

IN THE SUPREME COURT OF INDIA  
(CIVIL APPELLATE JURISDICTION)  
SLP (C) NO.19466/2021

IN THE MATTER OF :-

CENTRE FOR PUBLIC INTEREST LITIGATION

... PETITIONER

VERSUS

UNION OF INDIA & ANR

... RESPONDENT

**COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO. 1  
(UNION OF INDIA)**

[FOR INDEX PLEASE SEE INSIDE]

**ADVOCATE FOR THE RESPONDENT:**

**ARVIND KUMAR SHARMA**

## **INDEX**

<b>S.No.</b>	<b>Particular</b>	<b>Page No.</b>
1.	Counter Affidavit on behalf of Respondent no. 1 (Union of India)	1-44
2.	<b><u>ANNEXURE R/1</u></b>  A copy of the guidelines made by the UPSC in consonance with the directions issued by Hon'ble Apex Court, for appointment of DGPs of states	45-49
3.	<b><u>ANNEXURE R/2</u></b>  A copy of the DoP&T OM No.13017/16/2003-AIS (I) dated 28.06.2018	50-52
4.	<b><u>ANNEXURE R/3</u></b>  A copy of the said compete All India Services (Death-Cum-Retirement Benefits) Rules, 1958 along with the government instructions	53-262
5.	<b><u>ANNEXURE R/4</u></b>  A copy of All India Services (Conditions of Service-Residuary Matters) Rules, 1960 along with the government instructions	263-264
6.	<b><u>ANNEXURE R/5</u></b>  A copy of judgment and order dated 8.09.2021 passed in Writ Petition (Civil) No. 1374 of 2020 by Hon'ble Supreme Court in the matter titled as Common Cause (A Registered Society) vs UOI & Ors	265-294

**IN THE SUPREME COURT OF INDIA  
(CIVIL APPELLATE JURISDICTION)  
SLP (C) NO.19466/2021**

**IN THE MATTER OF :-**

**CENTRE FOR PUBLIC INTEREST LITIGATION**

**... PETITIONER**

**VERSUS**

**UNION OF INDIA & ANR**

**... RESPONDENT**

**COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO. 1  
(UNION OF INDIA)**

I, Sanjeev Kumar son of Shri Ganesh Singh aged about 38 years, working as Under Secretary having my office at North Block, do hereby solemnly affirm and state as under:-

1. That I am working as Under Secretary in the office of Respondent No.1, Ministry of Home Affairs. In my official, I have acquainted myself with the records of the case and as such I am completely aware of the facts and circumstances of the present case. Furthermore, I am duly authorized by the Respondent No.1 and therefore, I am competent to swear the present affidavit.

2. At the outset, I state and submit that all the contentions, averments and assertions made in the aforesaid petition may be treated as denied, except those which are expressly admitted by the deponent hereunder.

3. That it is submitted the present petition is an abuse of process of law and manifestly an outcome of some personal vendetta against

the incumbent police commissioner entertained by the petitioner. This becomes clear from the fact that though the petition is based on *Prakash Singh*-(1) judgment [(2006) 8 SCC 1] eight (8) IPS officers have been appointed by the Central Government as Police Commissioner Delhi following the very same procedure which has been followed while making the appointment in the present case. In the instant case, Shri Rakesh Asthana, IPS has been granted extension of service and has been appointed the Commissioner of Police, Delhi initially for a period of one year beyond the date of superannuation on 31.07.2021 or until further orders whichever is earlier in relaxation of 16(1) of the AIS(DCRB) Rules, 1958 as a special case in public interest.

However, petitioner claims to be espousing a public cause, never considered challenging appointment of eight (8) erstwhile Police Commissioners though they were appointed in the same manner as is done in the case of Respondent No.2. Such a selective exhibition of “public interest” speaks volume about the motive behind filing present petition and Writ petition in the Supreme Court.

It is submitted that the petitioner is busy body. The petitioner keeps on selectively filing petitions and such selection of selected public interest are for the reasons which are beyond comprehensions. Assuming that any intermeddler can bring issues to the notice of the Hon'ble Court, role of such busy body must come to an end and they cannot convert the petition into a bi-partite dispute. Reliance in this regard is placed on the judgment of the Hon'ble Supreme Court rendered in the case of *Tehseen Poonawalla v. Union of India*, reported in (2018) 6 SCC 72 wherein the Hon'ble supreme court was pleased to hold as under:-

***Public interest litigation***

**96.** *Public interest litigation has developed as a powerful tool to espouse the cause of the marginalised and oppressed. Indeed, that was the foundation on which public interest jurisdiction was judicially recognised in situations such as those in Bandhua Mukti Morcha v. Union of India [Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161 : 1984 SCC (L&S) 389] . Persons who were unable to seek access to the judicial process by reason of their poverty, ignorance or illiteracy are faced with a deprivation of fundamental human rights. Bonded labour and undertrials (among others) belong to that category. The hallmark of a public interest petition is that a citizen may approach the court to ventilate the grievance of a person or class of persons who are unable to pursue their rights. Public interest litigation has been entertained by relaxing the rules of standing. The essential aspect of the procedure is that the person who moves the court has no personal interest in the outcome of the proceedings apart from a general standing as a citizen before the court. This ensures the objectivity of those who pursue the grievance before the court. Environmental jurisprudence has developed around the rubric of public interest petitions. Environmental concerns affect the present generation and the future. Principles such as the polluter pays and the public trust doctrine have evolved during the adjudication of public interest petitions. Over time, public interest litigation has become a powerful instrument to preserve the rule of law and to ensure the accountability of and transparency within structures of governance. Public interest litigation is in that sense a valuable instrument and jurisdictional tool to promote structural due process.*

**97.** *Yet over time, it has been realised that this jurisdiction is capable of being and has been brazenly misutilised by persons with a personal agenda. At one end of that spectrum are those cases where public interest petitions are motivated by a desire to seek publicity. At the other end of the spectrum are petitions which have been instituted at the behest of business or political rivals to settle scores behind the facade of a public interest litigation. The true face of the litigant behind the façade is seldom unravelled.* These concerns are indeed reflected in the judgment of this Court in *State of Uttaranchal v. Balwant Singh Chauhal* [*State of Uttaranchal v. Balwant Singh Chauhal*, (2010) 3 SCC 402 : (2010) 2 SCC (Cri) 81 : (2010) 1 SCC (L&S) 807] . Underlining these concerns, this Court held thus : (SCC p. 453, para 143)

“143. Unfortunately, of late, it has been noticed that such an important jurisdiction which has been carefully carved out, created and nurtured with great care and caution by

the courts, is being blatantly abused by filing some petitions with oblique motives. We think time has come when genuine and bona fide public interest litigation must be encouraged whereas frivolous public interest litigation should be discouraged. In our considered opinion, we have to protect and preserve this important jurisdiction in the larger interest of the people of this country but we must take effective steps to prevent and cure its abuse on the basis of monetary and non-monetary directions by the courts.”

**98.** The misuse of public interest litigation is a serious matter of concern for the judicial process. Both this Court and the High Courts are flooded with litigations and are burdened by arrears. Frivolous or motivated petitions, ostensibly invoking the public interest detract from the time and attention which courts must devote to genuine causes. This Court has a long list of pending cases where the personal liberty of citizens is involved. Those who await trial or the resolution of appeals against orders of conviction have a legitimate expectation of early justice. It is a travesty of justice for the resources of the legal system to be consumed by an avalanche of misdirected petitions purportedly filed in the public interest which, upon due scrutiny, are found to promote a personal, business or political agenda. This has spawned an industry of vested interests in litigation. There is a grave danger that if this state of affairs is allowed to continue, it would seriously denude the efficacy of the judicial system by detracting from the ability of the court to devote its time and resources to cases which legitimately require attention. Worse still, such petitions pose a grave danger to the credibility of the judicial process. This has the propensity of endangering the credibility of other institutions and undermining public faith in democracy and the rule of law. This will happen when the agency of the court is utilised to settle extra-judicial scores. Business rivalries have to be resolved in a competitive market for goods and services. Political rivalries have to be resolved in the great hall of democracy when the electorate votes its representatives in and out of office. Courts resolve disputes about legal rights and entitlements. Courts protect the rule of law. There is a danger that the judicial process will be reduced to a charade, if disputes beyond the ken of legal parameters occupy the judicial space.

**99.** The present case is indeed a case in point. Repeatedly, the counsel for the petitioners and intervenors have attempted to inform the Court that they have no personal agenda and that they have instituted these proceedings to protect judicial

*independence. An aura of good faith has been sought to be created by submitting that the true purpose of seeking an inquiry into the circumstances relating to the death of Judge Loya is to protect the District Judiciary. But as the submissions have evolved, it has become clear that the petition is a veiled attempt to launch a frontal attack on the independence of the judiciary and to dilute the credibility of judicial institutions. Judicial review is a potent weapon to preserve the rule of law. However, here we have been confronted with a spate of scurrilous allegations. Absent any tittle of proof that they are conspirators in a murder the Court must stand by the statements of the judicial officers. The Judges of the District Judiciary are vulnerable to wanton attacks on their independence. This Court would be failing in its duty if it were not to stand by them.*

**101.** Mr Prashant Bhushan argued that because two of the Judges constituting the present Bench (Justice A.M. Khanwilkar and Justice D.Y. Chandrachud) were Judges of the Bombay High Court, they may have known the judicial officers who have submitted statements or Justice Bhushan Gavai and Justice S.B. Shukre. If this were to be the test, it is rather ironical that the petitioners had instituted proceedings before the Bombay High Court each of whose Judges were expected to be faced with the same situation. We informed Mr Bhushan that a decision as to whether a Judge should hear a case is a matter of conscience for the Judge. There is absolutely no ground or basis to recuse. Judges of the High Court hear intra-court appeals against orders of their own colleagues. References are made to larger Benches when there are differences of view. Judges of the Supreme Court hear appeals arising from judgments rendered by Judges of the High Courts in which they served, either as Judges or on appointments as Chief Justices. Maintaining institutional civilities between or towards Judges is distinct from the fiercely independent role of the Judge as adjudicator. We emphatically clarify that on the well-settled parameters which hold the field, there is no reason for any member of the present Bench to recuse from the hearing. While it is simple for a Judge faced with these kinds of wanton attacks to withdraw from a case, doing so would amount to an abdication of duty. There are higher values which guide our conduct. Though Mr Bhushan ultimately made it clear that he is not filing an application for recusal — and none has been filed — we have recorded what transpired to express our sense of anguish at the manner in which these proceedings have been conducted. Serious attacks have been made on the credibility of two Judges of the Bombay High Court. The conduct of the petitioners and the intervenors scandalises the process of

*the court and prima facie constitutes criminal contempt. However, on a dispassionate view of the matter, we have chosen not to initiate proceedings by way of criminal contempt if only not to give an impression that the litigants and the lawyers appearing for them have been subjected to an unequal battle with the authority of law. We rest in the hope that the Bar of the nation is resilient to withstand such attempts on the judiciary. The judiciary must continue to perform its duty even if it is not to be palatable to some. The strength of the judicial process lies not in the fear of a coercive law of contempt. The credibility of the judicial process is based on its moral authority. It is with that firm belief that we have not invoked the jurisdiction in contempt.*

[Emphasis Supplied]

4. Since there exists sufficient irrefutable reasons which give rise to extremely serious concerns regarding the purpose, motive and *bona fide* of the petitioner, therefore, the deponent is advised not to annexe the decision making process as a part of this Affidavit. The deponent however states that the detail rationale behind appointment of the Respondent No 2 to the post of CP Delhi Police, his inter-cadre deputation and the extension of service given to him forms part of the original file. The deponent undertakes to place the original file for perusal of this Hon'ble court during the course of hearing of the present matter.

5. A bare perusal of the reasons provided in the original file manifest that both inter-cadre deputation as well as extension of service of Respondent No.2 was granted by the Central Government in public interest. The prime consideration for the same was that GNCT being the capital of the country has been witnessing diverse and extremely challenging situations of public order/law and order situation/policing issues which not only had national security implications but also international/cross border implications. As such, a compelling need was felt by the Central Government to appoint a person as a head of the police force of Delhi, who had diverse and vast experience of heading a large police force in a large



State having diverse political as well as public order problem/experience of working and supervising Central Investigating Agency(s) as well as para-military forces. To achieve the above purpose a search was done in AGMUT cadre, which is the IPS cadre for GNCT. However, since AGMUT cadre being a cadre comprising of Union Territory and small north-eastern states, it was felt that requisite experience of working and supervising the central investigating agency/para-military force and police force of a large State having diverse political and law and order problem was lacking in the present pool of available officers and hence in public interest, a decision was made by the Central Government to have an officer who had experience in all the above fields to supervise Delhi Police force and to provide effective policing on the recent law and order situation which arose in the National Capital Territory of Delhi.

6. The aforesaid being the purpose and rationale for appointment of respondent no 2 to the post of CP Delhi Police, no fault can be found in his appointment which has been done in accordance with and after scrupulously following all the applicable rules and regulations. It is submitted that as explained hereinafter no case of procedural irregularity or any fundamental illegality has been made out by the petitioner, and therefore, in the respectful submission of the deponent the same is liable to be dismissed with cost.

7. Apart from the above it is also well settled that a PIL is not maintainable in a service matters. The present petition is also liable to be dismissed on this count also. Reliance in this regard is placed on the following judgments of the Hon'ble Supreme Court:-

- (i) Common Cause v. Union of India, (2018) 9 SCC 382
- (ii) Common Cause v. Union of India, (2018) 12 SCC 377
- (iii) Common Cause v. Union of India, (2019) 19 SCC 393

- (iv) Citizens for Justice & Peace v. State of Gujarat, (2009) 11 SCC 213
- (v) Central Electricity Supply Utility of Odisha v. Dhobei Sahoo, (2014) 1 SCC 161
- (vi) Arun Kumar Agrawal v. Union of India, (2014) 2 SCC 609
- (vii) Chander Mohan Negi v. State of H.P., (2020) 5 SCC 732
- (viii) B. Srinivasa Reddy v. Karnataka Urban Water Supply &
- (ix) Drainage Board Employees' Assn., (2006) 11 SCC 731
- (x) Hari Bansh Lal v. Sahodar Prasad Mahto, (2010) 9 SCC 655
- (xi) Girjesh Shrivastava v. State of M.P., (2010) 10 SCC 707
- (xii) Bholanath Mukherjee v. Ramakrishna Mission Vivekananda
- (xiii) Centenary College, (2011) 5 SCC 464
- (xiv) R.K. Jain v. Union of India, (1993) 4 SCC 119 233

### **Relief sought for in the present petition**

8. It is respectfully submitted that the Petitioner in the Writ Petition filed before Hon'ble High Court prayed for the following reliefs:

*“a. Issue an appropriate writ, order or direction for quashing the impugned order, dated 27.07.2021, issued by the Respondent No.1 appointing Respondent No.2 as the Commissioner of Police, Delhi.*

*b. Issue an appropriate writ, order or direction to Respondent No.1 to produce the order/communication of Appointments Committee of Cabinet vide No.6/30/2021-EO(SM-I) dated 27.07.2021 issued by it approving the inter-cadre deputation of Respondent No.2 from Gujarat cadre to AGMUT cadre and further to extend his service period to 31.07.2021, i.e. one year beyond his date of superannuation, and to set-aside the said order.*

*c. Issue a writ of mandamus or any other appropriate writ, order or direction to the Respondent No.1 to initiate fresh steps for appointing Commissioner of Police, Delhi, strictly in accordance with the directions issued by the*

*Hon'ble Supreme Court of India in Prakash Singh case viz., (2006) 8 SSC 1, (2019) 4 SCC 13 and (2019) 5 SCC an officer of high integrity belonging the AGMUT cadre.*

*d. Pass such other order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the instant case."*

**ERRONEOUS CONTENTION THAT THE IMPUGNED APPOINTMENT IS IN VIOLATION OF PRAKASH SINGH'S CASE**

9. I respectfully state and submit that the contention of the Petitioner that the appointment of Respondent No.2 is in violation of the judgment of the Hon'ble Supreme Court rendered in Prakash Singh's case (supra) is completely misconceived and devoid of any merits. It is submitted that the Petitioner has failed to appreciate, for the reasons best known to him, that the said judgment is only applicable for the appointment to the post of **"DGP of a State" / chief of the police administration of the entire State**. The said judgment has no application for appointment of Commissioners/Police Heads of Union Territories falling under the AGMUT cadre.

10. I respectfully state and submit that while passing the judgment in Prakash Singh's case, the Hon'ble Supreme Court itself made it clear that in so far as it's direction related to appointment of the DGPs was concerned the same was only in relation to the States and not in relation to UTs. While passing the judgment dated 22.09.2006 the Hon'ble Supreme Court, in utmost unambiguous terms, had held that the appointment which it was considering was the appointment of DGP of the State and not of head of a police force of any Union Territory. The same is clear from the following directions issued by the Hon'ble Supreme Court in para 31 of its judgment, which is reproduced herein below for ready reference of this Hon'ble court:-

**31.** *With the assistance of learned counsel for the parties, we have perused the various reports. In discharge of our constitutional duties and obligations having regard to the aforementioned position, we issue the following directions to the Central Government, State Governments and Union Territories for compliance till framing of the appropriate legislations:*

**State Security Commission**

**(1) The State Governments are directed to constitute a State Security Commission** in every State to ensure that the State Government does not exercise unwarranted influence or pressure on the State Police and for laying down the broad policy guidelines so that the State Police always acts according to the laws of the land and the Constitution of the country. This watchdog body shall be headed by the Chief Minister or Home Minister as Chairman and have the DGP of the State as its ex-officio Secretary. The other members of the Commission shall be chosen in such a manner that it is able to function independent of Government control. For this purpose, the State may choose any of the models recommended by the National Human Rights Commission, the Ribeiro Committee or the Sorabjee Committee, which are as under:

NHRC	Ribeiro Committee	Sorabjee Committee
1. Chief Minister/HM as Chairman.	1. Minister i/c Police as Chairman.	1. Minister i/c Police (ex-officio Chairperson).
2. Lok Ayukta or, in his absence, a retired judge of High Court to be nominated by the Chief Justice or a Member of the State Human Rights Commission.	2. Leader of Opposition.	2. Leader of Opposition.
3. A sitting or retired judge nominated by the Chief Justice of the High Court.	3. Judge, sitting or retired, nominated by the Chief Justice of the	3. Chief Secretary.

---

4. Chief Secretary.	High Court. 4. Chief Secretary.	4. DGP (ex-officio Secretary).
5. Leader of Opposition in the Lower House.	5. Three non-political citizens of proven merit and integrity.	5. Five independent Members.
6. DGP as ex-officio Secretary.	6. DG Police as Secretary.	

The recommendations of this Commission shall be binding on the State Government.

The functions of the State Security Commission would include laying down the broad policies and giving directions for the performance of the preventive tasks and service-oriented functions of the police, evaluation of the performance of the State Police and preparing a report thereon for being placed before the State Legislature.

#### **Selection and minimum tenure of DGP**

(2) **The Director General of Police of the State** shall be selected by the State Government from amongst the three senior most officers of the Department who have been empanelled for promotion to that rank by the Union Public Service Commission on the basis of their length of service, very good record and range of experience for heading the police force. And, once he has been selected for the job, he should have a minimum tenure of at least two years irrespective of his date of superannuation. The DGP may, however, be relieved of his responsibilities by the State Government acting in consultation with the State Security Commission consequent upon any action taken against him under the All India Services (Discipline and Appeal) Rules or following his conviction in a court of law in a criminal offence or in a case of corruption, or if he is otherwise incapacitated from discharging his duties.

#### **Minimum tenure of IG of police and other officers**

(3) Police officers on operational duties in the field like the Inspector General of Police in-charge Zone, Deputy Inspector General of Police in-charge Range, Superintendent of Police in-charge District and Station House Officer in-charge of a Police Station shall also have a prescribed minimum tenure of two years unless it is found necessary to remove them prematurely following disciplinary proceedings against them or their conviction in a criminal offence or in a case of corruption or if the incumbent is otherwise incapacitated from discharging

*his responsibilities. This would be subject to promotion and retirement of the officer.*

### **Separation of investigation**

*(4) The investigating police shall be separated from the law and order police to ensure speedier investigation, better expertise and improved rapport with the people. It must, however, be ensured that there is full coordination between the two wings. The separation, to start with, may be effected in towns/urban areas which have a population of ten lakhs or more, and gradually extended to smaller towns/urban areas also.*

### **Police Establishment Board**

*(5) There shall be a Police Establishment Board in each State which shall decide all transfers, postings, promotions and other service related matters of officers of and below the rank of Deputy Superintendent of Police. The Establishment Board shall be a departmental body comprising the Director General of Police and four other senior officers of the Department. The State Government may interfere with the decision of the Board in exceptional cases only after recording its reasons for doing so. The Board shall also be authorised to make appropriate recommendations to the State Government regarding the postings and transfers of officers of and above the rank of Superintendent of Police, and the Government is expected to give due weight to these recommendations and shall normally accept it. It shall also function as a forum of appeal for disposing of representations from officers of the rank of Superintendent of Police and above regarding their promotions/transfers/disciplinary proceedings or their being subjected to illegal or irregular orders and generally reviewing the functioning of the police in the State.*

### **Police Complaints Authority**

*(6) There shall be a Police Complaints Authority at the district level to look into complaints against police officers of and up to the rank of Deputy Superintendent of Police. Similarly, there should be another Police Complaints Authority at the State level to look into complaints against officers of the rank of Superintendent of Police and above. The district-level Authority may be headed by a retired District Judge while the State-level Authority may be headed by a retired Judge of the High Court/Supreme Court. The head of the State-level Complaints Authority shall be chosen by the State Government out of a panel of names proposed by the Chief Justice; the head of the district-level Complaints Authority may also be chosen out of a panel of names proposed by the Chief Justice or a Judge of the High Court nominated by him. These Authorities may be assisted by three to five members*

*depending upon the volume of complaints in different States/districts, and they shall be selected by the State Government from a panel prepared by the State Human Rights Commission/Lok Ayukta/State Public Service Commission. The panel may include members from amongst retired civil servants, police officers or officers from any other department, or from the civil society. They would work whole time for the Authority and would have to be suitably remunerated for the services rendered by them. The Authority may also need the services of regular staff to conduct field inquiries. For this purpose, they may utilise the services of retired investigators from the CID, Intelligence, Vigilance or any other organisation. The State-level Complaints Authority would take cognizance of only allegations of serious misconduct by the police personnel, which would include incidents involving death, grievous hurt or rape in police custody. The district-level Complaints Authority would, apart from the above cases, may also inquire into allegations of extortion, land/house grabbing or any incident involving serious abuse of authority. The recommendations of the Complaints Authority, both at the district and State-levels, for any action, departmental or criminal, against a delinquent police officer shall be binding on the authority concerned.*

### **National Security Commission**

*(7) The Central Government shall also set up a National Security Commission at the Union level to prepare a panel for being placed before the appropriate appointing authority, for selection and placement of Chiefs of the Central Police Organisations (CPOs), who should also be given a minimum tenure of two years. The Commission would also review from time to time measures to upgrade the effectiveness of these forces, improve the service conditions of its personnel, ensure that there is proper coordination between them and that the forces are generally utilised for the purposes they were raised and make recommendations in that behalf. The National Security Commission could be headed by the Union Home Minister and comprise heads of CPOs and a couple of security experts as members with the Union Home Secretary as its Secretary.*

*The aforesaid directions shall be complied with by the Central Government, State Governments or Union Territories, **as the case may be**, on or before 31-12-2006 so that the bodies aforementioned become operational on the onset of the new year. The Cabinet Secretary, Government of India and the Chief Secretaries of State Governments/Union Territories are directed to file affidavits of compliance by 3-1-2007."*

[Emphasis Supplied]

11. A perusal of the above quoted part makes it clear that direction no.2 under the heading “selection of minimum tenure of DGP” would not apply to Police Commissioners of a Commissionerate in general and Union Territories falling under the AGMUT Cadre in particular.

12. Thus from a bare perusal of the aforesaid judgment it is clear that that the direction of the Hon'ble Supreme Court that ‘The Director General of Police’ shall be selected by the State Government from amongst the three senior most officers of the Department who have been empanelled for promotion to that rank by the Union Public Service Commission on the basis of their length of service, very good record and range of experience for heading the police force was only in connection to a State and not in respect of any Union Territory.

13. It is most respectfully submitted that pursuant to passing of the directions in Prakash Singh’s case, UPSC had framed guidelines in consonance with the directions issued by Hon’ble Apex Court, for appointment of DGPs of states but never made any such guidelines for the purpose of appointment of Police Commissioner/head of police force in the UTs which are appointed from the AGMUT cadre. These guidelines were also placed before the Hon’ble Supreme Court. A copy of the said guidelines made by the UPSC is annexed hereto and marked as **Annexure R/1 [page 45 to page 49]**.

