her request the surety/sureties have agreed to execute the bond in the terms and manner hereinafter contained.

NOW THE CONDITION OF THIS BOND is such that if after payment has been made to the Obligor, the Obligor and/or the surety/sureties shall in the event of a claim being made by any other person against the Government with respect to the aforesaid sum of Rs. refund to the Government the said sum of Rs.....and shall otherwise indemnify and keep the Government harmless and indemnified against and from all liabilities in respect of the aforesaid sum and all costs incurred in consequence of the claim thereto THEN the above written bond or obligation shall be void and of no effect but otherwise it shall remain in full force, effect and virtue.

AND THESE PRESENTS ALSO WITNESS that the liability of the sureties hereunder shall not be impaired or discharged by reason of time being granted by or any forbearance act or omission of the

Government whether with or without the knowledge or consent of the surety/sureties in respect of or in relation to the obligations or conditions to be performed or discharged by the Obligor or by any other method or thing whatsoever which under the law relating to sureties, shall but for this provision have the effect of so relating the surety/sureties from such liability nor shall it be necessary for the Government to sue the Obligor before suing the surety/sureties or either of them for the amount due hereunder, and the Government agrees to bear the stamp duty, if any, chargeable on these presents.

IN WITNESS WHEREOF the Obligor and the surety/sureties hereto have set and subscribed their respective hands hereunto on the day, month and year above written.

Signed by the abovenamed `Obligor' in the presence of

1.
2.

Signed by the abovenamed `Surety/Sureties'

1.
2.

Accepted for and on behalf of the President of India by

.....
.....

[Name and designation of the Officer directed or authorised, in pursuance of Article 299 (1) of the Constitution, to accept the bond for and on behalf of the President] in the presence of

.....
.....

(Name and designation of witness)

- NOTE 1. -
- (a) Full name of the claimant referred to as the `Obligor'.
 - (b) State relationship of the Obligor to the deceased.
 - (c) Name of the deceased Government Officer.
 - (d) Full name or names of the sureties with name or names of the father(s)/husband(s) and place of residence.
 - (e) Designation of the officer responsible for payment.

NOTE II. -

The Obligor as well as the sureties should have attained majority so that the bond may have legal effect or force.

51-A. Debarring a person from receiving gratuity

(1) If a person who in the event of death of a Government servant while in service is eligible to receive gratuity in terms of Rule 51, is charged with the offence of murdering the Government servant or for abetting in the commission of such an offence, his claim to receive his share of gratuity shall remain suspended till the conclusion of the criminal proceedings instituted against him.

(2) If on the conclusion of the criminal proceedings referred to in sub-rule (1), the person concerned -

(a) is convicted for the murder or abetting in the murder of the Government servant, he shall be debarred from receiving his share of gratuity which shall be payable to other eligible members of the family, if any,

(b) is acquitted of the charge of murdering or abetting in the murder of the Government servant, his share of gratuity shall be payable to him.

(3) The provisions of sub-rule (1) and sub-rule (2) shall also apply to the undisbursed gratuity referred to in sub-rule (2) of Rule 51.

Footnote : 1. Inserted by G.I., Dept. of Per. & A.R., Notification No. 1 (5)-E. V (B)/Pen. (A)/78, dated the 25th August, 1980.

252 Lapse of 3[retirement gratuity/death gratuity]

Where a Government servant dies while in service or after retirement without receiving the amount of gratuity and leaves behind no family and -

(a) has made no nomination, or

(b) the nomination made by him does not subsist,

the amount of 3[retirement gratuity/death gratuity] payable in respect of such Government servant 4[under Rule 50 shall lapse to the Government :

Provided that the amount of death gratuity/retirement gratuity shall be payable to the person in whose favour a Succession Certificate in respect of the gratuity in question has been granted by a Court of Law].

Footnote : 2. Substituted by G.I., M.F., Notification No. 6 (8)-E. V (A)/73, dated the 25th January, 1974.

3. Substituted vide G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988. Published as S.O. No. 2388 in the Gazette of India , dated the 6th August, 1988.

4. Substituted vide G.I., Dept. of P. & P.W., Notification No. 7/6/88-P. & P.W. (D), dated the 6th April, 1989, published as S.O. No. 970 in the Gazette of India, dated the 6th May, 1989.

53. Nominations

(1) A Government servant shall, on his initial confirmation in a service or post, make a nomination in Form 1 or 2, as may be, as appropriate in the circumstances of the case, conferring on one or more persons the right to receive the 3[retirement gratuity/death gratuity] payable under Rule 50 :

Provided that if at the time of making the nomination -

(i) the Government servant has a family, the nomination shall not be in favour of any person or persons other than the members of his family ; or

(ii) the Government servant has no family, the nomination may be made in favour of a person or persons, or a body of individuals, whether incorporated or not.

(2) If a Government servant nominates more than one person under sub-rule (1), he shall specify in the nomination the amount of share payable to each of the nominees, in such manner as to cover the entire amount of gratuity.

(3) A Government servant may provide in the nomination -

(i) that in respect of any specified nominee who predeceases the Government servant, or who dies after the death of the Government servant but before receiving the payment of gratuity, the right conferred on that nominee shall pass to such other person as may be specified in the nomination :

Provided that if at the time of making the nomination the Government servant has a family consisting of more than one member, the person so specified shall not be a person other than a member of his family :

Provided further that where a Government servant has only one member in his family, and a nomination has been made in his favour, it is open to the Government servant to nominate alternate nominee or nominees in favour of any person or a body of individuals, whether incorporated or not ;

(ii) that the nomination shall become invalid in the event of the happening of the contingency provided therein.

(4) The nomination made by a Government servant who has no family at the time of making it, or the nomination made by a Government servant under the second proviso to clause (i) of sub-rule (3) where he has only one member in his family shall become invalid in the event of the Government servant subsequently acquiring a family, or an additional member in the family, as the case may be.

(5) A Government servant may, at any time, cancel a nomination by sending a notice in writing to the 1[Head of Office] :

Provided that he shall, along with such notice, send a fresh nomination made in accordance with this rule.

(6) Immediately on the death of a nominee in respect of whom no special provision has been made in the nomination under clause (i) of sub-rule (3) or on the occurrence of any event by reason of which the nomination becomes invalid in pursuance of clause (ii) of that sub-rule, the Government servant shall send to the 1[Head of Office] a notice in writing cancelling the nomination together with a fresh nomination made in accordance with this rule.

1(7) (a) Every nomination made (including every notice of cancellation, if any, given) by a Government servant under this rule, shall be sent to the Head of Office.

(b) The Head of Office shall, immediately on receipt of such nomination countersign it indicating the date of receipt and keep it under his custody :

Provided that the Head of Office may authorise his subordinate Gazetted Officers to countersign nomination forms of non-gazetted Government servants.

(c) Suitable entry regarding receipt of nomination shall be made in the service book of the Government servant concerned.

(8) Every nomination made, and every notice of cancellation given, by a Government servant shall, to the extent that it is valid, take effect from the date on which it is received by the 1[Head of Office].

Footnote : 1. Substituted by G.I., Dept. of Per. & A.R., Notification No. 6 (1) Pen. (A)/79, dated the 19th May, 1980.

3. Substituted vide G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988. Published as S.O. No. 2388 in the Gazette of India , dated the 6th August, 1988.

GOVERNMENT OF INDIA'S DECISION

Importance of nominations and their safe custody. - Nominations for death/retirement gratuity and related notices are important documents on the basis of which the claims of the beneficiaries have to be established and settled. Instances of cases have come to notice where nominations made by deceased officers and related papers were not traceable in the official records of the Head of the Office and were treated as lost. This defeats the very purpose underlying nominations and causes inconveniences and delay all round. To obviate the possibility of such losses in future, it has been decided that the nomination papers should, after counter-signature, be kept in a separate confidential file which should be lodged for safe keeping with the Head of Office or other responsible officer nominated by him for this purpose, and a clear note made in the service book of the officer as to what nominations and related notices have been received from him and where they have been lodged for safe custody, so that there should be no difficulty in locating the documents when the occasion for making a reference to them arises.

[G.I., M.F., O.M. No. F. 21 (4)-E. V/59, dated the 6th April, 1960.]

All Government servants should be advised that it would be in the interest of their nominees if they would preserve copies of the nominations made by them and of the related notices and acknowledgements, either in their personal custody or in safe deposit along with their other important personal documents, etc., where they may be expected to come into the possession of the beneficiaries in the event of their death.

[G.I., M.F., O.M. No. F. 8 (9)-E. V (1)/60, dated the 13th December, 1960.]

The need for observance of the above instructions cannot, perhaps, be overemphasized. The need for nomination arises consequent upon the death of a Government servant while in service or after retirement before receipt of the death/retirement gratuity. In those cases, where valid nominations already exist, the claims of the nominees are likely to be settled expeditiously as provided in sub-rule (1) (a) of Rule 51 of CCS (Pension) Rules, 1972. But in those cases, where no nominations have been filed or even if filed by the Government servant but lost in office due to lack of proper care, the gratuity is payable to the members of the family in the manner prescribed in sub-rule (1) (b) *ibid*. A number of cases have also come to notice of Government where Government servants having died without making any valid nominations, the surviving members of their families approach courts for grant of succession certificates in order to entitle them to their share of the gratuity. It may be clarified in this regard that payment of death/retirement gratuity to the members of family of a deceased Government servant is normally to be made according to the relevant service rules. While payment on the basis of a succession certificate would discharge Government's liability, a succession certificate does not necessarily create an obligation on the part of the Government to pay the amount. Such a claim can be resisted if it is otherwise not in order. Therefore, in order to save the families of the Government servants from the expenditure involved on the court fees for obtaining succession certificates and the inevitable delay which this process entails, the Government servants may be advised to file their nominations in the prescribed forms without fail.

The Ministries/Departments and offices concerned are also requested to review the service records of all their employees and ensure that nominations have been obtained from all the Government servants, necessary entries made in their service books as laid down in the orders referred to above and the relevant records preserved properly to avoid such situations.

[G.I., M.F., O.M. No. 7 (5)-E. V (B)/74, dated the 22nd January, 1975.]

Clarification by Ministry of Law

The intention in calling upon the claimants to obtain succession certificate is to get a legal document from the competent court so that the claims of the rival parties can be settled once for all. This is a document which will enable the Department to pay the dues, etc., to the rightful claimant. If the Department is not satisfied with the legal right of the claimant, they have got every right to approach the competent court to decide the claims in accordance with the law. In other words, if the Department feels that the succession certificate has not been issued as per law then they have every right to follow up the procedure after reconsidering the nature.

However, we have dealt with the aspect in the above para. on the related aspect and Department is supposed to obtain legal opinion as and when a concrete case arises. If necessary, matter may be discussed.

[Min. of Law (Dept. of Legal Affairs), U.O. No. 23/26/88-Adv. (B), dated the 2nd August, 1988 and C. & A.G.'s Endst. No. 1513-A/(II)/88, dated the 23rd December, 1988.]

54. Family Pension, 1964

(1) The provisions of this rule shall apply -

(a) to a Government servant entering service in a pensionable establishment on or after the 1st January, 1964; and

(b) to a Government servant who was in service on the 31st December, 1963 and came to be governed by the provisions of the Family Pension Scheme for Central Government Employees, 1964, contained in the Ministry of Finance, Office Memorandum No. 9 (16)-E. V (A)/63, dated the 31st December, 1963, as in force immediately before the commencement of these rules.

[NOTE. - The provisions of this rule will also extend, from 22nd September, 1977, to Government servants on pensionable establishments who retired/died before 31-12-1963, as also to those who were alive on 31-12-1963, but had opted out of 1964 Scheme.]

(2) Without prejudice to the provisions contained in sub-rule (3), where a Government servant dies -

(a) after completion of one year of continuous service; or

(aa) before completion of one year of continuous service provided the deceased Government servant concerned immediately prior to his appointment to the service or post was examined by the appropriate medical authority and declared fit by that authority for Government service ; or]

(b) after retirement from service and was on the date of death in receipt of a pension, or compassionate allowance, referred to in Chapter V, other than the pension referred to in Rule 37, the family of the deceased shall be entitled to Family Pension, 1964 (hereinafter in this rule referred to as family pension) the amount of which shall be determined in accordance with the table below :

1Table

Footnote : 1. Read para 7.1 of the Dept. of Pension and Pensioners Welfare O.M. No. 45/86/97. P & PW(A)- Part I dated 27th OCT. 1997.

EXPLANATION. - The expression `continuous one year of service' wherever it occurs in this rule shall be construed to include `less than one year of continuous service' as defined in clause (aa).

2-A The amount of family pension shall be fixed at monthly rates and be expressed in whole rupees and where the family pension contains a fraction of a rupee, it shall be rounded off to the next higher rupee :

Provided that in no case a family pension in excess of the maximum prescribed under this rule shall be allowed.

(3) (a) (i) Where a Government servant, who is not governed by the Workmen's Compensation Act, 1923 (8 of 1923), dies while in service after having rendered not less than seven years' continuous service, the rate of family pension payable to the family shall be equal to 50 per cent of the pay last drawn 1[or twice the family pension admissible under sub-rule (2), whichever is less,] and the amount so admissible shall be payable from the date following the date of death of the Government servant for a period of seven years, or for a period up to the date on which the deceased Government servant would have attained the age of 2[65] years had he survived, whichever is less.

(ii) In the event of death of a Government servant after retirement, the family pension as determined under sub-clause (i) shall be payable for a period of seven years, or for a period up to the date on which the retired deceased Government servant would have attained the age of 2[65] years had he survived, whichever is less :

Provided that in no case the amount of family pension determined under sub-clause (ii) of this clause shall exceed the pension authorised on retirement from Government service :

Provided further that where the amount of pension authorised on retirement is less than the amount of family pension admissible under sub-rule (2), the amount of family pension determined under this clause shall be limited to the amount of family pension admissible under sub-rule (2).

EXPLANATION. - For the purpose of this sub-clause, pension authorised on retirement includes the part of the pension which the retired Government servant may have commuted before death.

(b) (i) Where a Government servant, who is governed by the Workmen's Compensation Act, 1923 (8 of 1923), dies while in service after having rendered not less than seven years' continuous service, the rate of family pension payable to the family shall be equal to 50 per cent of the pay last drawn or one and a half times the family pension admissible under sub-rule (2), whichever is less.

(ii) The family pension so determined under sub-clause (i) shall be payable for the period mentioned in clause (a) :

Provided that where a compensation is not payable under the aforesaid Act, the Head of Office shall send a certificate to the Accounts Officer to the effect that the family of the deceased Government servant is not eligible for any compensation under the aforesaid Act and the family shall be paid family pension on the scale, and for the period, mentioned in clause (a).

(c) After the expiry of the period referred to in clause (a), the family, in receipt of family pension under that clause or clause (b), shall be entitled to family pension at the rate admissible under sub-rule (2).

Footnote :- 1. Read deleted vide last sentence of sub para (ii) of the D/o P. & P.W. O.M. No. 45/8/98 - P & P.W.(E) dated 15-12-1998.

2. Read [67] vide D/o P & P.W. O.M. No. 45/8/97 - P & P.W.(E) dated 2-2-1999.

(4) Where an award under the Central Civil Services (Extraordinary Pension) Rules, is admissible, no family pension under this rule shall be authorised.

(5) Deleted.

(6) The period for which family pension is payable shall be as follows:-

(i) in the case of a widow or widower, up to the date of death or re-marriage, whichever is earlier;

(ii) in the case of a 1[son], until he attains the age of twenty-five years; and

(iii) in the case of an unmarried daughter, until she attains the age of twenty-five years or until she gets married, whichever is earlier:

Provided that if the son or daughter of a Government servant is suffering from any disorder or disability of mind including mentally retarded or is physically crippled or disabled so as to render him or her unable to earn a living even after attaining the age of twenty-five years, the family pension shall be payable to such son or daughter for life subject to the following conditions, namely :-

(i) if such son or daughter is one among two or more children of the Government servant, the family pension shall be initially payable to the minor children in the order set out in Clause (iii) of sub-rule (8) of this rule until the last minor child attains the age of twenty-five and thereafter the family pension shall be resumed in favor of the son or daughter suffering from disorder or disability of mind including mentally retarded or who is physically crippled or disabled and shall be payable to him/her for life ;

(ii) if there are more than one such children suffering from disorder or disability of mind including mentally retarded or who are physically crippled or disabled, the family pension shall be paid in the order of their birth and the younger of them will get the family pension only after the elder next above him/her cease to be eligible :

Provided that where the family pension is payable to such twin children it shall be paid in the manner set out in Clause (d) of sub-rule (7) of this rule;

(iii) the family pension shall be paid to such son or daughter through the guardian as if he or she were a minor except in the case of the physically crippled son/daughter who has attained the age of majority ;

(iv) before allowing the family pension for life to any such son or daughter, the appointing authority shall satisfy that the handicap is of such a nature so as to prevent him or her from earning his or her livelihood and the same shall be evidenced by a certificate obtained from a medical officer not below the rank of a Civil Surgeon setting out, as far as possible, the exact mental or physical condition of the child;

(v) the person receiving the family pension as guardian of such son or daughter or such son or daughter not receiving the family pension through a guardian] shall produce every three years a

certificate from a medical officer not below the rank of a Civil Surgeon to the effect that he or she continues to suffer from disorder or disability of mind or continues to be physically crippled or disabled.

(vi) in the case of a mentally retarded son or daughter, the family pension shall be payable to a person nominated by the Government servant or the pensioner, as the case may be, and in case no such nomination has been furnished to the Head of office by such Government servant or pensioner during his lifetime, to the person nominated by the spouse of Government servant or family pensioner, as the case may be, later on.

Footnote :- 1. Read 'Unmarried son' for 'a son' and, 'until he gets married, which ever is earlier' at the end of the sub clause (ii) vide para 7.2(b) of the D/O P & PW O.M. No. 45/86/97 - P&PW(A) - Part I dated 27-10-1997.

EXPLANATIONS. -

(a) Deleted

(b) A 1[daughter] shall become ineligible for family pension under this sub-rule from the date 1[she] gets married.

(c) The family pension payable to such a son or daughter shall be stopped if he or she starts earning his/her livelihood.

(d) In such cases it shall be the duty of the guardian or son or daughter to furnish a certificate to the Treasury or Bank, as the case may be, every month that (i) he or she has not started earning his/her livelihood; (ii) in case of 1[daughter], that 1[she] has not yet 1[married].

Footnote:1- For 'daughter' read 'son or daughter', including widowed or divorced daughter', for /she' read 'he or she' and for 'married' read 'married/remarried' vide para 7.2(b) of the D/o P & P.W. O.M. No. 45/86/97 - P & P.W.(A)- Part I dated 27-10-1997, O.M. No. 45/51/97- P. & P.W.(E) dated 5-3-1998, O.M. No. 1/19/03 - P. & P.W.(E) dated 25-8-2004 .

(7) (a) (i) Where the family pension is payable to more widows than one, the family pension shall be paid to the widows in equal shares.

(ii) On the death of a widow, her share of the family pension shall become payable to her eligible child :

Provided that if the widow is not survived by any child, her share of the family pension shall not lapse but shall be payable to the other widows in equal shares, or if there is only one such other widow, in full, to her.

(b) Where the deceased Government servant or pensioner is survived by a widow but has left behind eligible child or children from another wife who is not alive, the eligible child or children shall be entitled to the share of family pension which the mother would have received if she had been alive at the time of the death of the Government servant or pensioner.

Provided that on the share or shares of family pension payable to such a child or children or to a widow or widows ceasing to be payable, such share or shares shall not lapse, but shall be payable to the other widow or widows and/or to other child or children otherwise eligible, in equal shares, or if there is only one widow or child, in full, to such widow or child.

(c) Where the deceased Government servant or pensioner is survived by a widow but has left behind eligible child or children from a divorced wife or wives the eligible child or children shall be entitled to the share of family pension which the mother would have received at the time of the death of the Government servant or pensioner had she not been so divorced.

Provided that on the share or shares of family pension payable to such a child or children or to a widow or widows ceasing to be payable, such share or shares, shall not lapse, but shall be payable to the other widow or widows and/or to the other child or children otherwise eligible, in equal shares, or if there is only one widow or child, in full, to such widow or child.

(d) where the family pension is payable to twin children it shall be paid to such children in equal shares :

Provided that when one such child ceases to be eligible his/her share shall revert to the other child and when both of them cease to be eligible the family pension shall be payable to the next eligible single child/twin children.

(8) (i) Except as provided in sub-rule (7), the family pension shall not be payable to more than one member of the family at the same time.

(ii) If a deceased Government servant or pensioner leaves behind a widow or widower, the family pension shall become payable to the widow or widower, failing which to the eligible child.

(iii) family pension to the children shall be payable in the order of their birth and the younger of them will not be eligible for family pension unless the elder next above him/her has become ineligible for the grant of family pension :

Provided that where the family pension is payable to twin children it shall be paid in the manner set out in clause (d) of sub-rule (7) of this rule.

(9) Where a deceased Government servant or pensioner leaves behind more children than one, the eldest eligible child shall be entitled to the family pension for the period mentioned in clause (ii) or clause (iii) of sub-rule (6), as the case may be, and after the expiry of that period the next child shall become eligible for the grant of family pension.

(10) Where family pension is granted under this rule to a minor, it shall be payable to the guardian on behalf of the minor.

(11) In case both wife and husband are Government servants and are governed by the provisions of this rule and one of them dies while in service or after retirement, the family pension in respect of the deceased shall become payable to the surviving husband or wife and in the event of the death of the husband or wife, the surviving child or children shall be granted the two family pensions in respect of the deceased parents, subject to the limits specified below, namely, -

(a) (i) if the surviving child or children is or are eligible to draw two family pensions at the rate mentioned in sub-rule (3), the amount of both the pensions shall be limited to 1[two thousand five hundred rupees] per mensem ;

(ii) if one of the family pensions ceases to be payable at the rate mentioned in sub-rule (3), and in lieu thereof the pension at the rate mentioned in sub-rule (2) becomes payable, the amount of both the pensions shall also be limited to 1[two thousand five hundred rupees] per mensem ;

(b) if both the family pensions are payable at the rates mentioned in sub-rule (2), the amount of two pensions shall be limited to 2[one thousand two hundred and fifty rupees] per mensem.

Footnote :- 1. Read Fifteen thousand rupees vide the D/o P. & P.W.(E) O.M. No. 45/1/2001- P. & P.W.(E) dated 30-6-2005.

2. Read Nine thousand rupees vide the D/o P. & P.W.(E) O.M. No. 45/1/2001- P. & P.W.(E) dated 30-6-2005

11-A Where a female Government servant or male Government servant dies leaving behind a judicially separated husband or widow and no child or children, the family pension in respect of the deceased shall be payable to the person surviving :

Provided that where in a case the judicial separation is granted on the ground of adultery and the death of the Government servant takes place during the period of such judicial separation, the family pension shall not be payable to the person surviving if such person surviving was held guilty of committing adultery .

11-B (a) Where a female Government servant or male Government servant dies leaving behind a judicially separated husband or widow with a child or children, the family pension payable in respect of deceased shall be payable to the surviving person provided he or she is the guardian of such child or children.