14. It is further respectfully submitted that ever-since 2006 i.e. after the passing of the judgment in Prakash Singh’s (1) case, the Hon'ble Court, the parties i.e. the Central Government, the State Government(s) and UPSC, have also clearly understood and rightly applied the directions issued in Prakash Singh’s case for



appointments of DGP of a State which has a dedicated state cadre and sufficient number of officers available in Level 16 pool, for constitution of a panel for appointment of DGP which is a level 17 Rank.

15. It is respectfully submitted that with the said understanding the Eight (8) Police Commissioners have been appointed by the Central Government in Delhi since 2006 prior to the appointment of Respondent No 2, following the same procedure which has been followed while making the appointment in present case i.e. that of respondent no 2. I state that there has never been any objection to the appointment of respective Commissioners in Delhi Police following the statutory procedure prescribed under the Delhi Police Act, 1978, read with Transaction of Business of GNCTD Rules, 1993 either by UPSC or by any of the parties before the Hon'ble Supreme Court. It is submitted that petitioner organisation which is in existence from a date prior to the passing of the judgment in Prakash Singh's case<sup>1</sup>, has never raised any objection to appointment of past police commissioners in Delhi Police. It is submitted that it is only with the appointment of the present incumbent i.e. Respondent No. 2, herein, that these public spirited bodies, which are existing only for filing PILs, for the reasons best known to them, have impugned the appointment before this Hon'ble Court. It is submitted that their selective objection itself raise grave and serious concerns and suspicion regarding their *bonafide*.

**RATIONALE AS TO WHY THE DICTUM OF PRAKASH SINGH (1) CASE CANNOT BE MADE APPLICABLE TO UNION TERRITORIES WHICH HAVE A COMMON AGMUT CADRE**

---

<sup>1</sup>The advocate on record for the intervenor in the present case, who also happens to be a member of the intervenor organisation, has been appearing for the petitioner in Prakash Singh's case)

16. I state and submit that as per Prakash Singh (1) case the Head of Police Force in the State i.e. the DGP rank officer is an officer who after selection attains Pay-level 17. In terms of the judgment a DGP is selected from the eligible DG level officers in Pay-level 16 and ADG level officers, available in the cadre with 30 years of service and 6 months service left for retirement. Generally, in the State Cadres, sufficient officers are available for preparing the panel for appointment to the DGP level post (pay level 16), in which after appointment the officer so chosen attains Pay-level-17<sup>2</sup>..

17. However, the status of AGMUT Cadre is different from other State Cadre. In case of AGMUT Cadre, there are 9 segments (excluding J&K and Ladakh) i.e. Delhi, Chandigarh, Arunachal Pradesh, Mizoram, Goa, Lakshadweep, Andaman & Nicobar Islands, Puducherry and DNH&DD. In all these segments, Head of Police Force are in different pay level as explained hereinbelow. The same are different for a simple reason that in AGMUT cadre there can never be a position that sufficient number of Pay-level 16 DG rank officers would be available in once segment, with 30 years of service and 6 months service left for retirement, for their empanelment by UPSC as per the direction of the Hon'ble Supreme Court in Prakash Singh 1 Case out of which one officer would be selected as head of the police force and granted Pay-level 17.

18. It is submitted that if Prakash Singh 1 Case was to apply in case of UTs/AGMUT Cadre then from one single segment a total of 3 Pay-level 16 IPS officer would be required for their empanelment by UPSC and cumulative for 9 segments a total of 27 Pay-level 16 IPS

---

<sup>2</sup> For convenience of this Hon'ble court it is submitted that as per the extant guidelines for promotion of IPS officers, on completion of 18 years of service, an officer is eligible for promotion to Level 14 of the pay matrix. Further as per the guidelines for promotion of an IAS officer, on completion of 16 years of service, an IAS officer becomes eligible for promotion to level 14 of the Pay matrix. Further it is only after 30 years of service an IPS officer is eligible for promotion to pay level 16 which is ADG level.

(three of each segment) would be required to for their empanelment by UPSC for appointment of one Pay-level 17 DGP as the head of police force of 9 respective segments. It is respectfully submitted that such a vast pool of Pay-level 16 IPS officer for each segment is not available in AGMUT Cadre, and therefore, in all the 9 segments falling under the AGMUT Cadre, the Head of Police Force are made from different Level. The details of which is as under:-

Sl. No	Name of State/UT	Total stationed strength					
		Level of Police Head	DGP	ADGP	IG	DIG	SP
1.	GNCTD	CP (level -17)	<b>02</b>	10			
2.	Aruanchal Pradesh	DG(Level-16)	<b>01</b>	0			
3.	Mizoram	DG(Level-16)	<b>01</b>	01			
4.	Goa	DG(Level-15)	0	<b>01</b>	01		
5.	DNH&DD	DIG-13-A)	0	0		<b>01</b>	03
6.	Chandigarh	DG (Level-14)	0	0	<b>01</b>	01	
7.	A&NI	DG(Level-15)	0	<b>01</b>	01		
8.	Lakshadweeo	SP (Sr. Scale)	0	0	0	0	<b>01</b>
9.	Puducherrv	DG(Level-14)	0	0	<b>01</b>	01	

*\*In addition 4 temporary posts at DGP (Level-16) level have been created.*

19. From the above table, it may be seen that highest level post sanctioned in different segment of AGMUT cadre are at different pay-level. It is submitted that it is only in Delhi, which happens to the capital of the nation, the highest sanctioned post i.e. of CP, Delhi is in Pay-Level-17. Apart from CP Delhi, for all other segments the level of Police Head is below pay level 17.

20. It is submitted that for Delhi which is the capital of the country requiring a robust police force of international repute, the maximum number of sanctioned post for ADG rank and above are created in AGMUT to cater to the peculiar policing needs of the National Capital.

It is submitted that though *arguendo* Delhi though has sufficient number of ADG (pay level 15 IPS officers) which can be included in zone of consideration as per Prakash Singh, however, here also a panel of 3 IPS officers from DGP rank i.e. pay level 16 cannot be prepared from the pool of officers available in GNCTD as evinced by the Hon'ble Supreme Court in the context of appointment of DGP of a state. It is stated that the highest sanctioned post is CP, Delhi which is in Pay Level-17. Further, in the available pool there is only one post of DGP (Level -16) in Delhi and remaining are 10 sanctioned post of ADG (Level -15). It is stated though technically a level 15 officer can be considered for empanelment, however, the same would be of no avail as in the presence of DGP level (16) officer in the Segment, an officer of ADG level cannot head the police force in that segment. It is submitted that as a matter of practice (not only in Delhi but in the entire country) a Pay-Level 15 IPS officer, though he may be technically be competent to be part of zone of consideration, is not preferred to supersede a pay level 16 officer for the purpose of his/her appointment as DGP of a State by consequentially granting him pay-level 17 directly from pay-level 15. This has a demoralising and deleterious effect on the police force, and therefore, as a matter of practice administration refrains from following such practice.

21. In this context, it is submitted that the case of AGMUT Cadre in particular and Delhi Commissionerate in particular is a *sui generis* case so far as the appointment of Commissioner of Police/head of police force is concerned. Delhi being the Capital of our country has its own characteristic factors which does not exist in any other commissionerate. Apart from being the capital of the country, any incident happening here has far-reaching impacts and implications not only throughout the country but beyond the borders. In view thereof, it is respectfully submitted that any statutory provision or any

other regime deserves to be read in such a way that a leeway is given to the Central Government in appointment of Delhi Police Commissioner. Any straightjacket or paediatric approach would not be in national interest.

22. Thus in the respectful submission of the deponent considering the peculiar structure of AGMUT Cadre the direction issued in Prakash Singh (1) for appointment of DGP case can neither be made applicable to UTs specifically i.r.o Delhi Police Force nor the same were ever meant to be implemented in case of UTs which has a common AGMUT Cadre for various UTs.

23. It is also clear from the aforesaid fact that it is not possible to follow the regime provided for selection of DGP of the State. It is the settled position in law that no action can be invalidated on the ground of non-performance of something, performance of which is impossible.

24. It is submitted that similar position is in case of remaining segments which is described as under:-

- i) In Arunachal Pradesh, only one post of DGP has been sanctioned. Further, there is no sanctioned post of ADGP in Arunachal Pradesh and therefore, it is not possible to prepare a panel of three officers for appointment of DGP from the pool of officers available in Arunachal Pradesh.
- ii) In Puducherry, highest sanctioned post is at IG level and therefore, as per UPSC guidelines, IG level officers and DIG level officers with 18 years of service are eligible for inclusion in the zone of consideration for heading the force. However, considering that only 1 IGP and 1 DIG post have been sanctioned and therefore, it is not feasible to prepare a panel of three officers from the pool of officers available in

the Puducherry. Further, in the presence of IGP level officer in the Segment, an officer of DIG level cannot head the police force in that segment.

- iii) In Mizoram, highest level sanctioned post is at DG level (Pay Level-16). In addition, one ADG level (Pay Level-15) post is also sanctioned. Therefore, in case of Mizoram also, it is not possible to prepare a panel of three officers for appointment of DGP from the pool of officers available in Mizoram.
- iv) In Goa, highest level sanctioned post is at ADG level (Pay Level-15). In addition, one IG level (Pay Level-14) post is also sanctioned. Therefore, here also it is not possible to prepare a panel of three officers for appointment of DGP from the pool of officers available in Goa. Also, in the presence of DGP level officer in the Segment, an officer of IG level cannot head the police force in that segment. Similarly in other UTs (DNH&DD, A&NI, Lakshadweep & Chandigarh) also, number of officers appropriate level are not available for preparing a panel of three officers for heading the police force in the concerned segment.

25. Thus from the aforesaid facts it is clear that that pool of sufficient officers of appropriate level is not available in the entire segment of AGMUT Cadre (except in GNCTD where also sufficient pay level 16 IPS officers are not available).

26. I respectfully state and submit that all the aforesaid features distinguishing the case of UTs and AGMUT Cadre from a State is already before the Hon'ble Supreme Court as well as before the UPSC, and therefore, for this reason only neither the Supreme Court nor the UPSC which empanels the eligible IPS officers for appointment as DGPs of respective State(s) as per its guidelines of 2009, has ever objected to or has directed Central Government or Delhi Police Force to follow the process of empanelment by UPSC as laid down in Prakash Singh (1) case.

27. It is submitted that through out the country UPSC administers and processes the cases of empanelment of IPS officers to be appointed to the post of DGP in any given State. The same is done as per its guidelines of 2009 which is annexed above as annexure R/1. It is submitted that for appointment of DGP in any State UPSC oversees that the directions issued by the Hon'ble Supreme Court in Prakash Singh's case are scrupulously complied with and in case of non-compliance with the same UPSC takes suitable steps to remediate the mischief. It is submitted that time and again UPSC has taken steps and pointed out non-adherence of Prakash Singh's guidelines wherever any state appoints DGP without following Prakash Singh's guidelines. However, in case of appointment of police heads in any of the segment of AGMUT Cadre, leave alone in case of appointment of Commissioner of Police Delhi, UPSC has rightly never taken such stand.

#### **THE PROCESS OF APPOINTMENT OF DELHI POLICE COMMISSIONER**

28. I respectfully state and submit that contrary to what has been alleged in the present petition the appointment of Commissioner of Police in GNCTD has all along been made as per the procedure prescribed under the Delhi Police Act, 1978, read with Transaction of Business of GNCTD Rules, 1993. It is submitted that Section 6 of Delhi Police Act, 1978 provides for appointment of Commissioner of Police for whole of Delhi. The said Section reads as under:-

*6. Commissioner of Police.—For the direction and supervision of the police force in Delhi, the Administrator shall appoint a Commissioner of Police who shall exercise and perform such powers and duties and perform such functions as are specified by or under this Act.*

29. Perusal of the above Section clearly reveals that the appointment of the Commissioner of Police is done by the Administrator who follows the procedure laid down under Transaction of Business of GNCTD Rules, 1993. The relevant portion of Transaction of Business of GNCTD Rules, 1993 is quoted hereinbelow:

*“55(2) Subject to any instructions which may from time to time be issued by the Central Government, the Lieutenant Governor shall make a prior reference to the Central Government in the Ministry of Home Affairs or to the appropriate Ministry with a copy to the Ministry of Home Affairs in respect of the following matters:-*

- (a) proposals affecting the relations of the Central Government with any State Government, the Supreme Court of India or any other High Court;*
- (b) proposals for the appointment of Chief Secretary and **Commissioner of Police**, Secretary (Home) and Secretary (Lands);*
- (c) important cases which affect or are likely to affect the peace and tranquility of the National Capital Territory; and*
- (d) cases which affect or are likely to affect the interests of any minority community, Scheduled Castes or the backward classes.”*

**[Emphasis Supplied]**

30. Apart from the above, it is respectfully reiterated that in accordance with the mandate of Delhi Police Act read with Transaction of Business of GNCTD Rules, 1993, eight (8) number of Commissioners have been appointed by Ministry of Home Affairs, prior to the appointment of Respondent No 2 following the procedure prescribed therein. The said appointments have always been made as per the statutory scheme explained above.



31. Hence, for this simple reason the contention of the Petitioner that the appointment of Respondent No.2 is in violation of *Prakash Singh's* judgment is untenable, misconceived and hence is liable to be rejected.

**NO ILLEGALITY IN GRANTING INTER-CADRE DEPUTATION TO RESPONDENT No 2**

32. I further respectfully state and submit that the other contention of the Petitioner that the appointment of Respondent No.2 to the post of Commissioner of Delhi is in violation of the extant policy regarding inter-cadre deputation is also misconceived and fallacious. It is respectfully submitted that the inter-cadre deputation of All India Services Officers is specifically provided under the rules. It is submitted that the inter-cadre deputation is notified by DoP&T OM No.13017/16/2003-AIS (I) dated 28.06.2018 which stipulates that all cases of inter-cadre deputation would be processed as per the guidelines *stated therein* and wherever relaxation of any of the provisions of the guidelines are required, the case is put up to a committee comprising of Secretary, DoP&T, EO & Addl. Secretary and Addl. Secretary (S&V) and Home Secretary as co-opted member in case of relaxation of any provision relating to inter-cadre deputation of IPS officers are concerned.

33. It is submitted that in consonance with the aforesaid policy of inter-cadre deputation of AIS officers, the matter is first placed before the Committee above stated for recommendation of relaxation of the conditions laid down in the policy dated 08.11.2014. A copy of the DoP&T OM No.13017/16/2003-AIS (I) dated 28.06.2018 is annexed hereto and marked herewith as **ANNEXURER/2 [page 50 to page 52].**

34. It is submitted that just like a contractual provision is interpreted in accordance with the conduct of parties and the way it has been performed by the parties conjointly, similarly, an OMs, which is nothing but a practice direction issued by an employer to regulate the service condition of its employees, is interpreted the way it has been followed in the past. It is submitted in exercise of power conferred under clause (a) of the DoP&T OM No.13017/16/2003-AIS (I) dated 28.06.2018, the Central Government has been time and again granting inter-cadre deputation to officer who have attained pay level 14 and above by following the procedure provided under Clause (b) of the aforesaid OM and there has never been any dispute of the Central Government's power or competence to do the same. Illustratively, the following is list of officers above pay level 14 who have been granted inter-cadre deputation:-

<b>Sr No</b>	<b>Name of the officer</b>	<b>Date of Central Government's order</b>
1.	Sh. Thianghlina Pachuau, IPS[MT:87]	26 <sup>th</sup> March, 2014
2.	Sh. T. John Longkumar, IPS[CG:1991]	21 <sup>st</sup> June, 2018
3.	Sh. Nitishwar Kumar, IAS[UP:1996]	5 <sup>th</sup> September, 2020
4.	Sh. Vivek Bhardwaj, IAS[WB:1990]	13 <sup>th</sup> August, 2021

37 From the aforesaid, it is clear that neither there is lack of competence in the central government to grant inter-cadre deputation to IPS officer above pay-level 14 nor there is no procedural irregularity in granting inter-cadre deputation to Respondent No.2 to head the Delhi Police force for the reason which has been elaborately dealt with and explained in the original file, which, as stated above, will be placed before this Hon'ble Court during the course of hearing.

38 It is reiterated that Delhi being the capital of the country has a specific and special requirement which witnessed certain untoward and extremely challenging public order problems/riots/crimes which have an international implication. This necessitated appointment of an experienced officer having diverse, multifarious experience of heading a Police Force in any large State/Central Investigating Agency/Para-military Security Forces etc to head the Delhi Police Force. Since the experience in all these domains was felt necessary by the Competent Authority to be present in an officer for the purpose of heading Delhi Police and also taking into cognizance the incident which had happened in the past, the Competent Authority considered it just and necessary and in public interest to have an officer having experience and knowledge of heading the Police Force of a vast State/Central investigating agency and para military /Police Force so as to effectively negotiate and handle the peculiar policing needs, the law and order situation in the National Capital of GNCT of Delhi.

39 Thus, in view of the aforesaid, it is respectfully submitted that in absence of any procedural irregularity/non-compliance of the applicable policy for effectuating inter-cadre deputation of Respondent No.2 from Gujarat to AGMUT cadre, no fault can be found in appointment of Respondent No.2 as Commissioner of Delhi Police, as alleged or otherwise, by the Petitioner. It is submitted that the inter-cadre deputation of Respondent No.2 and the relaxation given to him under Rule 16 of AIS (DCRB) Rules, 1958 stems out from its need in public interest which are more elaborately recorded in the original file pertaining to appointment of Respondent No.2.

40 A bare perusal of the said file would also reveal that best attempt of finding a suitable IPS officer having multifarious and diverse experience of policing in a vast State/Central Investigating

Agency/ National Security/Para-military force was made out by the competent authority from the options available in AGMUT cadre. It was only when it was found after thorough examination of available options that the experience of handling the police force in a vast State mixed with experience of handling other investigating agencies/para-military forces was not available, the Competent Authority, in public interest, decided to propose and grant inter-cadre deputation to Respondent No.2. The said deputation being in public interest and being done after following all the requirements of extant policy does not suffer from any illegality and thus the prayer of the Petitioner challenging the appointment of Respondent No.2 on instant ground deserves to be dismissed as being misconceived.

#### **GRANT OF EXTENSION OF SERVICE**

41 I respectfully state and submit that the contention of the Petitioner that the extension of service granted to Respondent No.2 is in violation of Fundamental Rule 56 read with Rule 16 (1) of AIS (DCRB) Rules, 1958 is completely misconceived and untenable in law.

42 It is submitted that a bare perusal of the averments made in the instant petition reveals that what has been sought to be portrayed by the Petitioner is that there is complete bar of any extension in service being granted to any of the member of All India Services, and therefore, in the present case the extension which has been granted is violative of the foresaid Rules and hence *void*.

43 That a bare perusal of the Government instructions/decisions in respect of Rule 16 reveal that Rule 16 cannot be read to mean that there is a complete bar in granting extension in service beyond the age of superannuation. The competent authority is duly entitled to grant

extension to members of All India Services which include IAS and IPS officers. It is further submitted that the procedure for processing proposals for grant of extension of service /re-employment of members of All India Services beyond the age of superannuation has been given in detail in DP&AR No.25011/42/72/AIS(II) dated 29.08.1978. A copy of the said compete All India Services (Death-Cum-Retirement Benefits) Rules, 1958 along with the government instructions is annexed hereto and marked herewith as **Annexure R/3 [page 53 to page 262]**. Further, a copy of All India Services (Conditions of Service-Residuary Matters) Rules, 1960 along with the government instructions is annexed hereto and marked herewith as **Annexure R/4 [page 263 to page 264]**.

44 I further respectfully state and submit that the provision of superannuation and extension are made in Rule 16 (1) of the AIS (DCRB) Rules, 1958 which reads as under:-

*“16. Superannuation gratuity or pension.- 16(1)*

*A member of the Service shall retire from the service with effect from the afternoon of the last day of the month in which he attains the age of sixty years:*

*Provided that a member of the Service whose date of birth is the first day of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the age of sixty years:*

*Provided further that a member of the Service dealing with budget work or working as a full-time member of a Committee which is to be wound up within a short period may be given extension of service for a period not exceeding three months in public interest, with the prior approval of the Central Government.*

*Provided also that a Member of the Service holding the post of Chief Secretary to a State Government may be given extension of service for a period not exceeding six months on the recommendations made by the concerned State Government with full justification and in public interest, with the prior approval of the Central Government.*

*Provided also that a member of the Service who has attained the age of fiftyeight years on or before the first day of May, 1998 and is on extension in service, shall retire from the service on the expiry of his extended period of service or on the expiry of any further extension, granted by the Central Government in public interest, and that no such extension in service shall be granted beyond the age of sixty years.”*

*“16(1A) Notwithstanding anything contained in sub-rule (1), the Central Government may, if it considers necessary in the public interest to do so, give extension in service to the incumbents of the posts of the Cabinet Secretary, Defence Secretary, Home Secretary, Director, Intelligence Bureau, Secretary, Research and Analysis Wing and Director, Central Bureau of Investigation for such period as it may deem proper Provided that the total term of the Cabinet Secretary who is granted such extensions of service shall not exceed 61four years;*

*Provided further that the total term of the other Secretaries and Directors who are granted such extensions of service under these Rules shall not exceed two years.*

*Provided also that Notwithstanding anything contained in sub-rule (1A), the Central Government may, if it considers necessary in public interest to do so, give an extension in service for a further period, not exceeding three months, beyond the period of two years to the Home Secretary and the Defence Secretary.”*

45 It is submitted that so far as the power of relaxation of Rules are concerned the same is contemplated in Rule 3 of All India Services (Conditions of Service-Residuary Matters) Rules, 1960. The said rule reads as under:-

*3. Power to relax rules and regulations in certain cases.— Where the Central Government is satisfied that the operation of—*

- (i) any rules made or deemed to have been made under the All India Services Act, 1951 (61 of 1951), or*
- (ii) any regulation made under any such rule, regulating the conditions of service of persons appointed to an All India Service causes undue hardship in any particular case, it may, by order, dispense with or relax the requirements of that rule or regulations, as the case may be, 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.*

46 It is submitted that a bare perusal of the aforesaid rule mandates that in case of hardship faced by the Central Government/Cadre Controlling Authority (CCA) in finding a suitable officer for a specific post with special requirements within a cadre it can relax the rules and grant extension of service to an officer in exercise of powers conferred to it under Rule 3 of the Residuary Rules and Section 21 of the General Clauses Act.

47 It is submitted that in the present case during the process of appointment of the Commissioner of Police, Delhi, the CCA was faced with precarious situation where it found that the most of the appropriate level officers of AGMUT Cadre were not having sufficient

balanced experience of policing in a vast law and order sensitive State/Central Investigating Agency/ National Security/Para-military force for appointment of Commissioner of Police Delhi, which being the capital of the country, was experiencing a unique situation in terms of the impact which local incidences of crime and law and order situation were having on the country as a whole as well as in international domain, having material effect on the image of the country.

Hence, considering the complexities and the sensitivities involved and also considering that no officer of appropriate seniority with balanced experience, as stated above, was available in the AGMUT Cadre, it was felt that an officer belonging to a large state cadre, who had the exposure of complexities of governance and who had the knowledge of nuances of broad canvas policing is given charge of Commissioner of Police Delhi.

Keeping the aforesaid public interest objective in mind the service tenure of respondent no 2 was extended in exercise of the powers vested in the cadre controlling authority. It is submitted that in absence of there being lack of power, exercise of said power cannot be faulted when the same has been exercised after complying all the due process as envisaged in the OMs and the rules extracted above. Thus for the aforesaid reason on this ground also the present Petition is liable to be dismissed.