(b) Where the surviving person has ceased to be the guardian of such child or children, such family pension shall be payable to the person who is the actual guardian of such child or children.

11-C (a) If a person, who in the event of death of a Government servant while in service, is eligible to receive family pension under this rule, is charged with the offence of murdering the Government servant or for abetting in the commission of such an offence, the claim of such a person, including other eligible member or members of the family to receive the family pension, shall remain suspended till the conclusion of the criminal proceedings instituted against him.

(b) If on the conclusion of the criminal proceedings referred to in clause (a), the person concerned -

(i) is convicted for the murder or abetting in the murder of the Government servant, such a person shall be debarred from receiving the family pension which shall be payable to other eligible member of the family, from the date of death of the Government servant,

(ii) is acquitted of the charge of murder or abetting in the murder of the Government servant, the family pension shall be payable to such a person from the date of death of the Government servant.

(c) The provisions of clause (a) and clause (b) shall also apply for the family pension becoming payable on the death of a Government servant after his retirement.

12 (a) (i) As soon as a Government servant enters Government service, he shall give details of his family in Form 3 to the Head of Office ;

(ii) If the Government servant has no family, he shall furnish the details in Form 3 as soon as he acquires a family.

(b) The Government servant shall communicate to the Head of Office any subsequent change in the size of his family, including the fact of marriage of his female child.

(c) As and when the disability referred to in proviso to sub-rule (6) of Rule 54 manifests itself in a child which makes him/her unable to earn his/her living, the fact should be brought to the notice of the Head of Office duly supported by a Medical Certificate from a Medical Officer, not below the rank of a Civil Surgeon. This may be indicated in Form 3 by the Head of Office. As and when the claim for family pension arises, the legal guardian of the child should make an application supported by a fresh medical certificate from a Medical Officer, not below the rank of Civil Surgeon, that the child still suffers from the disability.

(d) (i) The Head of Office shall, on receipt of the said Form 3 , get it pasted on the service book of the Government servant concerned and acknowledge receipt of the said Form 3 and all further communications received from the Government servant in this behalf.

(ii) The Head of Office on receipt of communication from the Government servant regarding any change in the size of family shall have such a change incorporated in Form 3 .

(e) Deleted.

(13) The ad hoc increase in pension, sanctioned in the Ministry of Finance, Office Memorandum No. 15 (13)-E. V. (A)/63, dated the 16th October, 1963, as amended from time to time, shall not be payable to the family in receipt of a family pension under this rule.

(13-A) A military pensioner, who on retirement from military service, on retiring pension, service pension or invalid pension is governed for the grant of ordinary family pension by Army Instruction 2/S/64 or corresponding Navy or Air Force Instructions and is re-employed in a civil service or civil post before attaining the age of superannuation, shall for the purpose of eligibility for the family pension admissible under this rule or the family pension already authorized under the aforesaid Army/Navy/Air Force Instruction, be governed as follows :-

(i) If he dies while holding a civil post, his family shall be allowed family pension under these rules or the family pension authorized at the time of retirement or discharge from the military service, whichever is more advantageous to the family ;

(ii)

if he has, on appointment to a civil service or post, opted to retain military pension for the past military service -

(a)

and retires from the civil re-employment without earning any pension therefore, his family shall be entitled to family pension as authorized at the time of his retirement/discharge from military service ;

(b) retires from civil re-employment after becoming eligible for pension therefore, he shall exercise an option at the time of applying for pension for civil service either to be governed by family pension under these rules or to avail of family pension benefits as authorized at the time of his retirement/discharge from military service and the said option once exercised shall be final.

(iii) if on appointment to a civil service or post, he has opted to surrender military pension and count the military service for civil pension, his family shall be entitled to family pension under these rules.

(13-B) Family Pension admissible under this rule shall not be granted to a person who is already in receipt of Family Pension or is eligible therefor under any other rules of the Central Government or a State Government and/or Public Sector Undertaking/Autonomous Body/Local Fund under the Central or a State Government :

Provided that a person who is otherwise eligible for family pension under this rule may opt to receive family pension under this rule if he forgoes family pension admissible from any other source.

Provided further that family pension admissible under the Employees Pension Scheme, 1995, and the Family Pension Scheme, 1971, shall, however, be allowed in addition to the family pension admissible under these rules.

(14) For the purposes of this rule, -

(a) "continuous service" means service rendered in a temporary or permanent capacity in a pensionable establishment and does not include -

(i) period of suspension, if any ; and

(ii) period of service, if any, rendered before attaining the age of eighteen years;

1[(b) "family" in relation to a Government servant means -

(i) wife in the case of a male Government servant, or husband in the case of a female Government servant.

NOTE 1. - Deleted.

NOTE 2. - Deleted.

(ia) a judicially separated wife or husband, such separation not being granted on the ground of adultery and the person surviving was not held guilty of committing adultery.

(ii) son who has not attained the age of twenty-five years and unmarried daughter who has not attained the age of twenty-five years, including such son and daughter adopted legally ;]

(c) "pay" means -

(i) the emoluments as specified in Rule 33, or

(ii) the average emoluments as referred to in Rule 34 if the emoluments of the deceased Government servant have been reduced during the last ten months of his service otherwise than as penalty :

2[Provided that the element of dearness allowance which has been treated as dearness pay under the ministry of Finance, Department of Expenditure, Office Memorandum No. F. 19 (4)-E. V/79, dated the 25th May, 1979, shall not be treated as pay for the purpose of this rule.]

Footnote:- 1. Read with Para 7.2 of the D/o P & PW O.M. No.45 /86/97 - P & PW(A) - Part I dt. 27.10.97 and O.M. No. 45/51/97 - P & PW(E) dt. 5.3.1998 .

2. Read with the Ministry of Finance O.M. No. 105/1/2004-IC dated 1.3.2004

(15) Nothing contained in this rule shall apply to -

(a) a re-employed Government servant who had retired before the 1st of January, 1964, from -

(i) civil service on retiring pension or superannuation pension, or

(ii) military service on retiring pension, service pension or invalid pension, and who, on the date of re-employment, had attained the age of superannuation applicable to the post in which he is re-employed ;

(b) a military pensioner who retired from military service on or after the 1st January, 1964 and who on the date of re-employment in a civil service or civil post had attained the age of superannuation applicable to the post in which he is re-employed ;

(c) a Government servant referred to in Rule 37, who on absorption in a corporation or company wholly or substantially owned or controlled by the Government or any other body,

incorporated or not, is governed by provisions of the family pension scheme of the corporation or company or body, as the case may be.

(16) Omitted.

GOVERNMENT OF INDIA'S DECISIONS

(1) Pension/gratuity payable to a lunatic. - 1. When any sum is payable in respect of pay, pension, gratuity or other similar allowance to any person (by the Central Government or any State Government) and the person to whom the sum is payable is certified by a Magistrate to be lunatic, the Government Officer under whose authority such sum would be payable, if the payee were not a lunatic, may pay so much of the said sum as he thinks fit to the person having charge of the lunatic and may pay the surplus, if any, or such part thereof, as he thinks fit for the maintenance of such members of the lunatic's family as are dependent on him for maintenance.

2. The Government concerned, shall be discharged of all liability in respect of any amounts paid in accordance with the section.

[Section 95 (1) of the Indian Lunacy Act, 1912.]

(2) Procedure when a member of the family forgoes his claim. - A question has been raised whether the payment of pension can be authorised to the second son or the eldest surviving unmarried daughter of the deceased Government servant if the eldest surviving son gives his consent in writing to forgo his claim in favour of his younger brother or sister ; and whether the share of the death/retirement gratuity admissible to a member or members in whose favour the former may have forgone his/her claim. The matter has been carefully considered and it has been decided that since Government would not in such a case get a good discharge from the eldest son or other member of family having a prior claim to the pension, the safer and more appropriate course would be to sanction the pension only in favour of the member entitled to it under the rules. Similarly, the gratuity should also be paid to all the members of the family in equal shares, as has been provided for in the rules even though any of the members may volunteer or desire that his/her share may be paid to some other member(s) of the family.

[G.I., M.F., O.M. No. F. 20 (11)-E. V/57, dated the 27th October, 1957.]

(3) When the widow gives birth to an illegitimate child. - The widow of a Policeman who was governed by the Extraordinary Pension Rules gave birth to an illegitimate child and a question was raised whether her family pension should be stopped. The pension was not payable only on her death or re-marriage, whichever occurred earlier. As there was no legal re-marriage, it was held by the Ministry of Law that the case should be disposed of on the assumption that there has been no re-marriage and as such the pension was accordingly allowed to continue.

[G.I., M.F., U.O. No. 3006-E. V/51, dated the 11th May, 1951.]

(4) Posthumous child entitled to pension. - A doubt arose whether a posthumous child is covered by the term 'surviving kindred' in the application form for family extraordinary pension and whether or not such a child would be entitled to pension and other pensionary benefits admissible under the various pension rules. It was held in consultation with the Ministry of Law that the term 'child' includes a posthumous child of the Government servant.

[G.I., M.F., U.O., No. 9614-E. V/66, dated the 2nd January, 1967.]

(5) Payment of family pension payable to a minor to the de facto guardian on production of Indemnity Bond. - 1. Decision No. (4) under Rule 51 was made applicable to family pension payable to the minor under Ministry of Finance, O.M. No. F. 9 (18)-E. V(A)/65, dated 28-9-65 (not mentioned).

2. The death/retirement gratuity is paid in lump sum. It is, therefore, easy to specify the amount for which the indemnity bond is to be executed by the de facto guardian. Family Pension is, however, payable monthly and also for the period till the minor attains the age of 18 years or the date of marriage in the case of a daughter. Doubts are therefore likely to arise whether the limit of Rs. 5,000 (now Rs. 10,000) applies also in the case of family pension and for what amount the indemnity bond should be executed. It is clarified -

(1) that the limit of Rs. 5,000 (now Rs. 10,000) fixed in the case of death/retirement gratuity applies also to the family pension payable to the minor under the above quoted orders.

(2) the indemnity bond for payment of family pension is to be executed for Rs. 5,000 (now Rs. 10,000) or to the total amount of family pension payable to the minor till the date of attainment of majority, i.e., till the age of 18 years, whichever is less.

(3) in case where total amount of family pension payable to a minor till he/she becomes major exceeds Rs. 5,000 (now Rs. 10,000) the payment of the family pension to the de facto guardian under the indemnity bond would be made till such time the total amount of family pension paid does not exceed Rs. 5,000 (now Rs. 10,000). Thereafter, the family pension can be paid to the de facto guardian on production of guardianship certificate only. If no guardianship certificate is produced, the arrears of family pension can be paid to the minor only after he/she attains the age of 18 years.

[D.G., P. & T., Letter No. 4/34/74-Pen., dated the 20th January, 1975, amended.]

(6) Family pension throughout life admissible also to the physically/mentally handicapped children of those employees who retired/died before 30-9-1974. - 1. Proviso to sub-rule (6) of Rule 54 of the CCS (Pension) Rules, 1972, stipulates that if the son or daughter of a Government servant is suffering from any disorder or disability of mind or is physically crippled or disabled so as to render him or her unable to earn a living even after attaining the age of 21 years in the case of a son and 24 years in the case of daughter (now 25 years in both cases) the family pension shall be payable to such son or daughter for life subject to the conditions laid down therein. The said proviso was incorporated in the said rule vide Notification No. 1 (3)-E. V (B)/74, dated 30-9-1974, and came into effect from that date.

2. Representations have been received from various quarters for grant of family pension to the sons/daughters of Government servants/pensioners who are suffering from disorder or disability of mind, etc., where Government servants retired/died before 30-9-1974. The matter has been considered carefully and it has been decided that the benefits of family pension to the sons/daughters of Government servant, who are suffering from any disorder or disability of mind or are physically crippled or disabled so as to render them unable to earn a living be extended to such sons/daughters of Government servants who retired/died before 30-9-1974.

3. These orders will take from 20th May, 1987 and no arrears will be admissible.

[G.I., Dept. of P. & P.W., O.M. No. 1/47/87-P. & P.W., dated the 20th May, 1987.]

(7) Procedure for payment of family pension to handicapped children. - Under O.M. No. 1/80/89-P. & P.W. (C), dated the 19th February, 1990 (not printed) the condition of manifestation of the disability of children before retirement or death in harness of the Government servant for grant of family pension for life has been dispensed with. Representations have been received that in such cases difficulties are experienced on account of the fact that the disability of the child is not mentioned in the details contained in the PPO.

2. Only the revised PPO forms introduced with effect from 1-1-1990, contains provisions for entry of details of all members of the family. The PPOs issued prior to that date will not contain the names of children of the pensioner. Since only in the case of spouse of the pensioner the payment of the family pension becomes automatic on production of the death certificate and in other cases the family pension is to be authorized by the authority who sanctioned the original pension, the fact that the disability of any particular child is not mentioned in the PPO should normally not impose any hardship. However, it has been represented that in the case of a mentally handicapped child, it will be difficult to claim family pension when his or her turn comes for payment of family pension. In order to expedite sanction of family pension in such cases, the following procedure is prescribed.

3. Where the names of eligible children have not been mentioned in the PPO for various reasons like the pension was sanctioned prior to 1-1-1990, the child is a post-retiral one or post-retiral manifestation of disability of the child, the pensioner, if he so desires, can furnish a list of eligible children to the pension sanctioning authority, inter alia, indicating whether any child is handicapped or not. The receipt of this list may be acknowledged by the pension sanctioning authority, mentioning the details of the eligible children taken on record. This acknowledgement may be preserved by the members of the family of the pensioner for production at the time of submission of claim for family pension in their own turn to the pension sanctioning authority. In case of mentally retarded children or minor who would draw pension through a guardian, the responsibility of producing this acknowledgement will devolve on the guardian. The production of acknowledgement will, however, not be a pre-condition to the processing of claims for family pension.

4. Ministry of Finance, etc., are requested to kindly bring this to the notice of all offices under their control.

5. This OM issues in consultation with C. & A.G., vide U.O. No. 899-AC, II/93-94. I, dated 28-10-1992.

[G.I., Dept. of Pen. & P.W., O.M. No. 1 (21)-P. & P.W./91-E, dated the 20th January, 1993.]

(8) Spouse of the deceased pensioner can furnish details of eligible children. - Representations have been received about making eligible the spouse to furnish the details of eligible children, including handicapped children, to the pension sanctioning authority where the same was not furnished by the employee/pensioner.

2. The matter has been considered in this Department and it has been decided to allow the spouse of the deceased pensioner/Government servant, if the details of such children were not furnish by the latter, to furnish the details of eligible children to the pension sanctioning authority as it will help in setting family pension cases.

3. This OM issues in consultation with C. & A.G. of India, vide their U.O. No. 685-AC. II/288-97-II, dated 24-10-1998.

[G.I., Dept. of Pen. & P.W., O.M. No. 1/21/91-P. & P.W., (E) (Pt.), dated the 15th January, 1999.]

(9) Production of guardianship certificate is necessary for payment of family pension to physically crippled/disabled minor children and children suffering from any disorder or disability of mind. - It is clarified that the existing stipulation in regard to guardianship certificates/appointment of guardians will continue to apply in respect of the physically crippled/disabled children who are minors and the children suffering from any disorder or disability of mind as they are covered by the existing laws for the purpose of obtaining guardianship certificates/appointment of guardians by the Courts.

[G.I., Dept. of P. & P.W., O.M. No. 1/47/87-P. & P.W.,/C, dated the 30th March, 1989.]

(10) Payment of retirement gratuity and family pension to the family, in case an official's whereabouts are not known.

1. A number of cases are referred to this Department for grant of family pension to the eligible family members of employees who have suddenly disappeared and whose whereabouts are not known. At present all such cases are considered on merits in this department. In the normal course unless a period of 7 years has elapsed since the date of disappearance of the employee, he cannot be deemed to be dead and the retirement benefits cannot be paid to the family. This principle is based on Section 108 of the Indian evidence act which provides that when the question is whether the man is alive or dead and it is proved that he has not been heard of for 7 years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive is shifted to the person who affirms it.

2. The matter has been under consideration of the government for some time as withholding of the benefits due to the family has been causing a great deal of hardship. It has been decided that (i) when an employee disappears leaving his family, the family can be paid in the first instance the amount of salary due, leave encashment due and the amount of GPF having regard to the nomination made by the employee, (ii) after the elapse of a period of one year, other benefits like retirement or death gratuity/family pension may also be granted to the family subject to the fulfillment of conditions prescribed in the succeeding paragraphs.

3. The above benefits may be sanctioned by the administrative ministry/department after observing the following formalities:-

(i) The family must lodge a report with the concerned police station and obtain a report that the employee has not been traced after all efforts had been made by the police.

(ii) An indemnity bond should be taken from the nominee/dependants of the employee that all payments will be adjusted against the payment due to the employee in case he appears on the scene and makes any claim.

4. The head of office will assess all government dues outstanding against the government servant and effect their recovery in accordance with rule 71 of CCS (pension) rules, 1972 and other instructions in force for effecting recovery of government dues.

5. The family can apply to the head of the office of the government servant for grant of family pension and death/retirement gratuity, after one year from the date of disappearance of the government servant in accordance with the prescribed procedure for sanction of family pension and death/retirement gratuity. In case the disbursement of death/retirement gratuity is not effected within three months of the date of application, the interest shall be paid at the rates applicable and responsibility for the delay fixed.

[G.I., Dept. of P.&P.W., O.M. No. 1/17/86-P. & P.W., dated the 29th August, 1986.]

Note:- The above orders regulate genuine cases of disappearance under normal circumstances and not the cases in which officials disappear after committing frauds, etc. In latter type of cases the family pension needs to be sanctioned only on the government employee being acquitted by the court of law or after the conclusion of the disciplinary proceedings, etc. as the case may be.

[G.I., Dept. of Posts, Circular Letter No. 4-52/86-Pen, dated the 3rd March, 1989.]

(11) Family pension should be sanctioned from the date of lodging FIR or expiry of leave of the employee, whichever is later. - *** At present the family pension is sanctioned and paid to the eligible member of the family one year after the date of registering the FIR with the police and no family pension is paid for the intervening period of one year from the date the FIR is lodged to the date the family pension can be sanctioned. This practice is causing hardship to the families. It has now been decided that the family pension which, in pursuance of the earlier orders, will continue to be sanctioned and paid one year after the date of lodging the FIR, will accrue from the date of lodging the FIR or expiry of leave of the employee who has disappeared, whichever is later. When the sanction for family pension is issued, the payment of pension from the date of accrual may be authorized. The usual procedure of obtaining the indemnity bond, etc., as laid down in the OM, dated 29-8-1986 [Decision (10) above] will continue to be followed. While sanctioning payment of family pension, it will be ensured by the concerned authorities that family pension is not authorized for any period during which payment of pay and allowances in respect of the disappeared employee has been made.

[G.I., Dept. of Pen. & P.W., O.M. No. 1 (17)-P. & P.W./86-E dated the 18th February, 1993.]

(12) Payment of retirement gratuity and family pension to the family in case an official's/pensioner's whereabouts are not known - further instructions. - Following certain doubts expressed by some Ministries/Departments in the application of O.M. No. 1/17/86-P. & P.W., dated the 29th August, 1986 [Decision (10) above], clarifications/further instructions regarding the formalities to be observed, regulation of payment of the benefits, etc., as contained in the following paragraphs, are circulated.

2. This Department O.M. No. 1/17/86-P. & P.W., dated 29-8-1986 [Decision (10) above], as well as this OM, will also be applicable in the case of missing pensioners mutatis mutandis.

3. The date of disappearance of the employee/pensioner will be reckoned from the date the First Information Report is lodged with the Police, and the period of one year after which the benefits of family pension and gratuity are to be sanctioned will also be reckoned from this date. However, the benefits to be sanctioned to the family, etc., of the missing employee will be based on and regulated by the emoluments drawn by him and the rules/orders applicable to him as on the last date he/she was on duty including authorized periods of leave. "Family pension at normal/enhanced rates, as may be applicable in individual cases, will be payable to the families of missing employees." Family pension where sanctioned at pre-1-1-1986 rates will be revised and consolidated, w.e.f. 1-1-1986 in terms of O.M. No. 2/1/87-PIC I, dated 16-4-1987 (not printed), as amended from time to time.

4. In the case of missing pensioners, the family pension at the rates indicated in the PPO will be payable and may be authorized by the Head of the Office concerned. Where the PPO does not contain this information, the Head of Office will take necessary action to sanction the family pension as due, as provided in para. 3 above.

5. Death gratuity will also be payable to the families, but not exceeding the amount which would have been payable as retirement gratuity if the person had retired. The difference between retirement gratuity and death gratuity shall be, subsequently, payable after the death is conclusively established or on the expiry of seven years period from the date of missing.

6. The indemnity bond to be obtained for this purpose from the family members, etc., will be in the formats enclosed with this Office Memorandum. Separate formats for use in the case of missing employees and missing pensioners have been prescribed. These formats have been finalized in consultation with the Department of Legal Affairs.

7. Cases already settled otherwise than in accordance with this Office Memorandum need not be re-opened, unless such a re-opening will be to the advantage of the beneficiaries.

[G.I., Dept. of P. & P.W., O.M. No. 1/17/86-P. & P.W. (C), dated the 25th January, 1991.]

INDEMNITY BOND

[In the case of missing employee]

KNOW ALL MEN by these presents that we (a).....(b).....the wife/son/brother/nominee, etc., of (c).....who was holding the post ofin the Ministry/Department/Office ofis reported to have been missing since.....(hereinafter) referred to as 'missing Government servant') resident of

.....(hereinafter called "the Obligor") and (d).....son/wife/daughter of Shri resident of and son/wife/daughter of resident ofthe sureties for and on behalf of the Obligor (hereinafter called "the Sureties") are held firmly bound to the President of India (hereinafter called "the Government") in the sum of Rs.....(in words) equivalent of the amount on account of payment of salary, leave encashment, GPF, Retirement/Death Gratuity and each and every sum being the monthly family pension well and truly to be paid to the Government, on demand and without a demur together with simple interest @ % p.a. from the date of payment thereof until repayment for which payment we bind ourselves and our respective heirs, executors, administrators, legal representatives, successors and assigns by these presents.

Signed this day of one thousand nine hundred and

WHEREAS (c) was at the time of his disappearance in the employment of the Government receiving a pay at the rate of Rs..... (in words) only per month from the Government.

AND WHEREAS the said (c) disappeared on the day of 19.....and there was due to him at the time of his disappearance the sum equivalent of (i) salary due (ii) leave encashment, (iii) GPF and (iv) Retirement/Death Gratuity.

AND WHEREAS the Obligor is entitled to family pension at Rs.....(Rupees.....only) plus admissible dearness relief thereon.

AND WHEREAS the Obligor has represented that he/she is entitled to the aforesaid sum and approached the Government for making payment thereof of avoid undue delay and hardship.

AND WHEREAS the Government has agreed to make payment of the said sum of Rs.....(in words) and monthly family pension @ Rs.....(in words) only and relief thereon to the Obligor upon the Obligor and the Sureties entering into a Bond in the above mentioned sum to indemnify the Government against all calims to the amount so due to the aforesaid missing Government servant.

AND WHEREAS the Obligor and at his/her request the Surety/Sureties have agreed to execute the Bond in the terms and manner hereinafter contained.

NOW THE CONDITION OF THIS BOND is such that if after payment has been made to the Obligor, the Obligor and/or the Surety/Sureties shall in the event of a claim being made, by any other person or the missing employee on appearance, against the Government with respect to the aforesaid sum of Rs.....(in words) and the sums paid by the Government as monthly pension and relief as aforesaid then refund to the Government the said sum of Rs.....(in words) and each and every sum paid by Government as monthly pension and relief together with simple interest @ % per annum and shall, otherwise, indemnify and keep the Government harmless and indemnified against and from all liabilities in respect of the aforesaid sums and all costs incurred in consequence of the claim thereto THEN the above-written Bond or obligation shall be void and of no effect but otherwise it shall remain in full force, effect and virtue.

AND THESE PRESENTS ALSO WITNESS that the liability of the Surety/Sureties hereunder shall not be impaired or discharged by reason of time being granted by or any forbearance act or omission of the Government whether with or without the knowledge or consent of the Surety/Sureties in respect of or in relation to the obligations or conditions to be performed or discharged by the Obligor or by any other method or thing whatsoever which under the law relating to sureties would but for this provision shall have no effect of so releasing the Surety/Sureties from such liability nor shall it be necessary for the Government to sue the Obligor before suing the Surety/Sureties or either of them for the amount due hereunder, and the Government agrees to bear the stamp duty, if any, chargeable on these presents.

IN WITNESS WHEREOF the Obligor and the Surety/Sureties hereto have set and subscribed their respective hands hereunto on the day, month and year above-written.

Signed by the above-named `Obligor' in the presence of

1.
2.

Signed by the above-named `Surety'/'Sureties'

1.
2.

Accepted for and on behalf of the President of India by

.....
.....
.....

[Name and designation of the Officer directed or authorized in pursuance of, Article 299 (1) of the Constitution, to accept the Bond for and on behalf of the President] in the presence of.....

.....
.....

(Name and designation of witness)

- NOTE I. -
- (a) Full name of the claimant referred to as the `Obligor'.
 - (b) State relationship of the `Obligor' to the `missing Government servant'.
 - (c) Name of the `missing Government servant'.

(d) Full name or names of the Sureties with name or names of the father(s)/ husband(s) and place of residence.

NOTE

II. -

The Obligor as well as the Sureties should have attained majority so that the bond may have legal effect or force.

NOTE

III. -

The rate of simple interest will be as prescribed by the Government from time to time. It is 6% p.a. on the date of issue of the OM.

INDEMNITY BOND

[In the case of missing pensioner]

KNOW ALL MEN by these presents that we (a) (b) the widow/son/brother/nominee, etc., of (c) who had retired from the post of in the Ministry/Department/Office of and who was in receipt of pension from is reported to have been missing since (hereinafter referred to as 'missing pensioner' resident of(hereinafter called "the Obligor") and (d) son/wife/daughter of Shri resident of and son/wife/daughter of Shri resident of the sureties for and on behalf of the Obligor (hereinafter called "the Sureties") are held firmly bound to the President of India (hereinafter called "the Government") in each and every sum being the arrears of pension and monthly family pension and relief thereon well and truly to be paid to the Government, on demand and without a demur together with simple interest at the rate of % per annum from the date of payment until repayment for which payment we bind ourselves and our respective heirs, executors, administrators, legal representatives, successors and assigns by these presents.

Signed this day of one thousand nine hundred and

WHEREAS (c) was at the time of his disappearance a Central Government pensioner receiving a pension at the rate of Rs.....(in words) only per month and relief thereon from the Government.

AND WHEREAS the said (c) disappeared on the day of 19..... and there was due to him at the time of his disappearance the sum equivalent of arrears of pension due.

AND WHEREAS the Obligor is entitled to family pension at Rs..... (Rupees only) plus admissible dearness relief thereon.

AND WHEREAS the Obligor has represented that he/she is entitled to the aforesaid sum and approached the Government for making payment thereof to avoid undue delay and hardship.

AND WHEREAS the Government has agreed to make payment of the said sum of Rs.....(in words) and the monthly family pension at Rs.....(in words) plus relief thereon to the Obligor upon the Obligor and the Sureties entering into a Bond in the above-mentioned sum to indemnify the Government against all claims to the amount so due to the aforesaid missing Government pensioner.

AND WHEREAS the Obligor and at his/her request the Surety/Sureties have agreed to execute the Bond in the terms and manner hereinafter contained.

NOW THE CONDITION OF THIS BOND is such that if after payment has been made to the Obligor, the Obligor and/or the Surety/Sureties shall in the event of a claim being made, by any other person or the missing pensioner on appearance, against the Government with respect to the aforesaid sum of Rs.....(in words) and the sums paid by the Government as monthly family pension and relief as aforesaid then refund to the Government the said sum of Rs.....(in words) and each and every sum paid by Government as monthly family pension and relief together with simple interest @.....% per annum and shall, otherwise, indemnify and keep the Government harmless and indemnified against and from all liabilities in respect of the aforesaid sums and all costs incurred in consequence of the claim thereto THEN the above-written Bond or obligation shall be void and of no effect but otherwise it shall remain in full force, effect and virtue.

AND THESE PRESENTS ALSO WITNESS that the liability of the Surety/Sureties hereunder shall not be impaired or discharged by reason or time being granted by or any forbearance act or omission of the Government whether with or without the knowledge or consent of the Surety/Sureties in respect of or in relation to the obligation or conditions to be performed or discharged by the Obligor or by any other method or thing whatsoever which under the law relating to sureties would but for this provision shall have no effect of so releasing the Surety/Sureties from such liability nor shall it be necessary for the Government to sue the Obligor before suing the Surety/Sureties or either of them for the amount due hereunder, and the Government agrees to bear the stamp duty, if any, chargeable on these presents.

IN WITNESS WHEREOF the Obligor and the Surety/Sureties hereto have set and subscribed their respective hands hereunto on the day, month and year above-written.

Signed by the above-named 'Obligor' in the presence of

1.
2.

Signed by the above-named 'Surety'/'Sureties'

1.

2.

Accepted for and on behalf of the President of India by

.....

.....

.....

[Name and designation of the Officer directed or authorized in pursuance of, Article 299 (1) of the Constitution, to accept the Bond for and on behalf of the President] in the presence of.....

.....

.....

(Name and designation of witness)

NOTE I. - (a) Full name of the claimant referred to as the 'Obligor'.

(b) State relationship of the 'Obligor' to the 'missing pensioner'.

(c) Name of the 'missing pensioner'.

(d) Full name or names of the Sureties with name or names of the father(s)/ husband(s) and place of residence.

NOTE

II. -

The Obligor as well as the Sureties should have attained majority so that the bond may have legal effect or force.

NOTE

III. -

The rate of simple interest will be as prescribed by the Government from time to time. It is 6% p.a. on the date of issue of the OM.

(13) Second wife not entitled to the family pension as a legally wedded wife under the Hindu Marriage Act. - The Department of Pension and Pensioners' Welfare have since clarified that the

second wife will not be entitled to family pension as a legally wedded wife. A copy of their clarification is enclosed for information.

[C. & A.G., New Delhi, Letter No. 211-Audit I/13-86, dated the 4th March, 1987.]

COPY OF D.O., LETTER NO. 1/39/86-P. & P.W., DATED 16-2-1987, RECEIVED FROM SHRI HAZARA SINGH, DEPUTY SECRETARY, DEPARTMENT OF PENSION AND P.W., NEW DELHI.

An extract of the relevant advice given by the Ministry of Law in the matter is enclosed. You may like to take necessary action in the matter accordingly.

EXTRACT

It is specifically a question arising under the Hindu Marriage Act, 1955. Under Rule 54 (7) of the CCS (Pension) Rules, 1972, in case a deceased Government servant leaves behind more than one widow or a widow and eligible offspring from another widow, they are entitled to family pension in respect of that deceased Government servant. Section 11 of the Act provides that any marriage solemnized after the commencement of the Act shall be null and void can be annulled against the other party by a decree of nullity if the same contravenes any of the conditions specified in Clauses (i), (iv) and (v) of Section 5 of the Act. Section 5 (1) stipulates that the marriage cannot be legally solemnized when either party has a spouse living at the time of such marriage. Therefore, any second marriage by a Hindu male after the commencement of 1955 Act during the lifetime of his first wife will be a nullity and have no legal effect. Such marriage cannot be valid on the ground of any custom. In fact, a custom opposed to an expressed provision of law is of no legal effect. So under these circumstances, the second wife will not be entitled to the family pension as a legally wedded wife.

(14) When the husband declines to accept family pension in any capacity. - A case has been reported where on the death of a married woman employee, who left behind minor children, the husband of the deceased had declined to accept the family pension in any capacity and also given his consent to pay the same to the real guardian of the deceased's children, i.e., his father-in-law. The widower was having another living wife at the time of the death of the deceased Government servant.

The following point relating to the case was referred to the Government of India by this office. The Ministry of Finance in consultation with the Ministry of Law and Department of Personnel and Administrative Reforms have now issued the clarification below :

Point raised for clarification :

If the husband has another living wife at the time of death of a female Government servant, it is the same as re-marriage and as such the husband of the deceased female Government servant is not entitled to the Family Pension under Rule 54 (6) (i) of the CCS (Pension) Rules, 1972. Will it be in order in the instant case to pay the family pension to the minor children through the father of the deceased employee who is their guardian, when the natural guardian, viz., father of the children, is living?

Clarification issued :

It will be in order in the instant case to pay the family pension to the minor children through the father of the deceased employee, i.e., their guardian, when the natural guardian, i.e., father of the children, is living. This is however, subject to recognition of his legal guardianship by the court.

[A.G., Letter No. 61/Audit/95-75, dated the 19th January, 1976.]

(15) Rounding off of pension/family when payable to more than one person payable for part of a month. - 1. Rules 49 and 54(2-A) of CCS (Pension) Rules, 1972, provided for fixation of pension and family pension at monthly rates and its expression in whole rupees where the pension contains a fraction of a rupee. A question was raised as to manner in which family pension/pension in the following cases is to be rounded off:-

(a) In respect of family pension where the pension is payable to more than one person each share containing a fraction of a rupee; and

(b) In respect of pension paid for a part of a month due to the death of a pensioner or for any other reasons where pension and relief thereon becomes payable in fraction of a rupee.

2. The matter has been examined in consultation with Department of Pension and P.W. and it is clarified that in respect of (a) above, each share of family pension resulting in a fraction of a rupee may be rounded off to next higher rupee except in cases where family pension, if all the shares are put together exceed the maximum limit of family pension admissible. However in the exceptional and rare cases where the shares of family pension rounded as above when added cause an excess over the maximum limit, such cases should be referred to the Department of Pension and PW and decided in consultation with that Department.

In respect of (b) above also the payment of pension for part of a month if worked out in fraction of a rupee may be rounded off to the next higher rupee.

[G.I., M.F., O.M. No. G-19011/2/90-MF-CGA/Pen./635, dated the 9th October, 1990.]

(16) Family pension to post-retiral spouses. - According to Rule 54 (14) (b) (i) of the CCS (Pension) Rules, 1972, the post-retiral spouses are not entitled to family pensioners, Smt. Bhagwanti, widow of a Defence pensioner and Smt. Sharda Swamy, widow of a Railway pensioner, who had married after retirement, filed Writ Petition Nos. 1128 of 1988 and 1204 of 1988, respectively, in the Supreme Court claiming that the benefit of the family pension scheme may also be extended to them. The Hon'ble Supreme Court in its judgment, dated 29-8-1989, allowed the petitions of Smt. Bhagwanti and Smt. Sharda Swamy.

2. The matter regarding implementation of the judgment of the Supreme Court has been considered by the Government. The President is, accordingly, pleased to decide that the benefit of Family Pension Scheme, 1964, will also be admissible to the post-retiral spouses from the date following the date of death of the pensioner.

3. Life time arrears, wherever admissible, of family pension in respect of spouses of the deceased post-retiral spouses would also be payable to their family members/heirs where the spouse eligible for family pension was alive on the date of eligibility and who died subsequent to that date, for the period from the date of eligibility to the date of death.
4. The sanction of family pension and its payment will be regulated in accordance with the procedure laid down in the CCS (Pension) Rules, 1972.
5. These orders do not apply to Railway employees, persons paid from Defence Services estimates and the members of the All India Services. Separate order in respect of them would be issued by the respective Ministries.
6. In their application to the families of pensioners who retired/retire from Indian Audit and Accounts Department, these orders have been issued after consultation with the Comptroller and Auditor-General of India.
7. Formal amendment to Rule 54(14) (b) (i) and (ia) of the CCS (Pension) Rules, 1972, is being issued separately (since amended).

[G.I., Dept. of P. & P.W., O.M. No. 1/87/89-P. & P.W./C, dated the 30th November, 1990.]

NOTE. - The benefit of the above OM, dated the 30th November, 1990, is admissible also to post-retiral spouses whose marriages were solemnized after retirement even before 30th November, 1990.

(17) Regulation of past cases of family pension admissible to children born after retirement. - The Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Pension and Pensioners' Welfare) have issued the following clarification in respect of the above-mentioned points :-

(i) The sons/daughters born after retirement but before the issue of the amendment to Rule 54 (14) (b) (ii) vide G.o.I. Notification No. 1/66/89-P. & P.W./C, dated 5-6-1990 (making children born after retirement eligible for family pension), will also be eligible for family pension there under.

(ii)

The arrears of family pension will be admissible under the said Notification to the sons/daughters from the date they became entitled to family pension, that is, the date following the date of death of the Government employee or his wife, etc., as the case may be.

[C. & A.G. of India, New Delhi, Letter No. 43-Audit. I/94-AI/90 KW (13), dated the 18th January, 1991.]

(18) Endorsement of family pension entitlement of post-retiral spouses in the PPO - procedure for. - Reference Decision (17) above, the question of laying down the procedure for endorsement of family pension entitlement of post-retiral spouse in the Pension Payment Order of the pensioner has been under consideration of this Department. It has now been decided that the following procedure may be followed for endorsement of family pension entitlement of post-retiral spouse in the Pension Payment Order of Central Government Civil Pensioners :-

(i) As and when a pensioner marries or re-marries after retirement he shall intimate the event to the Head of Office who processed his pension papers at the time of his retirement. He shall also furnish along with his application an attested copy of the marriage certificate from Registrar/Gram Panchayat/District Magistrate in respect of his post-retirement marriage.

(ii) The Head of Office on receipt of the application mentioned above and after due verification where necessary, forward the papers to the concerned Pay & Accounts Officer for issue of corrigendum PPO. While forwarding the papers to the Pay & Accounts Officer, the provisions of Clause (b) of sub-rule (7) of Rule 54 of the CCS (Pension) Rules, 1972, shall be kept in mind. When the pensioner does not have any child or children from his previous marriage, if any, the post-retiral spouse shall be eligible for full family pension. Where the pensioner has any eligible child or children from another wife who is not alive, the family pension to the post-retiral spouse and the child/children from the previous marriage will be authorized in terms of Clause (b) of sub-rule (7) of Rule 54 *ibid*.

(iii) The corrigendum PPO shall be forwarded by the Pay & Accounts Officer to the concerned pension disbursing authority through the Central Pension Accounting Office. A copy of the corrigendum PPO shall also be endorsed to the pensioner.

(iv) As far as children, including those born after retirement, are concerned, a fresh PPO will be issued as and when the turn of each child for receipt of family pension is reached as at present.

The application will be submitted in the attached pro forma.

2. These orders do not apply to Railway employees, persons paid from the Defence Services Estimates and the members of All India Services. Separate orders in respect of them would be issued by the respective Ministries.

3. In their application to the families of pensioner who retired/retire from Indian Audit and Accounts Department, these orders have been issued after consultation with the Comptroller and Auditor-General.

[G.I., Dept. of P. & P.W., O.M. No. 1 (23)-P. P.W./91-E, dated the 4th November, 1992.]

PRO FORMA

Form of application to be submitted by Pensioners for endorsement of particulars of spouse from post-retiral marriage and children born after retirement in the PPO.

(To be filled in triplicate and submitted to Head of Office, who processed pension papers initially).

Sir,

I am to state that I have married/remarried on..... I give below the requisite particulars, of my spouse for necessary endorsement on my PPO.

I also enclose 3 copies of passport size joint photograph with my spouse duly attested for necessary action.

1. Name of the Pensioner (as recorded in PPO)
2. Full present Address
3. Date of Retirement
4. (i) PPO No. & Date
(ii) Name of PPO Issuing Authority
5. Name of the Pension Disbursing Authority
 - (i) Station
 - (ii) Treasury/DPDO/PAO/PSB, as the case may be
 - (iii) Bank Branch with full Address and SB/CA A/c. No.
6. (a) Details of family (as recorded in PPO)

Sl. No.	Name (s) and addresses of members of family	Relationship with the Pensioner	Marital Status (in case of daughter)	Date of Birth of children	Whether the child/children physically handicapped
---------	---	---------------------------------	--------------------------------------	---------------------------	---

(b)

if the application is for inclusion of post-retiral spouse, the date of death/divorce of the previous spouse (Attested copies of death certificate/divorce decree to be enclosed)

7. Particulars of spouse from post-retiral marriage -
 - (i) Name

(ii) Date of marriage with the pensioner, (Please attach attested copy of marriage certificate.)

(iii) Joint Photograph of the pensioner and the spouse referred to at item (a) above duly attested.

8. Particulars of Children born after retirement.

Sl. No.

Name(s) and address of postretiral family

Relationship with the pensioner

Date of Birth

Whether the child(ren) is/are physically handicapped

(Please attach attested copies of birth certificates)

9. Verification

I certify that the particulars furnished above are correct.

Attested by:

Signature of Pensioner

(With name in Block letters with address)

1.

Signature

Name

Address

Place

Date

2.

Signature

Name

Address

NOTE. - Attestation should be done by two Gazetted Government servants or by two respectable persons in the town/village or pargana in which the applicant resides.

(19) Option for defence beneficiaries to draw family pension either from Defence or Civil source, whichever is more beneficial. - A number of representations have been received from the families of Armed Forces pensioners who are drawing their family pension from the Central Government/State Government/PSUs/Autonomous Bodies where deceased Armed Forces pensioners were re-employed. Such family pensioners are representing for being allowed an option to draw military family pension if the same is more beneficial.

2. The question of grant of such an option for drawing ordinary family pension for the Armed Forces service rendered by the Armed Forces pensioners has been under consideration of the Government for some time. The President is pleased to decide that the families of the Armed Forces pensioners who were in receipt of military pension till their death, (their widows/eligible members of the families drawing family pension from the Central Civil Ministries/Departments/State Governments/PSUs/ Autonomous Bodies) for the re-employed service of the deceased may now be allowed to exercise an option within two years from the date of issue of this letter or the date of death of the Armed Forces pensioners, whichever is later, to draw ordinary military family pension with effect from 1-1-1992, or the date following the date of death of pensioner, whichever is later, forgoing the family pension from the Civil source from that date. Such an option will be exercised in the form prescribed at Appendix to this letter. Those family pensioners who do not opt for drawal of ordinary military family pension within the stipulated period of two years, will be deemed to have opted for continued drawal of ordinary family pension from civil side.

Action by family pensioners

3. The application form (as per Appendix) will be submitted in quadruplicate to the authorities indicated below duly countersigned by the Pension Disbursing Authority for civil family pension concerned -

Commissioned Officers Personnel below officer rank

Army

(i) AG's Br./Org. 3 and 9, West Block III, R.K. Puram, New Delhi - 110 066, in respect of all officers other than officers of AMC/ADC/MNS. Respective Record Offices

(ii) Director-General, Medical Services, MPRS (O) 'L' Block, New Delhi - 110 011, in respect of Commissioned Officers of AMC/ADC/MNS.

Air Force

Air Headquarters/Dte. of PP & R, West Block VI, R.K. Puram, New Delhi - 110 066.
Air Force, Record Office, Subroto Park, New Delhi - 110 010.

Navy

NHC/Dte. of P & A, 'D' Wing, Sena Bhavan, New Delhi - 110 011. Bureau of Sailors, Mankhurd Road, Cheetah Camp, Bombay.

Action by the Civil Family Pension Paying Authority

4. The civil pension paying authority should scrutinize the entries/complete the entries in Part I of the application form and countersign in Part II of the application form and hand over the same to the family pensioner for onward transmission to Service Headquarters/Record Office concerned along with two copies of passport size photograph duly attested, two specimen signatures duly attested on a separate sheet of paper and two slips each bearing left thumb and finger impressions duly attested on a separate sheet of paper. At this stage no copy of the application will be retained by civil family pension paying authority.

Action by the Service Headquarters/Record Office concerned

5. The concerned Service Headquarters/Record Office on receipt of the application will scrutinize the details furnished by the family pensioner in Part I of the application form with reference to the documents available at their end and indicate the amount of ordinary family pension on Defence side likely to be sanctioned or already endorsed in the Service/Retiring Pension Payment Order of the deceased Armed Forces Pensioners in the Part III of the application form. In case the family pension from the Civil side is more beneficial, the application form may be returned to the family pensioner with appropriate advice for reconsidering the option. In other cases where military family pension is more advantageous, the application form will be sent to the re-employing civil authority. At this stage no copy of the application will be retained by Service Headquarters/Record Office.

Action by the Re-employing Civil Authorities

6. On receipt of application (four copies) from the Service Headquarters/Record Office concerned, the re-employing civil authority shall issue Cancellation PPO effective after the end of nine calendar

months from the date three copies of the application form and three copies of Cancellation PPO are forwarded to the Civil Pension Paying Agency after completing Part IV of the application form. A copy of the application will be retained by them and suitable entries will be made in the service records of the deceased pensioner.

Action by the Civil Pension Paying Authority

7. The Civil Pension Paying Authority shall complete Part V of the application form and forward two copies of the same to the concerned Service Headquarters/Record Office along with two copies of the Cancellation PPO. One copy of application and Cancellation PPO each will be retained for his record.

Further action by the Service Headquarters/Record Office concerned

8. The concerned Service Headquarters/Record Office will take the following action:-

(a) In cases where simultaneous notification/endorsement of Ordinary Family Pension does not exist on the Service/Retiring Pension Payment Order of the deceased Armed Forces pensioner, the application shall be processed in the manner as applicable in the case of pre-1964 family pension cases. A copy of the application along with a copy of Cancellation PPO in this case shall be sent to the concerned Pension Sanctioning Authority within one month of receipt of application form from the Civil Pension Paying Authority. A copy of the application and Cancellation PPO will be retained in his office.

(b) In case where simultaneous notification/endorsement of Ordinary Family Pension already exists in the Service/Retiring Pension Payment Order of the deceased Armed Forces Pensioner, a copy of the application together with a copy of Cancellation PPO will be sent to the Pension Sanctioning Authority concerned for cancellation of simultaneous notification/endorsement of Ordinary Family Pension Payment Order and issue of fresh Family Pension Payment order by them. A copy of the application and Cancellation PPO will be retained in his office.