48 The power of the government to extend the tenure of service of an officer working under central government has also been very recently affirmed by the Hon'ble Supreme Court in judgment and order dated 8.09.2021 passed in Writ Petition (Civil) No. 1374 of 2020 passed in Common Cause (A Registered Society) vs UOI & Ors. a copy



of which is annexed hereto and marked as **Annexure R/5 [page 265 to page 294].**

49 Furthermore it is extremely crucial to point out that Ministry of Home Affairs being Cadre Controlling Authority for IPS officers, in exercise of powers conferred under Rule 3 of All India Services (Conditions of Service-Residuary Matters) Rules, 1960, has relaxed Rule 16(1) of the AIS (DCRB) Rules, 1958 and has extended the service tenure of the following officers:-

- (i) Shri Amulya Kumar Patnaik, IPS (AGMUT:1985)
- (ii) Shri Shivanand Jha, IPS (GJ:1983)
- (iii) Shri Sanjay Barve, IPS (MH:1987)
- (iv) Shri Kuladhar Shaikia, IPS (AM:1985)
- (v) Shri Munir Ahmad Khan, IPS (JK:1994)
- (vi) Shri Sulkhan Singh, IPS (UP:1980)
- (vii) Shri Suresh Arora, IPS (PB:1982)
- (viii) Dr. S.B. Singh, IPS (AM:1986)
- (ix) Shri K. Rajendra kumar, IPS (JK:1984)

**PARAWISE REPLY TO THE QUESTION OF LAW:-**

2A. That it is submitted that Rule (3) of AIS Residuary Rules 1958 empowers the Central Government to relax the rules framed under AIS Act 1951. Further, the rule has been relaxed in public interest keeping in mind that there was no officer with appropriate seniority and requisite experience available in AGMUT cadre to deal with the complexity and sensitivities in the Capital of the Country. It is further stated that Rule 16(1) of DCRB Rules 1958 has been relaxed on several occasions to extend the services of IPS officers. The Hon'ble High Court also finds merits in the reason stated by the Central

Government vide judgment dated 12/10/2021. (R R verma Vs UOI (1980)).

2B. That it is submitted that a bare perusal of the aforesaid rule mandates that in case of hardship faced by the Central Government/Cadre Controlling Authority (CCA) in finding a suitable officer for a specific post with special requirements within a cadre it can relax the rules and grant extension of service to an officer in exercise of powers conferred to it under Rule 3 of the Residuary Rules and Section 21 of the General Clauses Act.

It is wrong to state that “undue hardship” was caused to Respondent No.2 on the contrary, the hardship was caused to Respondent No.01 as it found that the most of the appropriate level officers of AGMUT Cadre were not having sufficient balanced experience of policing in a vast law and order sensitive State/Central Investigating Agency/ National Security/Para-military force for appointment of Commissioner of Police Delhi, which being the capital of the country, was experiencing a unique situation in terms of the impact which local incidences of crime and law and order situation were having on the country as a whole as well as in international domain, having material effect on the image of the country.

Accordingly, in the given case an officer belonging to a large state cadre, who had the exposure of complexities of governance and who had the knowledge of nuances of broad canvas policing is given charge of Commissioner of Police Delhi.

2C&D. That it is submitted as stated above that Rule 3 empowers the Central Government to relieve undue hardship caused due to unforeseen or unmerited circumstances. The Hon’ble Supreme Court in R R Verma Vs UOI interest to be served is always the public interest and not individual interest. Public interest in the matter of the conditions of service of Civil Servants is best served by rules which are

directed towards efficiency and integrity. Keeping these cardinal principle of law appointment of Delhi Police, Commissioner has been done as per established procedure and in accordance with Delhi Police Act, 1978 read with Transaction of Business of GNCTD Rules, 1993.

E. That it is wrong to state that no public interest whatsoever was served in the instant case. Keeping the aforesaid public interest objective in mind the service tenure of respondent no 2 was extended in exercise of the powers vested in the cadre controlling authority. It is submitted that in absence of there being lack of power, exercise of said power cannot be faulted when the same has been exercised after complying all the due process as envisaged in the OMs and the Rules.

F. That it is submitted that Ministry of Home Affairs being Cadre controlling Authority for IPS Officer, in-exercise of powers conferred under Rule 3 of AIS(condition of Service-Residuary matters) Rule 1960,has relaxed Rule 16(1) of the AIS(DCRB) Rules 1958 and has extended the tenure of IPS officers in their service. It is a fact that earlier 9 IPS officers were granted extension by invoking Rule 3. However, it is clarified that Rule 3 doesn't contemplate situation where an Official already occupying the seat. It only envisages that Central Government has power to relieve undue hardship or unmerited circumstances. It is also submitted that both inter-cadre deputation as well as extension of service of Respondent No.2 was granted by the Central Government in public interest. The prime consideration for the same was that GNCT being the capital of the country has been witnessing diverse and extremely challenging situations of public order/law and order situation/policing issues which not only had national security implications but also international/cross border implications. As such, a compelling need was felt by the Central Government to appoint a person as a head of the police force of Delhi, who had diverse and vast experience of

heading a large police force in a large State having diverse political as well as public order problem/experience of working and supervising Central Investigating Agency(s) as well as para-military forces. To achieve the above purpose a search was done in AGMUT cadre, which is the IPS cadre for GNCT. However, since AGMUT cadre being a cadre comprising of Union Territory and small north-eastern states, it was felt that requisite experience of working and supervising the central investigating agency/para-military force and police force of a large State having diverse political and law and order problem was lacking in the present pool of available officers and hence in public interest, a decision was made by the Central Government to have an officer who had experience in all the above fields to supervise Delhi Police force and to provide effective policing on the recent law and order situation which arose in the National Capital Territory of Delhi.

G. That it is submitted that there is no violation of Rule 56(d) of the FR in as much as such extension of tenure of AIS Officers are governed by Rule of the DCRB Rule, the provisions of which are akin to the Rule 56(d) of the FR. The provisions of the required rule was relaxed by involving Rule 3 of AIS (condition of Service-Residuary matters) Rule 1960 in order to obviate the hardship faced by the Central Government/Cadre Controlling Authority (CCA) in finding a suitable officer for a specific post with special requirements within a cadre. The Rules were relaxed with a view to provide stability and continuity in discharging such important position as Head of the Police Force.

It is restricted that in the present case during the process of appointment of the Commissioner of Police, Delhi, the CCA was faced with precarious situation where it found that the most of the appropriate level officers of AGMUT Cadre were not having sufficient

balanced experience of policing in a vast law and order sensitive State/Central Investigating Agency/ National Security/Para-military force for appointment of Commissioner of Police Delhi, which being the capital of the country, was experiencing a unique situation in terms of the impact which local incidences of crime and law and order situation were having on the country as a whole as well as in international domain, having material effect on the image of the country.

Keeping the aforesaid public interest objective in mind the service tenure of respondent no 2 was extended in exercise of the powers vested in the cadre controlling authority. It is submitted that in absence of there being lack of power, exercise of said power cannot be faulted when the same has been exercised after complying all the due process as envisaged in the OMs and the rules extracted above. Thus for the aforesaid reason on this ground also the present Petition is liable to be dismissed.

The power of the government to extend the tenure of service of an officer working under central government has also been very recently affirmed by the Hon'ble Supreme Court in judgment and order dated 8.09.2021 passed in Writ Petition (Civil) No. 1374 of 2020 passed in Common Cause (A Registered Society) vs UOI & Ors. and a copy of which is already been annexed here as **Annexure R/5**.

H-J. That it is most respectfully submitted that pursuant to passing of the directions in Prakash Singh's case, UPSC had framed guidelines in consonance with the directions issued by Hon'ble Apex Court, for appointment of DGPs of states but never made any such guidelines for the purpose of appointment of Police Commissioner/head of police force in the UTs which are appointed

from the AGMUT cadre. These guidelines were also placed before the Hon'ble Supreme Court. A copy of the said guidelines made by the UPSC are already annexed as **Annexure R/1**.

It is further respectfully submitted that ever-since 2006 i.e. after the passing of the judgment in Prakash Singh's (1) case, the Hon'ble Court, the parties i.e. the Central Government, the State Government(s) and UPSC, have also clearly understood and rightly applied the directions issued in Prakash Singh's case for appointments of DGP of a State which has a dedicated state cadre and sufficient number of officers available in Level 16 pool, for constitution of a panel for appointment of DGP which is a level 17 Rank.

It is respectfully submitted that with the said understanding the Eight (8) Police Commissioners have been appointed by the Central Government in Delhi since 2006 prior to the appointment of Respondent No 2, following the same procedure which has been followed while making the appointment in present case i.e. that of respondent no 2. It is stated that there has never been any objection to the appointment of respective Commissioners in Delhi Police following the statutory procedure prescribed under the Delhi Police Act, 1978, read with Transaction of Business of GNCTD Rules, 1993 either by UPSC or by any of the parties before the Hon'ble Supreme Court. It is submitted that even the petitioner organisation which is in existence from a date prior to the passing of the judgment in Prakash Singh's case, has never raised any objection to appointment of past police commissioners in Delhi Police. It is submitted that it is only with the appointment of the present incumbent i.e. Respondent No. 2, herein, that these public spirited bodies, which are existing only for filing PILs, for the reasons best known to them, have impugned the appointment before this Hon'ble Court. It is submitted that their

selective objection itself raise grave and serious concerns and suspicion regarding their bonafide.

K-M. That the Power of the Central Government to extend the tenure of service of an Officer working under Central Government has also been upheld by Hon'ble Supreme Court vide Judgment dated 08/09/2021 passed in WP(C) No.1374/2020. The Operative part of the Judgment is furnished below:

“The justification given by the Union of India for extension of the tenure of second Respondent is that important investigations are at a crucial stage in trans-border crimes. The decision to extend the tenure of the second Respondent is pursuant to the recommendation made by the high-powered committee. Though we have upheld the power of the Union of India to extend the tenure of Director of Enforcement beyond the period of two years, we should make it clear that extension of tenure granted to officers who have attained the age of superannuation should be done only in rare and exceptional cases. Reasonable period of extension can be granted to facilitate the completion of ongoing investigations only after reasons are recorded by the Committee constituted under Section 25 (a) of the CVC Act. Any extension of tenure granted to persons holding the post of Director of Enforcement after attaining the age of superannuation should be for a short period. We do not intend to interfere with the extension of tenure of the second Respondent in the instant case for the reason that his tenure is coming to an end in November, 2021. We make it clear that no further extension shall be granted to the second Respondent”.

**RATIONALE AS TO WHY THE DICTUM OF PRAKASH SINGH (1) CASE CANNOT BE MADE APPLICABLE TO UNION TERRITORIES WHICH HAVE A COMMON AGMUT CADRE**

As per Prakash Singh (1) case the Head of Police Force in the State i.e. the DGP rank officer is an officer who after selection attains Pay-level 17. In terms of the judgment a DGP is selected from the eligible DG level officers in Pay-level 16 and ADG level officers, available in the cadre with 30 years of service and 6 months service left for retirement. Generally, in the State Cadres, sufficient officers are available for preparing the panel for appointment to the DGP level post (pay level 16), in which after appointment the officer so chosen attains Pay-level-17.

**PARAWISE REPLY TO THE GROUNDS:-**

5A-D. That the extension of service of Sh. Rakesh Ashtana, IPS (GJ: 1984) for a period of one year beyond his superannuation has been given in relaxation Rule 16(1) of AIS(DCRB) Rules 1958, as a special/particular case in public interest by the competent authority. The relaxation, has been given by invoking Rule 3 of AIS (Condition of Service Residuary matters) Rules 1960. Furthermore, it is stated that Central Government has granted extension in service to the IPS officers at many occasions in exercise of power conferred under Rule 3 of AIS(Condition of Service Residuary matters) Rules 1960.

5E-F. That the Rule 16(1) of the AIS (DCRB) Rules, 1958 states that "A member of the Service shall retire from the service with effect from the afternoon of the last day of the month in which he attains the age of sixty years:

Provided that a member of the Service whose date of birth is the first day of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the age of sixty years: Provided further that a member of the Service dealing with budget work or working as a full-time member of a Committee which is to be



wound up within a short period may be given extension of service for a period not exceeding three months in public interest, with the prior approval of the Central Government”.

Further, Rule 3 of the All India Services (Conditions of Service-Residuary Matters) Rules, 1960 envisaged that “Where the Central Government is satisfied that the operation of—

- (i) any rules made or deemed to have been made under the All India Services Act, 1951 (61 of 1951), or
- (ii) any regulation made under any such rule, regulating the conditions of service of persons appointed to an All India Service causes undue hardship in any particular case, it may, by order, dispense with or relax the requirements of that rule or regulations, as the case may be, 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”.

It is germane to note that Rule 3 clearly mentions “ in any particular case” which clearly implies that the Central Govt. has exercised its power to relax in this “particulars case” and not for the other cadre because the undue hardship is specific to the AGMUT Cadre.

Furthermore, Rule 4 of the All India Services (Conditions of Service-Residuary Matters) Rules, 1960 envisaged that “If any question arises as to the interpretation of these rules, or relating to the application or interpretation of rules, regulations or orders referred to in clauses (a) and (b) of rules 2, the Central Government shall decide the same”.

In the instant case, Shri Rakesh Asthana, IPS has been granted extension of service and has been appointed the Commissioner of Police, Delhi initially for a period of one year beyond the date of superannuation on 31.07.2021 or until further orders whichever is

earlier in relaxation of Rule 16(1) of the AIS(DCRB) Rules, 1958 as a special case in public interest.

5G-H. That the Central Government exercises its power to relax any required Rules by invoking Rule 3 of Residual Rules 1960, for the purpose of ensuring that “undue hardship” is not caused in any manner in any particular case. The power of Central Government to extend the tenure of Officer working under Central Government has been recently affirmed by the Hon’ble Supreme Court vide order dated 08/09/2021 in WP(C) No.1374/2020 filed by Common Cause Vs UOI and others. In the instant case, Shri Rakesh Asthana, IPS has been granted extension of service and has been appointed the Commissioner of Police, Delhi initially for a period of one year beyond the date of superannuation on 31.07.2021 or until further orders whichever is earlier in as a special case in public interest.

5I. That in the instant case of extension of services of Shri Rakesh Asthana, beyond his superannuation has been done, keeping the complexity and sensitivity of situation of National Capital in view. It is submitted that in the present case, during the process of appointment of Commissioner of Police Delhi the cadre controlling authority/Central Government was faced with precarious situation where it found that most of the appropriate level officers of AGMUT Cadre were not having sufficient balance experience of Policing in a vast law and order sensitive state/Central Investigating Agency/ National Security/Para-Military Forces for appointing of Commissioner of Police Delhi was experiencing a unique situation in terms of impact which local incidents of crime and law and order situations for having a country as a whole as well as in the International domain. Hence it was felt that officer belonging to a large state cadre having the exposure of complexity of Governance in the

knowledge of nuances of broad canvas policing may be given the charge of Commissioner of Police, Delhi. Accordingly, Shri Rakesh Asthana, was given extension of 01 year in relaxation of Rule 16(1) and appointed Commissioner of Police, Delhi.

5J-L. That the All India Service Officers including the Indian Police Service are governed by the specific AIS Rules. Fundamental Rule 56(d) and Rules 16(1) of AIS (DCRB) Rules, 1958 envisage provision for extension in service for some specific category of posts. However, the extension of service of Sh. Rakesh Asthana, has been given in relaxation of the 16(1) of AIS (DCRB) Rules, 1958 which is akin to FR 56 (3) as a special case in public interest.

5M-N. That the contents of para 5M-N are denied and deponent relies upon the reply given in the above paras specifically para 5I and not repeating the contents herein for the sake of brevity.

5O-R. That as per Prakash Singh (1) case the Head of Police Force in the State i.e. the DGP rank officer is an officer who after selection attains Pay-level 17. In terms of the judgment a DGP is selected from the eligible DG level officers in Pay-level 16 and ADG level officers, available in the cadre with 30 years of service and 6 months' service left for retirement. Generally, in the State Cadres, sufficient officers are available for preparing the panel for appointment to the DGP level post (pay level 16), in which after appointment the officer so chosen attains Pay-level-17. However, the status of AGMUT Cadre is different from other State Cadre. In case of AGMUT Cadre, there are 9 segments (excluding J&K and Ladakh) i.e. Delhi, Chandigarh, Arunachal Pradesh, Mizoram, Goa, Lakshadweep, Andaman & Nicobar Islands, Puducherry and DNH&DD. In all these segments, Head of Police Force are in different pay level as explained. The same are different for a simple reason that in AGMUT cadre there can never be a position that sufficient number of Pay-level 16 DG rank

officers would be available in one segment, with 30 years of service and 6 months service left for retirement, for their empanelment by UPSC as per the direction of the Hon'ble Supreme Court in Prakash Singh 1 Case out of which one officer would be selected as head of the police force and granted Pay-level 17.

It is submitted that if Prakash Singh 1 Case was to apply in case of UTs/AGMUT Cadre then from one single segment a total of 3 Pay-level 16 IPS officer would be required for their empanelment by UPSC and cumulative for 9 segments a total of 27 Pay-level 16 IPS (three of each segment) would be required to for their empanelment by UPSC for appointment of one Pay-level 17 DGP as the head of police force of 9 respective segments. It is respectfully submitted that such a vast pool of Pay-level 16 IPS officer for each segment is not available in AGMUT Cadre, and therefore, in all the 9 segments falling under the AGMUT Cadre, the Head of Police Force are made from different Level.

5S-T. That the contents of para 5S-T are denied and deponent relies upon the reply given in the above paras which are not being repeated herein for the sake of brevity.

5U-AA. That the contents of para 5U-AA are denied and it is submitted that in the instant case of extension of services of Shri Rakesh Asthana, beyond his superannuation has been done, keeping the complexity and sensitivity of situation of National Capital in view. It is submitted that in the present case, during the process of appointment of Commissioner of Police Delhi the cadre controlling authority/Central Government was faced with precarious situation where it found that most of the appropriate level officers of AGMUT Cadre were not having sufficient balance experience of Policing in a vast law and order sensitive state/Central Investigating Agency/National Security/Para-Military Forces for appointing of

Commissioner of Police Delhi was experiencing a unique situation in terms of impact which local incidents of crime and law and order situations for having a country as a whole as well as in the International domain. Hence it was felt that officer belonging to a large state cadre having the exposure of complexity of Governance in the knowledge of nuances of broad canvas policing may be given the charge of Commissioner of Police, Delhi. Accordingly, Shri Rakesh Asthana, was given extension of 01 year in relaxation of Rule 16(1) and appointed Commissioner of Police, Delhi. It is further submitted that Sh. Rakesh Asthana has been given extension in his service and has been appointed as the Commissioner of Police, Delhi in relaxation of Rule 16(1) of DCRB Rules 1958 invoking Rule 3 of AIS(condition of service- residuary matters) 1960 in public interest.

50 In view of the aforesaid facts and circumstances, as mentioned above, the Deponent submit that all the contentions, averments and assertions made in the aforesaid petition may be treated as denied, except those which are expressly admitted by the deponent hereunder. The deponent has avoided to repeat the contents while giving para-wise reply for the sake of brevity, therefore, it is requested that contents of present reply may be referred as part of parcel of each para-wise rely. The deponent has further not commented on each para to the present petition as all the issues of law and facts have already been elaborated by the Deponent in the preceding paragraphs. However, if this Hon'ble Court so desires, the Deponent would file another supplementary affidavit to the present reply at the latest stage of the present hearing.

(संजीव कुमार)  
(SANJEEV KUMAR)  
अवर सचिव  
Under Secretary  
गृह मंत्रालय/MHA

*Sanjeev*

**DEPONENT**

**VERIFICATION**

Verified at New Delhi on this 3<sup>rd</sup> day of January, 2022 that the contents of the above affidavit are true and correct to my knowledge derived from the official records and nothing material has been concealed therefrom.

(संजीव कुमार)  
(SANJEEV KUMAR)  
अवर सचिव  
Under Secretary  
गृह मंत्रालय/MHA

**DEPONENT**

Draft Guidelines for empanelling officers for appointment as DGP (Chief of the Police)

22  
184

1. **Composition of the Empanelment Committee**

A Committee consisting of the following may be constituted for empanelling officers for appointment as DGP (Chief of the Police) of the State Government:-

- (i) Chairman or in his absence, Member, UPSC – President.
- (ii) Home Secretary to Govt. of India or his nominee not below the rank of Special Secretary to Govt. of India.
- (iii) Chief Secretary of the State Government concerned.
- (iv) Director General of Police of the State Government concerned.
- (v) An officer from amongst the head of CPOs/ CPMFs not belonging to the cadre for which selection is being made, nominated by the Govt of India, Ministry of Home Affairs

The Chairman or the Member of the Commission shall preside at all meetings of the Committee. The proceedings of the Committee shall be valid only if the Chairman or the Member of the Commission is present and more than half the members of the Committee attend the meeting.

2. **Zone of consideration**

Officers belonging to Indian Police Service of the concerned Cadre not below the rank of ADG and who have completed at least 30 years of service as on the date of occurrence of vacancy for which the Panel is prepared. However, where the Chief of the Police is not in the rank of DG, officers of

the rank of the Chief of the Police and one rank below who have completed at least the number of years of service stipulated by GOI, MHA for promotion to that rank, as on the date of occurrence of vacancy, shall be eligible.

**3. Method of Selection for empanelment**

- (i) Selection shall be merit based,
- (ii) Suitability of officers to be included in the panel shall be adjudged on the basis of very good record and range of experience for heading the police force.

**4. Size of the Panel**

The number of officers included in the Panel shall not exceed twice the number of sanctioned cadre posts for the State in the rank of the Chief of the Police OR three, whichever is more.

**5. Proposal to be sent to the Commission**

The State Government shall send a proposal to the Commission for convening the meeting of the Empanelment Committee, complete in all respects, at least three months in advance of the occurrence of the vacancy.

The proposal shall be sent with the following records:-

- (i) Seniority list of officers duly notified.



- (ii) A list of officers who meet the eligibility conditions. If some of the officers appearing in the seniority list are not included in this eligibility list, reasons thereof must be furnished.
- (iii) Bio-data of the officers in the zone of consideration indicating the posts held, nature of duties performed, academic and professional achievements, etc.
- (iv) Details of disciplinary/criminal proceedings pending against the officers with the date of issue of charge-sheet to the officer/ filing of charge sheet in the court of law and details of suspension, if any.
- (v) Statements of adverse remarks in the ACRs of officers which are yet to be communicated/communicated but either the time limit to represent is not yet over or a decision on the representation of the officer is pending.
- (vi) Statement of penalties, if any, imposed on the officer in his service career with specific period of currency.
- (vii) Complete and up-to-date ACR dossiers of the eligible officers. A statement indicating the year-wise availability of ACRs may be furnished with valid reasons for non-availability of ACRs, if any. Further, if some of the ACRs are not reviewed or accepted by the competent authority, valid reasons may be furnished for the same. [Certificate to this effect should also be recorded and placed in the respective ACR folders]. If some of the ACRs are written in regional language, an English translation of the same

duly authenticated by an officer of the rank of Principal Secretary to the State Government may be furnished.

(viii) Court directions, if any, having a bearing on the empanelment.

(ix) The Integrity Certificate on the lines prescribed by GOI, MHA letter No. 14/23/65-AIS (III) dated 28.07.1966.

**6. Procedure to be observed by the Empanelment Committee**

6.1 Each Committee shall adopt its own method and procedure for objective assessment of the suitability of officers in the zone of consideration. The Committee shall make assessment of the ACRs of officer with reference to the last 10 years preceding the date of meeting of the Committee. Only those officers assessed by the Committee as at least "Very Good" for each of the preceding 10 years shall be considered for inclusion in the Panel. The Committee shall also take into account the range of experience relevant for heading the police force as reflected in the bio-data of the officers for determining their suitability for inclusion in the panel.

6.2 The Committee shall also take into consideration the penalties imposed, if any, on the officers and shall exclude from the Panel any officer who is under suspension or against whom disciplinary/criminal proceedings are pending or whose Integrity Certificate has been withheld by the State Government or who has been under a penalty other than 'Censure' during the last 10 years or a penalty of 'Censure' during the last three years.

26  
188

## 7. Appointment from the Panel

- (i) The appointment of DGP (Chief of the Police) shall be made by the State Government from amongst the three senior most officers included in the panel.
- (ii) If a vigilance or departmental enquiry has been subsequently initiated against an officer included in the panel before his appointment, he shall not be considered for appointment as DGP (Chief of the Police).

*True Copy*



Office Memorandum

Sub: Inter-Cadre deputation of All India Service Officers – policy regarding.

The undersigned is directed to refer to this Department's OM of even number dated 8.11.2004 on the subject mentioned above and to convey that the Competent Authority has approved the following:-

- (a) all cases of inter-cadre deputation would be processed as per existing guidelines and wherever relaxation of any of the provisions of these guidelines are required, the case will be put up to a Committee comprising of Secretary (DoPT), Establishment Officer & Additional Secretary and Additional Secretary (S&V) as Member.
- (b) in order to have a uniform pattern for consideration of such cases for all the three All India Service Officers, the Committee, as mentioned at para (a) above, should consider all cases of inter-cadre deputation of all AIS officers (IPS and IFoS included). Home Secretary is to be co-opted as a Member in this Committee while considering cases of IPS officers and Environment Secretary is to be co-opted as a Member while considering the cases of Indian Forest Service officers. The Committee should consider all cases of inter cadre deputation and give its recommendations on the need and justification of inter-State deputation.
- (c) Inter cadre deputation will be available to the officers only after completion of nine years of service in his or her cadre and before reaching pay at Level 14 of the Pay Matrix in his or her home cadre.

2. The provisions of DOPT's O.M. No. 13017/16/2003-AIS-1 dated the 8<sup>th</sup> November 2004 regarding inter cadre deputation of All India Service officers will stand modified to the above extent.

3. The Ministry of Home Affairs and the Ministry of Environment, Forests & Climate Change are requested to consider all such requests for inter cadre deputation keeping in view incorporation of the aforesaid provisions in the extant policy and proposals shall thereafter continue to be processed and submitted for consideration and orders of the Appointments Committee of the Cabinet after obtaining approval of the Minister-in-charge.

(Udai Bhan Singh)

Under Secretary to the Government of India  
Tel: 011-23094142

To:

1. The Secretary,  
Ministry of Home Affairs,  
North Block, New Delhi2. The Secretary,  
Ministry of Environment, Forests & Climate Change,  
Parvayaran Bhawan, New Delhi.3. Director General of Forests and Special Secretary,  
Ministry of Environment, Forests & Climate Change,  
Parvayaran Bhawan, New Delhi.

US (IPS-IV)

Disseminated.

25-7

SOC (IPS-IV)

5/7/18

Vh VK



New Delhi, the 8<sup>th</sup> November, 2004

**OFFICE MEMORANDUM**

**Subject : Inter-Cadre deputation of All India Service Officers – policy regarding.**

The undersigned is directed to say that Rule 6(1) of the IAS (Cadre) Rules, 1954 and analogous Rules in the IPS (Cadre) Rules, 1954 and IFS (Cadre) Rules, 1966, read as follows:

“6(1) A cadre officer may, with the concurrence of the State Governments concerned and the Central Government, be deputed for service under the Central Government or another State Government or under a company, association, or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by the Central Government or by another State Government.

Provided that a case of any disagreement, the matter shall be decided by the Central Government and the State Government or State Governments concerned shall give effect to the decision of the Central Government.”

2. Over the years various instructions have issued from the Department of Personnel & Training on the general guidelines to be followed by Cadre Controlling Authorities while processing requests for inter-cadre deputation under Rule 6(1). The matter has been reviewed in detail and it has been decided that inter-cadre deputation may be availed of with the following conditions:

- (i) Inter-cadre deputation will be available to the officers only after completion of nine years of service in his or her cadre and before reaching the Super Time Scale in his or her home cadre.
- (ii) Inter-cadre Deputations have normally been processed only in cases where individual officers have sought a deputation in view of the personnel difficulties. In recent times, many requests have been received from the Governments of new States of Uttaranchal, Jharkhand and Chhattisgarh in the light of the shortages of officers in those States. All such proposals may be examined subject to the concurrence of the officers and the State involved.
- (iii) The total allowable period of inter-cadre deputation in the entire career of the officer shall be five years. No extension of inter-cadre deputation beyond five years shall be allowed. However, inter cadre deputation at a time normally cannot exceed three years.

- (iv) The inter-cadre deputation is valid only for the period for which it is allowed by the Central Government and any extension is neither automatic nor should it be presumed. As such, the officer shall be entitled to draw salary etc. in the State to which he/she has been deputed only for the period for which he/she has been allowed deputation by the Government of India. He/she shall not be entitled to draw salary, etc. after expiry of the period of deputation. An officer on such deputation shall relinquish charge and get himself/herself relieved on the last day of his/her deputation if no order extending his/her deputation by the concerned Cadre Controlling Authority, i.e. Department of Personnel & Training in the case of the Indian Administrative Service, the Ministry of Home Affairs in the case of the Indian Police Service and the Ministry of Environment & Forests in the case of the Indian Forest Service, are received in the State Government.
- (v) An officer who does not handover charge at the end of the approved period of deputation will be immediately liable to disciplinary action and break-in-service for the period beyond the approved date. All orders of deputation will carry endorsement to this effect and further an endorsement to the Accountant General that pay need not be paid for any period beyond the approved period of deputation.
- (vi) A request for extension (up to a maximum period of five years) will be entertained only if it is forwarded by the State Government concerned with cogent reasons and at least three months prior to the expiry of the period of deputation. Where a request for extension has been forwarded in time, it will be mandatory for the concerned Cadre Controlling Authority to issue orders either way within three months from the date of receipt of the request for extension.
- (vii) In cases where an officer has completed five years of inter-cadre deputation, it would be made clear to the officer and to the State Government concerned that adverse notice will be taken at the time of empanelment and promotion of the officer, of any proposal for further extension beyond five years.

The Ministry of Home Affairs and the Ministry of Environment & Forests are requested to consider all the requests for inter-cadre deputation of All India Service(s) officers in accordance with the above policy. All such requests shall be processed and after obtaining approval of the Minister in-charge, be submitted for the orders of the Appointments Committee of the Cabinet.

Sd/-  
( Keshav Desiraju)  
Joint Secretary to the Government of India

To

Shri Dharendra Singh,  
Secretary,  
Ministry of Home Affairs,  
New Delhi.



## **13. ALL INDIA SERVICES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1958**

In exercise of the powers conferred by sub-section (1) of Section 3 of the All India Services Act, 1951(61 of 1951), the Central Government, after consultation with the Governments of the States concerned, hereby makes the following rules, namely:-

### **1.Short title and application**

1(1) These rules may be called the All India Services (Death-cum-Retirement Benefits) Rules, 1958.

1(2)(a) Subject to the provisions of clause (b) of this sub-rule, they shall apply to all persons who retired from the Service on or after the 29th October, 1951.

<sup>1</sup>1(2)(b) They do not apply to those members of the Service who were promoted to the Service from the State Services or were appointed to the Service under the Indian Administrative Service (Extension to States) Scheme or the Indian Police Service (Extension to States) Scheme and who, under orders issued by the Central Government before the coming into force of those rules, were given an option in the matter of pension rules, by which they would be governed and who in exercise of that option, chose to be governed by the Superior Civil Services Rules, the Civil Service Regulations, or the pension rules of the State concerned, as the case may be:

Provided that the members of the Service to whom these rules do not apply, and who were in service on the 1st January, 1964, may opt to be governed by these rules in accordance with such orders as may be issued by the Central Government in this behalf.

<sup>2</sup>”Provided further that nothing contained in these rules shall applied to the persons appointed to the service on or after the 1St day of January 2004.”

### **2. Definitions**

2(1) In these rules, unless the context otherwise requires:-

<sup>3</sup>2(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 State 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 State Government or Union territory ;’

<sup>4</sup>2(1)(aa) "average emoluments" means the average of the emoluments drawn by a member of the Service during the last ten months of his service;

---

1 Substituted vide DP &AR orders No. 31/7/72-AIS(III) dated 22.05.1973.

2 Inserted vide DOP&T Notification No. 25014/14/2001-AIS(II)(A) (GSR No. 105(E) dt 06.02.2004)

3. Inserted vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013)

4 Inserted w.e.f. 31.12.72 vide DP &AR Notification No. 33/12/73-AIS(III),dated 24.1.57 read with Notification No.25011/29/75-AIS(II) dated 30.1.1976 (GSR No. 196 dated 14.2.76).

- NOTE : (i) If during the last ten months of his service, a member of the Service has been absent on leave with allowances or having been suspended, has been reinstated without forfeiture of service, his emoluments for the purpose of ascertaining the average should be taken as what they would have been had he not been absent from duty or suspended.
- (ii) If during the last ten months<sup>5</sup> of his service a member of the Service has been absent from duty on leave without allowances (not counting of pension) or suspended under such circumstances that the period so passed does not count as qualifying service, the period of such leave or suspension shall be disregarded in the calculation of the average, an equal period before the ten months being included.
- (iii) In the case of a member of Service who, while on leave preparatory to retirement is confirmed in the higher post which he held in an officiating or temporary capacity before proceeding on such leave, his substantive emoluments in the higher post, which he would have drawn had he been on duty, shall be taken into account for the purpose of calculation of his average emoluments.
- <sup>6</sup>(iii-a) The emoluments drawn by a member of the Service during the last ten months of his service shall count for purposes of calculation of average emoluments only if the pay drawn during the said period is-
- (a) in a cadre post; and
- (b) in an ex-cadre post if it is fully met out of the Consolidated Fund of either the Union or the State;
- <sup>7</sup>(iii-b) in the case of a member of the Service who was deputed to any foreign service post during the last 10 months of his service the pay should be reckoned with reference to his entitlement in the Cadre or the pay which he would have drawn in a post under the Central Government, had he been on central deputation. For this purpose, the certificate given by the State Government on whose cadre the member is borne, regarding the pay he would have drawn in the cadre, or the certificate given by the Central Government regarding the pay he would have drawn in a post under the Central Government, had he not gone on foreign service, would be treated as sufficient.
- (iv) Except as provided in clauses (i), (ii), (iii), (iii-a) and (iii-b) above, only emoluments actually received shall be included in the calculation. For example, where a member of the Service is allowed to count time retrospectively towards increase of pay but does not receive retrospectively the intermediate periodical increments, these increments shall not be reckoned in the calculation of average emoluments.

<sup>5</sup>Substituted w.e.f. 1.3.76 vide Notification No. 11024/4/76-AIS(II) dated 7.12.77 (GSR No. 1700 dated 24.12.77).

<sup>6</sup>Inserted w.e.f. 01.01.1973 vide Notification No. 25011/66/75-AIS(II) dated 22.05.1976 (GSR No. 1700 dt. 24.12.1977).

<sup>7</sup>Substituted vide DP & Trg. Notification No.25011/40/88-AIS (GSR No. 91 dt. 25.02.1989).



- (v) Period of joining time which fall within the last ten months<sup>8</sup> of service of a member of the service shall form part of the ten months for the purpose of average emoluments.
- (vi) Where the emoluments of a member of the Service have been reduced during the last 10 months of his service, otherwise than as a penalty, average emoluments may, at the discretion of the Government, be substituted for emoluments for the purpose of calculation of the gratuity or death-cum-retirement gratuity admissible under rule 18 or rule 19.
- (vii) In the case of a member of Service, who while officiating in a higher post proceeds on leave and retires or dies while on leave, the benefit of officiating or temporary pay for the purposes of this clause and clause (bb) shall be given only if it is certified that the member of the Service would have continued to hold the higher officiating or temporary appointment but for his proceeding on leave.
- <sup>9</sup>(viii) In the case of a member of service 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;

2(1)(b) "death-cum-retirement gratuity" means the lump sum granted to a member of the Service or his family in accordance with rule 19.

<sup>10</sup>2(1)(bb) "Emoluments" means the basic pay, as defined in clause (aa) of rule 2 of the Indian Administrative Service (Pay) Rules, 2007 and other similar rules made for Indian Police Service or Indian Forest Service, as the case may be, that a member of the service was receiving before his retirement or, as the case may be, his death;

(w.e.f. 1<sup>st</sup> January, 2006) "Emoluments" for the purpose of calculation of retirement or death gratuity, means the basic pay and Dearness Allowance that a member of the service was receiving on the date of his retirement or as the case may be, his death:

Provided that the pension and death-cum-retirement gratuity of those who have elected to continue to draw pay in the pre-revised scale of pay in terms of Indian Administrative Service (Pay) Rules, 2007 (pre-revised) and other similar

<sup>8</sup> Substituted w.e.f. 01.03.1976 vide Notification No. 11024/4/76-AIS(II) dated 07.12.1977.

<sup>9</sup> Inserted vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013)

<sup>10</sup> Substituted/inserted w.e.f. 01.01.1996 vide DP & T Notification No. 25011/24/97-AIS(II) dated 19.12.1997 (GSR No. 717E dated 19.12.1997), substituted w.e.f. 01.01.2006 vide DOP&T Notification No. dated 12/7/2013 (GSR No. 492(E))

rules made for Indian Police Service or Indian Forest Services, as the case may be, and have retired from the pre-revised scale of pay on or after the 1<sup>st</sup> January, 2006, shall be regulated as follows:

- (i) “Emoluments” shall also include Dearness Pay and Dearness Allowance upto average AICPI 536 (Base year 1982–100).
- (ii) Pension as calculated at 50% of emoluments or average emoluments, whichever is more beneficial to the employee.
- (iii) Death-cum-retirement gratuity shall be admissible with reference to emoluments at (i) above plus dearness allowance, under the order in force immediately before coming into effect of the All India Services (Death-Cum-Retirement Benefits) Amendment, Rules, 2013. The maximum amount of gratuity shall not exceed Rs.3,50,000 in terms of Department of Pension and Pensioners’ Welfare Office Memorandum No. 45/86/97-P&PW(A)(Part.I) dated 27-10-1997.
- (iv) Commutation of pension shall be admissible in accordance with the orders in force immediately before coming into effect of the All India Services (Death-Cum-Retirement Benefits) Amendment, Rules, 2013.
- (v) Family pension shall be allowed in accordance with orders applicable prior to the All India Services (Death-Cum-Retirement Benefits) Amendment, Rules, 2013 and shall be calculated with reference to basic pay in the pre-revised scale and the family pension so calculated, dearness relief upto average AICPI 536 (Base year 1982 - 100) at the rate contained in the Department of Pension and Pensioners’ Welfare O.M. No. 42/2/2006-P&PW (G), dated 5<sup>th</sup> April, 2006 shall be included and the amount so arrived at will be regarded as the family pension for regulating payment of dearness relief beyond average AICPI 536.

Provided further that for the purpose of computing average emoluments in the case of member of service who have opted for fixation of pay in the revised pay band and retire within ten months from the date of coming over to the revised pay band, basic pay for ten months period preceding retirement shall be calculated by taking into account pay as follows:

- (A) For the period during which pay is drawn in revised Pay Structure - Pay drawn in the prescribed pay band plus the applicable grade pay or the pay in the pay scale in the case of HAG+ and above.
- (B) For the remaining period during which pay is drawn in pre-revised scale of pay –
  - (i) basic pay plus dearness pay and actual Dearness Allowance appropriate to the basic pay at the rates in force as on 1<sup>st</sup> January, 2006 drawn during the relevant period;

- (ii) notional increase of the basic pay by applying the fitment benefit of 40% on the basic pay in the pre-revised pay scale’;
- 2(1)(c) "gratuity" means the lump sum specified in sub-rule (1) of rule 18 which may be granted to a person retiring from the Service before completion of 10 years of qualifying service.
- <sup>11</sup>2(1)(cc) "Indian Civil Service member of the Indian Administrative Service" means a person, who was initially appointed to the Civil Service of the crown in India known as the Indian Civil Service and who subsequently became a member of the Indian Administrative Service.
- 2(1)(d) "leave rules" means the All India Services (Leave) Rules, 1955.
- <sup>12</sup>2(1)(e) "leave with allowances" means leave other than extraordinary leave.
- <sup>13</sup>2(1)(f) "member of the Service" means a member of an All India Service as defined in section 2 of the All India Services Act, 1951 (61 of 1951).
- <sup>14</sup>2(1)(g) "Pay" means the amount drawn monthly by a member of the service as pay in pay band plus grade pay or in a pay scale, other than special pay, against the post held by him at the time of his retirement from service’;
- 2(1)(h) "Pension" means the amount payable monthly under rule 18 to person who has retired from the service, in recognition of the service rendered by him to the Government.
- 2(1)(i) [ ]Omitted.
- 2(1)(j) "retirement benefits" includes pension or gratuity and death-cum-retirement gratuity where admissible,
- <sup>15</sup>2(1)(jj) "Revised scales of pay" means the pay structure or scales of pay introduced with effect from the 1<sup>st</sup> day of January, 2006, unless specified otherwise’
- 2(1)(k) "Schedule" means Schedule to these rules.
- 2(1)(l) Deleted.
- <sup>16</sup>2(1)(m) "State Government" means the State Government on whose cadre the member of the Service was borne immediately before retirement or death and in relation to a member of an All India Service borne on a joint cadre, the joint cadre Authority.

2(2) All words and expressions used in these rules and not defined therein but defined in the Pensions Act, 1871 (23 of 1871) or the General Clauses Act, 1897 (10 of 1897), or in the Leave Rules shall have the meanings respectively assigned to them in the said Acts or in the said Rules.

<sup>11</sup> Inserted vide DP&AR Notification No.31/7/72-AIS(III) dated 22.05.1973

<sup>12</sup> Substituted vide MHA Notification No.29/41/64-AIS(III) dated the 8<sup>th</sup> April, 1965

<sup>13</sup> Substituted vide DP&AR Notification No.29/76/66-AIS(II)-A dated the 13<sup>th</sup> December,1966

<sup>14</sup> Substituted vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013).

<sup>15</sup> Substituted w.e.f.1.1.2006 vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013)

<sup>16</sup> Substituted vide DP &AR Notification No.13/4/71-AIS(I) dated 11.01.1972.

**3. General Conditions.-**

- 3(1) Future good conduct of the pensioners is an implied condition of every grant of pension and its continuance.
- 3(2) The Central Government may withhold or withdraw any pension or any part of it, for a specified period or indefinitely, on a reference from the State Government concerned, if after retirement a pensioner is convicted of a serious crime or be guilty of grave misconduct.
- <sup>17</sup> Provided that no such order shall be passed without consulting the Union Public Service Commission.
- 3(3) The decision of the Central Government on any question of withholding or withdrawing the whole or any part of the pension under sub-rule (2) shall be final.

<sup>18</sup>**4. Limitations:-**

- (1) A member of the service cannot earn two pensions in the same post at the same time or by the same continuous service.
- (2) Except as provided in sub-rule (4) of rule 8, a member of service 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.

**5. Removal, Dismissal or Resignation from Service. –**

- 5(1) No retirement benefits may be granted to a person who has been dismissed or removed from the Service or who has resigned from the Service:
- Provided that, if the circumstances of the case so warrant the State Government may grant to a person who has been dismissed or removed from the Service a compassionate allowance not exceeding two-thirds of the retirement benefits which would have been admissible to him if he had been invalidated and not dismissed or removed from the Service.

- <sup>19</sup> 5(1A)(i) The Central Government may permit a member of service to withdraw his resignation in the public interest on the following conditions, namely :-
- (a) that the resignation was tendered by the a member of service 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/her to tender the resignation;

---

<sup>17</sup> Inserted vide DP&AR Notification No.25011/22/82-AIS(II) dated the 16th July, 1983(GSR No.557 dt. 30.07.1983)

<sup>18</sup> Substituted vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013)

<sup>19</sup> Inserted vide DOP&T Notification No. 24012/10/2010-AIS(II)(A) (G.S.R. No. 585(E) dt 28.07.2011).

- (b) 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 member concerned was in no way improper;
  - (c) that the period of absence from duty between the date on which the resignation became effective and the date on which the member is allowed to resume duty as a result of permission to withdraw the resignation is not more than ninety days;
  - (d) that the post, which was vacated by the member of service on the acceptance of his/her resignation or any other comparable post, is available.
- (ii) Request for withdrawal of a resignation shall not be accepted by the Central Government where a member of service resigns his/her 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.
  - (iii) Request for withdrawal of resignation shall not be accepted by the Central Government where a member of the Service resigns from his/her service or post with a view to be associated with, any political parties or any organisation which takes part in politics, or to take part in, or subscribe in aid of, or assist in any other manner, any political movement or political activity or to canvass or otherwise interfere with, or use his/her influence in connection with, or take part in, an election to any legislature or local authority.
  - (iv) When an order is passed by the Central Government allowing a member to withdraw his/her 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.
- 5(2) Subject to the provisions of Rule 5A, where a member of the service is required to retire or resign from the service as a condition of his appointment under a Statutory or other body, he shall be granted the retirement benefits to which he would have been entitled if he had been invalidated from the Service and not resigned or retired.

<sup>20</sup> **5A. Permanent Absorption of Members of the Service in or under a Corporation, Company or body.-**

- 5A(1) Notwithstanding anything contained in Rule 5, a member of the Service, who has been permitted by the Central Government to be absorbed in service or post in or under a corporation or company wholly or substantially owned or controlled by the Central Government or under a body controlled or financed by the Central

Government, shall be deemed to have retired from Service from the date of such absorption and shall be eligible to retirement benefits in accordance with the orders issued by the Central Government in respect of officers of Central Civil Services Group 'A'.

<sup>21</sup>5A(2)

<sup>22</sup>5A(3) A member of the Service referred to in sub-rule (1) shall not be governed by the provisions of rule 22 [ omitted<sup>23</sup> ], if his family is entitled to family pension under the rules of the organization in which he is permitted to get absorbed permanently.

<sup>24</sup>**6 Recovery from pension.-**

6(1) The Central Government reserves to itself the right of withholding a pension or <sup>25</sup>gratuity, or both, either in full or in part, whether permanently or for a specified period, and of ordering recovery from pension or gratuity of the whole or part of any pecuniary loss caused to the Central or a State Government, if the pensioner is found in a departmental or judicial proceedings to have been guilty of grave misconduct or to have caused pecuniary loss to the Central or a State Government by misconduct or negligence, during his service, including service rendered on re-employment after retirement:

<sup>26</sup>Provided that no such order shall be passed without consulting the Union Public Service Commission:

Provided further that-

- (a) such departmental proceeding, if instituted while the pensioner was in service, whether before his retirement or during his re-employment, shall, after the final retirement of the pensioner, be deemed to be a proceeding under this sub-rule and shall be continued and concluded by the authority by which it was commenced in the same manner as if the pensioner had continued in service.
- (b) such departmental proceeding, if not instituted while the pensioner was in service, whether before his retirement or during his re-employment;
  - (i) shall not be instituted save with the sanction of the Central Government ;
  - (ii) shall be in respect of an event which took place not more than four years before the institution of such proceedings; and
  - (iii) shall be conducted by such authority and in such place or places as the Central Government may direct and in accordance with the procedure applicable to proceeding on which an order of dismissal from service may be made;

21 Deleted vide DOP&T Notification No. 25011/4/2000-AIS(II) dated 18.01.2002 (GSR No. 49(E) dt. 18.01.2002.)

22 Inserted vide 25011/7/50/78-AIS(II) dated 1st May, 1980 (GSR 545, dt. 17.05.1980)

23 Omitted vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013)

24 Substituted vide MHA Notification No. 29/7/63-AIS(II) dated 25th March, 1964.

25 Substituted vide Notification No. 25011/19/91-AIS(II) dated 26.05.1993.(GSR No. 308, dt. 19.6.93).

26 Inserted vide DP &AR Notification No. 25011/22/82-AIS(II) dated 16.7.83. (GSR No. 557 dt. 30.07.19.83)

- (c) such judicial proceeding, if not instituted while the pensioner was in service whether before his retirement or during his re-employment, shall not be instituted in respect of a cause of action which arose or an event which took place more than four years before such institution.

*Explanation:-* For the purpose of this rule

- (a) a departmental proceeding shall be deemed to be instituted when the charges framed against the pensioner are issued to him or, if he has been placed under suspension from an earlier date, on such date and
- (b) a judicial proceeding shall be deemed to be instituted-
- (i) In the case of criminal proceedings, on the date on which a complaint is made or a charge-sheet is submitted, to the criminal court; and
  - (ii) in the case of civil proceedings, on the date on which the plaint is presented or, as the case may be, an application is made to a civil court.

<sup>27</sup>Note-1- Where a part of the pension is withheld or withdrawn the amount of such pension shall not be reduced below the amount of rupees three thousand five hundred per mensem or at the rates provided under the corresponding rules of the Central Civil Service (Pension) Rules, 1972".

Note-2- Where Central Government decides not to withhold or withdraw pension but orders recovery of any 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 the member of the service.

6(2) Where any departmental or judicial proceeding is instituted under sub-rule (1), or where a departmental proceeding is continued under clause, (a) of the proviso thereto against an officer who has retired on attaining the age of compulsory retirement or otherwise, <sup>28</sup>he shall be sanctioned by the Government which instituted such proceeding, during the period commencing from the date of his retirement to the date on which, upon conclusion of such proceeding final orders are passed, a provisional pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service upto the date of retirement, or if he was under suspension on the date of retirement, upto the date immediately preceding the date on which he was placed under suspension; but no gratuity or death-cum-retirement gratuity shall be paid to him until the conclusion of such proceedings and the issue of final orders thereon.

<sup>27</sup> Substituted vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013).

<sup>28</sup> Substituted vide Notification No.25011/30/77-AIS(II) dated 10.7.78(GSR No.422 dated 22.7.78)

<sup>29</sup>Provided that where disciplinary proceeding has been instituted against a member of the Service before his retirement from service under rule 10 of the All India Service (Discipline and Appeal) Rules, 1969, for imposing any of the penalties specified in clause (i), (ii) and (iv) of sub-rule 1 of rule 6 of the said rules and continuing such proceeding under sub-rule (1) of this rule after his retirement from service, the payment of gratuity or death-cum-retirement gratuity shall not be withheld.

- 6(3) Payment of provisional pension made under sub-rule (2) shall be adjusted against the final retirement benefits sanctioned to the pensioner upon conclusion of the aforesaid proceeding, 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.