Action by the Pension Sanctioning Authority of Armed Forces Pensioners

9. The concerned pension sanctioning authority will scrutinize the application form with reference to pension documents available/received in his office and notify the Pension Payment Order sanctioning Ordinary Family Pension in favour of the claimant. Necessary adjustment of the amount on the basis of difference in amount of civil family pension and Ordinary Military Family Pension and dearness relief thereon will be worked out by the PSA and indicated in the PPO for payment. The PSA will notify the PPO within a maximum period of 60 days from the date of receipt of claim from the Service Headquarters/Record Office.

10. The benefit of option under these orders will accrue with effect from 1-1-1992 or the date following the date of death of the deceased Armed Forces Pensioner, whichever is later. The option is available for one time and once exercised shall be final.

11. The Pension Regulations for the three Services shall be amended in due course.

12. This issues with the concurrence of the Finance Division of this Ministry, vide their U.O. No. 2242-Pen. 92, dated 28-9-1992.

APPENDIX

(Reference in Para 3)

Application Form for drawal of

Ordinary Family Pension from Defence Source

[To be furnished in quadruplicate]

To

.....

.....

Sir,

I.....widow/son/daughter of Ex. No.....Rank
..... Namehereby opt to draw Ordinary Family
Pension admissible to me on account of military service rendered by the above-named deceased
Armed Forces Pensioner, with effect from 1-1-1992 (or the date following the date of death of the
pensioner, whichever is later). The pension particulars of the above-named deceased are as under -

(i) Pension Payment Order/PC No. (with Part, Descriptive Serial No. and year)

...

...

...

(ii) Date of commencement of military pension

(iii) Date of death of the deceased

(iv) Particulars of Service Headquarters/Record Office (as per para. 3 of the Government letter)

...

...

...

2. I am in receipt of family pension from civil side on account of re-employed service of the above-named deceased Armed Forces Pensioner as per details given below -

(a) Particulars of the Government/Department in which re-employed and post held at the time of retirement/death

...

...

...

(b) Particulars of the Civil Pension Issuing Authority

(c) Civil Pension Payment Order No. and date

(d) Amount of family pension

(e) Amount of Dearness Relief (as on 1-1-1992, or the date following the date of death of the pensioner, whichever is later)

...

...

...

(f) Date of commencement of family pension

(g) Date of birth of son/daughter (in case family pension is sanctioned to son/daughter)

...

...

...

(h) Particulars of Treasury/PSB/Post Office, etc., from where civil family pension is being drawn

...

...

...

(i) Treasury Serial No./Bank A/c No.

3. I hereby forgo my right to draw civil family pension from the date military family pension is sanctioned to me. I propose to draw my military family pension from Pension Paying Authority as per details given below -

(a) Name of the Authority DPDO/TO/PSB

(b) Address... ..

(c) Bank Account No.

(if the pension is to be drawn from PSB)... ..

4. I certify that I have not got re-married/married (in the case of daughter) after the death of the above-named deceased pensioner or I am not otherwise disqualified from receiving ordinary family pension.

Date: Signature/Left hand thumb-impression

Station:

Name.....

PART II

[To be countersigned by the Civil Pension Paying Authority]

Particulars shown in para. 2 (a) to (i) have been verified/completed.

Countersigned

Date: Signature of Civil Pension Paying Authority

Station:

(Seal)

PART III

[To be completed by the Service Headquarters/Record Office]

(a) Amount of Defence Family Pension as per simultaneous notification/endorsement or likely to be sanctioned

...

...

...

(b) Amount of Dearness Relief

(c) PPO No. and date, if simultaneous notification/endorsement of family pension already exist

...

...

...

Date:

Signature of Service Headquarters Office/Record Office with Seal

PART IV

[To be completed by the re-employing Civil Authority]

Certified that the particulars given in para. 2 (a) to (i) have been verified and found to be correct. The pension to the claimant will be stopped with effect from.....(after the end of nine calendar months from the date the three copies of application duly completed are forwarded to the Civil Pension Paying Authority along with three copies of the Cancellation PPO). One copy of this application has been retained and necessary entries made in the pension records of the deceased pensioner/claimant held by this office.

Signature.....

Place:

Designation.....

Date:

Office Seal

PART V

[To be completed by the Civil Pension Paying Authority]

(a) The rate of family pension and relief as on 1-1-1992 (or the date following the date of death of the pensioner, whichever is later) is as under -

Family Pension Rs.

Dearness Relief Rs.

(b) Date of discontinuance of Civil Ordinary Family Pension consequent of issue of Cancellation PPO

Certified that one copy each of the Application Form and the Cancellation PPO have been retained and necessary note for discontinuance of Civil Family Pension has been made in the records.

Signature.....

Name.....

Designation.....

Office Seal.....

PART VI

[To be completed by the Service Headquarters/Record Office concerned]

(a) Certified that an endorsement of Family Pension does exist/does not exist in the PPO No....., dated....., of the deceased Armed Forces pensioner.

Or

Certified that endorsement of family pension was made by the pension sanctioning authority, vide PPO No....., dated....., in terms of Ministry of Defence, O.M. No. 6 (4)/87/1369/B/D (Pens./Sers.), dated the 30th June, 1988.

Or

Certified that Military Family Pension has not been sanctioned to the claimant in respect of the above-named deceased Armed Forces pensioner.

(b) The particulars given in para. 1 (i) to (iv) have been verified with reference to documents available at this end and found to be correct.

(c) A copy each of this Application and Cancellation PPO issued by(name of the re-employing Civil Authority) has been retained for record.

Signature.....

Name.....

Place: Designation.....

Date: Office Seal

ID No...../DP/PGC/

Dated.....

FORM OF COMPLAINT

To

Pension Grievances Cell,

Ministry of Defence,

206/A, Sena Bhavan,

NEW DELHI - 110 011

Subject:- (i) Grant/Payment of Pension.

Sir,

My particulars/particulars of the deceased Government servant are as under -

1. Name
2. Regimental No.
3. Record Office/HOO
4. Rank
5. Date of Appointment
6. Date of discharge
- If granted pension -
7. PC/PPO No./Corrigendum PPO No.

3. The question regarding grant of family pension to the families of Government employees who retired on superannuation or on being declared permanently incapacitated for further Government service by the appropriate medical authority after having rendered not less than 10 years temporary/quasi-permanent service before 1-1-1986, has been under consideration of the Government for some time past. It has been decided that the family of a Government servant who retired on superannuation or on being declared permanently incapacitated for further Government service by the appropriate medical authority after having rendered temporary/quasi-permanent service of not less than 10 years prior to 1-1-1986, will also be eligible to family pension under the CCS (Pension) Rules, 1972, at the same scale as admissible to the family of a permanent employee from time to time.

4. Formal amendment to CCS (Pension) Rules, 1972, will be issued separately.

5. The provision of this Office Memorandum shall apply to those temporary/quasi-permanent Government servants who retired before 1-1-1986. The benefit will be available to the widows from the date of issue of this Office Memorandum, i.e., 14-1-1988.

6. The same procedure as provided for in chapters IX and X of the CCS(Pension) rules,1972 will be followed mutatis mutandis for grant of Family Pension under this Office Memorandum.

7. These orders issue in consultation with the Ministry of Finance, Department of Expenditure, vide their U.O. No. 2135/E. V/87, dated the 4th November, 1987.

[G.I., Dept. of P. & P.W., O.M. No. 1/75/87-P. & P.W., dated the 14th January, 1988.]

(22). Family pension is admissible also to children from the void or voidable marriage. - Attention is invited to provisions contained in Rule 54 (8) of CCS (Pension) Rules, 1972 and decisions thereunder on regulation of amount of family pension payable. This Department has been receiving references from Ministries/Departments seeking advice on the question of admissibility of family pension to children of a deceased Government servant/pensioner from a wife whose marriage with the said Government servant/pensioner would be voidable or held void under the provisions of Hindu Marriage Act.

2. The matter regarding grant of pensionary benefits to such children has been examined in consultation with the Ministry of Law.

3. In view of the fact that Section 16 of the Hindu Marriage Act, 1955 as amended by Hindu Marriage Laws (Amendment) Act States "Notwithstanding that a marriage is null and void under Section 11, any child of such marriage who would have been legitimate if the marriage had been valid shall be legitimate, whether such child is born before or after the commencement of Marriage Law (Amendment) Act, 1976 and whether or not a decree of nullity is granted in respect of that marriage under this act, and whether or not the marriage is held to be void otherwise than on a petition under this act."

4. The rights of such children require to be protected and will accrue accordingly. It is therefore, clarified that pensionary benefits will be granted to children of a deceased Government servant/pensioner from such type of void marriages when their turn comes in accordance with Rule

54 (8). It may be noted that they will have no claim whatsoever to receive family pension as long as the legally wedded wife is the recipient of the same.

[G.I., Dept. of Pen. & Pen. Welfare, O.M. No. 1/16/96, P. & P.W. (E), dated the 2nd December, 1996.]

(23). Family Pension shall be at a uniform rate of 30% of pay last drawn. -Family Pension shall be calculated at a uniform rate of 30% of basic pay in all cases instead of slab system and shall be, subject to a minimum of Rs. 1,275 per month and a maximum of 30% of highest pay in the Government. (The highest pay in the Government is Rs. 30,000 since 1-1-1996. Rule 54 (2) relating to Family Pension, 1964 under Pension Rules shall stand modified to this extent and the existing table thereunder will be no longer operative.

The revised Provisions as per these orders shall apply to Government servants who retire/die in harness on or after 1-1-1996.

[G.I., Dept of Pen. & P.W., O.M. No. F. 45/86/97-P. & P.W. (A), Part-I, dated the 27th October, 1997, Para. 7.1]

(24). Dependent parents and widowed/divorced daughter also included in the definition of family. - For the purpose of grant of Family Pension, the definition of Family shall also include:

(a) Parents who were wholly dependent on the Government servant when he/she was alive provided the deceased employee had left behind neither a widow nor a child.

(b) Son/daughter including widowed/divorced daughter till he/she attains the age of 25 years or up to the date of his/her marriage/remarriage, whichever is earlier.

[G.I., Dept. of Pen. & P.W., O.M., No. F. 45/86/97-P. & P.W. (A), Part - I dated the 27th October, 1997, Para. 7.2.]

2. Income Criteria:-- The income criteria in respect of parents and widowed/divorced daughters will be that their earning is not more than Rs. 2,550 per month. The parents will get Family Pension at 30% of basic pay of the deceased employee, subject to a minimum of Rs. 1,275 per month. They also will have to produce an annual certificate to the effect that their earning is not more than Rs. 2,550 per month. Further the Family Pension to the widowed/divorced daughter will be admissible till they attain the age of 25 years or up to the date of her re-marriage, whichever is earlier.

3. It has also been decided by the Government on the basis of the recommendations of the Fifth Central Pay Commission and in partial modification of this Department's O.M.No. 1 (26)-P&PW/90-(E), dated 18-1-1993 that the Family Pension in respect of sons/daughters (including widowed/divorced daughter) will be admissible, subject to the condition that the payment should be discontinued/not admissible when the eligible son/daughter starts earning a sum of Rs. 2,550 per month from employment in Government, the private sector, self employment etc. It is further clarified that the Family Pension to the sons/daughters will be admissible till he/she attains the 25 years of age or up to the date of his/her marriage/remarriage, which ever is earlier. There is however, no change in the provisions about admissibility of Family Pension in respect of

sons/daughters suffering from any disorder or disability of mind or who is physically crippled or disabled as mentioned in the OM, dated 18-1-1993.

4. Admissibility of Family Pension to parents and widowed/divorced daughter will be effective from 1-1-1998, subject to fulfilment of other usual conditions. The cases where Family Pension has already been granted to sons/daughters after 1-1-1998 before issue/implementation of this OM without imposition of earning condition need not be reopened.

5. These orders issue with the approval of Ministry of Finance, Department of Expenditure, vide their U.O. No. 53/E.V/98, dated 29-1-1998.

[G.I., Dept. of Pen. & P.W., O.M., No. 45/51/97-P.& P.W.(E), dated the 5th March, 1998.]

(25). Enhanced family pension admissible for seven years or up to age of 67 for those age of superannuation is 60 years. --- The Government of India has decided to increase the age of retirement from 58 to 60 years vide its notification No. 25012/2/97-Estt. (A), dated 13th May, 1998 (See FR 56). In pursuance of this decision of the Government and in view of the recommendation of the Fifth Central Pay Commission, the Government of India in partial modification of Rule 54(3) (a) of CCS (Pension) Rules, 1972 has decided that the payment of family pension at enhanced rates will be payable for 7 years or till the Government servant/pensioner would have attained the age of 67 years against the existing provision of 65 years. This will be applicable in cases where Government servant is to retire at the age of 60 years in pursuance of the notification No. GSR 248 (E), dated 13-5-1998 and not where Government servant has already retired at the age of 58 years or would have retired at the age of 58 years but for his premature demise.

2. The formal notification regarding amendment in the rules will be issued separately.

3. In their application to the persons belonging to Indian Audit and Accounts Department, these orders issue in consultation with Comptroller and Auditor-General of India.

4. Ministry of Agriculture, etc., are requested to bring the contents of these Orders to the notice of Controller of Accounts/Pay and Accounts Officer and Attached and subordinate offices under them on a top priority basis. All pension disbursing offices are also advised to prominently display these orders on their notice boards for the benefit of pensioners.

[G.I., Dept. of Pen. & P.W., O.M. No. 45/8/97 P. & P.W., (E), dated the 2nd February, 1999.]

(26). Judicially separated spouse with children will get family pension after the children cease to be eligible. ---The judicially separated spouse of a Government servant has been made eligible for payment of family pension subject to the provisions of Rule 54 (11-A) and the provision thereunder of the CCS (Pension) Rules, 1972, and such judicially separated Government servant who was survived by a child or children the family pension in respect of child of such judicially separated Government was admissible under Rule 54 (11-B) of these rules.

2. This Department has come across a case where after the children cease to be eligible for family pension under Rule 54 (11-B), family pension was not being authorized to the judicially separated spouse of the deceased Government servant. This matter has since been settled by the High Court of Kerala in their judgement, dated 28th April, 1998 in O.P. No. 18541 of 1997-S in favour of such

judicially separated spouse wherein it has directed for payment of family pension to such spouse after their children had ceased to be eligible for family pension under this rule. In view of this it is clarified that all the Ministries/Departments, etc., may, in future, decide the similar cases under the provisions of the Kerala High Court judgement quoted above, i.e., payment of family pension is to be allowed to the judicially separated spouse of the deceased Government servant after his/her children cease to be eligible for family pension till his/her death or remarriage whichever is earlier.

3. This issues in consultation with the Ministry of Finance, Department of Expenditure vide their U.O. No. 517/EV/99, dated 3rd June, 1999.

[G.I., Dept of Pen. & Pen. Wel., O.M. No. 1/6/98-P. & P.W.(E), dated the 15th July, 1999.]

(27). Eligibility of divorced/widowed daughter for grant of family pension. -As per clauses (ii) and (iii) of sub-rule (6) of Rule 54 of the C.C.S (Pension) Rules, 1972 read with clause (b) of para 7.2 of this Department's O.M. No.45/86/97-P&PW (A)-Part I dated the 27th October 1997, son/daughter including widowed/divorced daughter shall be eligible for grant of family pension till he/she attains the age of 25 years or up to the date of his/her marriage/remarriage, whichever is earlier (subject to income criterion to be notified separately). The income criterion has been laid down in this Department's O.M. No.45/51/97-P&PW (E) dated the 5th March 1998 according to which, to be eligible for family pension, a son/daughter (including widowed/divorced daughter) shall not have an income exceeding Rs.2,550 per month from employment in Government, the private sector, self employment etc. Further orders were issued vide this Department's O.M. No.45/51/97-P&PW (E) (Vol.II) dated 25th July 2001 regarding eligibility of disabled divorced/widowed daughter for family pension for life subject to conditions specified therein.

2. Government has received representations for removing the condition of age limit in favour of divorced/widowed daughter so that they become eligible for family pension even after attaining the age limit of 25 years. The matter has been under consideration in this Department for sometime. In consultation with the Ministry of Finance, Department of Expenditure and the Ministry of Law and Justice, Department of Legal Affairs etc., it has now been decided that there will be no age restriction in the case of the divorced/widowed daughter who shall be eligible for family pension even after their attaining 25 years of age subject to all others condition prescribed in the case of son/daughter. Such daughter, including disabled divorce/ widowed daughter shall, however, not be required to come back to her parental home as stipulated in Para 2(ii) of this Department's O.M. dated 25th July 2001, which may be deemed to have been modified to that extent.

3. This issue will be concurrence of the Ministry of Finance, Department of Expenditure vide I.D.NO.98/E.V/2004 dated 13-12-2004.

4. These order, in so far as they apply to the employees of Indian Audit and Accounts Department, are issued in the consultation with the Comptroller and Auditor General of India vide U.O. No.67 Audit (Rules)/37-99 dated 20-5-2004.

[D/o P&PW O.M. No. 1/19/03-P&PW (E) dated 25-8-2004.]

(28). Ceiling on two family pensions admissible to child/children of deceased Government servant under rule 54 (11) of the CCS (Pension) Rules, 1972 -Consequent upon the revision of the rates and minimum and maximum limits of the family pension following the implementation of the recommendations of the Fifth Central Pay Commission, the question of revision of the maximum of ceiling on two family pension admissible under sub-rule (11) of Rule 54 of the Central Civil Services (Pension) Rules, 1972 to child/children, where both of his/their deceased parents were Government servants and governed by the said rules, has been under consideration in this Department.

2. After careful consideration the Government has decided to revise the existing limits on two family pensions as follows:-

(i) The existing maximum limit of Rs.2500 (Rupees Two thousand five hundred) per month laid down in sub rule (11)(a)(i) revised upwards to Rs.15000 (Rupees Fifteen thousand) per month.

(ii) The existing maximum limit of Rs.2500 (Rupees Two thousand five hundred) per month laid down in sub-rule (11)(a)(ii) revised upwards to Rs.15000 (Rupees Fifteen thousand) per month

(iii) The existing maximum limit of Rs.1250 (Rupees One thousand two hundred fifty) per month laid down in sub-rule 11(b) revised upwards to Rs.9000 (Rupees Nine thousand) per month

3. These orders shall be deemed to have taken effect from the 1st January 1996. The relevant rules under the Central Civil Services (Pension) Rules, 1972 are being amended suitably.

4. These order do not apply to Railway employees, persons paid from Defence Services estimated and the members of the All India Services. Separate orders in there respect would be issued by the respective Ministries/Departments.

5. In their application to the families of pensioners who retired/retire from Indian Audit and Accounts Department these orders have been issued after consultation with the Comptroller and Auditor General of India.

6. These orders issue with the concurrence of the Ministry of Finance, Department Of Expenditure vide there U.O.No.810/EV/2003 dated 17-10-2003.

[D/O P&PW O.M. No. 45/1/2001-P&PW(E) dated 30-06-2005]

55. Family Pension, 1950 -- Omitted

[55-A. Dearness Relief on Pension/Family Pension

(i) Relief against price rise may be granted to the pensioners and family pensioners in the form of dearness relief at such rates and subject to such conditions as the Central Government may specify from time to time.

(ii) If a pensioner is re-employed under the Central or State Government or a Corporation/Company/ Body/ Bank under them in India or abroad including permanent absorption in such Corporation/Company/Body/Bank, he shall not be eligible to draw dearness relief on

pension/family pension during the period of such re-employment.(Admissible in same cases -Refer to DP&PW's O.M. no. 45/73/97 - P&PW(G) dated 2-7-1999)

(iii) Deleted

56. Preparation of list of Government servants due for retirement

(1) Every Head of Department shall have a list prepared every six months, that is, on the 1st January, and the 1st July each year of all Government servants who are due to retire within the next 24 to 30 months of that date.

(2) A copy of every such list shall be supplied to the Accounts Officer concerned not later than the 31st January or the 31st July, as the case may be, of that year.

(3) In the case of a Government servant retiring for reasons other than by way of superannuation, the Head of Office shall promptly inform the Accounts Officer concerned, as soon as the fact of such retirement becomes known to him.

(4) A copy of intimation sent by the Head of Office to the Accounts Officer under sub-rule (3) shall also be endorsed to the Directorate of Estates if the Government servant concerned is an allottee of Government accommodation.

57. Intimation to the Directorate of Estates regarding issue of "No Demand Certificate"

(1) The Head of Office shall write to the Directorate of Estates at least two years before the anticipated date of retirement of the Government servant who is in occupation of a Government accommodation, (hereinafter referred to as allottee) for the issue of a 'No demand certificate' in respect of the period preceding eight months of the retirement of the allottee.

(2) On receipt of the intimation under sub-rule (1), the Directorate of Estates shall take further action as provided in Rule 72.

57. GOVERNMENT OF INDIA'S DECISIONS

(1) Issue of 'No Demand Certificate'. - 1. The existing procedure for the issue of "No Demand Certificate" by the Directorate of Estates had been incorporated in Rules 57 and 72 of the CCS (Pension) Rules, 1972. With a view to expediting the issue of 'No Demand Certificate', the question of simplifying and rationalising the existing procedure was further examined and supplementary instructions were issued. Briefly, the Administrative Ministries/Departments concerned are required to furnish a list of Government servants in occupation of Government accommodation, along with applications from the individual, on the prescribed form, for issue of 'No Demand Certificate', to the Directorate of Estates at least two years before the date of superannuation of the official concerned.

Under the existing orders, the Directorate of Estates in its turn would issue an Advance 'No Demand Certificate' to the Department concerned with a copy endorsed to the individual concerned eight months before the date of superannuation informing -

- (i) the amount of licence fee due up to that period, i.e., eight months prior to the date of superannuation ;
- (ii) the monthly rate of recovery of licence fee for the rest of the service, i.e., eight months ; and
- (iii) the amount of licence fee recoverable for two months (now four months) period of retention allowed after retirement.

2. On receipt of such an intimation from the Directorate of Estates, the Department concerned is responsible for the recovery of the amounts as indicated above. Thereafter, it is at liberty to finalise the pension account of the individual without any further certificate from the Directorate of Estates. After permissible period of retention, i.e., from the date of cancellation, the occupant is to be dealt with by the Directorate of Estates as if it were a private party. Thus, the Department concerned is no longer required to correspond with the Directorate of Estates about that individual for the period beyond the cancellation of allotment. This procedure has been brought to the notice of all Ministries/Departments, etc., again by the Directorate of Estates vide their OM No. 3/28/82-(P-I)/RCS, dated the 4th May, 1983 (copy reproduced below).

3. From the position explained above, it is very clear that after ensuring recoveries mentioned in para. 1, the Departments are at liberty to finalise the accounts of the retired Government servants. Besides, if the Directorate of Estates, for certain reasons, fails to inform the Department concerned about the dues eight months prior to his date of retirement, they are free to assume that nothing is due on account of rental dues in the books of the Directorate of Estates and they can finalise the pension papers of the individual concerned without waiting for any certificate from the Directorate of Estates, provided the Department had forwarded the application for No Demand Certificate two years in advance and had obtained an acknowledgement for the same.