<sup>30</sup>NOTE:- Omitted

## 7. Compulsory Retirement as a Measure of Penalty:-

- 7(1) A member of the Service who as a measure of penalty is compulsorily retired from the Service by the Central Government in accordance with the provisions of the All India Services (Discipline and Appeal) Rules, 1969, may be granted retirement benefits on the basis of his qualifying service on the date of such compulsory retirement on the appropriate scales admissible under rules <sup>31</sup>18 and 19:

<sup>32</sup>Provided that, if the circumstances of the case so warrant, the <sup>33</sup>Central Government after consultation with the Union Public Service Commission may direct that the retirement benefits shall be paid at such reduced scales as may not be less than two-thirds of the retirement benefits under rules 18 and 19.

- <sup>34</sup>7(2) The family of a member of the Service who is compulsorily retired from the service as a measure of penalty shall be entitled to a family pension under Rule 22 [ omitted<sup>35</sup> ]. For the purpose of rule 22, the family pension shall be admissible for maximum period of five years from the date of compulsory retirement.

## 8. Qualifying service.-

- 8(1) Unless provided otherwise in these rules, qualifying service of a member of the Service for purposes of these Rules begins from the date of his substantive appointment to the Service:

Provided that in the case of a member of the Service appointed initially on probation the period of probation shall also count as qualifying service.

<sup>29</sup> Substituted vide DP&AR Notification No.25011/22/82-AIS(II) dated 16.7.83(GSR No.557 dated 30.7.83)

<sup>30</sup> Omitted vide Notification No. 25011/13/82-AIS(II) dated 11.09.1980 (GSR No. 978 dt. 27.09.1980)

<sup>31</sup> Substituted vide DP & AR Notification No. 25011/14/79-AIS(II) dated 01.09.1979 (GSR No. 1151 dated 16.09.1979)

<sup>32</sup> Substituted vide DP&AR Notification No. 25011/14/79-AIS(II) dated 1.9.79 w.e.f 31.03.1979 (GSR No.1151 dt. 15.09.1979)

<sup>33</sup> Substituted vide DP&AR Notification no. 25011/22/82-AIS (II) dated 16.07.1983 (GSR No.557 dt 30.07.1983)

<sup>34</sup> Substituted wef 1.1.64 vide MHA Notification No. 29/11/65-AIS(II) dated 05.02.1966.

<sup>35</sup> Omitted vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013)



- 8(2) Any period of service under the Central or a State Government rendered by a member of the Service prior to his appointment to the Service shall count as qualifying service under these rules to the extent to which such service would have counted as qualifying service for pension under the rules applicable to him prior to his appointment to the Service provided that the service is otherwise continuous.

<sup>36</sup> Provided that temporary or officiating service, followed without interruption by confirmation in the same or another post, shall count in full as qualifying service except in respect of periods of temporary or officiating service in non-pensionable establishment.

*Explanation* - For the purposes of this rule-

- (1) Leave of any kind or suspension followed by reinstatement does not constitute a break.
- (2) Service under a State Government includes the service rendered before migration into India as a result of the partition in States which have since become part of Pakistan; breaks in service, if any, caused at the time of such migration due to reasons beyond the control of the member of the service may be condoned by the State Government but the period of break or breaks will be ignored in determining the total length of qualifying service.

- <sup>37</sup>8(2A) The period of service rendered under an autonomous body, wholly or substantially owned or controlled by the Central Government and taken over by it, by a member of the service who left the service of that body at any time prior to its take-over by the Central Government and who later on joined Government Service with or without break, shall count as qualifying service for pension under these rules to the extent and subject to the conditions under which such service is counted as qualifying service for pension under the Central Civil Service (Pension) Rules, 1972 or under any orders issued by the Central Government in this behalf.

- <sup>38</sup>8(3) [ ]

- 8(4) A member of the Service who rendered war/military service, before his appointment to an all India Service shall count that service as qualifying service to the extent to which such service is counted as qualifying for pensions under the Central Civil Services (Pension) Rules, 1972 or under any orders that might be issued by the Central Government in this behalf.

- <sup>39</sup>8(5)(a) A member of the Service who, prior to his appointment to the Service, held a post in the General Administrative Reserve or a post under Government on a contract basis, shall have the option to count the period of his service in such post in full as qualifying for pension under these Rules. Provided that such service is otherwise continuous and that he did not draw inflated rates of pay by reason of the absence of retirement benefits.

<sup>36</sup> Substituted vide MHA Notification No. 29/7/60-AIS(II) dated 31.12.1962.

<sup>37</sup> Inserted /Substituted vide Notification No.25011/41/80-AIS(II) dt 15.5.81 (GSR No. 705 dt 1.8.81)

<sup>38</sup> Omitted vide MHA Notification No. 29/81/66-AIS(II)-A dt.20.6.68

<sup>39</sup> Substituted vide MHA Notification No.29/7/60-AIS(II) dated 31.12.62.

8(5)(b) The option under clause (a) shall be exercised within a period of three months from the 31<sup>st</sup> December, 1962 or within three months from the date of appointment to the Service, whichever is later. The option, once exercised; shall be treated as final.

8(5)(c) Where a member of the Service exercises the option to count his previous service in the General Administrative Reserve or on contract basis, the amount of Government contributions with interest thereon standing to his credit in any contributory provident fund to which he might have been admitted shall be surrendered<sup>40</sup> and credited to the consolidated funds of the Constituent States, in such proportion as may be prescribed by the Joint Cadre Authority) while the amount of his own subscriptions to that fund, if not already withdrawn, together with interest thereon, shall be transferred to his account in the All India Service Provident Fund.

Provided that in a case where the Government contributions have already been paid to the member of the Service, he shall be required to refund them with interest from the date of payment to the date of final refund in a suitable number of instalments, to be prescribed by the State Government.

<sup>41</sup>8(6) A member of the Service who prior to his appointment to the Service held a post under Government carrying contributory provident fund benefits shall have the option to count as qualifying service the whole of the period of his service in such a post during which he actually subscribed to the contributory provident fund.

The option under this sub-rule shall be exercised within a period of three months from the 31<sup>st</sup> December, 1962 or within three months of appointment to the Service, whichever is later. The option once exercised shall be final.

Where a member of the Service exercises the option, the amount of Government contribution together with interest thereon standing to his credit in that fund shall be surrendered and <sup>42</sup>credited to the Consolidated fund of the State on whose cadre he is borne while the amount of his own subscriptions to that fund if not already withdrawn, together with interest thereon, shall be transferred to his account in the All India Services Provident Fund:

Provided that in a case where the Government contributions have already been paid to the member of the Service, he shall be required to refund them with interest in a suitable number of installments to be prescribed by the State Government<sup>43</sup>

8(7) Foreign service rendered by a member of the Service shall count as qualifying service provided that contributions towards the cost of retirement benefits of the member of the Service, at such rates as the Central Government may prescribe from time to time have been paid either by the foreign employer, or, failing that, by the member of the Service himself, in respect of the entire period of foreign service, unless the payment of contributions have been waived by Government.

<sup>40</sup> Substituted vide DP &AR Notification No. 13/4/71-AIS(II) dated 11.1.72

<sup>41</sup> Substituted vide MHA Notification No.29/7/60-AIS(II) dated 31.12.62.

<sup>42</sup> Substituted vide DP &AR Notification No. 13/4/71-AIS(II) dated 11.1.72

<sup>43</sup> Substituted vide MHA Notification No.29/7/60-AIS(II) dated 31.12.62.

8(8) 'Authorised Joining Time' availed of by a member of the Service shall count as qualifying service.

<sup>44</sup>(8A) A member of the Service, who had participated in the national movement and who entered Government service by availing himself of the concession of relaxation of age in terms of the Ministry of Home Affairs office memoranda No.15/21/48-Ests, dated the 29<sup>th</sup> November 1948 and No. 6/1/51-NGS, dated the 14<sup>th</sup> February, 1951 or corresponding orders, if any, issued by the State Government in this regard, shall be allowed to add to his qualifying service, only for superannuation pension purpose, a period not exceeding one-fourth of the length of his service or the actual period by which his age at the time of recruitment exceeds 25 years, a period of 5 years, whichever is the least.

<sup>45</sup>8(9) The qualifying service shall be calculated in six monthly periods. A fraction of less than three months shall not be taken into account and any period between three months and six months shall be treated as six monthly period in calculating the total qualifying service.

<sup>46</sup>Note - A member of the service who was not entitled to receive the Government's share of the contribution in the Contributory Provident Fund in respect of any service rendered prior to his appointment to the Service, on the ground that he did not put in the minimum period of service under the rules of the said Fund, shall be deemed to have opted for counting that service as qualifying for pension under sub-rules (5) or (6) of this rule. But the Government's contribution to the Contributory Provident Fund, together with interest accrued thereon shall be transferred to the accounts of the State on whose cadre he is borne and that State shall bear the pensionary liability for the said service.

<sup>47</sup>8A [Omitted]

## 9. Counting of periods of leave as qualifying service.

<sup>48</sup>9(1) All periods of leave with allowances and extraordinary leave granted on the basis of medical certificate shall count as qualifying service:

Provided that the Central Government may, in any case in which it is satisfied that the extraordinary leave was taken by a member of the Service for any cause beyond the control of such member or for prosecuting higher <sup>49</sup>studies in the field of science, technology, finance, economics, law or other social sciences, direct that such extraordinary leave shall be counted as qualifying service.

<sup>44</sup> Inserted vide DP&AR Notification No. 25011/21/76 AIS(II) dt 21.4.77 (GSR No.579 st 21.4.77)

<sup>45</sup> Substituted vide DP&AR Notification No. 25011/9/83-AIS(II) dt 14.9.83 (GSR No. 712 st 1.10.83)

<sup>46</sup> Added vide MHA Notification No.29/64/64-AIS(II) dated 13.08.1965

<sup>47</sup> Omitted vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013)

<sup>48</sup> Substituted vide DP &AR Notification No. 25011/22/82-AIS(II) dated 16.7.83 (GSR No. 557 dated 30.7.83)

<sup>49</sup> Substituted vide DOP&T Notification No. 25011/06/2000-AIS(II)(A) (G.S.R 385(E) dt 08.05.2003).

- 9(2) Leave granted by foreign employer to a member of the Service while on foreign service out of India under sub-rule (1) of rule 27 of the Leave Rule shall be treated as leave and not as duty and shall qualify for pension subject to the provision of sub-rule(1).

**10. Counting of period of deputation or leave outside India for purposes of qualifying service -**

- 10(1) Where a member of the Service is deputed out of India on duty, the whole period of his absence from India on such deputation shall count as qualifying service.
- 10(2) Where a member of the service on leave out of India is employed, or is detained on duty out of India after the termination of his leave, the period of such employment or detention shall count as qualifying service:

Provided that the periods of deputation converted into leave shall count for purposes of qualifying service as leave and not as deputation .

- 10(3) Time spent on journey to India by a member of the Service who is recalled to duty before the expiry of any duty sanctioned leave out of India counts as qualifying service.

**11. Periods not qualifying as service for pension -** The following periods of service of a member of the Service do not count as qualifying service for pension:-

- <sup>50</sup>11(1) Time passed by a member of the Service under suspension unless, on conclusion of the disciplinary proceeding he has been fully exonerated or the suspension is held to be wholly unjustified:

Provided that where a member of the Service has not been fully exonerated in the disciplinary proceedings or the suspension has not been held to be wholly unjustified, the period of suspension shall count as qualifying service only to such extent and in accordance with such directions as the competent authority may issue under rules 5, 5A or 5B of the All India Services (Discipline and Appeal) rules, 1969,

- 11 (2) Leave other than leave which counts as qualifying service under rule 9.
- 11(3) Unauthorised absence in continuation of authorised leave of absence or joining time.

**12. Condonation of Interruption in service.-**

- <sup>51</sup>12(1) In the absence of a specific indication to the contrary in the service records of a member of the Service, an interruption between two spells of service, rendered by him after his appointment to the service shall be treated as automatically condoned and the pre-interruption service treated as qualifying service except in a case where interruption is caused by dismissal or removal from service.

<sup>50</sup> Substituted vide DP&AR Notification No. 25011/22/82-AIS(II) dt 16.7.83 (GSR No. 557 dt 30.7.83)

<sup>51</sup> Substituted vide DP&AR Notification No. 25011/22/82-AIS(II) dt 16.7.83 (GSR No. 557 dt 30.7.83)

- 12(2) In a case falling under sub-rules (2), (5) or (6) of rule 8, where service rendered by a member of the Service under a State Government or the Central Government prior to his appointment to the Service is counted as qualifying service under the said rule and an interruption in service is inevitable due to the two appointments being at different stations, such interruption not exceeding the joining time permissible under the rules of transfer, shall be treated as automatically condoned.
- 12(3) In a case where war or military service is counted as qualifying service for pension under sub-rule (4) of rule 8, the interruption if any, in such service as well as any interruption between such service and subsequent civil service shall be treated as automatically condoned.
- 12(4) The period or periods of interruptions referred to in sub-rules (1) to (3) shall not count as qualifying service.

### 13. Invalid gratuity or pension:-

- 13(1) Where the Government has reason to believe that a member of the Service is suffering from:

- (a) a contagious disease or
- (b) a physical or mental disability which in its opinion interferes with the efficient discharge of his duties. It may direct him to undergo medical examination with a view to retire him from service on invalid gratuity or pension, as the case may be.

A member of the Service also may, if he feels that he is not in a fit state of health to discharge his duties, apply to the Government for retirement on invalid gratuity or pension as the case may be.

- 13(2) An invalid gratuity or pension and death-cum-retirement gratuity where admissible shall be granted to a member of the Service who having appeared under the direction of the Government or on his own application before a duly constituted Medical Board, is certified that Medical Board, by bodily or mental infirmity, to be permanently incapacitated for further service.<sup>52</sup> The family of a member of the service who retires or is retired under this rule shall be entitled to the benefits of the family pension as laid down in Rule 22 [omitted<sup>53</sup>].

- <sup>54</sup>13(2A) Notwithstanding anything contained in sub rule (2), relief against rise in the cost of living index shall be granted to every such member of the Service at such scales and in such manner as may be prescribed by the Central Government from time to time for officers of the Central Government Civil Services, Class-I.

<sup>52</sup> Inserted wef 1.6.64 vide MHA Notification No. 29/11/65-AIS(II) dt 5.2.66

<sup>53</sup> Omitted vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013)

<sup>54</sup> Inserted wef 1.1.73 vide DP&AR Notification No. 33/20/73 –AIS(II) dt 31.5.75

13(3) The medical certificate of incapacity shall be attested:

- (a) if the member of the Service is on leave out of India, by a Medical Board to be convened for the purpose by the Indian Mission in the country in which the member of the Service is on leave;
- (b) in other cases, by the Medical board to be convened by the Chief Administrative Medical Officer of the State in which the member of the Service is on duty or on leave. The Chief Administrative Officer, shall, wherever practicable, preside over such a Board.

13(4) Save where he is on leave out of India no member of Service shall apply for a medical certificate of incapacity and no such certificate shall be granted unless –

- (a) the applicant produces evidence to show that the Government is aware of his intention to appear before the Chief Administrative Medical Officer; and
- (b) the Chief Administrative Medical officer is informed about the age of the applicant as recorded in his history of services and is supplied with a statement of the leave taken by him during the three years immediately preceding and of the history of the medical case and the treatment adopted as far as possible.

13(5) If the medical Board, although unable to discover any specific disease in the member of the Service, considers him incapacitated for further service by general debility while still under the age of <sup>55</sup>fifty eight years, it shall give detailed reasons for its opinion. Wherever possible a second medical opinion shall in such cases be obtained.

Note— In a case of this kind, a statement giving the grounds on which it is proposed to invalidate a member of the Service shall be forwarded to the Medical Board by the Government under whom he is serving.

13(6) A certificate that inefficiency is due to old age or natural decay from advancing years shall not be deemed to be sufficient for retiring a member of the Service on invalid gratuity or pension.

13(7) The Medical Certificate shall be in the form set forth in Schedule 'C'.

#### 14. Restrictions on the grant of invalid gratuity or pension :-

14(1) A member of the Service who is discharged from the Service on ground other than those specified in rule 13 shall have no claim in invalid gratuity or pension or death-cum-retirement gratuity even though he produces medical evidence of incapacity for Service. <sup>56</sup>[Nor will his family, be entitled to the benefits of the family pension].

<sup>55</sup> Substituted for 'Fifty Five Years' vide MHA Notification No. 29/47/61-AIS(II) dt 25.5.63

<sup>56</sup> Inserted wef 1.6.64 vide MHA Notification No. 29/11/65-AIS(II) dt 5.2.66

- 14(2) If the incapacity is directly due to irregular or intemperate habits, no invalid gratuity or pension or death-cum-retirement gratuity shall be granted to a member of the Service. If it has not been directly caused by such habits but has been accelerated or aggravated by them it shall be for the Central Government to decide what reduction, if any, shall be made on this account in the retirement benefits otherwise admissible.

Note--(1) The mere fact that a member of the Service has suffered from syphilis, taken by itself, is not sufficient to bring his case under the operation of this rule.

- 14(2) Unsoundness of mind caused by drug habits shall be taken as sufficient to bring his case under the operation of this rule.

The expression "irregular or intemperate habits" occurring in this rule refers to incapacity on account of drug habits or on account of diseases resulting from immoral habits. Cases where incapacity was due to other cause e.g. work at irregular hours during war and after, due to exigencies of service and not due to own volition, do not come under the purview of this rule.

## **15. Retirement from service of a member of the service in certain cases and grant of leave—**

- 15(1) A member of the Service who has been declared by a Medical Board to be permanently incapacitated for further service shall, if he is on duty, be invalidated from service from the date of relief which shall be arranged without delay on receipt of the report of the Medical Board or, if he is granted leave under sub rule (2), on the expiry of such leave:

Provided that if he is on leave at the time of receipt of the report of the Medical Board, he shall be invalidated from service on the expiry of that leave or extension of leave, if any, granted to him under sub-rule (2).

- 15(2) A member of the Service in respect of whom a Medical Board has reported that there is no reasonable prospect of his ever being fit to return to duty, may not be granted leave except as follows:--

- (a) If the Medical Board is unable to say with certainty that the member of the Service will never again be fit for service, leave not exceeding 12 months in all may be granted to him. Such leave shall not be extended without further reference to a Medical Board.
- (b) If a member of the Service has been declared by the Medical Board to be completely and permanently incapacitated for further service leave or any extension of leave may be granted to him after the report of the Medical Board has been received, provided that the amount of leave so granted, together with any period of duty beyond the date on which the Medical Board signed their report, shall not exceed 6 months.

## 16. Superannuation gratuity or pension.-

- 16(1) <sup>57</sup>A member of the Service shall retire from the service with effect from the afternoon of the last day of the month in which he attains the age of sixty years:

Provided that a member of the Service whose date of birth is the first day of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the age of sixty years:

Provided further that a member of the Service dealing with budget work or working as a full-time member of a Committee which is to be wound up within a short period may be given extension of service for a period not exceeding three months in public interest, with the prior approval of the Central Government.

<sup>58</sup>Provided also that a Member of the Service holding the post of Chief Secretary to a State Government may be given extension of service for a period not exceeding six months on the recommendations made by the concerned State Government with full justification and in public interest, with the prior approval of the Central Government.

<sup>59</sup>Provided also that a member of the Service who has attained the age of fifty-eight years on or before the first day of May, 1998 and is on extension in service, shall retire from the service on the expiry of his extended period of service or on the expiry of any further extension, granted by the Central Government in public interest, and that no such extension in service shall be granted beyond the age of sixty years.

- <sup>60</sup>16(1A) Notwithstanding anything contained in sub-rule (1), the Central Government may, if it considers necessary in the public interest to do so, give extension in service to the incumbents of the posts of the Cabinet Secretary, Defence Secretary, Home Secretary, Director, Intelligence Bureau, Secretary, Research and Analysis Wing and Director, Central Bureau of Investigation for such period as it may deem proper

Provided that the total term of the Cabinet Secretary who is granted such extensions of service shall not exceed <sup>61</sup>four years;

Provided further that the total term of the other Secretaries and Directors who are granted such extensions of service under these Rules shall not exceed two years.

<sup>62</sup>Provided also that Notwithstanding anything contained in sub-rule (1A), the Central Government may, if it considers necessary in public interest to do so, give an extension in service for a further period, not exceeding three months, beyond the period of two years to the Home Secretary and the Defence Secretary.

<sup>57</sup> Substituted/Inserted vide DP&T Notification No. 25011/8/97-AIS(II) dt 13.5.98(GSR No. 249E dt 13.5.98)

<sup>58</sup> Inserted vide notification No. 24012/22/2005-AIS(II) dated 30/11/2005

<sup>59</sup> Substituted vide DP&T Notification No. 25011/24/98-AIS(II) dt 7.12.98 (GSR No. 719 dt 7.12.98)

<sup>60</sup> Substituted vide notification NO. 25011/4/2006-AIS(II) dated 12/6/2007.

<sup>61</sup> Substituted vide DOP&T Notification No. 26014/03/2010-AIS(II)(A) (G.S.R 612(E) dt 09.08.2011).

<sup>62</sup> Inserted vide DOP&T Notification No. 26014/03/2010-AIS(II)(A) (G.S.R 612(E) dt 09.08.2011).



<sup>63</sup>16(2) A member of the Service may, after giving at least three months' previous notice in writing, to the State Government concerned, retire from service on the date on which such member completes thirty years of qualifying service or attains fifty years of age or on any date thereafter to be specified in the notice:

Provided that no member of the Service under suspension shall retire from service except with the specific approval of the <sup>64</sup>Central Government.

<sup>65</sup>Provided further that the State Government concerned on a request made by the member of the service may, if satisfied and for reasons to be recorded in writing, relax the period of notice.

<sup>66</sup>16(2A) A member of the service may, after giving three months' previous notice in writing to the State Government concerned, retire from service on the date on which he completes 20 years of qualifying service or any date thereafter to be specified in the notice:

Provided that a notice of retirement given by a member of the service shall require acceptance by the Central Government <sup>67</sup>if the date of retirement on the expiry of the period of notice would be earlier than the date on which the member of the Service could have retired from service under sub-rule (2):

Provided further that a member of the Service, who is on deputation to a corporation or company wholly or substantially owned or controlled by the government or to a body controlled or financed by the Government, shall not be eligible to retire from the service under this rule for getting himself permanently absorbed in such corporation, company or body.

<sup>68</sup>Provided also that a member of the Service borne on the Cadres of Assam-Meghalaya, Manipur-Tripura, Nagaland and Sikkim may retire from service on the date on which he/she completes 15 years of service.

<sup>69</sup>16(3) The Central Government may, in consultation with the State Government concerned, require a member of the service to retire from service in public interest after giving such Member at least three month's previous notice in writing or three month's pay and allowances in lieu of such notice, -

(i) after the review when such Member completes 15 years of qualifying Service; or

<sup>63</sup> Substituted vide DP&AR Notification No. 28/8/72-AIS(II) dt 30.9.72.

<sup>64</sup> Substituted vide DP&AR Notification No. 25012/1/88-AIS(II) dt 16.7.88 (GSR No. 567).

<sup>65</sup> Added vide notification No. 29018/11/2003-AIS(II) dated 20/12/2004.

<sup>66</sup> Inserted vide DP&AR Notification No. 25011/24/77-AIS(II) dt 2.2.78 (GSR No. 253 dt. 18.2.78).

<sup>67</sup> Substituted vide DP&T Notification No. 25012/1/88-AIS(II) dt 1.7.88 (GSR No. 567 dt 16.7.88).

<sup>68</sup> Added vide notification No. 29018/11/2003-AIS(II) dated 20/12/2004.

<sup>69</sup> Substituted vide DoPT Notification No. 25013/02/2005-AIS(II) 31.01.2012.

- (ii) after the review when such Member completes 25 years of qualifying Service or attains the age of 50 years, as the case may be, or
- (iii) If the review referred to in (i) or (ii) above has not been conducted after the review of any other time as the Central Government deems fit in respect of such Member.

Explanation :- For the purposes of sub-rule (3), "review" of the entire service record of the Member of the Service regarding suitability or otherwise of such Member for further retention in the Service to be conducted regularly of each Member of such Service, firstly, after his completion of 15 years of qualifying Service and secondly, after his completion of 25 years of qualifying Service or on his attaining the age of 50 years, as the case may be, or if the review referred to in clauses (i) or (ii) of this sub-rule has not been conducted in respect of such Member, such review may be conducted at any other time as the Central Government deems fit.";

<sup>70</sup>Note 1: In computing the period of three month's notice referred to in sub-rules (2), (2A) and (3) the date of service of the notice and the date of its expiry shall be excluded.