4. It has been brought to the notice of this Department that most of the Ministries and their attached and subordinate offices do not adhere to these instructions and insist for a final "No Demand Certificate" from the Directorate of Estates to enable the retired Government servant to get back his withheld amount of the Retirement Gratuity. Scores of such retired Government servants visit the Directorate of Estates for this purpose which entails unavoidable work all round apart from harassment to the Government servants by their own Departments. It is, therefore, impressed on all the Ministries/Departments that the existing prescribed procedure should be strictly and scrupulously followed by all concerned so that the retiring and retired Government servants do not experience any hardship due to delays in the settlement of their pension cases.

[G.I., M.H.A., Dept. of Per. & A.R., O.M. No. 41/6/84-Pension Unit, dated the 18th July, 1984.]

COPY OF DIRECTORATE OF ESTATES, O.M. No. 3/28/82 (PI)/RCS, DATED THE 4TH MAY, 1983.

1. Attention is invited to the Directorate of Estates' Office Memo. No. 3/3/76-RCS, dated 23-6-1977, followed by another O.M. No. 3/28/81-RCS, dated 23-8-1982, according to which the Department concerned are required to furnish a list of Government servants along with application

from the individuals, on the prescribed form for issue of No Demand Certificate to the Directorate of Estates at least 2 years before the date of superannuation of the officials in occupation of General Pool Accommodation.

2. The Directorate of Estates in its turn would issue an Advance No Demand Certificate to the Department concerned with a copy endorsed to the individual concerned 8 months before the date of superannuation informing the amount of licence fee due up to that period, i.e., 8 months prior to the date of superannuation besides the rate of monthly recovery of licence fee for the rate of the service, i.e., 8 months. The amount of licence fee recoverable for 2 (now 4) months period of retention allowed after retirement, is also to be intimated simultaneously. Thereafter the Departments are at liberty to finalise the pension account of the individual. The Department has to ensure full recovery of the amount shown as due in the advance "No Demand Certificate". At the time of sanctioning pension, PPO No. and the particulars of Treasury/Bank on which it is issued, is to be intimated to the Directorate of Estates along with the permanent residential address of the retiring officer. After the permissible period of retention, i.e., from the date of cancellation, the occupant is to be dealt with by the Directorate as if it were a private party. The Departments concerned are no longer required to correspond with Directorate of Estates about that individual for the period beyond the cancellation of allotment. However, it is seen that at the time of releasing the withheld amount of DCRG, many of the offices insist for another certificate from the Directorate of Estates on this account. As explained above, no such further certificate is normally required to be issued by the Directorate of Estates.

3. All the Ministries/Departments are requested to adhere to the time-schedule of informing the Directorate of Estates the date of superannuation of an allottee two years before his retirement and after the receipt of advance Final Demand Certificate issued by this Directorate, they should not normally ask for any further certificate on this account.

(2) Issue of 'No Demand Certificate' in case of Interpool exchange of Government accommodation.

- 1. Interpool exchange of the General Pool accommodation with Departmental or other Autonomous Bodies accommodation is occasionally made in certain cases so that an Officer occupying a particular quarter does not have to shift unnecessarily at a particular station. In such cases, the Department concerned is required to deposit the licence fee collected from the allottee with the Directorate of Estates. Sometimes the Department fails to deposit the licence fee even though they have actually recovered the same from the officer occupying the accommodation in question. The amount remains in arrears in some cases even after termination of interpool exchange. Meanwhile if the allottee retires, he is not issued the 'No Demand Certificate' on the ground that some dues for the period of exchange have not been settled, notwithstanding the fact that the allottee had paid the licence fee to the department. As a result the allottee suffers, because part of his gratuity is withheld pending issue of 'No Demand Certificate'.

2. After due consideration it has been decided that the 'No Demand Certificate' should not be withheld in respect of retired officer merely on the ground that some adjustment of dues between two organisations is pending for the period the quarter remained exchanged with departmental pool, provided there are no other dues to be recovered from the officer for other period and it has also been certified by the department concerned that the officer had actually paid the licence fee to

the department, where he remained posted during the period the quarter was exchanged with department pool.

[G.I., Dir. of Estates, O.M. No. 12035 (18)/90-Pol. II, dated, the 5th November, 1990.]

(3) Directorate of Estates to be informed forthwith regarding retirement/death of occupants of quarters. - As per present practice, all the Ministries/Departments are required to intimate this Directorate about the transfer/retirement/death of a Government servant working under their administrative control to enable this Directorate to cancel the quarter, if any, in the name of that Government servant. However, it has been observed that this practice is not being followed scrupulously by most of the Ministries/Departments with the result that the Government servants who are transferred out of Delhi or retired, continue to retain Government accommodation unauthorisedly for considerably long periods. The Comptroller and Auditor-General in his report ending 31st March, 1989, have taken a serious view of the situation and have pointed out 734 such cases where there was delay in cancellation of quarters due to retirement/transfer/death of the Government servant.

It is, therefore, impressed upon all the Ministries/Departments once again to intimate this Directorate about the transfer of Government servants from one office to another or to outstation and about retirement or death of the Government servant immediately on the occurrence of such events to enable this Directorate to take further necessary action in respect of Government accommodation, if any, allotted to that Government servant.

[G.I., Dir. of Estates, O.M. No. 23011/4/89/Pol. III, dated the 28th December, 1990.]

58. Preparation of pension papers

Every Head of Office shall undertake the work of preparation of pension papers in Form 7 two years before the date on which a Government servant is due to retire on superannuation, or on the date on which he proceeds on leave preparatory to retirement, whichever is earlier.

59. Stages for the completion of pension papers

(1) The Head of Office shall divide the period of preparatory work of two years referred to in Rule 58 in the following three stages :-

(a) First Stage. - Verification of service :

(i) The Head of Office shall go through the service book of the Government servant and satisfy himself as to whether the certificates of verification for the entire service are recorded therein.

(ii) In respect of the unverified portion or portions of service, he shall arrange to verify the portion or portions of such service, as the case may be, with reference to pay bills, acquittance rolls or other relevant records and record necessary certificates in the service book.

(iii) If the service for any period is not capable of being verified in the manner specified in sub-clause (i) and sub-clause (ii), that period of service having been rendered by the Government servant in another office or Department, a reference shall be made to the Head of Office in which the Government servant is shown to have served during that period for the purpose of verification.

(iv) If any portion of service rendered by a Government servant is not capable of being verified in the manner specified in sub-clause (i), or sub-clause (ii), or sub-clause (iii), the Government servant shall be asked to file a written statement on plain paper stating that he had in fact rendered that period of service, and shall, at the foot of the statement, make and subscribe to a declaration as to the truth of that statement, and shall in support of such declaration produce all documentary evidence and furnish all information which is in his power to produce or furnish.

(v) The Head of Office shall, after taking into consideration the facts in the written statement and the evidence produced and the information furnished by that Government servant in support of the said period of service, admit that portion of service as having been rendered for the purpose of calculating the pension of that Government servant.

(b)

Second Stage. - Making good omission in the service book. -

(i) The Head of Office while scrutinizing the certificates of verification of service, shall also indentify if there are any other omissions, imperfections or deficiencies which have a direct bearing on the determination of emoluments and the service qualifying for pension.

(ii) Every effort shall be made to complete the verification of service, as in Clause (a) and to make good omissions, imperfections or deficiencies referred to in sub-clause (i) of this clause. Any omissions, imperfections or deficiencies including the portion of service shown as unverified in the service book which it has not been possible to verify in accordance with the procedure laid down in Clause (a) shall be ignored and service qualifying for pension shall be determined on the basis of the entries in the service book.

(iii) Calculation of average emoluments. - For the purpose of calculation of average emoluments, the Head of Office shall verify from the service book the correctness of the emoluments drawn or to be drawn during the last ten months of service. In order to ensure that the emoluments during the last ten months of service, have been correctly shown in the service book the Head of Office may verify the correctness of emoluments for the period of twenty-four months only preceding the date of retirement of a Government servant, and not for any period prior to that date.

1(c)

Third Stage. - As soon as the second stage is completed and in any case not later than ten months prior to the date of retirement of the Government servant, the Head of Office shall take the following action :-

(i) He shall furnish to the retiring Government servant a certificate regarding the length of qualifying service proposed to be admitted for purpose of pension and gratuity as also the emoluments and the average emoluments proposed to be reckoned with for retirement gratuity and pension. In case the certified service and emoluments as indicated by the Head of Office are not acceptable to him, he shall furnish to the Head of Office the reasons for non-acceptance, inter alia, supported by the relevant documents in support of his claim.

(ii) In case of any difficulty in determining the length of qualifying service on account of non-availability of service records, the retiring Government servant shall be asked to file a written statement of service as provided in Clause (ii) of sub-rule (1) and sub-rule (2) of Rule 64.

(iii) Forward to the retiring Government servant and Form 5 advising him to submit the same duly completed in all respects so as to reach the Head of Office not later than eight months prior to his date of retirement.

(2) Action under Clauses (a), (b) and (c) of sub-rule (1) shall be completed eight months prior to the date of retirement of the Government servant.

Footnote : 1. Substituted by G.I., Dept. of Pen. & P.W., Notification No. 38/84/89-P. & P.W. (F), date the 3rd September, 1993.

59. GOVERNMENT OF INDIA'S DECISIONS

(1) Staff dealing with pension matters to be trained properly in pension procedures. - The Study Team has pointed out that staff responsible for processing pension cases were found to be not fully aware of the urgency of maintaining the time-schedule for obtaining and processing of pension papers. It was also found that staff dealing with pension had not undergone any training on the subject. The Ministries/Departments are advised to ensure that staff dealing with pension matters are trained properly in pension procedures and they should be sent for in-service training from time to time.

(2) Periodical co-ordination meeting between Administrative Heads and Accounts Offices. - The Study Team has highlighted the need for co-ordination and periodical meetings between Administrative Head and Accounts office to sort out any shortcomings in the service record of retiring persons. Such meetings should be monitored at the highest level.

[G.I., Dept. of Pen. & P.W., O.M. No. 38/116/93-P. & P.W. (F), dated the 2nd May, 1994. - Paras. 6 and 8.]

60. Completion of pension papers

The Head of office shall complete Part I of Form 7 [not later than six months of the date of retirement] of Government servant.

61. Forwarding of pension papers to Accounts Officer

(1) After complying with the requirement of Rules 59 and 60, the Head of Office shall forward to the Accounts Officer Form 5 and Form 7 duly completed with a covering letter in Form 8 along with service book of the Government servant duly completed, up-to-date, and any other documents relied upon for the verification of service.

(2) The Head of Office shall retain a copy of each of the Forms referred to in sub-rule (1) for his records.

(3) Where the payment is desired in another circle of accounting unit, the Head of Office shall send Form 7 in duplicate to the Accounts Officer.

(4) The papers referred to in sub-rule (1) shall be forwarded to the Accounts Officers not later than six months before the date of retirement of Government servant.

61. GOVERNMENT OF INDIA'S DECISIONS

(1) Pension Calculation Sheet to be given to Pensioner. - 1. Representations have been received from Pensioners' Associations about reforming the pension payment procedures. One of the suggestions made is that Pension Payment Order should contain a Pension Calculation Sheet detailing therein the period of service rendered, date and rate of last increment with scale of pay, etc.

2. The matter has been examined in consultation with the Comptroller and Auditor-General of India and the Controller-General of Accounts and it is felt that there is need for the pensioner to be supplied with details leading to the computation of pension. With this end in view it is proposed that the Head of Office preparing the pension case of a Central Government employee should prepare in triplicate a certified calculation sheet, as in the pro forma attached (see revised format under Form 7), certify the sheet at the bottom and pass it on to the concerned PAO/Accounts Officer along with the pension case.

3. The PAO/Accounts Officer, while issuing the pensionary authorization, countersign the calculation sheet as certified by the Head of Office, retain one copy (out of the three received by him from the Head of Office) and forward one copy as countersigned by him to the pensioner, along with the intimation of his having sent the pension payment authority PPO to the AG/PAO, etc. The third copy of the certified calculation sheet as countersigned by the PAO/Accounts Officer of the Ministry/Department concerned, and the latter would record those calculation sheets as certified by the Head of Office and countersigned by the PAO/AO, in a guard file with a proper index.

4. Ministry of Agriculture, etc., are requested kindly to furnish the calculation sheet in the revised format to all pensioners simultaneously with the issue of the pension payment order by the respective Pay and Accounts Officers.

5. Formal amendments to the CCS (Pension) Rules, 1972, will be issued separately.

[G.I., Dept. of Pension and Pensioners' Welfare, O.M. No. 38/19/85-PU, dated the 2nd September, 1985 and corrigendum, dated the 7th February, 1986 and O.M. No. 38/24/91-P. & P.W. (F), dated the 22nd November, 1991.]

(2) Entitlement to family pension in the case of employees going on permanent absorption in PSU/Autonomous Bodies should be indicated in the pension calculation sheet. - In accordance with Decision (1) above, every retiring employee is required to be supplied with a pension calculation sheet inter alia indicating the amount of pension, gratuity and family pension. It has been decided that the entitlement to family pension in the case of employees going on permanent absorption in PSU/Autonomous Bodies should also be indicated in the said calculation sheet with an explanation that the benefit of family pension will be admissible in such case subject to -

(a) The employee seeking permanent absorption is not entitled to family pension benefit from the Public Sector Undertakings/Autonomous Bodies or under the Employees' Provident Fund and Miscellaneous Provisions Act.

(b) Where the employee concerned is governed by the Family Pension Scheme under the Employees' Provident Fund and Miscellaneous Provisions Act, he opts to be governed by the Family Pension Scheme of the Central Government after obtaining exemption from the provision of Employees' Provident Fund and Miscellaneous Provisions Act from the Regional Provident Fund Commissioner concerned.

For this purpose, the format of the calculation sheet has been further amplified. A revised format (Form-7) is enclosed (Annexure). This calculation sheet should be got printed on fairly heavy paper to ensure its durability and entries therein should as far as possible be typed. In the event of the asborbees becoming eligible for the benefit of family pension under the Central Government rules, the pension calculation sheet can be relied upon by the members of the family for claiming family pension as and when the contingency for the same arises in future.

Ministry of Agriculture, etc., are requested kindly to bring these revised instructions to the notice of all Heads of Office/Pay and Accounts Offices under their administrative control. It is also requested that the pension calculation sheets may be supplied in all past cases of absorption in PSU/Autonomous Bodies (confined to details regarding entitlement to family pension) where the family pension has not so far already commenced.

In their application to the persons serving in the Indian Audit & Accounts Department, these orders issue in consultation with the Comptroller & Auditor-General of India.

[G.I, Dept. of P. & P.W., O.M. No. 29/4/91-P. & P.W. (F), dated the 13th January, 1993.]

ANNEXURE

CALCULATION SHEET

(Important document to be preserved carefully)

No..... Name of the Minsitry/Deptt./Office

.....

1. Name of the Pensioner
2. Designation
3. Date of birth
4. Date of entry in the Govt. service
5. Date of retirement
6. Length of qualifying service reckoned

for pension/gratuity (as indicated in

PPO)

7. Emoluments drawn during the last 10

months.

8. (1) Average emoluments for pension

(as indicated in PPO)

- (2) Pension admissible

Calculations to be shown as follows :-

$(\text{Avg. Emo.}/2) \times [\text{Q.S. (in completed 6 monthly period not exceeding 66)}/66]$

8-A. Whether opted for commutation of 100% pension in case of permanent absorption in PSU/AB [Deleted vide notification No. 4/42/91-P&PW(D) dated 25-6-1997]

9. (1) Emoluments for gratuity (as indicated in PPO)

- (2) Retirement gratuity admissible

Calculation to be shown as follows :-

$(\text{Emoluments}/4) \times [\text{Q.S. (in completed 6 months period not exceeding 66)}]$

10. (1) Emoluments for Family Pension

(as indicated in PPO)

- (2) Family Pension admissible

Calculations to be shown as follows :-

* (a) Ord. Family Pension : Pay last drawn x Prescribed %, subject to prescribed min. and max.

* (b) Enhanced Family Pension :

Family Pension at ordinary rate as at (a) above x 2, subject to prescribed minimum and maximum as per Rule 54.

*EXPLANATION : In case of permanent absorption in Public Sector Undertakings/Autonomous Bodies, whether the retiree opts for pro rata pension or commutation of 100% pension, the above-mentioned entitlement to family pension will be subject to the fulfilment of the following conditions, namely :-

(a) The employee seeking permanent absorption is not entitled to family pension benefit from the Public Sector Undertakings/Autonomous Bodies or under the Employees' Provident Fund and Miscellaneous Provisions Act, and

(b) Where the employee concerned is governed by the Family Pension Scheme under the Employees' Provident Fund and Miscellaneous Provisions Act, he opts to be governed by the Family Pension Scheme of the Central Government after obtaining exemption from the provision of Employees' Provident Fund and Miscellaneous Provisions Act from the Regional Provident Fund Commissioner concerned.

11. PPO No.....

Head of Office

Place.....

Date.....

Countersigned

Pay & Accounts Officer

Place.....

Date.....

62. Intimation to Accounts Officer regarding any event having bearing on pension

If, after the pension papers have been forwarded to the Accounts Officer within the period specified in sub-rule (4) of Rule 61, any event occurs which has a bearing on the amount of pension admissible, the fact shall be promptly reported to the Accounts Officer by the Head of Office.

63. Intimation of the particulars of Government dues to the Accounts Officer

(1) The Head of Office after ascertaining and assessing the Government dues as in Rule 71, shall furnish the particulars thereof to the Accounts Officer at least two months before the date of retirement of a Government servant so that the dues are recovered out of the gratuity before its payment is authorized.

(2) If, after the particulars of Government dues have been intimated to the Accounts Officer under sub-rule (1), any additional Government dues come to the notice of the Head of Office, such dues shall be promptly reported to the Accounts Officer.

64. Provisional pension

(1) The various stages of action laid down in Rule 59 shall be strictly followed by the Head of Office. There may be an isolated case where, in spite of following the procedure laid down in Rule 59, it may not be possible for the Head of Office to forward the pension papers referred to in Rule 61 to the Accounts Officer within the period prescribed in sub-rule (4) of that rule or where the pension papers have been forwarded to the Accounts Officer within the prescribed period but the Accounts Officer may have returned the pension papers to the Head of Office for eliciting further information before issue of pension payment order and order for the payment of gratuity. If the Head of Office in such a case is of the opinion that the Government servant is likely to retire before his pension and gratuity or both can be finally assessed and settled in accordance with the provisions of these rules, he shall without delay, take steps to determine the qualifying years of service and the emoluments qualifying for pension after the most careful summary investigations that may be made. For this purpose, he shall -

(i) rely upon such information as may be available in the official records, and

(ii) ask the retiring Government servant to file a written statement on plain paper stating the total length of qualifying service including details of emoluments drawn during the last ten months of service but excluding the breaks and other non-qualifying periods of service.

(2) The Government servant while furnishing the statement as in Clause (ii) of sub-rule (1) shall, at the foot of the statement make and subscribe to a declaration as to the truth of the statement.

(3) The Head of Office shall thereafter determine the qualifying years of service and the emoluments qualifying for pension in accordance with the information available in the official records and the information obtained from the retiring Government servant under sub-rule (1). He shall, then determine the amount of provisional pension and the amount of provisional [retirement gratuity.]

(4) After the amount of pension and gratuity have been determined under sub-rule (3), the Head of Office shall take further action as follows :-

(a) He shall issue a sanction letter addressed to the Government servant endorsing a copy thereof to the Accounts Officer authorizing -

(i) 100 per cent of pension as determined under sub-rule (3) as provisional pension for a period not exceeding six months to be reckoned from the date of retirement of the Government servant ; and

(ii) 100 per cent of the gratuity as provisional gratuity as determined under sub-rule (3) withholding ten per cent of gratuity or one thousand rupees, whichever is less.

(b) He shall indicate in the sanction letter the amount recoverable from the gratuity under sub-rule (1) of Rule 63. After issue of the sanction letter he shall draw -

(i) the amount of provisional pension ; and

(ii) the amount of provisional gratuity after deducting there from the amount mentioned in sub-clause (ii) of Clause (a) and the dues, if any, mentioned in Rule 71.

in the same manner as pay and allowances of the establishment are drawn by him.

(5) The amount of provisional pension and gratuity payable under sub-rule (4) shall, if necessary, be revised on the completion of the detailed scrutiny of the records.

2(6) (a) The payment of provisional pension shall not continue beyond the period of six months from the date of retirement of the Government servant. If the amount of final pension and the amount of final gratuity had been determined by the Head of Office in consultation with the Accounts Officer before the expiry of the said period of six months, the Accounts Officer shall -

(i) issue the pension payment order,

(ii) direct the Head of Office to draw and disburse the difference between the final amount of gratuity and the amount of provisional gratuity paid under sub-clause (ii) of Clause (b) of sub-rule (4) after adjusting the Government dues, if any, which may have come to notice after the payment of provisional gratuity.

(b) If the amount of provisional pension disbursed to a Government servant under sub-rule (4) is, on its final assessment, found to be in excess of the final pension assessed by the Accounts Officer, it shall be open to the Accounts Officer to adjust the excess amount of pension out of gratuity withheld under sub-clause (ii) of Clause (a) of sub-rule (4) or recover the excess amount of pension in instalments by making short payments of the pension payable in future.

(c) (i) If the amount of provisional gratuity disbursed by the Head of Office under sub-rule (4) is larger than the amount finally assessed, the retired Government servant shall not be required to refund the excess amount actually disbursed to him.

(ii) The Head of Office shall ensure that chances of disbursing the amount of gratuity in excess of the amount finally assessed are minimized and the officials responsible for the excess payment shall be accountable for the over-payment.

2(7) If the final amount of pension and gratuity have not been determined by the Head of Office in consultation with the Accounts Officer within a period of six months referred to in Clause (a) of sub-

rule (6), the Accounts Officer shall treat the provisional pension and gratuity as final and issue pension payment order immediately on the expiry of the period of six months.

3(8) As soon as the pension payment order has been issued by the Accounts Officer under Clause (a) of sub-rule (6) or sub-rule (7), the Head of Office shall take steps to refund the amount of withheld gratuity under sub-clause (ii) of Clause (a) of sub-rule (4) to the retired Government servant after adjusting Government dues which may have come to notice after the payment of provisional gratuity under sub-clause (ii) of Clause (b) of sub-rule (4). If the Government servant was an allottee of Government accommodation, the withheld amount should be refunded on receipt of 'No Demand Certificate' from the Directorate of Estates.

Footnote : 1.Substituted by G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. P.W. (PIC), dated the 20th July, 1988, published in the Gazette of India as S.O. No. 2388, dated the 6th August, 1988.

2. Substituted by G.I., Dept. of P. & A.R., Notification No. 30/11/80-Pension Unit, dated the 22nd October, 1981.

3. Inserted by G.I., Dept. of Per. & A.R., Notification No. 30/11/80-Pension Unit, dated the 22nd October, 1981.

64. GOVERNMENT OF INDIA'S DECISIONS

(1) Issue of Last Pay Certificate. - The issue of a Last Pay Certificate should not be insisted upon before the payment of provisional pension. During the period of six months after retirement which has been provided for various purposes above, it should be possible for the Head of Office or other office concerned to issue the Last Pay Certificate to a Government servant. In cases in which the Last Pay Certificate has not been issued by the time the formal Pension/Gratuity Payment Orders are received (whether this happens prior to the retirement of the Government servant or after his retirement and after the grant of a provisional pension), the Gratuity Payment Order will in any case include a provision for withholding 10% of the gratuity or Rs. 1,000, whichever is less, pending the production of the Last Pay Certificate.

[G.I., M.F., O.M. No. F. 11 (3)-E. V (A)/76, dated the 28th February, 1976-Paragraph 9.]

(2) Adjustment of dues other than pertaining to Government accommodation. - In respect of other Government dues steps should be taken to ascertain or assess the outstanding dues when the processing of pension papers is taken up two years prior to the retirement date. As the next stage of the actual preparation of pension papers is reached only after a year and four months, there is ample time for ascertaining all kinds of Government dues. Once that stage is reached, i.e., eight months before the retirement of the Government servant, any further probing of records for recoveries due shall cover only a limited period, i.e., not more than two years before the date of retirement. It should thus be quite possible for the Head of Office, or the Office which is to issue the Pension Payment Order, as the case may be, to ascertain or assess all the dues particularly those pertaining to long-term advances such as house-building or conveyance advances, over-payment of

pay and allowances, and such other dues, prior to the prescribed deadline for the issue of the Pension payment/ Gratuity payment orders or the Provisional pension/Gratuity order. The pension papers should clearly indicate the total amount of outstanding dues which should be recovered out of the retirement gratuity before authority for the payment of gratuity (whether final or provisional) is issued ; and if, after the pension papers have been transmitted to the office responsible for issuing the Pension Payment Order, additional recoveries to be made from the gratuity come to notice, the fact shall be promptly reported to that office. In a case where no major recoveries are due, but 10% of the gratuity or Rs. 1,000 has been withheld because there might be unassessed Government dues, or because gratuity has been provisionally paid or because last pay certificate has not been received, the withheld amount automatically become payable on the expiry of the six months after retirement. The Head of Office (or the office issuing the pension and gratuity payment orders) shall indicate in the orders granting a provisional gratuity (or the final Gratuity Payment Order) itself the amount of gratuity withheld and add further that the withheld amount shall be released by the officer disbursing the pension without further instructions on the expiry of the period of six months from the date of retirement, unless instructions for the recovery of a specified sum or sums from the withheld amount are issued within the aforesaid period.

[G.I., M.F., O.M. No. F. 11 (3)-E. V (A).76, dated the 28th February, 1976, paragraph 10 (f).]

(3) Provisional pension to be paid by Head of Office in the absence of intimation from Accounts Officer. - 1. The CCS (Pension) Rules, 1972 and the corresponding rules applicable to All India Services Officers, Armed Forces personnel and Railway employees provide for advance action to be taken by the Heads of Offices and the Audit/Accounts Officers to ensure that the amount of pension and gratuity due to a retired Government employee is assessed well in time and the Pension Payment Order issued not later than one month in advance of the date of retirement. In cases where pension and gratuity cannot be settled as contemplated above, the Rules provide for the payment of provisional pension and provisional gratuity [e.g., Rule 64 of the CCS (Pension) Rules, 1972]. If the Head of Office is of the opinion that the Government servant is likely to retire before his pension or gratuity or both can be finally assessed and settled in accordance with the relevant rules, he shall take expeditious steps to sanction up to 100 % of pension as provisional pension and up to 100 % of gratuity as provisional gratuity, in accordance with the rules.

2. Representations have been made to the Ministry of Personnel, Public Grievances and Pension that provisional pension and provisional gratuity are not being sanctioned by the Heads of Offices as provided for in the rules. This is causing a great deal of avoidable hardship to retiring employees.

3. Government have taken a serious view of these complaints that the provisions of the statutory rules are not being observed. Heads of Offices are advised to ensure that there is no occasion for complaints in future from the retiring employees and to follow the prescribed procedure in letter and spirit. Accountability in this regard will rest with the Head of the Office concerned.

4. If any Central Government employee, on retirement, is not sanctioned provisional pension and provisional gratuity, pending a final determination of his/her pension and issue of the Pension Payment Order, he/she may send a complaint to the Department of Pension and Pensioners' Welfare for taking immediate action. The Government would like to ensure that retiring employees should on their retirement normally receive the final sanction of pensionary benefits. If delay in

issuing a final Pension Payment Order is unavoidable, at least the benefits of provisional pension and provisional gratuity should be allowed as prescribed in the rules.

5. These instructions do not apply to cases falling under Rule 9 of the CCS (Pension) Rules, 1972 and corresponding provisions in the rules applicable to All India Services Officers, Armed Forces Personnel and Railway employees, etc.

[G.I., Dept. of P. & P.W., O.M. No. 38/9/87-P. & P.W., dated the 23rd January, 1987.]

(4) Head of Office should ensure that retiring person gets his provisional pension in time. - Rule 64 stipulates that Head of Office is empowered to sanction provisional pension and gratuity for a period of six months to a retiring employee, if he is of the opinion that the Government servant is likely to retire before his pension and gratuity or both can be finally assessed. The Study Team has observed that this option has not been exercised at all in many cases and the retiring person could not get his pension in time due to one or the other objection. In this connection, attention is also invited to Decision (3) above, whereby Heads of Departments/Offices were made accountable for strict compliance of Government orders for issuing authorization of Pension and Gratuity, provisional or final, at the date of retirement on superannuation.

[G.I., Dept. of Pen. & P.W., O.M. No. 38/116/93-P. & P.W. (F), dated the 2nd May, 1994. - Para. 9]

(5) Clarification regarding non applicability of Rule 64 to the case of voluntary/invalid/compulsory retire.

"From a reading of the Rule 64 with Rules 58 and 59 of the CCS (Pension) Rules, 1972, it is clear that Rule 64 only deals with the cases of superannuation pension. Therefore, pension cases of voluntary retirement (Rule 48), invalid retirement (Rule 38) and compulsory retirement (Rule 40) are not covered by Rule 64 of the Pension Rules."

[Dept. of Posts, Letter No. 4-32/88-PEN, dated the 16th November, 1988.]

65. Authorization of pension and gratuity by the Accounts Officer

(1) (a) On receipt of pension papers referred to in Rule 61, the Accounts Officer shall apply the requisite checks, record the account encasement in Part II of Form 7 and assess the amount of pension and gratuity and issue the pension payment order not later than one month in advance of the date of the retirement of the Government servant if the pension is payable in his circle of accounting unit.

(b) If the pension is payable in another circle of accounting unit, the Accounts Officer shall send the pension payment order along with a copy of Form 7 and the accounts encasement to the Accounts Officer of that unit for arranging payment.

(2) The amount of gratuity as determined by the Accounts Officer under Clause (a) of sub-rule (1) shall be intimated to the Head of Office with the remarks that the amount of the gratuity may be drawn and disbursed by the Head of Office to the retired Government servant after adjusting the Government dues, if any, referred to in Rule 71.

(3) The amount of gratuity withheld under sub-rule (5) of Rule 72 shall be adjusted by the Head of Office against the outstanding licence fee intimated by the Directorate of Estates and the balance, if any, refunded to the retired Government servant.

GOVERNMENT OF INDIA'S DECISIONS

(1) Payment of Retirement benefits through demand draft to outstation payees. - Doubts have been expressed in certain quarters as to whether payments of retirement benefits can be arranged to retired Government servants by bank drafts, wherever necessary or only by cheques.

Attention in this connection is invited to Clause (d) of para. 1.12.1 of Civil Accounts Manual according to which payment by bank drafts to outstation payees by Pay and Accounts Offices is permissible in cases, inter alia, of individuals. The term 'individuals' will cover cases or payment for retirement benefits to retirees, which are to be routed through the DDO [i.e., payments other than those of monthly pension).

The Pay and Accounts Offices can, therefore, arrange payment of retirement benefits (other than payments of monthly pension) to retired Government servants where the concerned DDOs are situated at a station different from the one where the concerned Pay and Accounts Office is located and also to such other retired employees who stay after retirement at a station other than that of their DDO/PAO.

[G.I., M.F., O.M. No. G. 19011/2/83/MF/CGA/CTR/1206, dated the 6th February, 1985.]

(2) Retirement benefits up to Rs. 10,000 can be paid through uncrossed cheque/demand draft. - According to paragraph 2 of O.M. No. G.19011/1/77-MF/CGA/5035, dated the 29th March, 1979 (not mentioned), payment of Retirement/Death Gratuity, withheld amount of Retirement/Death Gratuity will be made by cheque/demand draft to be drawn in favour of the pensioner. Such cheques/demand drafts being usually in excess of Rs. 250 are requested to be crossed and marked "Account Payee" in accordance with para. 1.8.1 of the Civil Accounts Manual.

It has been represented that most of the staff of industrial organizations like Government of India Mints, etc., are not having bank accounts. They consequently face difficulty in encashing the crossed cheque/demand draft. Keeping in view the hardship being faced by staff having no bank accounts, it has been decided that in cases where a retiring employee makes a specific request in writing for not crossing the cheque/demand draft in the above form, the amount of retirement gratuity/withheld amount of retirement gratuity, which does not exceed Rs. 10,000 may be paid by an "Open cheque" instead of by crossed and marked "Account Payee" cheque/draft, subject to the condition that the payment will be made only to the payee on identification, or to a person holding letter of authority from the payee whose signatures must be verified and after identifying the messenger as laid down in para. 1.8.1 of the Civil Accounts Manual.

In the case of death of a Government servant while in service or after retirement, but before receiving amount of retirement/death gratuity, the payment thereof, to the legal heir(s) will, however, invariably be made by crossed cheque/demand draft marked "Account payee" drawn in favor of the payee(s).

[G.I., M.F., O.M. No. G. 19011/1/77/MF/CGA/709, dated the 24th September, 1982.]

(3) Issue of Identity cards to pensioners at their cost

It has been decided that Identity Cards will be issued by various Ministries/Departments/offices to its retired/retiring employees and the expenditure on providing a laminated Identity Card will be borne by the pensioner. This Department has devised a format in which Identity Cards are to be issued to pensioners (specimen enclosed). It will be the responsibility of the concerned Ministry/Department to work out the expenditure that may be involved in issuing a laminated Identity Card to pensioner and the card may be issued at the request of the pensioner on cost recovery basis.

3. Ministry of Agriculture, etc., are requested to take urgent necessary action in this regard.

ENCLOSURE

FRONT

PENSIONER'S IDENTITY CARD

GOVERNMENT OF INDIA

MINISTRY OF.....

No.

Name

Space for

Residential Address:

Photograph

Telephone No.

Blood Group

Signature of card holder

Signature of Issuing

Authority with seal

REVERSE

Date of birth/superannuation*

Post held on Retirement/pay scale*

Last pay/average emoluments*

Qualifying service

Pension Originally sanctioned

P.P.O. No. and date

*In brackets

(G.I., Deptt. of P&PW's O.M. No. 41/21/2000-P&PW(D) dated 16-11-2000)

(4) Commuted value of pension may be authorised to discussed through the Head of Office, in the cases of retirement on superannuation. [please refer to Rule 15(3) of CCS (commutation of pension) Rules, 1981]

66. Payment of provisional pension and gratuity through money order

If the provisional pension or gratuity or both sanctioned under sub-rule (4) of Rule 64, is desired to be paid by the pensioner through money order or bank draft, the same shall be remitted to him through money order or bank draft at his cost :

Provided that in the case of any pensioner who has been authorized payment of provisional pension 1[not exceeding five hundred rupees per mensem exclusive of the amount of relief on pension] that amount shall, at the request of the pensioner, be remitted to him by money order at Government expense.

Footnote : 1. Substituted by G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988, published in the Gazette of India as S.O. No. 2388, dated the 6th August, 1988.

67. Government servants on deputation

(1) In the case of Government servant who retires while on deputation to another Central Government Department, action to authorize pension and gratuity in accordance with the provisions of this Chapter shall be taken by the Head of Office of the borrowing Department.

(2) In the case of a Government servant who retires from service, while on deputation to a State Government or while on foreign service, action to authorize pension and gratuity in accordance with the provisions of this Chapter shall be taken by the Head of Office or the Cadre authority which sanctioned deputation to the State Government or to foreign service.

GOVERNMENT OF INDIA'S DECISIONS

(1) Acceptance of evidence regarding payment of pension contribution. - (a) There are some cases in which, in accordance with the terms of deputation/`foreign service', it is the responsibility and liability of the Government servant himself to maintain the continuity of pensionable service by the payment of pension contributions. In such cases, it will be necessary to ascertain whether the recoveries have been made, before the period of foreign service is sometimes put to considerable

difficulty because of defective or incomplete record maintenance by the administrative/accounts offices. In such cases, while he could be reasonably asked to show that he had indeed made the contributions, the administrative authority should show a spirit of reasonableness and accommodation in evaluating and accepting such evidence as he is able to put forward, and not insist rigidly on formal proof with reference to service or accounts records for the maintenance of which the Government servant is not responsible.

(b) Where, however, the responsibility for making pension contributions is that of the borrowing organization and where either some of the contributions have not been recovered or the records in respect of the recoveries of such contributions are incomplete, while the authorities concerned should pursue the matter with the borrowing organization separately for appropriate action, this should have no bearing on the processing and finalization of pension papers.

[G.I., M.F., O.M. No. F. 11 (3).E, V (A)/76, dated the 28th February, 1979-paragraph 5]

68. Interest on delayed payment of gratuity

1[(1) If the payment of gratuity has been authorized later than the date when its payment becomes due, and it is clearly established that the delay in payment was attributable to administrative lapses, interest shall be paid at such rate as may be prescribed and in accordance with the instructions issued from time to time :

Provided that the delay in payment was not caused on account of failure on the part of the Government servant to comply with the procedure laid down by the Government for processing his pension papers.]

2(2) Every case of delayed payment of gratuity shall be considered by the Secretary of the Administrative Ministry or the Department in respect of its employees and the employees of its attached and subordinate offices and where the Secretary of the Ministry or the Department is satisfied that the delay in the payment of gratuity was caused on account of administrative lapse, the Secretary of the Ministry or the Department shall sanction payment of interest.

2(3) The Administrative Ministry or the Department shall issue Presidential sanction for the payment of interest after the Secretary has sanctioned the payment of interest under sub-rule (2).

2(4) In all cases where the payment of interest has been sanctioned by the Secretary of the Administrative Ministry or the Department, such Ministry or the Department shall fix the responsibility and take disciplinary action against the Government servant or servants who are found responsible for the delay in the payment of gratuity.

(5) Deleted by G.I., Dept. of P. & P.W., Notification No. 7/10/89-P. & P.W. (F), dated the 28th November, 1991, published as G.S.R. 677 in the Gazette of India, dated the 7th December, 1991 and takes effect from the date.

Footnote : 1. Substituted by G.I., Dept. of P. & P.W., Notification No. 7/10/89-P. & P.W., (F), dated the 28th November, 1991, published as G.S.R. 677 in the Gazette of India, dated the 7th December, 1991, and takes effect from the date.

2. Substituted by G.I., Dept. of P. & P.W., Notification No. 7 (13)/85-P. & P.W., dated the 12th March, 1986 and published in the Gazette of India, dated the 29th March, 1986.

GOVERNMENT OF INDIA'S DECISIONS

(1) Admissibility of interest on gratuity allowed after conclusion of judicial/departmental proceedings. - 1. Under the rules, gratuity becomes due immediately on retirement. In case of a Government servant dying in service, a detailed time-table for finalizing pension and death gratuity has been laid down, vide Rule 77 onwards.

2. Where disciplinary or judicial proceedings against a Government servant are pending on the date of his retirement, no gratuity is paid until the conclusion of the proceedings and the issue of the final orders thereon. The gratuity if allowed to be drawn by the competent authority on the conclusion of the proceedings will be deemed to have fallen due on the date of issue of orders by the competent authority.

3. In order to mitigate the hardship to the Government servants who, on the conclusion of the proceedings are fully exonerated, it has been decided that the interest on delayed payment of retirement gratuity may also be allowed in their cases, in accordance with the aforesaid instructions. In other words, in such cases, the gratuity will be deemed to have fallen due on the date following the date of retirement for the purpose of payment on interest on delayed payment of gratuity. The benefit of these instructions will, however, not be available to such of the Government servants who die during the pendency of judicial/disciplinary proceedings against them and against whom proceedings are consequently dropped.

4. These orders (paragraph 3) shall take effect from the 10th January, 1983.

[G.I., Dept. of Per. & A.R., O.M. No. F. 7 (1)-P.U./79, dated the 11th July, 1979 and No. 1 (4)/Pen. Unit/82, dated the 10th January, 1983.]

(2) Interest for delayed payment of Retirement/Death Gratuity to be at the rate applicable to GPF deposits. -

[G.I., Dept. of Pen. & P.W., O.M. No. F. 38/34/2001/-P. & P.W. (F), dated the 29-4-2002]

(3) Guidelines for determining delay in payment of gratuity in cases other than superannuation and payment of interest therefor. - Payment of interest on delayed payment of gratuity is, at present, regulated under Rule 68 of the CCS (Pension) Rules, 1972.

2. Certain administrative authorities have drawn attention to the fact that in cases of retirement on superannuation, the work of assessment of the demands outstanding against them commences two years in advance whereas in other cases of retirement, assessment of Government dues, etc., can begin only after the retirement has been approved by Government and have raised a doubt whether the provisions of Rule 68 are also applicable to those who retired otherwise on superannuation and if so whether the time-limit of three months is to be observed in such cases.

The position has been reviewed in consultation with the Ministry of Finance. It has been decided that if the payment of gratuity has been delayed due to administrative lapses for no fault of the retiring employee in cases of retirement other than superannuation, the payment of interest may be regulated in the following manner :-

(i) In case of Government servants against whom disciplinary/judicial proceedings are pending on the date of retirement and in which gratuity is withheld till the conclusion of the proceedings :-

(a) In such cases if the Government servant is exonerated of all charges and where the gratuity is paid on the conclusion of such proceedings, the payment of gratuity will be deemed to have fallen due on the date following the date of retirement vide O.M. No. 1 (4)/Pen. Unit/82, dated the 10th January, 1983. If the payment of gratuity has been authorized after three months from the date of his retirement interest may be allowed beyond the period of three months from the date of retirement.

(b) In cases where the disciplinary/judicial proceedings are dropped on account of the death of the Government servant during the pendency of disciplinary/judicial proceedings, the payment of gratuity will be deemed to have fallen due on the date following the date of death and if the payment of gratuity has been delayed interest may be allowed for the period of delay beyond three months from the date of death.

(c) In cases where the Government servant is not fully exonerated on the conclusion of disciplinary/judicial proceedings and where the competent authority decides to allow payment of gratuity, in such cases, the payment of gratuity will be deemed to have fallen due on the date of issue of orders by the competent authority for payment of gratuity vide O.M. No. 7 (1) PU/79, dated 11-7-1979. If the payment of gratuity is delayed in such cases interest will be payable for the period of delay beyond three months from the date of issue of the above-mentioned orders by the competent authority.

(ii)

On retirement other than on superannuation

Such cases of retirement will be either under clause (j) or clause (k) of FR 56 or Rules 38, 39, 40, 48 or 48-A of the CCS (Pension) Rules, 1972. In such cases the pension sanctioning authority does not get adequate time for processing pension papers, as is available to it in the case of retirement on superannuation. Instructions have already been issued from time to time that the work relating to verification of service should be done on year to year basis and should not be kept in arrears. Provisions also exist that on completion of 25 years qualifying service or on one being left with five years service before the date of retirement, whichever is earlier, the Head of Office should verify the service rendered by such Government servant and communicate to him the period of qualifying service as determined vide Rule 32 of the CCS (Pension) Rules, 1972. It is, therefore, expected that even in cases of retirement other than on superannuation it should not take unduly long time for all Heads of Offices to prepare pension papers of retiring employees. It has, therefore, been decided that where the payment of gratuity in such cases is delayed beyond six months from the date of

retirement, interest should be paid for the period of delay beyond six months from the date of retirement.

(iii)

On death of the Government servant while in service

Such cases may be considered on the same lines as mentioned in clause (ii) above. Detailed procedure for processing the payment of death gratuity is explained in Rules 77 to 80 of the CCS (Pension) Rules, 1972. It is felt that in these cases also it should be possible for the respective offices to process the payment of death gratuity within a reasonable time. It has, therefore, been decided that where the payment of death gratuity is delayed beyond six months from the date of death, interest should be paid for the period of delay beyond six months from the date of death. If in any case the payment of death gratuity is held up on account of more than one claimant staking his/her claim to the same, such cases will not automatically qualify for payment of interest in terms of these orders. These will be examined separately in consultation with this Department on the merits of each.

(iv)

Cases where the amount of gratuity already paid is enhanced on account of revision of emoluments or liberalisation in the provisions relating to gratuity from a date prior to the date of retirement of the Government servant concerned

At present, no interest is paid in such cases. Representations have been received that the payment of difference in gratuity in such cases is unduly delayed. It is expected that once the orders relating to revision of emoluments reckoning for gratuity or liberalisation of rules relating to entitlement of gratuity is issued, the difference in gratuity should be paid within a reasonable time. Taking into account all aspects, it has now been decided that if the payment on account of arrears of gratuity is delayed beyond a period of three months from the date of issue of the orders revising the emoluments or liberalisation in the rules, interest may be allowed for the delay beyond the period of three months from the date of issue of the said orders.

(v)

In cases of permanent absorption in PSU/autonomous bodies otherwise than on en masse transfer on conversion of Government department or a part thereof into PSU/autonomous body

Payment of interest on delayed payment of gratuity in these cases may also be decided in the same manner as prescribed in clause (ii) above. If the payment of gratuity has been delayed beyond six months from the date of permanent absorption the interest may be allowed for the period of delay beyond six months.

3. As far as retirement on superannuation is concerned, the existing procedure for grant of interest if the payment of gratuity is delayed due to administrative reasons/lapses for no fault of the retiring employee will continue to be applicable. In other words, interest will be allowed for the period of delay beyond three months from the date of retirement.

4. It has also been observed that there is a general impression among the administrative authorities that interest is to be paid only after disciplinary action being taken against the defaulting staff found responsible for the delay in payment of gratuity is concluded. It is hereby clarified that this impression is not correct. In all cases in which it is established that the delay in payment of gratuity was attributable to administrative lapses and for no fault of the retiring employee concerned, the interest should be paid without waiting for the outcome of the disciplinary proceedings against the defaulting staff. The disciplinary cases should be proceeded with separately. This may kindly be borne in mind while regulating cases under paragraphs 2 and 3 above. Wherever interest becomes payable in terms of these orders, the same shall be allowed up to the end of the month preceding the month in which gratuity/arrears of gratuity is paid.