Note 2: In the case of a member of Service who retires under sub-rule (2) or (2A) or who is retired under sub-rule (3), the date of retirement shall be treated as a non-working day.

<sup>71</sup>16(4) A superannuation gratuity or pension shall be granted to a member of the Service who is required to retire under sub-rule (1) of this rule.

## <sup>72</sup>16-A Acceptance of date of birth-

- 16(1) For the purpose of determination of the date of superannuation of a member of the service, such date shall be calculated with reference to the date of his birth as accepted by the Central Government under this rule.
- 16(2) In relation to a person appointed, after the commencement of the All India Services (Death-cum-Retirement Benefits) Amendment Rules, 1971
  - (a) Indian Administrative Service under clause (a) or clause (aa) of sub-rule (1) of rule 4 of the Indian Administrative Service (Recruitment) rules, 1954; or
  - (b) the Indian Police Service under clause (a) or clause (aa) of sub-rule (1) of rule 4 of the Indian Police Service (Recruitment) Rules, 1954; or
  - (c) the Indian Forest Service under clause (a) or clause (aa) of sub-rule (2) of rule 4 of the Indian Forest Service(Recruitment) Rules, 1966;

the date of birth as declared by such person in the application for recruitment to the service shall be accepted by the Central Government as the date of birth of such person.

<sup>70</sup> Inserted vide DP&AR Notification No. 25011/6/80-AIS(II) dt 26.4.80 (GSR 512 dt 10.5.80)

<sup>71</sup> Inserted vide MHA Notification No. 29/10/64-AIS(II) dt 1.9.65

<sup>72</sup> Substituted vide DP&AR Notification No. 25011/7/77-AIS(II) dt 7.7.78 (GSR No. 924 dt 22.7.78)

- 16(3) In relation to a person to whom sub-rule (2) does not apply, the date of birth as recorded in the service book or other similar official document maintained by the concerned government shall be accepted by the Central Government, as the date of birth of such person.
- 16(4) The date of birth as accepted by the Central Government shall not be subject to any alteration except where it is established that a bonafide clerical mistake has been committed in accepting the date of birth under sub-rule (2) or (3).

<sup>73</sup>**17. Retiring Pension and gratuity.-**

- 17(1) A retiring pension and death-cum-retirement gratuity shall be granted to a member of the Service who retires or is required to retire under rule 16.
- <sup>74</sup>17(2) Notwithstanding anything contained in sub-rule (1), relief against rise in the cost of living index shall be granted to every such member of the Service at such scale and in such manner as may be prescribed by the Central Government from time to time for officers of the Central Civil Services, Class I.

**18. Amount of Gratuity or Pension:**

- <sup>75</sup>(1) (a) In case a member of the Service retires from service in accordance with the provisions of these rules, before completing qualifying service of ten years gratuity shall be admissible at the rate of half month's pay of each completed six monthly period of qualifying service.
- <sup>76</sup>(aa) The dearness allowance admissible on the date of retirement shall also be treated as emoluments for the purpose of sub rule (1)(a) of this rule;
- <sup>77</sup>(b) In case a member of the service retires from service in accordance with the provisions of these rules, after completing qualifying service of not less than ten years, the amount of pension shall be calculated at fifty per cent of emoluments or average emoluments, whichever is more beneficial to him, subject to a minimum of three thousand and five hundred rupees per mensem and a maximum of forty-five thousand rupees per mensem.”;
- <sup>78</sup>18(1-A) In addition to pension admissible in accordance with clause (b) of sub-rule (1), after completion of eighty years of age or above, additional pension shall be payable to the retired member of the service in the following manner :-

Age of pensioner	Additional pension
From 80 years to less than 85 years	20% of basic pension
From 85 years to less than 90 years	30% of basic pension

<sup>73</sup> Substituted wef 30.8.65 vide MHA Notification No. 29/10/65-AIS(II) dt 1.9.65

<sup>74</sup> Inserted/renumbered wef 1.5.73 vide DP&AR Notification No. 33/20/730AIS(III) dt 31.5.75(GSR No. 724 dt 14.6.75)

<sup>75</sup> Substituted vide DP&AR Notification No. 25011/14/79-AIS(II) dt 1.9.79 (GSR No. 1151 dt 5.9.79) and again substituted vide DP&T Notification No. 25011/12/87-AIS(II) dt 22.5.87 (GSR No. 522 E)

<sup>76</sup> Inserted vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013)

<sup>77</sup> Inserted vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013)

<sup>78</sup> Inserted vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013)

From 90 years to less than 95 years	40% of basic pension
From 95 years to less than 100 years	50% of basic pension
100 years or more	100% of basic pension

**Explanation.-** For the purpose of this rule, in calculating the length of qualifying service, fraction of a year equal to three months and above shall be treated as a completed one half-year and reckoned as qualifying service.”;

18.2 An Indian Civil Service member of the Indian Administrative Service shall be entitled to receive an annuity of Rs.13,333.33;

Provided that if any such member opts for the death-cum-retirement gratuity scheme, his annuity shall be reduced by the annuity equivalent amount of gratuity;

<sup>79</sup>Provided that the amount of invalid pension shall not be less than the amount of family pension admissible under sub-rule (2)(iii) of rule 22<sup>80</sup>.

<sup>81</sup>Note:- A member of the service retired from service before the 1<sup>st</sup> day of January, 1986 shall be granted such additional relief in pension as may be sanctioned by the Central Government.

## <sup>82</sup>19. Retirement or Death Gratuity.-

- (1) Subject to the provisions of rule 14, a member of the Service who retires or is retired under rule 13 or 16<sup>83</sup> and has on the date of such retirement completed 5 years qualifying service may be granted a death-cum-retirement gratuity not exceeding the amount specified in sub-rule (3).
- (2) If a member of the Service <sup>84</sup>[ ] dies while in service, a death-cum-retirement gratuity not exceeding the amount specified in sub-rule (3) may be paid to the person or persons on whom the right to receive such gratuity is conferred under rule 21 and, if there is no such person, it may be paid in the manner indicated below:
  - (i) If there are one or more surviving members of the family as in items (i), (ii) and (iii) of clause (a) of sub-rule (1) of rule 21, it may be paid to all such members, other than any such member who is a widowed daughter, in equal shares.
  - (ii) If there are no such surviving members of the family as in clause (i) above, but there are one or more surviving widowed daughters

<sup>79</sup> Inserted wef 31.12.72 vide Notification No. 33/12/73 – AIS(II) dt 24.1.75 read with No. 25011/29/75-AIS(II) dt 30.1.76.

<sup>80</sup> Substituted vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013)

<sup>81</sup> Omitted/Inserted vide DP&T Notification No. 25011/12/87-AIS(II) dt 22.5.87 (GSR No. 522 E)

<sup>82</sup> Substituted vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013).

<sup>83</sup> The figures & words “13 or 16” substituted for the figures and words “13-16 or 17” vide MHA Notification No. 29/10/64 – AIS(II) dt 1.9.65

<sup>84</sup> Deleted vide MHA Notification No. 29/5/67-AIS(II) dt 1.9.68

and/or one or more surviving members of the family as in items <sup>85</sup>[(iv) to (viii)] of clause (a) of sub-rule (1) of rule 21, it may be paid to all such members in equal shares.

<sup>86</sup>(2A) If a member of the Service dies after retirement without receiving the gratuity admissible under these rules, the gratuity shall be disbursed to the family in the manner indicated in sub-rule(2).

(2B) The right of a female member of the family or that of a brother of the member of the Service 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 18 years after death of the member of the service and before receiving his or her share of gratuity.

(2C) Where gratuity is granted under this rule to a minor member of the family of the deceased member of the service, it shall be payable to the guardian on behalf of the minor.

<sup>87</sup>(3)(a)(i) A retirement gratuity equal to one fourth of the emoluments for each completed period of six months of service shall be paid to member of the service on his retirement from service who has completed five years' qualifying service, subject to a maximum of sixteen and half times of the emoluments:

Provided that the amount of retirement gratuity payable under this clause shall not exceed rupees <sup>88</sup> rupees ten lakhs.

(3)(a)(ii) In the case of the death of a member of the service while in service, death gratuity shall be admissible at the following rates:-

Length of service	Rate of Gratuity
(i) Less than one year	Two times of emoluments.
(ii) One year or more but less than 5 years.	Six 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 .

<sup>89</sup> Provided that the amount of retirement gratuity payable under this clause shall in no case exceed rupees ten lakhs.

<sup>85</sup> Substituted vide MHA Notification No. 29/7/60-AIS(II) dt 30.11.62

<sup>86</sup> Inserted vide DP&AR Notification No. 25011/37/80-AIS(II) dt 26.2.81 (GSR No. 276 dt 14.3.81)

<sup>87</sup> Substituted vide DP&T Notification No. 25011/14/84-AIS(II) dt 31.5.85

<sup>88</sup> Substituted vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013)

<sup>89</sup> Substituted vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013)

- (3)(b) If a member of the Service who has become eligible for gratuity or pension dies after he has retired from the Service, and the sums to which he had become entitled at the time of his death on account of such gratuity or pension together with the death-cum-retirement gratuity granted under sub-rule(1) and the commuted value of any portion of pension commuted by him are less than an amount equal to 12 times of his emoluments, a gratuity equal to the deficiency may be granted to the person or persons specified in sub-rule (2).

<sup>90</sup>[ ] Omitted

<sup>91</sup>**19A. Interest on delayed payment of Gratuity or Death-cum-Retirement Gratuity:**

19A (1) If the payment of gratuity or death-cum-retirement gratuity has been authorised after three months from the date when its payment became due, and it is clearly established that the delay in payment was attributable to administrative lapses, <sup>92</sup>interest at the rate prescribed by the Central Government from time to time shall be paid on the amount of gratuity or death-cum-retirement gratuity in respect of the period beyond three months.

19A(2) If as a result of Government's decision taken subsequent to the retirement of a member of the Service, the amount of gratuity or death-cum-retirement gratuity already paid on his retirement is enhanced on account of:-

- (i) grant of emoluments higher than the emoluments on which gratuity or death cum retirement gratuity was determined; or
- (ii) liberalisation in the provisions of these rules from a date prior to the date of retirement of the member of the Service concerned, no interest on the arrears of the gratuity or death-cum-retirement gratuity shall be paid.

<sup>93</sup>**19-B. Deposit Linked Insurance Scheme for members of the services-**

On the death of the member of the service <sup>94</sup>on or before 30<sup>th</sup> Sept., 91 and to whom rule 19BB does not apply the persons entitled to receive the amount standing to his credit in the Provident Fund under the All India Services (Provident Fund) Rules, 1955, shall be sanctioned an additional amount equal to the average balance in the said account during the three years immediately preceding the death of such members, subject to the fulfilment of the following conditions, namely:-

- (a) the balance in the said account should not have fallen below Rs.4000<sup>95</sup> at any time during the said period of three years.
- (b) the limits upto which the benefit of insurance cover will be available will be Rs.10,000<sup>96</sup>.

<sup>90</sup> Omitted vide DP&T Notification No. 25011/12/87-AIS(II) dt 22.5.87

<sup>91</sup> Inserted vide DP&AR Notification No. 25011/22/82-AIS(II) dt 16.7.83

<sup>92</sup> Substituted vide DP&T Notification No. 25011/14.84-AIS(II) dt 31.5.85

<sup>93</sup> Substituted vide DP&T Notification No. 25011/37/80-AIS(II) dt 26.2.81 (GSR No. 276 dt 14.3.81)

<sup>94</sup> Inserted vide DP&T Notification No. 25011/25/89 – AIS(II) dt 2.7.90

<sup>95</sup> Substituted/inserted vide Notification No.25011/37/80-AIS(II) dated 26.02.1981 (GSR No.276 dt. 14.03.1981)

<sup>96</sup> Substituted/inserted vide Notification No.25011/37/80-AIS(II) dated 26.02.1981 (GSR No.276 dt. 14.03.1981)

- (c) the benefit would be admissible only if the member of the service has put in at least five years' service at the time of his death.

Note1:-The average balance shall be worked out on the basis of the balance at the credit of a member of the service in his provident fund account at the end of each of the 36 months preceding the month in which the death occurs.

For this purpose, as also for checking the minimum balance prescribed in clause (a) above:-

- (i) the balance at the end of March, shall include the interest credited under rule 9 of the All India Service (Provident Fund) Rules, 1955, and;
- (ii) if the last of the aforesaid 36 months is not the month of March, the balance at the end of the said last month shall include interest in respect of the period from the beginning of the financial year in which death occurs to the end of the said last month.

Note2.-Payment under this scheme shall be in whole rupees. If an amount due includes a fraction of a rupee it shall be rounded to the nearest rupee, a fraction of less than 50 paise being ignored.

Note3.-Any sum payable under this Scheme is in the nature of insurance money and, therefore, the statutory protection given by section 3 of the Provident Fund Act - 1925 (Act 19 of 1925) shall not apply.

<sup>97</sup>**19BB Deposit-Link and Insurance Revised Scheme for members of the service** - On the death of a member of the service, the person entitled to receive the amount standing to the credit of the member in the provident fund under the All India Services (Provident Fund) Rules, 1955, shall be sanctioned an additional amount equal to the average balance in the said account during the 3 years immediately preceding the death of such member, subject to the fulfilment of the following conditions, namely:-

- (a) the balance in the said account should not have fallen below <sup>98</sup>rupees twenty five thousand at any time during the 3 years preceding the month of death.
- (b) the additional amount payable under this rule shall not exceed <sup>99</sup>rupees thirty thousand.
- (c) the member of the service had put in at least 5 years of service at the time of his/her death.

Note I. The average balance shall be worked out on the basis of the balance at the credit of the member of the service in his provident fund account at the end of each of the 36 months preceding the month in which the death occurs. For this purpose, as also for checking the minimum balance prescribed in clause (a):-

- (i) the balance at the end of March shall include the interest credited under rule 9 of the All India Services (Provident Fund) Rules, 1955; and

<sup>97</sup> Inserted vide DP&T Notification No.25011/25/89-AIS(II) dated 02.07.1990

<sup>98</sup> Substituted vide DOP&T Notification No. 25011/06/2000-AIS(II)(A) (G.S.R 385(E) dt 08.05.2003).

<sup>99</sup> Substituted vide DOP&T Notification No. 25011/06/2000-AIS(II)(A) (G.S.R 385(E) dt 08.05.2003).

- (ii) If the last of the aforesaid 36 months is not the month of March, the balance at the end of said last month shall include interest in respect of the period from the beginning of the financial year in which death occurs to the end of the said last month.

Note 2. Payment under this scheme shall be in whole rupees. If an amount due includes a fraction of a rupee it shall be rounded to the nearest rupees (50 paise or above counting as the next higher rupee).

Note 3. Any sum payable under this scheme is in the nature of insurance money and, therefore, the statutory protection given by section 3 of the Provident Fund Act, 1925 (Act 19 of 1925) does not apply to sums payable under this Scheme.

<sup>100</sup>Note 4. In a case of member who died before the 30Th day of May, 2000 the rate of amount as specifying in condition (a) and (b), before the commencement of the All India Services (DCRB) Amendment Rules, 2003 shall be applicable.

### 19-C. Recovery and Adjustments of Government dues:-

- (1) It shall be the duty of every retiring member of the service to clear all Government dues before the date of his retirement.
- (2) Where a retiring member of the Service does not clear the Government dues and such dues are ascertainable:-
  - (a) an equivalent cash deposit may be taken from him; or
  - (b) an equivalent amount shall be deducted from the gratuity and the death-cum-retirement gratuity.

*Explanation:* For the purpose of this rule, dues which are ascertainable shall include balance of house building or conveyance advance, arrears of rent and other charge pertaining to occupation of Government accommodation, over payment of pay and allowances and arrears of income-tax deductible at source under the Income-tax Act, 1961 (43 of 1961).

## 20 [ ]

### 21. Nominations:-

- (1) For the purpose of this rule-
  - (a) "family" shall include the following relatives of the member of the Service:-
    - (i) Wife or husband;
    - (ii) sons;
    - (iii) unmarried and widow daughters;

<sup>100</sup>Inserted vide DOP&T Notification No. 25011/06/2000-AIS(II)(A) (G.S.R 385(E) dt 08.05.2003).



- (iv) brothers below the age of 18 years, and unmarried or widowed sisters;
- (v) Father;
- (vi) mother;
- (vii) married daughters; and
- (viii) children of a pre-deceased son.

NOTE 1.- Items (ii) and (iii) will include step children.

NOTE 2.- An adopted son or an adopted daughter may be treated as son or daughter for the purpose of this rule provided that the Accounts Officer, or if any doubt arises in the mind of the Accounts Officer, the solicitor to the State Government is satisfied that under the personal law of the member of the service, adoption is legally recognised conferring the status of a natural child.

- (b) "person" shall include any company or association or body of individuals whether incorporated or not.

- (2) A member of the Service shall, soon after confirmation in the Service make a nomination conferring on one or more persons the right to receive the death-cum-retirement gratuity, that may be sanctioned under sub-rule (2) or clause (b) of sub-rule (3) of rule 19 and any gratuity, which having become admissible to him under rule 18 had not been paid to him before his death.

Provided that:

- (i) if at the time of making the nomination, the member of the Service has a family, the nomination shall not be in favour of any person or persons other than the members of his family; and
  - (ii) where the member of the Service has only one member in his family in whose favour the original nomination should be made the alternate nomination can be made in favour of any person who is not a member of his family or in favour of a body of persons corporate or incorporate.
- (3) If a member of the Service nominates more than one person under sub-rule (2), he shall specify in the nomination the amount or share payable to each of the nominees in such manner as to cover the whole amount of death gratuity.
- (4) A member of the Service may provide in a nomination -
  - (a) in respect of any specified nominee that in the event of his predeceasing the member of the Service, the right conferred upon 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 member of the Service has a family consisting of more than one member, the person to be specified shall not be a person other than a member of his family; and

- (b) that the nomination shall become invalid in the event of the happening of a contingency specified therein.
- (5) The nomination made by a member of the Service who has no family at the time of making it, or a provision made in a nomination under clause (a) of sub-rule (4) by a member of the Service whose family consists, at the time of making the nomination, of only one member, shall become invalid in the event of the member of the Service subsequently acquiring a family or an additional member in the family, as the case may be.
- (6) Every nomination shall be in such one of the forms given in Schedules D to G, as may be appropriate in the circumstances of the case.
- (7)(a) A member of the Service may at any time cancel a nomination by sending a notice in writing to his Accounts Officer; provided that the member of the Service shall along with such notice send a fresh nomination made in accordance with this rule.
- (b) Immediately on the death of a nominee in respect of whom no special provision has been made in the nomination under clause (a) of sub-rule (4) or on the occurrence of any event by reason of which the nomination becomes invalid in pursuance of clause (b) of that sub-rule (5), a member of the service shall send to his Accounts Officer a notice in writing formally cancelling the nomination together with a fresh nomination made in accordance with this rule.
- (8) Every nomination made and every notice of cancellation given by a member of the Service under this rule shall be sent by him to his Accounts Officer.
- (9) Every nomination made and every notice of cancellation given by a member of the Service shall to the extent that it is valid take effect on the date on which it is received by the Accounts Officer.

<sup>101</sup> **22. Family Pension:-**

(1) The provisions of this rule shall apply, -

- (a) to a member of service appointed to the service on or after the 1st January, 1964; and
- (b) to a member of service who was in service on the 31st December, 1963 and who opted for the benefits of this rule under the orders issued by the Central Government.

NOTE. - The provisions of this rule shall also extend, from 22<sup>nd</sup> September, 1977, to member of service who retired or died before the 31<sup>st</sup> day of December, 1963, as also to those who were alive on the 31<sup>st</sup> day of December, 1963, but had opted out of the 1964 Scheme.

(2) Without prejudice to the provisions contained in sub-rule (5), where a member of service dies, -

- (i) after completion of one year of continuous service; or
- (ii) before completion of one year of continuous service:

Provided that the deceased member of service 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

- (iii) after retirement from service and was on the date of death in receipt of a pension, or compassionate allowance, referred to in these rules,

the family of the deceased shall be entitled to family pension under the Family Pension Scheme for State Government or Central Government Employees, 1964, the amount of which shall be determined at a uniform rate of 30% of basic pay subject to a minimum of three thousand and five hundred rupees per mensem and a maximum of twenty-seven thousand rupees per mensem.

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

3 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.

4. In addition to family pension admissible in accordance with sub-rule (2), (3) and (5), after completion of eighty years of age or above, additional family pension shall be payable in the following manner : -

Age of family pensioner	<u>Additional family pension</u>
From 80 years to less 85 years	20% of basic family pension
From 85 years to less 90 years	30% of basic family pension
From 90 years to less 95 years	40% of basic family pension
From 95 years to less 100 years	50% of basic family pension
100 years or more	100% of basic family pension

- (5)(a) (i) Where a member of service, 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 and the amount so admissible shall be payable from the date following the date of death of the member of service for a period of ten years.
- (ii) In the event of death of a member of service after retirement, the family pension as determined under sub-clause(a) shall be payable for a period of seven years, or for a period up to the date on which the retired deceased member of service would have attained the age of sixty seven years had he survived, whichever is less:

Provided that in no case the amount of family pension determined under sub-clause (b) 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 member of service may have commuted before his death.

- (b) After expiry of the period referred to in clause (a), the family, in receipt of family pension under that clause, shall be entitled to family pension at the rate admissible under sub-rule (2).
- (6) Where an award under the Extraordinary Pension Rules, 1939, is admissible, no family pension under this rule shall be authorised during the currency of such award.

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

- (i) subject to first proviso, in the case of a widow or widower, up to the date of death or re-marriage, whichever is earlier;
- (ii) subject to second proviso, in the case of an unmarried son, until he attains the age of twenty-five years or until he gets married or until he starts earning his livelihood, whichever is the earliest;
- (iii) subject to second and third provisos, in the case of an unmarried or widowed or divorced daughter, until she gets married or remarried or until she starts earning her livelihood, whichever is earlier;
- (iv) subject to sub-rule (12), in the case of parents, who were wholly dependent on the member of service immediately before the death or the member of service, for life;
- (v) subject to sub-rule (13) and the fourth proviso, in the case of disabled siblings (i.e., brother and sister) who were dependent on the member of service immediately before the death of member of service, for life:

Provided that family pension shall continue to be payable to a childless widow on re-marriage, if her income from all other sources is less than the amount of minimum family pension under sub-rule (2) of this rule and the dearness relief admissible thereon:

Provided further that if the son or daughter of a member of service is suffering from any disorder or disability of mind including the 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 member of service, the family pension shall be initially payable to the minor children (mentioned in clause (ii) or clause (iii) of this sub-rule) in the order set out in clause (iii) of sub-rule (9) of this rule until the last child attains the age of twenty-five and thereafter the family pension shall be resumed in favour of the son or daughter suffering from disorder or disability of mind, including the mentally retarded, or who is physically crippled or disabled and shall be payable to him or her, for life;
- (ii) if there are more than one such son or daughter suffering from disorder or disability of mind 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 or her ceases to be eligible :

Provided that where the family pension is payable to such twin children it shall be in the manner set out in clause (d) of sub-rule (8) 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 or 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 Board comprising of a Medical Superintendent or a Principal or a Director or Head of the Institution or his nominee as Chairman and two other members, out of which at least one shall be a Specialist in the particular area of mental or physical disability including mental retardation 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 a certificate from a Medical Superintendent or a Principal or a Director or Head of the Institution or his nominee as Chairman and two other members, out of which at least one shall be a Specialist in the particular area of mental or physical disability including mental retardation, once, if the disability is permanent and if the disability is temporary, once in every five years 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 member of service or the pensioner, as the case may be, and in case no such nomination has been furnished to the Head of Office by such member of service or pensioner during his lifetime, to the person nominated by the spouse of such member of service or family pensioner, as the case may be, later on and the Guardianship Certificate issued under section 14 of the National Trust Act, 1999 (No.44 of 1999), by a local level Committee, shall also be accepted for nomination or appointment of guardian for grant of family pension in respect of persons suffering from Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities as indicated in the said Act:

Provided also that the grant or continuance of family pension to an unmarried or widowed or divorced daughter beyond the age of twenty-five years or until she gets married or re-married or until she starts earning her livelihood, whichever is the earliest, shall be subject to the following conditions, namely:-

- (i) the family pension shall be initially payable to the minor children (mentioned in clause (ii) or clause (iii) of this sub-rule) in the order set out in clause (iii) of sub-rule (9) of this rule until the last minor child attains the age of twenty-five years; and
- (ii) there is no disabled child eligible to receive family pension in accordance with the second proviso of this sub-rule:

Provided also that such disabled siblings shall be eligible for family pension for life in the same manner and following the same disability criteria, as laid down in this rule in the case of son or daughter of the member of service or pensioners suffering from any disorder or disability of mind (including mentally retarded) or 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.