5. These orders shall take effect from the date of issue of this OM. The cases of those Government servants who retired/died while in service before this date would also be covered if gratuity has not been paid as on the date of issue of this Office Memorandum and there has been delay in its payments beyond three months/six months, as the case may be, of the date of their retirement/death but the interest would be payable in such cases only from the date of the issue of this OM, or three months/six months, as the case may be, from the date of retirement/death, whichever date is later. Past cases of retirement otherwise than on superannuation and on death already settled before the issue of this OM, however, need not be reopened.

[G.I., Dept. of P. & P.W., O.M. No. 7/20/89/P. & P.W. (F), dated the 22nd January, 1991.]

(4) Responsibility to be fixed and disciplinary action taken in cases where payment of interest is sanctioned by the Secretary of the Ministry/Department. - The Study Team has recommended that adequate precautions should be taken by the Head of Office so that payment of interest on delayed payment of gratuity is avoided. Moreover, dealing hand should be made accountable and responsibility be fixed if he is guilty of not taking timely action in this regard.

[G.I., Dept. of Pen. & P.W., O.M. No. 38/64/98-P. & P.W. (F), dated the 5th October 1999]

69.

Provisional pension where departmental or judicial proceedings may be pending

(1) (a) In respect of a Government servant referred to in sub-rule (4) of Rule 9, the Accounts Officer shall authorize the provisional pension equal to the maximum pension which would have been admissible on the basis of qualifying service up to the date of retirement of the Government servant, or if he was under suspension on the date of retirement up to the date immediately preceding the date on which he was placed under suspension.

(b) The provisional pension shall be authorized by the Accounts Officer during the period commencing from the date of retirement up to and including the date on which, after the conclusion of departmental or judicial proceedings, final orders are passed by the competent authority.

(c) No gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon :

1 Provided that where departmental proceedings have been instituted under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, for imposing any of the penalties specified in Clauses (i), (ii) and (iv) of Rule 11 of the said rules, the payment of gratuity shall be authorized to be paid to the Government servant.

(2) Payment of provisional pension made under sub-rule (1) shall be adjusted against final retirement benefits sanctioned to such Government servant upon conclusion of such proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld either permanently or for a specified period.

Footnote : 1. Inserted by G.I., Dept. of Per. & A.R., Notification No. 30/2/80-Pension Unit, dated the 13th February, 1981.

GOVERNMENT OF INDIA'S DECISION

Grant of cent per cent provisional pension under Rule 69 mandatory even if departmental or judicial proceedings are continued. - It has come to the notice of Finance Ministry that some of the administrative authorities are not following Rule 69 of the CCS (Pension) Rules, 1972, which provide that Government servant who has retired and against whom any departmental or judicial proceedings are instituted or are continued, shall be paid provisional pension. The payment of provisional pension under these rules is mandatory. But some administrative authorities appear to be under the impression that in cases where the departmental proceedings instituted against a Government servant were for a major penalty and in which ultimately no pension might become payable on the conclusion of the proceedings after his retirement under Rule 9 of the CCS (Pension) Rules, 1972, even the provisional pension need not to be sanctioned. This view is against the letter and spirit of the rule. The Ministry of Home Affairs, etc., are, therefore, requested to bring to the notice of administrative authorities under them the correct position under the rules so that the provisional pension under Rule 69 *ibid* is not denied to the retired Government servants.

[G.I., M.F., O.M. No. 11 (6)-E, V (A)/73, dated the 22nd July, 1974.]

70.

Revision of pension after authorization

(1) Subject to the provisions of Rules 8 and 9 pension once authorized after final assessment shall not be revised to the disadvantage of the Government servant, unless such revision becomes necessary on account of detection of a clerical error subsequently :

Provided that no revision of pension to the disadvantage of the pensioner shall be ordered by the Head of Office without the concurrence of the Department of Personnel and Administrative Reforms if the clerical error is detected after a period of two years from the date of authorization of pension.

(2) For the purpose of sub-rule (1), the retired Government servant concerned shall be served with a notice by the Head of Office requiring him to refund the excess payment of pension within a period of two months from the date of receipt of notice by him.

(3) In case the Government servant fails to comply with the notice, the Head of Office shall, by order in writing, direct that such excess payment, shall be adjusted in instalments by short payments of pension in future, in one or more instalments, as the Head of Office may direct.

71.

Recovery and adjustment of Government dues

(1) It shall be the duty of the Head of Office to ascertain and assess Government dues payable by a Government servant due for retirement.

(2) The Government dues as ascertained and assessed by the Head of Office which remain outstanding till the date of retirement of the Government servant, shall be adjusted against the amount of the 1[retirement gratuity] becoming payable.

(3) The expression `Government dues' includes -

(a) dues pertaining to Government accommodation including arrears of licence fee, if any ;

(b) dues other than those pertaining to Government accommodation, namely, balance of house building or conveyance or any other advance, overpayment of pay and allowances or leave salary and arrears of income tax deductible at source under the Income Tax Act, 1961 (43 of 1961).

Footnote : 1. Substituted by G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988, published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988.

72.

Adjustment and recovery of dues pertaining to Government accommodation

(1) The Directorate of Estates on receipt of intimation from the Head of Office under sub-rule (1) of Rule 57 regarding the issue of No Demand Certificate shall scrutinize its records and inform the Head of Office eight months before the date of retirement of the allottee, if any licence fee was

recoverable from him in respect of the period prior to eight months of his retirement. If no intimation in regard to recovery of outstanding licence fee is received by the Head of Office by the stipulated date, it shall be presumed that no licence fee was recoverable from the allottee in respect of the period preceding eight months of his retirement.

(2) The Head of Office shall ensure that licence fee for the next eight months, that is up to the date of retirement of the allottee, is recovered every month from the pay and allowances of the allottee.

(3) Where the Directorate of Estates intimates the amount of licence fee recoverable in respect of the period mentioned in sub-rule (1), the Head of Office shall ensure that outstanding licence fee is recovered in instalments from the current pay and allowances of the allottee and where the entire amount is not recovered from the pay and allowances, the balance shall be recovered out of the gratuity before its payment is authorized.

(4) The Directorate of Estates shall also inform the Head of Office the amount of licence fee for the retention of Government accommodation for the permissible period of 1[four months] beyond the date of retirement of the allottee. The Head of Office shall adjust the amount of that licence fee from the amount of the gratuity together with the unrecovered licence fee, if any, mentioned in sub-rule (3).

(5) If in any particular case, it is not possible for the Directorate of Estates to determine the outstanding licence fee, that Directorate shall inform the Head of Office that ten per cent of the gratuity or one thousand rupees, whichever is less, may be withheld pending receipt of further information.

(6) The recovery of licence fee for the occupation of the Government accommodation beyond the permissible period of 1[four months] after the date of retirement of allottee shall be the responsibility of the Directorate of Estates. 2[Any amount becoming due on account of licence fee for retention of Government accommodation beyond four months after retirement and remaining unpaid may be ordered to be recovered by the Directorate of Estates through the concerned Accounts Officer from the dearness relief without the consent of the pensioner. In such cases no dearness relief shall be disbursed until full recovery of such dues have been made.]

NOTE. - For the purpose of this rule, the licence fee shall also include any other charges payable by the allottee for any damage or loss caused by him to the accommodation or its fittings.

Footnote : 1. Substituted by G.I., Dept. of P. & P.W., Notification No. 42 (30)-P. & P.W./89-E, dated the 22nd January, 1991, published as S.O. No. 409 in the Gazette of India, dated the 9th February, 1991.

2. Inserted by G.I., Dept. of P. & P.W., Notification No. 42 (30)-P. & P.W./89-E, dated the 22nd January, 1991, published as S.O. No. 409 in the Gazette of India, dated the 9th February, 1991.

73.

Adjustment and recovery of dues other than dues pertaining to Government accommodation

(1) For the dues other than the dues pertaining to occupation of Government accommodation as referred to in Clause (b) of sub-rule (3) of Rule 71, the Head of Office shall take steps to assess the dues two years before the date on which a Government servant is due to retire on superannuation ; or on the date on which he proceeds on leave preparatory to retirement, whichever is earlier.

(2) The assessment of Government dues referred to in sub-rule (1) shall be completed by the Head of Office eight months prior to the date of the retirement of the Government servant.

(3) The dues as assessed under sub-rule (2) including those dues which come to notice subsequently and which remain outstanding till the date of retirement of the Government servant, shall be adjusted against the amount of 1[retirement gratuity] becoming payable to the Government servant on his retirement.

Footnote : 1. Substituted by G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988, published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988.

GOVERNMENT OF INDIA'S DECISIONS

(1) Dues to Municipality and Co-operative Societies not treated as Government dues. - The arrears of water and electricity are dues of the Municipal Committees, etc., which are local bodies and are, therefore, not Government dues. Similarly Co-operative Societies are not Government organizations and any dues to them cannot be treated as 'dues to Government'. No recovery of such dues can be made from the death-cum-retirement gratuity.

Family pension is like any other pension and recoveries of dues whether Government or non-Government are not permissible from it without obtaining the consent of the pensioner.

[G.I., M.F., U.O. No. 2896-ETA/60, dated the 31st August, 1960, in File No. 10 (14)-E. V/60.]

It has been decided in consultation with the Ministries of Finance and Law, Justice and Company Affairs, New Delhi, that in case the prematurely retired official gives a declaration to his disbursing officer for recovery of outstanding dues of the Co-operative Societies from his DCRG payable to him under the rules, the same may be deducted in cash from the DCRG of the official and remitted to the society.

[D.G., P. & T., Letter No. B-18019/10/75-WI, dated the 12th December, 1975.]

(2) 'Government dues' does not include dues while on deputation. - The term 'Government dues' referred to covers only the dues payable to the Government and does not include dues while on deputation. In other words, the sum due from the officer to an autonomous organization is not 'Government dues' and so cannot be recovered out of death-cum-retirement gratuity payable by the Government to the officer, except where the Government servant has given his consent in writing to such a recovery being made from his gratuity, which has become payable to him.

[G.I., M.F., O.M. No. F. 14 (9)-E. V/66, dated the 2nd September, 1967.]

(3) Write off of dues. - In some cases, an amount due from a person has to be written off on the ground that he/she is no longer in Government service and no recovery is, therefore, possible. In such cases the orders sanctioning write off should invariably contain a clause that any sums which

are subsequently found due to the person concerned will be adjusted against the amounts written off.

[G.I., M.F., O.M. No. 18 (9)-E. V-II (A)/59, dated the 25th June, 1959.]

(4) Procedure for the refund of excess recovery of licence fee to retired Government servants. - In order to ensure that the amounts of over-payments written off on the ground of Government servant being no longer in service are set off against any sums which are subsequently found due, it has been decided that the following procedure be adopted in regard to refund of excess recovery, if any, of licence fee to retired Government servants :-

(i) Non-gazetted Government servants :

Refund of amount is normally made only through the office under whom the Government servant concerned served last, and the Head of the Office concerned should ensure that over-payments, if any, already written off are set off against such refunds.

(ii)

Gazetted Government servants :

In the case of refund of excess licence fee recovered from a retired Gazetted Government servant, the Directorate of Estates would obtain a certificate from the Head of the Department/Office under whom he served last to the effect that no claim due from him had been written off on account of his being no more in Government service which could be adjusted against the amount applied for. The Ministry will also maintain appropriate indexed record to this effect.

[G.I., M.F., O.M. No. 18(9)-E. -II(A)/59, dated the 14th May, 1960]

(5) Whether Government dues written off after retirement can be recovered from pay during subsequent re-employment. - 1. A question has been raised whether the expression "any sums which are subsequently found due" occurring in Ministry of Finance's O.M. No. 18(9)-E-II(A)/59 dated 14th May 1960 (See Decision 4 above) cover only the dues relating to the period when the person concerned was originally in Government service or also covers any dues which may accrue to him as a result of his subsequent re-employment under Government ; in other words, whether an amount of overpayment made to a Government servant and written off on the ground that the person concerned is no longer in Government service, can be recovered from him by adjustment of the pay and allowances earned by him in the course of his re-employment under Government. It has been decided that in cases where the amount of over-payment is written off merely because the person concerned is no longer in Government service and not on any other ground, as for example, that its recovery would cause hardship to the individual concerned, the dues which may accrue to him during the period of his re-employment under Government may be adjusted against the amount written off.

2. In the terms of re-employment of a retired Government servant, a condition should invariably be inserted to the effect that any amount of overpayment pertaining to the pre-retirement period including the amount written off on the ground that he was no longer in Government service would be recoverable by adjustment of the pay and allowances admissible to him during the period of re-employment.

3. It will be the duty of the office re-employing a retired Government servant to make an enquiry from the office where he was formerly employed whether any amount is recoverable in terms of paragraph 1 above. Such an enquiry will have to be made immediately after a person is re-employed. The final payment of the re-employed person on the termination of his re-employment should not be made unless the re-employing office has ensured that no amounts are adjustable in terms of paragraph 1 above.

[G.I., M.F., O.M. No. 18 (9)-E. II (A)/59, dated the 21st November, 1960.]

(6) When a pensioner refuses to pay Government dues. - The failure or refusal of a pensioner to pay any amount owed by him to Government cannot be said to be 'misconduct' within the meaning of Article 351 of the CSR [Now Rule 8, CCS (Pension) Rules, 1972]. The possible way of recovering/demanding Government dues from a retiring officer who refuses to agree in writing, to such dues being recovered from his pension is either to delay the final sanction of his pension for some time which will have the desired effect for persuading him to agree to recovery being made therefrom or take recourse to Court of Law.

[G.I., M.F., Letter No. F. 7 (28)-E. V/53, dated the 25th August, 1958.]

(7) Only arrears of licence fee recoverable from pensioner's relief. - The Heads of Offices should ensure that all Government dues recoverable from retiring Government servants should be assessed well before retirement and recovered from the salary/retirement gratuity and that no Government dues other than arrears of Licence Fee can be recovered from Dearness Relief.

[G.I., M.F., C.G.A.'s U.O. No. M-23013/152/1/90/MF-CGA/Pension/Vol. II/286-87, dated the 23rd July, 1992, addressed to the Dept. of P. & P.W.]

74. Date of retirement to be notified

When a Government servant retires from service -

- (a) a notification in the Official Gazette in the case of a Gazetted Government servant, and
- (b) an office order in the case of a non-gazetted Government servant shall be issued specifying the date of retirement within a week of such date and a copy of every such notification or office order, as the case may be, shall be forwarded immediately to the Accounts Officer :

Provided that where a notification in the Official Gazette or an office order, as the case may be, regarding the grant of leave preparatory to retirement to a Government servant is issued, a further notification or office order that the Government servant has actually retired on the expiry of such

leave shall not be necessary unless the leave is curtailed and the retirement is for any reason ante-dated or postponed.

GOVERNMENT OF INDIA'S DECISIONS

(1) Statements required to be maintained for proper monitoring and reporting system. - In simplifying the procedure with a view to eliminate delays in the payment of superannuation pension and retirement gratuity Government have proceeded on the basis that in spite of every effort imperfections may remain in the records and procedures but that it would be unfair to a retiring Government servant if he had to suffer because of the lapses of those responsible for the proper maintenance of service records. The fact that under the new procedures the presumption will be in favour of the Government servant if the records are incomplete or deficient in any manner underlines the importance of ensuring the proper, regular and timely completion of all the service and accounts records by the offices concerned, so as to minimise the occasion for making such presumptions. It has, accordingly, been decided that if, in future, service records are found to be incomplete or imperfect at the time of processing and finalizing pension cases, those cases will not be delayed but the officials responsible for the maintenance of the records will be held accountable for any deficiencies, failure or omissions therein, and action will be initiated against them. The Heads of Departments will ensure that these directions are complied with.

(2) In order to ensure that the payment of pension should in all cases commence on the first of the month in which they are due, it has been decided that the progress of the pension cases should be watched by the Heads of the Offices and the Heads of the Departments by means of monthly and quarterly statements so that the various cut-off dates laid down are strictly followed. For proper monitoring and reporting system the Heads of Offices shall prepare the following statements. (A specimen each of the Statements is in section FORMS at the end.)

Statement No. 1 : This is monthly statement and should cover cases of all Government servants due to retire within the succeeding 8 months and indicate the progress of the pension cases with reference to the various stages and time-limit prescribed, i.e., whether action was initiated two years in advance and whether the pension papers are ready for being sent to the Audit Officer before 6 months of the retirement of the Government servant. The statement should be submitted by the Head of Office to the next higher officer.

Statement No. 2 : This is monthly statement having Part I and Part II and the statement should cover the cases of Government servants who became due for retirement in the previous calendar month. Part I and Part II of the statement should be submitted by the Head of Office to the next higher officer. The next higher officer will submit Part II of the statement to the Head of the Department.

Statement No. 3 : This is a quarterly statement and should cover the cases of those Government servants in whose cases provisional pension and provisional gratuity was authorized by the Head of Office but the provisional pension and gratuity had to be made final after the expiry of a period of 6 months. The statement is to be submitted to the Head of the Department.

Statement No. 4 : This is a quarterly statement and should indicate the particulars of those Government servants where presumptions have been made in favour of retired Government servant

because of incomplete/improper maintenance of service records. The names of the persons responsible for improper maintenance of the record of service books and action taken against the Government servant concerned responsible for lapse should also be indicated. The statement is to be submitted to the Head of Department.

Statement No. 5 : This is a half-yearly statement to be submitted by the Head of Department to the Secretary of the Ministry concerned.

Any case, where payment of pension is delayed, has to be viewed seriously. The causes of delay in such a case have to be identified and remedial steps taken so that such delays should not occur in future. This can only be ensured if the Heads of the Departments will personally scrutinize the statements and issue such directions as they may consider necessary where payments of pensions have been delayed. Any deficiency in the procedure should be brought to the notice of this ministry at the appropriate level so that rules may be amended accordingly.

[G.I., M.F., O.M. No. F. 11 (3)-E. V (A)/76, dated the 28th February, 1976 and the 6th May, 1976 and O.M. No. F. 11 (14)-E. V (A)/76, dated the 30th October, 1976.]

74-A]

75] Omitted vide Notification No 6(1)/Pen(A)/79 dated 19-5-1980.

76]

77. Obtaining of claims for family pension and 2[death gratuity]

(1) Where the Head of Office has received an intimation about the death of a Government servant while in service, he shall ascertain whether any 2[death gratuity] or family pension or both is or are payable in respect of the deceased Government servant.

(2) (a) Where the family of the deceased Government servant is eligible for the 2[death gratuity] under Rule 50, the Head of Office shall ascertain -

(i) if the deceased Government servant had nominated any person or persons to receive the gratuity ; and

(ii) if the deceased Government servant had not made any nomination or the nomination made does not subsist, the person or persons to whom the gratuity may be payable.

(b) The Head of Office shall, then, address the person concerned in Form 10 or Form 11, as may be appropriate, for making a claim in Form 12.

(3) Where the family of the deceased Government servant is eligible under Rule 54 for the Family Pension, 1964 -

(a) the Head of Office shall address the widow or widower in Form 13 for making a claim in Form 14 ; and

(b) Where the deceased Government servant is survived only by a child or children the guardian of such child or children may submit a claim in Form 14 to the Head of Office :

Provided that the guardian shall not be required to submit a claim in the said Form on behalf of a child if the child has attained the age of eighteen years and such child may himself or herself submit a claim in the said Form.

(4) Omitted by G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988, published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988..

(5) If on the date of death, the Government servant was an allottee of Government accommodation, the Head of Office shall address the Directorate of Estates for the issue of "No Demand Certificate" in accordance with the provisions of sub-rule (1) of Rule 80-C.

Footnote : 2. Substituted by G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988, published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988.

78. Completion of Form 18

(1) (a) The Head of Office while taking action to obtain claim or claims from the family in accordance with the provisions of Rule 77 shall simultaneously undertake the completion of Form 18. The work shall be completed within one month of the date on which intimation regarding the date of death of the Government servant has been received.

(b) The Head of Office shall go through the service book of the deceased Government servant and satisfy himself as to whether certificates of verifications of service for the entire service are recorded therein.

(c) If there are any periods of unverified service, the Head of Office shall accept the unverified portion of service as verified on the basis of the available entries in the service book. For this purpose the Head of Office may rely on any other relevant material to which he may have ready access. While accepting the unverified portion of service, the Head of Office shall ensure that service was continuous and was not forfeited on account of dismissal, removal or resignation from service, or for participation in strike.

(2) (a) For the purpose of determination of emoluments for family pension and 2[death gratuity], the Head of Office shall confine the verification of the correctness of emoluments for a maximum period of one year preceding the date of death of the Government servant.

(b) In case the Government servant was on extraordinary leave on the date of death, the correctness of the emoluments for a maximum period of one year which he drew preceding the date of the commencement of the extraordinary leave shall be verified.

(3) The process of determination of qualifying service and qualifying emoluments shall be completed within one month of the receipt of intimation regarding the date of death of the Government servant and the amount of family pension and 2[death gratuity] shall also be calculated accordingly.

Footnote : 2. Substituted by G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988, published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988.

79. Determination of the amount of family pension and gratuity where service records are incomplete

According to the existing instructions, there should not be any case where service book has not been maintained properly. If in any particular case, the service book has not been maintained properly despite the Government's orders on the subject, and it is not possible for the Head of Office to accept the unverified portion of service as verified on the basis of entries in the service book, the Head of Office shall not proceed with the verification of the entire spell of service. The verification of service in such a case shall be confined to the following spells of service :-

(a) For the purpose of Family Pension, 1964 -

(i)

If the deceased Government servant on the date of death had rendered more than one year of service but less than seven years of service, the service and emoluments for the last year of service shall be verified and accepted by the Head of Office and the amount of Family Pension, 1964, determined under sub-rule (2) and sub-rule (2-A) of Rule 54.

(ii)

If the deceased Government servant on the date of his death had rendered more than seven years of service, the service for the last seven years and emoluments for service rendered in the last year shall be verified and accepted by the Head of Office and the amount of Family Pension, 1964 and the period for which it is payable shall be determined in accordance with the provisions of sub-rule (3) of Rule 54.

(iii)

If the deceased Government servant at the time of death had rendered more than seven years of service and the service of last seven years is not capable of being verified and accepted by the Head of Office but the service rendered during the last year is capable of being verified and accepted, the

Head of Office, pending the verification of service for seven years, shall calculate the amount of family pension in accordance with the provisions of sub-rule (2) and sub-rule (2-A) of Rule 54.

(iv)

The service for the last seven years shall be verified and accepted within the next two months and the amount of family pension at the enhanced rate and the period for which it is payable shall be determined in accordance with the provisions of sub-rule (3) of Rule 54.

(v)

The determination of the amount of family pension in accordance with the provisions of sub-clauses (i), (ii) and (iii) shall be done within one month of the receipt of intimation of the date of death of the Government servant.

(b)

For the purpose of 1[death gratuity] -

1(i)

If the deceased Government servant had on the date of his death rendered more than 5 years of qualifying service but less than 20 years of qualifying service, and the spell of last 5 years has been verified and accepted by the Head of Office under clause (a), the amount of death gratuity shall be equal to 12 times of his emoluments as indicated in item (iii) of the Table below clause (b) of sub-rule (1) of Rule 50. Where the verified and accepted service is less than 5 years, the amount of death gratuity shall be the amount as indicated in Item (i) or Item (ii) in the Table below clause (b) of sub-rule (1) of Rule 50, as may be applicable.

(ii)

If the deceased Government servant had rendered more than 1[twenty years] of service and the entire service is not capable of being verified and accepted, but the service for the last five years has been verified and accepted under sub-clause (i), the family of the deceased Government servant shall be allowed, on provisional basis, the 1[death gratuity] equal to 12 times of the emoluments.

Final amount of the gratuity shall be determined by the Head of Office on the acceptance and verification of the entire spell of service which shall be done by the Head of Office within a period of six months from the date on which the authority for the payment of provisional gratuity was issued. The balance, if any, becoming payable as a result of determination of the final amount of 1[death gratuity] shall then be authorised to the beneficiaries.

Footnote: 1. Omitted by Notification No. 2/18/87-P&PW(PIC) dated 20-7-1988

GOVERNMENT OF INDIA'S DECISION

(1) Special efforts to be made to get the claims papers quickly. - The above procedure has been laid down in order to facilitate the expeditious issue of the authority for the payment of family pension and death gratuity so that the family of the deceased Government servant is not put to hardship. The Head of Office has to ensure that action to obtain the claim or claims from the beneficiaries, completion of Form 18 and assessment of Government dues is initiated simultaneously. Special efforts have to be made to get the claims in the respective Forms from the family of the deceased Government servant as early as possible. Where the family is residing in the place of duty of Head of Office, the Forms and documents which are required to be completed by the family may, if possible, be obtained personally and for this purpose the services of the Welfare Officer could be utilized. If the family is residing outside the place of duty of the Head of Office, all the Forms and other documents which are required to be sent to the family should be forwarded with clear instructions so that unnecessary correspondence is avoided.

[G.I., M.F., O.M. No. F. 11 (9)-E. V (A)/77, dated the 15th February, 1979.]

(2) Action to be initiated immediately on receipt of intimation of death without waiting for formal death certificate. - The Study Team has recommended that the delay in sending the claim papers to the family of deceased Government servants should be avoided. In this connection, attention is invited to the detailed instructions which already exist in Chapter IX of the CCS (Pension) Rules, 1972, which provide that the Head of Office should take immediate action for sanction of family pension and other retirement benefits in case of death while in service. These instructions should be strictly followed in cases of death of a Government servant while in service to avoid delay in payment of admissible pensionary benefits. Action to process such cases should be initiated immediately on receipt of intimation of death without waiting for production of the formal death certificate.

[G.I., Dept. of Pen. & P.W., O.M. No. 38/116/93-P. & P.W. (F), dated the 2nd May, 1994 - Para.5]

80. Forwarding the papers to the Accounts Officer

(1) On receipt of claim or claims, the Head of Office shall complete items 22, 23, 24, 25 and 26 of Form 18 and send the said Form in original to the Accounts Officer with a covering letter in Form 19 along with the Government servant's service book duly completed up-to-date and any other

documents relied upon for the verification of the service claimed. This shall be done not later than one month of the receipt of claim by the Head of Office.

(2) The Head of Office shall retain one copy of the aforesaid Form 18 for his office record.

(3) If the payment is desired in another circle of accounting unit, Form 18 shall be sent in duplicate to the Accounts Officer.

(4) The Head of Office shall draw the attention of the Accounts Officer to the details of Government dues outstanding against the deceased Government servant, namely, -

(a) Government dues as ascertained and assessed in term of Rule 80-C and recoverable out of the gratuity before payment is authorized.

(b)

Amount of gratuity to be held over partly for adjustment of Government dues which have not been assessed so far and partly as margin for adjustment in the light of the final determination of the gratuity.

(c)

The maximum amount of gratuity to be held over for the purpose of Clause (b) shall be limited to ten per cent of the amount of gratuity or rupees one thousand, whichever is less.

(5)

(a)

If Form 18 has been completed and the claim or claims in the respective Forms have not been received from the beneficiary or beneficiaries, the Head of Office shall forward Form 18 and the documents referred to in sub-rule (1) to the Accounts Officer leaving unfilled items 22, 23, 24, 25 and 26 of Part I of the said Form.

(b)

As soon as the claim or claims are received by Head of Office, they shall immediately be forwarded to the Accounts Officer with the request that items 22, 23, 24, 25 and 26 of Part I of Form 18 may be filled by the Accounts Officer.

80A. Sanction, drawal and disbursement of provisional family pension and gratuity

(1) After the documents referred to in Rule 80 have been sent to the Accounts Officer concerned, the Head of Office shall draw provisional family pension not exceeding the maximum family pension and hundred per cent of the gratuity as determined in accordance with the provisions of this Chapter. For this purpose the Head of Office shall adopt the following procedure, namely :-

(a) he shall issue a sanction letter in favour of claimant or claimants endorsing a copy thereof to the Accounts Officer concerned indicating the amount of provisional family pension and hundred per cent of the gratuity as determined ;

(b)

he shall indicate in the sanction letter the amount recoverable out of the gratuity under sub-rule (4) of Rule 80 ;

(c)

after issue of the sanction letter he shall draw -

(i)

the amount of the provisional family pension ; and

(ii)

the amount of hundred per cent of the gratuity after deducting therefrom the dues mentioned in Clause (b);

in the same manner as pay and allowances of the establishment are drawn by him.

(2) The Head of Office shall disburse the provisional family pension (including arrears, if any) and the gratuity immediately after the same have been drawn under sub-rule (1).

(3) The payment of provisional family pension shall continue for a period of six months from the date following the date of death of the Government servant unless the period is extended by the Accounts Officer under the proviso to sub-rule (1) of Rule 80-B.

(4) The Head of Office shall inform the Accounts Officer -

(a) as soon as the gratuity has been paid to the claimant or claimants ; and

(b)

as soon as provisional family pension has been paid for a period of six months or for the period extended under proviso to sub-rule (1) of Rule 80B, as the case may be.

(5) If the claimant or any of the claimants desire the payment of provisional family pension or of gratuity or of both through money order or bank draft, the same shall be remitted to him or her through money order or bank draft at his own cost :

Provided that in the case of any claimant who is sanctioned a provisional family pension not exceeding 1[two hundred and fifty rupees] (inclusive of relief on family pension) per mensem, the amount of pension shall, at the request of the claimant, be remitted to him or her by money order at Government expence.

Footnote : 1. Substituted by G.I., Dept. of Per. & A.R., Notification No. 31 (4)-Pen. 80, dated the 21st April, 1981. Limited raised to Rs. 500 excluding relief on pension. Amendment awaited. See proviso to Rule 66 as amended.

80B Authorization of final pension and balance of the gratuity by the Accounts Officer

(1) On receipt of the documents referred to in sub-rule (1) of Rule 80, the Accounts Officer shall, within a period of three months from the date of receipt of the documents apply the requisite checks and complete Section I of Part II of Form 18 and assess the amount of family pension and gratuity :

Provided that if the Accounts Officer is, for any reason, unable to assess the amount within the period aforesaid, he shall communicate the fact to the Head of Office to continue to disburse the provisional family pension to the claimant for such period as may be specified by the Accounts Officer.

(2) (a) If the family pension is payable in his circle of accounting unit, the Accounts Officer shall prepare the pension payment order.

(b)

The payment of family pension shall be effective from the date following the date on which the payment of provisional family pension ceased.

(c)

Arrears of family pension, if any, in respect of the period for which provisional family pension was drawn and disbursed by the Head of Office shall also be authorized by the Accounts Officer.

(3)

(a)

The Accounts Officer shall determine the amount of the balance of the gratuity after adjusting the amount, if any, outstanding against the deceased Government servant.

(b)

The Accounts Officer shall intimate to the Head of the Office, the amount of the balance of the gratuity determined under Clause (a) with the remarks that the amount of the balance of the gratuity may be drawn and disbursed by the Head of Office to the person or persons to whom the provisional gratuity has been paid.

(c)

The amount of gratuity withheld under Clause (b) of sub-rule (1) of Rule 80C shall be adjusted by the Head of Office against the outstanding licence-fee mentioned in Clause (viii) of sub-rule (1) of Rule 80C and the balance, if any, refunded to the person or persons to whom gratuity has been paid.

(4) The fact of the issue of the pension payment order shall be promptly reported to the Head of Office by the Accounts Officer and the documents which are no longer required shall also be returned to him.

(5) If the final family pension including the arrears of provisional family pension is payable in another circle of accounting unit, the Accounts Officer shall send the pension payment order together with a copy of Form 18, duly completed to the Accounts Officer of that unit for arranging payment :

Provided that the adjustment of provisional family pension drawn and disbursed by the Head of Office shall be made by the Accounts Officer in whose circle of accounting unit the provisional family pension was paid.

(6) If the amount of provisional family pension as disbursed by the Head of Office is found to be in excess of the final pension assessed by the Accounts Officer it shall be open to the Accounts Officer to adjust the excess amount in instalments by short payments of family pension payable in future.

(7) (a) If the amount of gratuity disbursed by the Head of Office proves to be larger than the amount finally assessed by the Accounts Officer the beneficiary shall not be required to refund the excess.

(b) The Head of Office shall ensure that chances of disbursing the amount of gratuity in excess of the amount actually admissible are minimized and the official or officials responsible for the excess payment shall be accountable for the overpayment.

80C. Adjustment of Government dues

(1) Dues pertaining to Government accommodation -

(i) If on the date of death the Government servant was allottee of Government accommodation, the Head of Office on receipt of intimation regarding the death of the Government servant shall within seven days of the receipt of such intimation, write to the Directorate of Estates for the issue of 'No demand certificate' so that authorization of family pension and 1[death gratuity] is not delayed. While addressing the Directorate of Estates for the issue of no demand certificate, the Head of Office shall also supply the following information in duplicate (one copy marked to the Rent Wing and the second to the Allotment Wing) :-

(a) name of the deceased Government servant with designation ;

(b)

particulars of the accommodation (quarter No., type and locality) ;

(c)

date of death of Government servant ;

(d)

whether the Government servant was on leave at the time of his death and, if so, the period and nature of leave ;

(e)

whether the Government servant was enjoying rent-free accommodation ;

(f)

the period up to which licence fee had been recovered from the pay and allowances of the deceased Government servant and the monthly rate of recovery and particulars of the pay bill under which last recovery was made ;

(g)

if the licence fee had not been recovered up to the date of death and the family intends to retain Government accommodation for the permissible period of four² months from the date of death of the Government servant, details of the :-

(A)

period for which licence fee still remains to be recovered ;

(B)

the amount of licence fee in respect of the period at (A) to be determined on the basis of the standard rent bill ;

(C)

the amount of licence fee for the retention of Government accommodation by the family of the deceased Government servant for the concessional period of four² months beyond the date of death of the Government servant to be determined on the basis of standard bill ;

(D)

the amount of licence fee mentioned at (B) and (C) proposed to be recovered out of 1[death gratuity] ;

(E)

details of any previous reference from the Directorate of Estates having bearing on the recovery of licence fee outstanding against the allottee and action taken thereon.

(ii) The Head of Office shall recover from the 1[death gratuity] the amount of licence fee as intimated to the Directorate of Estates under Clause (i).

(iii) The recovery of licence fee for the occupation of Government accommodation beyond the permissible period of four² months shall be the responsibility of the Directorate of Estates.

(iv) The Directorate of Estates shall scrutinize their records with a view to determine if licence fee other than the licence fee referred to in Clause (i) was outstanding against deceased Government servant. If any recovery is found, the amount and the period or periods to which such recovery or recoveries relate shall be communicated to the Head of Office within a period of three months of the receipt of intimation regarding the death of the Government servant under Clause (i).

(v) Pending receipt of information under Clause (iv), the Head of Office shall withhold ten per cent of the 2[death gratuity] or one thousand rupees, whichever is less.

(vi) If no intimation is received by the Head of Office within the period prescribed under Clause (iv) regarding recovery of licence fee, it shall be presumed that nothing was recoverable from the deceased Government servant and the amount of gratuity withheld shall be paid to the person or persons to whom the amount of death gratuity was paid.

(vii) If the Head of Office has received intimation from the Directorate of Estates under Clause (iv) regarding licence fee outstanding against the deceased Government servant, the Head of Office shall verify from the acquittance rolls if the outstanding amount of licence fee was recovered from the pay and allowances of the deceased Government servant. If as a result of verification, it is found that the amount of licence fee shown as outstanding by the Directorate of Estates, had already been recovered, the Head of Office shall draw the attention of the Directorate of Estates to the pay bills under which the necessary recovery of the licence fee was made and subject to the provisions of sub-rule (2) take steps to pay the amount of the gratuity withheld under Clause (v) to the person or persons to whom the death gratuity was paid.

(viii) If the outstanding amount of licence fee was not recovered from the pay and allowances of the deceased Government servant, the outstanding amount shall be adjusted against the amount of the gratuity withheld under Clause (v) and the balance, if any, repaid to the person or persons to whom the amount of 1[death gratuity] was paid.

(2) Dues other than those referred to in sub-rule (1) -

The Head of Office shall, within one month of the receipt of intimation regarding death of a Government servant take steps to ascertain if any dues as referred to in Rule 71 excluding the dues pertaining to the allotment of Government accommodation were recoverable from the deceased Government servant. Such ascertainable dues shall be recovered from the amount of 1[death gratuity] becoming payable to the family of the deceased Government servant.

Footnote : 1. Substituted by G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988. Published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988.

2. Now twelve months - vide S.R. 317-B-11 (2).

80D. Payment of family pension and 1[death gratuity] when a Government servant dies while on deputation

(1) In the case of a Government servant who dies while on deputation to another Central Government Department, action to authorize family pension and 1[death gratuity] in accordance with the provisions of this Chapter shall be taken by the Head of Office of the borrowing Department.

(2) In the case of a Government servant who dies while on deputation to a State Government or while on foreign service, action to authorize the payments of family pension and 1[death gratuity] in accordance with the provisions of this Chapter shall be taken by the Head of Office or the cadre

authority which sanctioned the deputation of the Government servant to the State Government or to the foreign service.

Footnote : 1. Substituted by G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988. Published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988.

81. Sanction of family pension and residuary gratuity on the death of a pensioner

(1) Where the Head of Office has received an intimation regarding the death of a retired Government servant who was in receipt of pension, he shall ascertain whether any family pension or residuary gratuity or both is or are payable in respect of the deceased pensioner :

Provided that the Head of Office may, when he considers it necessary so to do, consult the 1[Accounts Officer].

(2) (a) (i) If the deceased pensioner is survived by a widow or widower who is eligible for the grant of 1[Family Pension, 1964] under Rule 54, the amount of 1[Family Pension, 1964] as indicated in the Pension Payment Order shall become payable to the widow or widower, as the case may be, from the day following the date of death of the pensioner.

(ii) On receipt of 4[a claim in Form 14] from the widow or widower, the 1[Pension Disbursing Authority] from whom the deceased pensioner was drawing his or her pension shall authorise the payment of 1[Family Pension, 1964] to the widow or widower, as the case may be.

(b) (i) Where the deceased pensioner is survived by child or children, the guardian of the child or children may submit a claim in Form 14 to the Head of Office for the payment of 1[Family Pension, 1964] :

Provided that the guardian shall not be required to submit a claim in the said Form on behalf of the 1[son or unmarried daughter if he or she has attained the age of eighteen years and such a person may himself or herself submit a claim] in the said Form.

(ii) On receipt of a claim from the guardian, the Head of Office shall sanction the 1[Family Pension, 1964] in Form 20.

(c) (i) Where a widow or widower in receipt of 1[Family Pension, 1964] remarries and has, at the time of remarriage, child or children from the former spouse who is or are eligible for 1[Family Pension, 1964] the remarried individual shall be eligible to draw the 1[Family Pension, 1964] on behalf of such child or children if such individual continues to be the guardian of such child or children.

(ii) For the purposes of sub-clause (i), the remarried individual shall apply to the Head of Office on plain paper furnishing the following particulars, namely :-

(A) a declaration that the applicant continues to be the guardian of such child or children ;

(B) the date of remarriage ;

(C) the name and date of birth of the child or children from the former spouse ;

(D) 1[the pension disbursing authority] from where payment of 1[Family Pension, 1964] on behalf of such child or children is desired ;

(E) full postal address of the applicant.

(iii) If the remarried individual has, for any reason, ceased to be the guardian of such child or children, the 1[Family Pension, 1964] shall become payable to the person entitled to act as guardian of such child or children under the law for the time being in force and such person may submit a claim in Form 14 to the Head of Office for the payment of 1[Family Pension, 1964] :

Provided that the guardian shall not be required to submit a claim in the said Form on behalf of the son or unmarried daughter if he or she has attained the age of eighteen years and such person may himself or herself submit a claim in the said Form.

(iv) On receipt of the claim referred to in sub-clause (iii) the Head of Office shall sanction 1[Family Pension, 1964] in Form 21.

(d) (i) Where a widow or widower in receipt of 1[Family Pension, 1964] dies and leaves behind child or children who is or are eligible for 1[Family Pension, 1964] the guardian may submit a claim in Form 14 to the Head of Office for the payment of 1[Family Pension, 1964] :

Provided that the guardian shall not be required to submit a claim in the said Form on behalf of 1[the son or unmarried daughter if he or she has attained the age of eighteen years and such person may himself or herself submit claim] in the said Form.

(ii) On receipt of a claim 2[under sub-clause (i)] the Head of Office shall sanction 1[Family Pension, 1964] in Form 21.

3(3) Omitted vide Notification No. 2/18/88-P&PW(PIC) dated 20-7-1988

(4) Where on the death of a retired Government servant a residuary gratuity becomes payable to the family of the deceased under sub-rule (2) of Rule 50, the Head of Office shall sanction its payment on receipt of a claim or claims in Form 22 from the person or persons eligible to receive the residuary gratuity.

Footnote : 1. Substituted by G.I., Dept. of P. & A.R., Notification No. 6 (1)-Pen. (A)/79, dated the 19th May, 1980.

2. Substituted by G.I., Dept. of P. & A.R., Notification No. 6 (2)-Pen. (A)/79, dated the 1st August, 1980.

3. Deleted by G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988. Published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988.

4. Substituted by G.I., Dept. of P. & P.W., Notification No. 1/75/88-P. & P.W./C, dated the 9th January, 1989, published as S.O. No. 254 in the Gazette of India, dated the 4th February, 1989.

82. Authorisation of payment by 1[Accounts Officer]

On receipt of the sanction under Rule 81 regarding the payment of family pension or of residuary gratuity or of both, the Accounts Officer shall authorise the payment of the same.

Footnote : 1. Substituted by G.I., Dept. of P. & A.R., Notification No. 6 (1)-Pen. (A)/79, dated the 19th May, 1980.

83. Date from which pension becomes payable

(1) Except in the case of a Government servant to whom the provisions of Rule 37 apply and subject to the provisions of 1[Rules 9 and 69] a pension other than family pension shall become payable from the date on which a Government servant ceases to be borne on the establishment.

2[]

(2) Pension including family pension shall be payable for the day on which its recipient dies.

Footnote : 1. Substituted by G.I., Dept. of P. & A.R., Notification No. 6 (1)-Pen. (A)/79, dated the 19th May, 1980.

2. Omitted by G.I., M.F., Notification No. 11 (1)-E. V (A)/73, dated the 14th July, 1975.

84. 3Currency in which pension is payable

All pensions including gratuities admissible under these rules shall be payable in rupees in India only.

Footnote : 3. Substituted by G.I., Dept. of P. & A.R., Notification No. 6 (2)-Pen. (A)/79, dated the 1st August, 1980.

85. Manner of payment of gratuity and pension

(1) Except as otherwise provided in these rules, a gratuity shall be paid in lump sum.

4(2) A pension fixed at monthly rates shall be payable monthly on or after the last working day of the month to which the pension relates except for the month of March when it shall be payable on or after 1st working day of April.

Footnote : 4. Substituted by G.I., Dept. of Pen. & P.W., Notification No. 43/4/92-P. & P.W. (G), dated the 27th November, 1992.

86. Application of Treasury Rules

Save as otherwise provided in these rules, the Treasury Rules of the Central Government shall apply in regard to the procedure of payment -

- (i) of gratuity,
- (ii) of pension,
- (iii) of pension undrawn for more than a year, and
- (iv) of pension in respect of deceased pensioner.

87. Interpretation

Where any doubt arises as to the interpretation of these rules, it shall be referred to the Government in the 1[Department of Pension & Pensioner's Welfare] for decision.

Footnote : 1. Substituted by G.I., Dept. of P. & A.R., Notification No. 6 (2)-Pen. (A)/79, dated the 1st August, 1980.

88. Power to relax

Where any Ministry or Department of the Government is satisfied that the operation of any of these rules, causes undue hardship in any particular case, that Ministry or Department, as the case may be, may, by order for reasons to be recorded in writing, dispense with or relax the requirements of that rule to such extent and subject to such exceptions and conditions as it may consider necessary for dealing with the case in a just and equitable manner :

Provided that no such order shall be made except with the concurrence of the 1[Department of Pension & Pensioner's Welfare].

Footnote : 1. Substituted by G.I., Dept. of P. & A.R., Notification No. 6 (2)-Pen. (A)/79, dated the 1st August, 1980.

89. Repeal and Saving

(1) On the commencement of these rules, every rule, regulation or order including Office Memorandum (hereinafter referred to in this rule as the old rule) in force immediately before such commencement shall, in so far as it provides for any of the matters contained in these rules, cease to operate.

(2) Notwithstanding such cesser of operation -

(a) (i) every nomination for the payment of death-cum-retirement gratuity, or of Family Pension, 1950 ;

(ii) every form regarding the details of family of a Government servant for the purpose of Family Pension, 1964 ; and

2(iii) Omitted by notification No. 6(1)-Pen(A)/79 dated 19-5-1980.

(b) any nomination for the payment of death-cum-retirement gratuity or of 1[Family Pension, 1950] any form regarding the details of family of a Government servant for the purpose of 1[Family Pension, 1964] 2[] required to be made or given by a government servant under the old rule but not made or given before the commencement of these rules shall be made or given after such commencement in accordance with the provisions of these rules ;

(c) any case which pertains to the 1[authorisation of pension] to a Government servant who had retired before the commencement of these rules and is pending before such commencement shall be disposed of in accordance with the provisions of the old rule as if these rules had not been made ;

(d) any case which pertains to the 1[authorisation of death-cum-retirement gratuity] and family pension to the family of a deceased Government servant or of a deceased pensioner and is pending before the commencement of these rules shall be disposed of in accordance with the provisions of the old rule as if these rules had not been made ;

(e) subject to the provisions of clauses (c) and (d) anything done or any action taken under the old rule shall be deemed to have been done or taken under the corresponding provisions of these rules.

Footnote : 1. Substituted by G.I., Dept. of P. & A.R., Notification No. 6 (1)-Pen. (A)/79, dated the 19th May, 1980.

2. Omitted by G.I., Dept. of P. & A.R., Notification No. 6 (1)-Pen. (A)/79, dated the 19th May, 1980.