Explanation 1.- An unmarried son or an unmarried or widowed or divorced daughter, except a disabled son or daughter become ineligible for family pension under this sub-rule from the date he or she gets married or remarried.

Explanation 2.- The family pension payable to such a son or a daughter or parents or siblings shall be stopped if he or she or they start earning his or her or their livelihood.

Explanation 3.- It shall be the duty of son or daughter or siblings or the guardian to furnish a certificate to the Treasury or Bank, as the case may be, once in a year that, (i) he or she has not started earning his or her livelihood, and (ii) he or she has not yet married or remarried and a similar certificate shall be furnished by a childless widow after her re-marriage or by the disabled son or daughter or by parents to the Treasury or Bank, as the case may be, once in a year that she or he or they have not started earning her or his or their livelihood.

Explanation 4.- For the purpose of this sub-rule, a member of the family shall be deemed to be earning his or her livelihood if his or her income from other sources is equal to or more than the minimum family pension under sub-rule (2) of this rule and the dearness relief admissible thereon.

Explanation 5.- Parents shall be deemed to be dependent on the member of service if their combined income is less than the minimum family pension under sub-rule (2) of this rule and the dearness relief admissible thereon.

Explanation 6.- Disabled sibling shall be deemed to be dependent on the member of service if their income is less than the minimum family pension admissible under sub-rule (2) of this rule and dearness relief thereon.

Explanation 7.- Family pension payable to a childless widow shall be stopped if, after re-marriage, her income from all other sources becomes equal to, or exceeds, the amount of minimum family pension under sub-rule (2) of this rule and the dearness relief admissible thereon.

(8)(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 member of service 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 member of service 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 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 member of service or pensioner is survived by a widow but has left behind eligible child or children from a divorced or an illegally wedded 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 member of service or pensioner had she not been so divorced or had she been legally wedded :

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 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.

**Note.-** In past cases, no recovery from the previous beneficiary should be made. On receipt of an application from eligible child or children of the member of service or pensioner born to an ineligible mother, a decision regarding division or otherwise of family pension may be taken by the competent authority after satisfying himself or herself about veracity of facts and entitlement of the applicant.

- (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 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 or twin children.

- (9) (i) Except as provided in sub-rule (8), the family pension shall not be payable to more than one member of the family at the same time,-
- (i) if a deceased member of service 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;
- (ii) 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 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 (8) of this rule.



- (10) Where a deceased member of service 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 (7), as the case may be, and after the expiry of that period the next child shall become eligible for the grant of family pension.
- (11) Where family pension is granted under this rule to a minor, it shall be payable to the guardian on behalf of the minor.
- (12)(a) Family pension to the parents shall be payable if the parents were wholly dependent on the member of service immediately before his death and the deceased member of service is not survived by a widow or an eligible child.  
  
(b) The family pension, wherever admissible to parents, will be payable to the mother of the deceased member of service failing which to the father of the deceased member of service.
- (13) Family pension to the dependent disabled siblings shall be payable if the siblings were wholly dependent upon the member of service immediately before his death and deceased member of service is not survived by a widow or an eligible child or eligible parents.
- (14) In case both wife and husband are members of service 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 is eligible to draw two family pensions at the rate mentioned in sub-rule (5), the amount of both the pensions shall be limited to forty-five thousand rupees per mensem;  
  
(ii) if one of the family pensions ceases to be payable at the rate mentioned in sub-rule (5), 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 forty-five thousand 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 twenty-seven thousand rupees per mensem.
15. Where a female member of service or male member of service 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 member of service 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.

- (16)(a) Where a female member of service or male member of service 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;
  - (c) Subject to the proviso to sub-rule 15, after the child or children cease to be eligible for family pension under this rule, such family pension shall become payable to the surviving judicially separated spouse of the deceased member of service till his or her death or remarriage whichever is earlier.
- (17)(a) If a person, who in the event of death of a member of service while in service, is eligible to receive family pension under this rule, is charged with the offence of murdering the member of service 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 member of service, 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 member of service,
    - (ii) is acquitted of the charge of murder or abetting in the murder of the member of service, the family pension shall be payable to such a person from the date of death of the member of service.
  - (c) The provisions of clause (a) and clause (b) shall also apply for the family pension becoming payable on the death of a member of service after his retirement.
- (18)(a)(i) As soon as a member of service enters Government service, he shall give details of his family in Schedule 'J' to the Head of Office.
  - (ii) If the member of service has no family, he shall furnish the details in Schedule 'J' as soon as he acquires a family.
  - (b) The member of service shall communicate to the Head of Office any subsequent change in the size of his family, including the fact of marriage of his child.
  - (c) As and when the disability referred to in the proviso to sub-rule (7) manifests itself in a child which makes him unable to earn his 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 and this may be indicated in Schedule 'J' by the Head of Office.

- (d) 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.
- (e)(i) The Head of Office shall, on receipt of the said Schedule 'J', get it pasted on the service book of the member of service concerned and acknowledge receipt of the said Schedule 'J' and all further communications received from the member of service in this behalf.
- (ii) The Head of Office on receipt of communication from the member of service regarding any change in the size of family shall have such a change incorporated in Schedule 'J'.
- (19) 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.
- (20) For the purposes of this rule, -
  - (a) "continuous service" means service rendered in a temporary or permanent capacity by member of service 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;
  - (b) "family" in relation to a member of service means-
    - (i) wife in the case of a male Member of service, or husband in the case of a female member of service;
    - (ii) 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;
    - (iii) unmarried son who has not attained the age of twenty-five years and unmarried or widow or divorced daughter, including such son and daughter adopted legally;
    - (iv) dependent parents;
    - (v) dependent disabled siblings (i.e., brother or sister) of a member of service.
  - (c) "pay" means –
    - (i) the emoluments as specified in 2(1)(bb), or
    - (ii) the average emoluments as referred to in 2(1)(aa) if the emoluments of the deceased member of service have been reduced during the last ten months of his service otherwise than as penalty.”.

22-A. [ ]<sup>102</sup>

22-B. [ ]<sup>103</sup>

22-C. [ ]<sup>104</sup>

23. [ ]<sup>105</sup>

24. [ ]<sup>106</sup>

**25. Commutation of Pension.-** A member of the Service may commute his pension under such conditions and to such extent as may be prescribed by Regulations made in this behalf by the Central Government after consultation with the Government of the States.

---

102 Substituted vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013)

103 Substituted vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013)

104 Substituted vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013)

105 Deleted vide MHA Notification No. 29/60-AIS(II) dt 31.12.62

106 Deleted vide MHA Notification No. 29/60-AIS(II) dt 31.12.62

<sup>107</sup>**26. Acceptance of employment after retirement. -**

- (1) A pensioner shall not accept any commercial employment before the expiry of <sup>108</sup>one year from the date of his retirement, except with the previous sanction of the Central Government by submitting an application in Schedule 'L'. If a pensioner accepts a commercial employment without such sanction, it shall be competent for the Central Government to declare by an order in writing that he shall not be entitled to the whole or such part of the pension and for such period as may be specified in the order:

Provided that the previous sanction may be granted by the State Government concerned on whose cadre the member of the service is borne and who is not holding a post higher than a post in the pay scale of Rs.22400-24500/- and has not worked under the Central Government during the preceding<sup>109</sup>three years prior to his retirement from the service.

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

<sup>110</sup>Provided also that it shall be competent for the Central Government or the State Government, as the case may be, to allow the pensioner to continue in any commercial employment in an organisation with whom the services of the Members of the All India Services had been placed immediately before his/her retirement under the provisions of the respective Cadre Rules of All India Services pending formal sanction of such commercial employment subject to the condition that the Member of the Service shall withdraw from such organisation forthwith once a decision is taken by the Competent Authority not to accord such sanction."

<sup>111</sup>Provided also that a pensioner who has been permitted by the Central Government to take up a particular commercial employment during leave preparatory to retirement shall not be required to obtain subsequent permission for his continuance in such employment after retirement.

<sup>112</sup>**Explanations:**

- (1) 'Commercial Employment' means: -
- (i) an employment, whether paid or honorary, in any capacity including that of an agent under a company, firm, co-operative society, body or individual engaged in trading, commercial, industrial, financial or professional business, and includes a directorship of such company or partnership of such firm but does not include employment under a body corporate, wholly or substantially owned or controlled by Government;

<sup>107</sup> Amended vide DP&T Notification No. 25011/12/82-AIS(II) dated 16.7.83 (GSR No. 557 dt 30.7.83)

<sup>108</sup> Substituted vide notification no. 26013/2/2006AIS(II) dated 12/1/2007.

<sup>109</sup> substituted vide notification no. 26013/3/2006-AIS(II), dated 12/1/2007.

<sup>110</sup> Inserted vide notification no. 23013/11/2005-AIS(II), dated 8/3/2007.

<sup>111</sup> Substituted vide notification no. 29018/11/2003-AIS(I) dated 20/12/2004

<sup>112</sup> Amended vide DP&T Notification No. 25011/12/82-AIS(II) dated 16.7.83 (GSR No. 557 dt 30.7.83)

- (ii) setting up practice, either independently or as a partner of a firm, as adviser or consultant in matters in respect of which a pensioner has-
  - (a) no professional qualifications and the matters in respect of which the practice is proposed to be set up or carried on are relatable to his official knowledge or experience; or
  - (b) 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
  - (c) to undertake work involving liaison or contact with the offices or officers of the Government.

NOTE: 1 For the purpose of this Explanation, '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.

- 2. For the purpose of this sub-rule the expression "the date of retirement" in relation to a pensioner re-employed after retirement, without any break either in a Class I post under the Central Government, or in an equivalent post under a State Government, shall mean the date on which such pensioner finally ceases to be so re-employed in Government service.

- (2) A pensioner shall not accept any employment under a Government outside India, (or under an international organization of which the Government of India is not a member) except with the previous sanction of the Central Government. No pension shall be payable to a pensioner who accepts such an employment without such sanction in respect of any period for which he is so employed or for such longer period as the Central Government may determine:

Provided that a pensioner who has been permitted by the Central Government to take up a particular employment under a Government outside India during his leave preparatory to retirement shall not be required to obtain subsequent permission for continuance in such employment.

NOTE.- "Employment" under a "Government outside India" shall include employment under a local authority or corporation or any other institution or organisation which functions under the supervision or control of a Government outside India.

- <sup>113</sup>(3) In granting or refusing permission under sub-rule (1) or sub rule (2) to a pensioner for taking up any employment, the Central Government or the State Government, as the case may be, shall have the following factors, namely:-

- (i) whether the organisation the pensioner proposes to join has any conflict of interest or activities prejudicial to India's foreign relations, national security and domestic harmony; and whether the organisation is undertaking any form of

---

<sup>113</sup> Substituted vide notification no. 26013/3/2006-AIS(II), dated 12/1/2007

intelligence gathering;

- (ii) whether the pensioner has been privy to sensitive or strategic information in the last three years of his service which is directly related to the areas of interest or work of the organisation which he proposes to join or the areas in which he proposes to practice/consult,
- (iii) whether there is conflict of interest between policies of the office(s) held by the pensioner during the last three years and the interest represented or work undertaken by the organisations he proposes to join. Such conflict of interest, however, should not be interpreted narrowly to mean normal economic competition with Government or its Undertakings,
- (iv) whether the service record of the pensioner is clear, particularly with respect to integrity and dealings with Non-Government Organisations,
- (v) the emoluments offered by the proposed employer to the pensioner and whether the proposed emoluments and pecuniary benefits are far in excess of those currently prevalent in the Industry.(The word “far in excess” should not be narrowly interpreted to cover increases in such benefits that may be result of buoyancy in the industry or in the economy as a whole); and
- (vi) any other relevant factors.”

**27. Anticipatory Payments:-**

- (1) Where a member of the Service is likely to retire before his pension can be finally, assessed and settled in accordance with these rules, the Accounts officer shall sanction the disbursement to him of pension to which, after the most careful summary investigation that the Accounts Officer can make without delay, he believes the member of the Service to be entitled, on the basis of his verified qualifying service, provided that such disbursement shall be made only after the declaration specified in Schedule 'I' has been signed by the retiring member of the service.
- (2) If the Accounts Officer considers it likely that, in a case contemplated under sub-rule (1), the member of the Service would be entitled to gratuity only, one-sixth of the amount of gratuity which, after the most careful summary investigation that the Accounts Officer can make without delay, he believes the member of the Service to be entitled shall, upon a similar declaration, be disbursed to him monthly until the amount is finally settled or for six months, whichever period is less.
- (3) The payment of the anticipatory pension or gratuity shall be so arranged that it is not delayed beyond the first of the month following the month in which the member of the Service is due to retire.
- (4) If, upon the completion of regular investigation, it be found that the pension thus summarily assigned differs from the pension finally settled, the difference shall be adjusted in the first payment after such final settlement:

Provided that if a gratuity summarily assigned under sub-rule (2) proves to be larger than the amount finally settled, the retired member of the Service shall not be required to refund any excess actually paid to him unless otherwise decided by the State Government.

- (5) Subject to the general conditions prescribed above the anticipatory payments of death-cum-retirement gratuity and family pension may also be sanctioned to the extent of 3/4ths of the amounts clearly admissible on the basis of the qualifying service as verified up to the date of sanction, and after a declaration in the form given in Schedule 'I' has been signed by the recipient.

<sup>114</sup>**27-A Revision of Pension after authorisation-**

- (i) Subject to the provisions of rule 3 and Rule 6, Pension once authorised after final assessment shall not be revised to the disadvantage of the member of the service, unless such a revision becomes necessary on account of detection of a clerical error subsequently;

---

<sup>114</sup> Inserted vide DP&T Notification No. 25011/24/97-AIS(II)A dt 19.12.97 (GSR No. 717E dt 9.12.97)



Provided that no revision of pension to the disadvantage of the pensioner shall be ordered by any Authority without the concurrence of the Department of Personnel and Training, if the clerical error is detected after a period of two years from the date of occurrence of such error.

- (ii) For the purpose of sub rule (I), the pensioner concerned shall be served with a notice by the sanctioning authority requiring him to refund the excess payment of pension within a period of two months from the date of receipt of notice by him.
- (iii) In case the pensioner fails to comply with the notice, the authority competent to sanction pension/family pension 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 such authority may direct.

## **28 Miscellaneous:-**

- (1) The amount of pension shall be rounded off to next higher rupee.
- (2) The retirement benefits under these Rules shall be drawn in rupees in India only.
- (3) Application for the grant of retirement benefits under these Rules shall be made in such form as may be prescribed by the Central Government.
- (4) The <sup>115</sup>[ ] payment of retirement benefits admissible under these Rules shall be regulated by such procedural instructions as may be issued by the Central Government.
- (5) A pension under these Rules shall be payable from the date on which the date on which the member of the Service quits service or from the date of his application for pension whichever is later.

Provided that where satisfactory explanation is forthcoming for the delay in making an application for pension, the State Government may allow the pension to take effect from the date on which the member of the Service quits service.

- (6) The claim of a member of the service to the retirement benefits shall be regulated by the rules in force at the time when the member of the service resigns, retires or is retired or discharged from service or where the member of the Service dies while in service immediately before death.
- (7) The authorities competent to retire a member of the Service on different kinds of retirement benefits shall be those indicated in <sup>116</sup>Schedule K.

**29. Interpretation:-** If any question arises as to the interpretation of these rules, the Central Government shall decide the same.

**30. Repeal:-** All rules corresponding to these rules in force immediately before the commencement of these rules are hereby repealed.

<sup>115</sup> Omitted vide DP&AR Notification No. 25011/13/80-AIS(II) dt 11.9.80 (GSR No. 978 dt 27.9.80)

<sup>116</sup> Substituted vide DP&AR Notification No. 25011/7/82-AIS(II) dt 24.3.83 (GSR No. 293 dt 9.4.83)

## SCHEDULES

### <sup>117</sup>SCHEDULE A - [Deleted.]

### <sup>118</sup>SCHEDULE B [ " ]

## SCHEDULE C

### (a) *Form of Medical Certificate in India*

The form of the certificate to be given respecting a member of the Service in India is as follows:-

"Certified that we have carefully examined A.B. son of C.D.....holding the post of ..... Under the Government..... His age is by his own statement.....years, and by appearance about .....years. We consider A.B. to be completely and permanently incapacitated for further service of any kind in the Indian Administrative Service/Indian Police Service in consequence of ..... (here state disease or cause). His capacity does not appear to us to have been caused by irregular or intemperate habits".

NOTE- (If the incapacity is obviously the result of intemperance, substitute for the last sentence: "In our opinion his incapacity is the result of irregular or intemperate habits".)

(If the incapacity does not appear to be complete and permanent, the certificate should be modified accordingly and the following addition should be made. `We are of opinion that A.B. is fit for further service of a less laborious character than that which he has been doing (or may after resting for .....months, be fit for further service of a less laborious character than that which he has been doing)').

### (b) *Form of Medical Certificate in countries outside India*

The form of the medical certificate given by the Medical Board attached to the Indian Mission abroad in respect of a member of the Service in a station outside India is as follows:-

"We have carefully examined A.B. ....taking into account all the facts of the case as well as his present condition, we consider that A.B. , is permanently incapacitated for further service in India".

NOTE:- (If the incapacity is obviously the result of intemperance add the following sentence at the end:-

"In our opinion his incapacity is the result of irregular or intemperate habits".)

---

<sup>117</sup> Deleted vide DP&AR Notification No. 25011/14/79-AIS(II) dt 1.9.79 wef 31.3.79 (GSR No. 151 dt 15.9.79)

<sup>118</sup> Deleted wef 31.12.72 vide DP&AR Notification No. 33/12/73-AIS(II) dt 24.1.75 read with No. 25011/29/75 dated 30.1.76

## 119 SCHEDULE D

*Nomination for death-cum-retirement Gratuity (when the member of the Service has a family and wishes to nominate one member thereof)*

I hereby nominate the person mentioned below who is a member of my family and confer on him the right to receive any death-cum-retirement gratuity that may be sanctioned by State Government in the event of death while in service and the right to receive on my death, any gratuity which having become admissible to me on retirement may remain unpaid at my death.

Name and address of nominee	Relationship with the member of the Service	Age	Contingencies on the happening of which the nomination shall become invalid.	Name, address and relationship of the person or persons if any, to whom the right conferred on the nominee shall pass in the event of the nominee predeceasing the member of the Service the nominee dying after the death of the member of the Service but before receiving payment of the gratuity.	Amount of share or gratuity payable to each
1	2	3	4	5	6

This nomination supersedes the nomination made by me earlier on ..... which stands cancelled. Dated this..... day of .....19 at.....

<sup>120</sup>**SCHEDULE E***Nomination for Death-cum-Retirement Gratuity*

(When the member of the Service has a family and wishes to nominate more than one member thereof)

I hereby nominate the persons mentioned below, who are members of my family, and confer on them the right to receive, to the extent specified below any death-cum-retirement gratuity that may be sanctioned by State Government in the event of my death while in service and the right to receive on my death, to the extent specified below, any gratuity which having become admissible to me on retirement may remain unpaid at my death:

Name and address of nominee	Relationship with the member of the Service	Age	Amount or share of gratuity payable to each*	Contingencies on the happening of which the nomination shall become invalid	Name, address and relationship of the person or persons if any, to whom the right conferred on the nominee shall pass in the event of the nominee predeceasing the member of the Service or the nominee dying after the death of the member of the service but before receiving payment of the gratuity	*Amount of share of gratuity payable each
1	2	3	4	5	6	7

<sup>121</sup>**SCHEDULE F***Nomination for Death-cum-Retirement Gratuity*

(When the member of the Service has no family and wishes to nominate one person)

1. having no family, hereby nominate the person mentioned below and confer on him the right to receive any death-cum-retirement gratuity that may be sanctioned by State Government in the event of my death while in service and the right to receive on my death any gratuity which having become admissible to me on retirement may remain unpaid at my death.

<sup>120</sup> Substituted vide MHA Notification No. 29/7/60-AIS(II) dt 31.12.62

<sup>121</sup> Substituted vide MHA Notification No. 29/7/60-AIS(II) dt 31.12.62

Name and address of nominee	Relationship with the member of the Service	Age	Contingencies on the happening of which the nomination shall become invalid	Name, address and relationship of the person or persons if any, to whom the right conferred on the nominee shall pass in the event of the nominee predeceasing the member of the Service but before receiving the payment of gratuity	Amount or share of gratuity payable to each*
1	2	3	4	5	6

This nomination supersedes the nomination made by me earlier on.....which stands cancelled.

Dated this.....day of.....19 at.....

Witnesses to Signature:

1.....

2.....

Signature of the member of the Service.

## <sup>122</sup>**SCHEDULE G**

### *Nomination for death-cum-Retirement Gratuity*

(When the member of the Service has no family and wishes to nominate more than one person)

1. having no family, hereby nominate the persons mentioned below and confer on them the right to receive to the extent specified below, any death-cum-retirement gratuity that may be sanctioned by State government in the event of my death while in service specified below any gratuity which having become admissible to me on retirement may remain unpaid at my death.

Name and address of nominees	Relationship with the member of the Service	Age	Amount or share of gratuity payable to each*	Contingencies on the happening of which the nomination shall become	Name, address and relationship of the person or persons if any, to whom the right conferred on the nominee shall pass in	Amount of share of gratuity payable to each+

<sup>122</sup> Substituted vide MHA Notification No. 29/7/60-AIS(II) dt 31.12.62

				invalid	the event of the nominee predeceasing the member of the Service or the nominee dying after the death of the member of the Service but before receiving the payment of gratuity	
1	2	3	4	5	6	7

This nomination supersedes the nomination made by me earlier on..... which stands cancelled.

Dated this.....day of.....19 at.....

Witnesses to signature:

1.....

2.....

Signature of the member of the Service.

N.B.- The officer shall draw lines across the blank space below the last entry to prevent the insertion of any name after he has signed.

\*This column should be filled in so as to cover the whole amount of gratuity.

+The amount/share of gratuity shown in this column should cover the whole amounts/share payable to the original nominees.

## <sup>123</sup>SCHEDULE H

### *Nomination for Family Pension*

I hereby nominate the persons mentioned below, who are members of my family, to receive, in the order shown below, the family pension which may be granted by State Government in the event of my death after completion of 10 years qualifying service.

Name and address of nominee	Relationship with the member of Service	Age	Whether married or unmarried
1	2	3	4

This nomination supersedes the nomination made by me earlier on ..... Which stands cancelled.

Dated this .....day of ..... 19 at .....

Witnesses to signature:

1.....

2.....

Signature of the member of the Service.

N.B.- The officer should draw lines across blank space below the last entry to prevent the insertion of any name after he has signed.

## SCHEDULE I

### *Declaration Form*

Whereas the.....(here state the designation of the officer sanctioning the advance) has consented provisionally, to advance to me the sum of Rs.....a month/Rs.....in anticipation of the completion of the enquiries necessary to enable the Government to fix the amount of gratuity/pension/death-cum-retirement gratuity/family/pension, payable to me <sup>124</sup>(as the nominee/legal heir of Shri.....)

I hereby acknowledge that, in accepting this advance I fully understand that any gratuity/pension/death-cum-retirement gratuity/family pension, payable to me is subject to revision on the completion of the necessary formal enquiries and I promise to base no objection to such revision on the ground that the provisional gratuity/pension/death-cum-retirement gratuity/family pension now to be paid to me exceeds the gratuity/pension/death-cum-retirement gratuity/family pension which may be finally sanctioned to me. I further promise to repay any amount advanced to me in excess of the gratuity/pension/death-cum-retirement gratuity/family pension that may be finally sanctioned to me.

Signature.....

Designation (if a Government Servant).....

Station.....

Date.....

Witnesses to signature:

(With address),

1.....

2.....

---

<sup>124</sup> The words may be omitted where inapplicable

<sup>125</sup> **SCHEDULE J**

[See rule 22(11)(a)(i)]

*Details of Family :*

Name of the member of service					
Designation					
Date of birth					
Date of appointment					
Details of my family as on					
Serial	Name of the members of family	Date of birth	Relationship with the officer	Initial of the Head of Office	Remarks
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
I hereby undertake to keep the above particulars up-to-date by notifying to the Head of the Office any addition or alternation.					
Signature of Member of Service					
Place:					
Date:					
<p>* Family for this purpose means family as defined in clause (b) of sub-rule (20) of rule 22 of the All India Services (Death-Cum-Retirement Benefits) Amended Rules, 2013.</p> <p>NOTE. - Wife and husband shall include respectively judicially separated wife and husband.</p>					



## SCHEDULE K

Authorities Competent to Retire a Member of the service on various kinds of Retirement Benefits.

	Nature of Retirement Benefits	Authority Competent to Retire
	1	2
(i)	Proportionate pension under rule 7 and death-cum-retirement gratuity where admissible.	Central Government.
(ii)	Invalid gratuity or pension under rule 13 and death-cum-retirement gratuity where admissible.	State Government after obtaining then concurrence of the Central Government.
<sup>126</sup> (iii)	@ Superannuation pension or gratuity under sub-rule (4) of rule 16 and death-cum-retirement benefits where admissible.	State Government.
(iv)	Retiring pension under rule 17@ <sup>127</sup> [read with rule 16(2)16(2A) and death-cum-retirement gratuity where admissible.	State Government.
(iv-a)	Retiring pension under rule 17 <sup>128</sup> [read with rule 16(3)] and death-cum-retirement gratuity where admissible.	Central Government in Consultation with the State Government concerned.
(v)	Family Pension under rule 22, and death-cum-retirement gratuity where admissible.	State Government.

<sup>126</sup> Substituted wef 30.8.65 vide Notification No. 29/10/64-AIS(II) dt 1.9.65

<sup>127</sup> Substituted vide MHA Notification No. 29/47/60-AIS(II) dt 20.1.68.

<sup>128</sup> [ ] added vide Notification No. 29/50/64-AIS(II) dt 19.6.65

## 129 "Schedule L"

(See sub-rule (1) and (2) of rule 26)

Form of application to accept commercial employment

1. Name  
( in block letters)
2. Date of retirement
3. Ministry/Department/Office in which the officer served during the last three years preceding retirement (with duration):

Name of the Ministry/ Department/ Office	Post held	Duration	
		From	To

Note: Before granting permission a 'no objection' would be obtained from the Cadre Controlling Authority and from the office from where the officer retired.

4. Post held at the time of retirement and period for which held
5. Pay scale of the post and pay drawn by the Officer at the time of retirement
6. Pensionary benefits:

Pension expected/sanctioned (commutation, if any, should be mentioned)	Gratuity, if any

7. Details regarding commercial employment proposed to be taken up-

- <sup>130</sup>(a) (i) Name of the Organization/Firm/Company/Co-operative Society, etc..
- (ii) Brief nature of the organization.
- (iii) Full address of the registered office of the organisation.
- (iv) Permanent Account Number (PAN)/ Tax Identification Number (TIN)/ Registration Number of the Organization.
- (b) Type of business carried out and products being manufactured or services being provided by the firm/ company/co-operative Society, etc.
- (c) Whether the officer had during the last three years of his official career, any dealings with the firm company/co-operative Society, etc.

129 Substituted vide notification no. 26013/3/2006-AIS(II), dated 12/1/2007.

130 Substituted vide notification no. 26013/10/2011-AIS(II), dated 05/03/2014.

- (d) Duration and nature of the official dealings with the firm/company/co-operative Society, etc.
  - (e) Name of the job/post offered by the firm/company/co-operative Society, etc.
  - (f) Whether post was advertised, if not, how was offer made (attach details of the advertisement, and a copy of the offer of appointment, if any).
  - (g) Description of the duties of the job/post.
  - (h) Remuneration offered for post/job.
  - (i) If proposing to set up a practice, indicate
    - (i) professional qualification/in the field of practice,
    - (ii) nature of proposed practice.
9. Any information which the applicant desires to furnish in support of his request.
10. Declaration :-
- I hereby declare that-
- (i) The employment which I propose to take up will not involve activities prejudicial to India's foreign relations, national security and domestic harmony. It will not involve conflict of interest with the policies of the office(s) held by the me during the last three years and the interest represented or work undertaken by the organisations I propose to join and will not bring me into conflict with the working of the Government.
  - (ii) I have not been privy to sensitive or strategic information in the last three years of service which is directly related to the areas of interest or work of the organisation which I propose to join or the areas in which I propose to practice/consult.
  - (iii) My service record is clear, particularly with respect to integrity and dealings with Non-Government Organisations.

I agree to withdraw from the Commercial Employment in case of any objection by the Government.

Address:

Place:

Dated:

Signature of the applicant.”

GOVERNMENT OF INDIA'S DECISIONS**GOVERNMENT OF INDIA'S DECISIONS UNDER RULE 1****1. *The moS has the option to draw death-cum-retirement gratuity under the liberalised pension rules or under the old rules applicable to officers of the Central Services Class I:***

- The Government of India decided to give option to certain categories of officers to elect the old Rules by which they were governed previously of the pension rules as applicable to officers of the Central Services Class I. The following categories of officers were accordingly given the option indicated against them. The option was to be exercised in writing and communicated to the Accounts Officer within the stipulated time-limit. The option once exercised was final.

The officers who elected to be governed by the pension rules as applicable to officers of the Central Services, Class-I, were subsequently brought under these Rules after they were promulgated.

2. The Government of India have decided that, where death-cum-retirement gratuity has been drawn under the Liberalised Pension Rules by an officer who subsequently opted to be governed by the Old Pension Rules, the gratuity amount shall first be offset against any arrears of pension that may become due to him consequent on opting for Old Pension Rules. The remaining amount if any, may be recovered in one of the following methods. The officer concerned may also be given the option to elect for one of these two methods:-

- (i) the death-cum-retirement gratuity may be recovered in one lump-sum where this is possible or in such number of instalments as, in the opinion of the State Government will not put the officer to undue hardship subject to the condition that the number of such instalments does not exceed twelve. Where the amount is proposed to be recovered in instalments, a bond or other instrument may be taken from the officer binding himself and his heirs to refund the excess of death-cum-retirement gratuity recoverable from him;
- (ii) the death-cum-retirement gratuity may be treated as the commuted value of pension and adjusted accordingly. This method will be applicable only to those officers who have not already commuted any portion of their pension or have commuted less than the permissible limit, viz., half of the annuity. Where an officer had already commuted to the extent of one-third and becomes eligible for commuting one-half pension consequent on opting for Old Pension Rules, he need not be subject to a further medical examination. In the case of officer, who had not commuted any portion of their pension earlier the gratuity recoverable from them should be treated as automatic commutation of pension and the revised rate of pension reduced by the pension equivalent of gratuity as on age next birth day after retirement. They need to undergo medical examination only in case they desire to commute their pension further. The amount that may become admissible may then be set off against the amount of gratuity already received by the officers and the balance, if any, recovered in one instalment.

2.2. Individual cases of hardship may, however, be referred to the Government of India as and when they arise.

*[G.I., M.H.A. letter No. 2/16/56-AIS (II) Pt. II, dated the 31st March 1958, read with 2/33/58-AIS(III), dated the 8th April, 1959 and 2/43/59-AIS(III), dated the 17th June, 1959.]*

**3. Provisions of these rules are extended to the moS who retired/died before 29<sup>th</sup> November, 1951, but elected to be governed under these rules:** - It has been decided to extend these rules to officers who retired/died before the 29th October, 1951, but elected or are deemed to have elected these rules under the option given to them. It has also been decided that, in appropriate cases, provisions of article 487-A of the Civil Service Regulations may be applied, although these rules do not contain a similar provision.

*[G.I., M.H.A. letter No. 2/28/59-AIS(III), dated the 24th April, 1959, read with letter No. 2/41/59-AIS(III), dated the 24th August, 1959.]*

**4. IPS officers can retire under the Premature Retirement Rules:** - A question arose whether Indian Police Officers who elect to be governed by the All India Services (Death-cum-Retirement Benefits) Rules, 1958, had the right to retire under Premature Retirement Rules. Rule 30 of the All India Services (Death-cum-Retirement Benefits) Rules, 1958, has replaced only the corresponding provisions in the Superior Civil Service Rules, the Civil Services Regulations etc. and not the Premature Retirement Rules. The above category of Indian Police Officers shall therefore, retain the right to retire under the Premature Retirement Rules. In case of retirement under Premature Retirement Rules the pension shall, however, be determined under those Rules, and not under the All India Services (Death-cum-Retirement Benefits) Rules, 1958.

*[G.I., M.H.A. letter No. 2/10/59-AIS(III), dated the 9th August, 1960.]*

## GOVERNMENT OF INDIA'S DECISIONS UNDER RULE 2

**1. The State Government can issue a certificate with referent to a cadre post only. Additional charge allowed may be treated as pay for the purpose of calculation of pension: -**

- 1.1 Note (iii-b) below clause (aa) of rule 2(1) provides that in the case of a member of the Service, who was deputed to any foreign service during the last 10 months of his service, the pay should be reckoned with reference to his entitlement in the cadre. For this purpose a certificate given by the State Government would be sufficient. A question has been raised whether the State Government can issue such a certificate with reference to an ex cadre post. It has been decided in consultation with the Comptroller and Auditor General of India that the State Government can issue such a certificate with reference to a cadre post only. If a State Government issues such a certificate with reference to a cadre post having regard to the seniority of the officer, its validity cannot be questioned on the ground that the officer concerned never held such a post within the cadre or that there was no vacancy in the cadre during that period against which the certificate has been issued by the State Government.
- 1.2 It has been decided that the additional charge allowance granted to a member of the All India Service under rule 9B of the IAS(Pay) Rules or the corresponding rules applicable to the IPS and IFS should be treated as pay for the purpose of calculation of pension. [DP & AR letter No. 25011/56/77-AIS (II), dt. 16.2.78.]

2. The Ministry of Finance (Department of Expenditure) have issued orders treating a portion of dearness allowance as pay for the purpose of calculation of retirement benefits in the case of Central Government servants, who retired on or after the 30th September, 1977 vide their O.M. No. 19(4)-E. V/79, dated the 25th May, 1979.

2.2 The question of extending the above order to members of All India Services, who retired on or after 30<sup>th</sup> September, 1977 has been considered. It has been decided that out of the dearness allowance admissible, the following amounts shall be treated as pay under sub-clause (iii) of clause (g) of sub-rule (1) of rule 2 of AIS (DCRB) Rules, 1958, in the case of members of All India Services, who retired on or after the 30th September, 1977:-

(a)

<i>Pay range</i>	<i>Amount of Dearness Pay</i>
------------------	-------------------------------

(i) Up to Rs.2157	27% of pay subject to maximum of Rs.243.00
-------------------	--

(ii) Above Rs.2157  and up to Rs.2399	The amount by which pay falls short of Rs.2400.00
---	---

(b) in the case of officers drawing pay above Rs. 2180/- and retiring on or after 1-12-78, the amount of dearness pay will be as follows in substitution of provisions of para 2.2(a)(ii) above:-

<i>Pay range</i>	<i>Amount of Dearness Pay</i>
------------------	-------------------------------

(i) Above Rs.2180 and up to Rs.2380/-	Rs.220.00
--	-----------

(ii) Rs.2381 up to 2450/-	The amount by which pay falls short of Rs.2600/-
------------------------------	---

(iii) Rs.2451/- and Up to Rs.2500	Rs.150.00
--------------------------------------	-----------

(iv) Rs.2501/- and  up to Rs.2599/-	The amount by which pay  falls short of Rs.2600/- + Rs.50/-
---	---

(v) Rs.2600 and Rs.50/-  
up to Rs.2650/-

(vi) Above Rs.2650/- Nil

Officers drawing between Rs.2157/- and Rs.2179/- will continue to be governed by the provisions of para 2.2(a)(ii) above.

The amount of dearness pay as indicated in para 2 above, will be treated as emoluments under clause (bb)(ii) of sub-rule (1) of rule 2 *ibid* for calculating pension and gratuities. However, there will be no change in the maximum amount of gratuity of Rs.30,000.00 admissible under rule 19 *ibid* . or in the minimum emoluments of Rs.2,500.00 per month that could be taken into account from computing DCR gratuity, as envisaged in Note below rule 19 *ibid*.

The amount of dearness pay as indicated in para 2 above, will be taken into account for determining average emoluments as envisaged in sub-rule (1) (aa) of rule 2 *ibid* for calculating pension except as stated in para 2.3 below.

2.3 In the case of officers who have already retired on or after 30.9.1977/1.12.1978 but within 10 months of those dates, the average emoluments will be calculated as follows:

(a)

(i) In the case of officers who retired between 30.9.1977 and 28.2.1978

One half of dearness pay appropriate to the pay equal to such average emoluments shall be added to the average emoluments.

(ii) In the case of officers who retired on or after 1.12.1978 but not later than 30.4.1979 and are governed by para 2.2(b)

(b)

(i) In the case of officers who retired after 28.2.1978, and

Full dearness pay appropriate to the pay equal to such average emolument shall be added to the average emoluments.

(ii) Those who retired after

30.4.1979 and are governed by para 2.2(b) above.

2.4 Pension and gratuities of officers who have already retired or died on or after the 30th September, 1977 shall be recalculated on the above basis, and arrears, if any, paid subject to such adjustments as may be necessary. Officer who retired on or after the 30th September, 1977, but not later than the 30th April, 1979, will have an option to choose either of the two alternatives below:-

- (a) to have their pension and DCR Gratuity calculated on their pay excluding the element of Dearness Pay as indicated in para 2.2 above in accordance with the rules in force on 30.9.1977 and get graded reliefs on pension to the full extent admissible from time to time;

OR

- (b) to have their pension and DCR Gratuity recalculated after taking into account the element of dearness pay. In such cases, the first four instalments of graded relief sanctioned upto the average index level 272 will not be admissible; these pensioners will be entitled only to the instalments of graded relief sanctioned beyond the average index level 272.

2.5 The option will have to be exercised by 31.1.1980. The option once exercised will be final. In cases where the pensioner has died before exercising an option, the State Government/Accountant General will, on an application made to them, calculate the pension and death-cum-retirement gratuity on the existing basis as well as on the basis of merged portion of dearness allowance, and allow the more advantageous of the two to the persons entitled to receive the arrears of pension. Those who fail to exercise the option or make an application (in the case of death of a pensioner) within the stipulated period will be governed by para 2.4(b) above.

2.6 Where the option is exercised in favour of the alternative (b) in para 2.4 above, the amount of graded relief paid in excess of that now admissible will be adjusted against the balance of D.C.R. gratuity payable or against the future payments of reduced amount of graded relief.

2.7 These orders may be brought to the notice of all All India Services officers, who retired on or after the 30th September, 1977.

2.8 These orders are issued with concurrence of Ministry of Finance (Department of Expenditure) vide their UO No. 4562-EV/79, dated 11.7.1979.

[DP&AR letter No. 25011/15/79-AIS(II), dated the 27th July, 1979.]

**3. Orders of the Ministry of Finance treating a portion of additional dearness allowance as dearness pay in the case of Central Government servants is extended to the members of the AIS:** - The question of extending the orders contained in the Ministry of Finance O.M. No. F. 1(3)-E.V./82, dated 8.4.1982 to members of the All India Services who retired on or after 31.1.1982 has been considered and it has been decided that the orders of the Ministry of Finance treating a portion of additional dearness allowance as dearness pay in the case of



Central Government servants should also be extended to the members of the All India Services. Accordingly, it has been decided that out of the additional dearness allowance now admissible, the following amount shall be treated as pay under sub-clause (iii) of clause (g) of sub-rule (1) of rule 2 of A.I.S. (DCRB) Rules, 1958 in the case of members of the Service who retired/retire on or after 31.1.1982.

## 2 Pay range Amount of Dearness Pay

(i) Pay upto Rs. 2037 15% of pay subject to a maximum of Rs.120/-

(ii) Pay above Rs.2037 Rs. 370/- including the amount of dearness allowance treated as dearness pay under this Department's letter No. 25011/15/79 AIS (II) dated the 27th July, 1979.

3. The amount of dearness pay as indicated in para 2 above, will be treated as emoluments under clause (bb)(ii) of sub-rule (1) of rule 2 ibid for calculating pension and gratuity. It is proposed to revise the ceiling of DCR gratuity from Rs. 30,000 to Rs. 36,000 by suitable amending rule 19(3) ibid. However, there will be no change in the maximum emoluments of Rs. 2500/- p.m. that could be taken into account for computing DCR gratuity as envisaged in the note below rule 19 ibid.

4. The amount of dearness pay as indicated in para 3.2 above will be taken into account for determining average emoluments as envisaged in sub-rule (1) (aa) of rule 2 ibid for calculating pension except as indicated in para 3.5 below.

5. In the case of officers who have already retired on or after 31.1.1982 or may retire hereafter, but within ten months from that date, the ultimate average emoluments will be calculated as follows:

(a) In the case of officers who retired/retire between 31.1.82 and 29.6.82	One half of dearness pay appropriate to the pay equal to such average emoluments as per para 3.2 above, shall be added to the average emoluments.
--	---

(b) in the case of officers who retire after 29.6.82.	Full dearness pay appropriate to the pay equal to such average emoluments as per para 3.2 above, shall be added to the average emoluments.
---	--

6. Officers who retired/retire on or after 31st January, 1982 will have an option to choose either of the two alternatives below:-

(a) to have both pension/service gratuity and DCR gratuity calculated on their pay, without including the element of dearness pay indicated in para 3.2 above, and get dearness relief

on pension as for these governed under para 4(b) of this department's letter dated the 27th July, 1979.

OR

(b) to have both pension/service gratuity and DCR gratuity calculated after taking into account the element of dearness pay now being merged. In such cases, the pensioners will be entitled only to the instalments of dearness relief sanctioned beyond the average index level 320.

7. The option may be exercised within six months before retirement. Officers who have retired on or after 31.1.1982 but before the issue of these orders, may exercise their option within six months from the date of issue of this order. The option once exercised shall be final. Those who fail to exercise the option within the stipulated period will be deemed to be governed by para 6(b) above. If a pensioner has died before exercising the option, the State Government / Accountant General shall calculate the pension and gratuity under both the options in para 6 above, and sanction the more advantageous of the two.

8. Where the option is exercised in favour of the alternative (b) in para 6 above, the amount of dearness relief in pension paid in excess of that now admissible will be adjusted against the balance of DCR gratuity payable or against the future payments of reduced amount of dearness relief.

9. These orders may be brought to the notice of all members of the service who retired/retire on or after 31.1.82.

10. These orders are issued with the concurrence of the Ministry of Finance (Department of Expenditure) vide their U.O. 1664-EV/82, dated 17.5.1982.

[DP&AR letter No. 25011/11/82-AIS (II), dated the 1st June, 1982 read with letter No. 25011/11/82-AIS (II), dated 10.5.82.]

**4. A moS on Central Deputation, who takes leave and retires at the end of leave, it may be deemed that he would have continued to officiate in the post in the Central Government before leave, but proceeding on such leave and accordingly his average emoluments should be determined for the purpose of calculation of retirement benefits:** - A cases has arisen in which orders were issued by the Central Government reverting a member of an All India Service on deputation to the Central Government to his parent cadre, but instead of joining duty under the State Government the member of the Service gave three months notice to the State Government under sub-rule (2) of rule 16 of the All India Services (DCRB) Rules, 1958 and applied to the Central Government for grant of leave co-terminus with the period of notice. This leave was granted by the Central Government and the officer proceeded on leave preparatory to retirement and retired from service on the expiry of the leave. A question was raised as to the emoluments for this leave period which should be taken into account for computing the average emoluments of this officer for the 10 months prior to the date of his retirement from service for determining the retirement benefits admissible to him.

2. The matter has been carefully examined in consultation with the Ministry of Law, (Deptt. of Legal Affairs). The emoluments for the leave period in this case which should be taken into account for the purpose of computing the average emoluments of the last 10 months of the service should be determined in the manner laid down in Note 1 below rule 2(1)(aa) ibid In the

present case though the Central Government had passed orders reverting the officer to his parent cadre, yet he did not assume charge of any post under the State Government and instead proceeded on leave preparatory to retirement sanctioned by the Central Government. Therefore, for the purpose of the above note, the emoluments for the leave period should be taken as what they would have been had he not been absent from duty from the post he was holding under the Central Government before the proceeded on such leave.

3. The aforesaid Note 1 below rule 2(1)(aa) ibid provides a self-regulating procedure to determine the emoluments in such cases and does not call for the issue of the certificate either by the Central Government or by the State Government as to the emoluments which should be taken into account for computing the average emoluments in the circumstances mentioned in that Note. Keeping in view the position explained above, it has been decided that in the case of a member of an All India Services on deputation of the Central Government who takes leave in continuation of the deputation and retires at the end of the leave, it may be deemed that he would have continued to officiate in the post under the Central Government which he was holding immediately before proceeding on leave but for proceeding on such leave and accordingly his average emoluments should be determined for the purpose of calculation of retirement benefits.

**5. Counting of stagnation increment for calculation of pension and other retirement benefits:** - According to the provisions of Rule 33 of the Central Civil Services(Pension) Rules, 1972, as amended from 1.1.86, the expression "Emoluments" means only the 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. The question whether the ad hoc increments sanctioned to the Central Government employee on stagnating at the maximum of their scale of pay can be treated as emoluments for purposes of the pension has been under the consideration of Government for some time past, in consultation with the staff side of the National Council(JCM). It has now been decided that stagnation increment shall be treated as emolument and shall be taken into account for calculation of pension and other retirement benefits.

2. These orders take effect from 1.1.1986 i.e. they apply to those who retire on or after 1.1.1986. Formal amendments to the Central Civil Service(Pension) Rules, 1972 are being issued separately.

3. In so far as the persons serving in the Indian Audit and Accounts Department are concerned, this order issues after consultation with the Comptroller and Auditor General of India.

[O.M.No.38/52/90-P&W/A dated 31.10.90]

**6. Deemed retirement of members of the All India Services on appointment to the post of Central Vigilance Commissioner and other Vigilance Commissioners in the Central Vigilance Commission:-**I am directed to state that this Department has issued a Resolution No.371/20/99-AVD-III dated 13<sup>th</sup> August, 2002, making specific provision about the filling up of the posts of Central Vigilance Commissioner and other Vigilance Commissioners as also spelling out service conditions of the aforesaid Central Vigilance Commissioner and other Vigilance Commissioners. According to para 1.8 of the said resolution, it has been provided that the salary and allowances payable to and the other conditions of service of:-

- (a) the Central Vigilance Commissioner shall be the same as those of the Chairman of the Union Public Service Commission;
- (b) the Vigilance Commissioner shall be the same as those of a Member of the Union Public Service Commission

2. The Government of India decision below Rule 5 of the AIS(DCRB) Rules, 1958 lays down that a member of an All India Service, on his appointment as Chairman or Member of a Public Service Commission shall cease to be a member of the service from the date he assumes office in the Public Service Commission. His lien on the post held by him or in the cadre shall stand terminated. He shall also cease to be governed by the rules framed under the All India Services Act, 1951, in the matter of pay, leave and pension etc. which will be regulated in accordance with the regulations framed by the President/Governor, as the case may be, in terms of Article 318 of the Constitution of India.

3. In view of the position mentioned in para 1 above that the service conditions of the Central Vigilance Commissioner and other Vigilance Commissioners shall be the same as those of the Chairman of the Union Public Service Commission and those of the other Vigilance Commissioners shall be the same as that of a member of the Union Public Service Commission, it has been decided to make the Government of India decision quoted above applicable to the post of Central Vigilance Commissioner and other Vigilance Commissioners in the Central Vigilance Commission.

[letter no. 24012/14/2002-AIS(II) dated 19<sup>th</sup> September, 2002]

## GOVERNMENT OF INDIA'S DECISION UNDER RULE 5.

**1. Clarification on service benefits accrued to a moS appointed as a Member or Chairman of the Public Service Commission:** - In the case of P.K. Gnanasundara Mudaliar Vs. State of Madras, the Madras High Court has held that when a Government servant is appointed as a Member or Chairman of the Public Service Commission, he ceases thenceforth to be in the service of the Government. The Government of India have accordingly reviewed the position in the light of the judgement under reference, and in supersession of their letter No.15/6/63-AIS(II), dated the 4<sup>th</sup> October, 1965 have decided that an officer of an All India Service on his appointment as Chairman or Member of Public Service Commission shall cease to be a member of the service from the date he assumes office in the Public Service Commission. His lien on the post held by him or in the cadre shall stand terminated. He shall also cease to be governed by the Rules framed under the All India Services Act in the matter of pay, leave and pension, etc, which will be regulated in accordance with the regulations framed by the President/Governor, as the case may be, in terms of Article 318 of the Constitution.

In order to ensure that the officer concerned does not stand to lose benefits of pension, leave and other service benefits which had accrued to him as a member of an All India Service, prior to his appointment to the Public Service Commission the State Government may take into consideration the following suggestions, while revising the relevant regulations:-

- (1) The officer concerned may be permitted to elect to draw his pension and other retirement benefits admissible to him under the All India Services(Death-cum-Retirement Benefits) Rules, 1958, or elect to count his service on the Commission as qualifying service for the purposes of

pension under the All India Services(Death-cum-Retirement Benefits) Rules, 1958 provided the retirement benefits in the latter case will be subject to the overall ceiling of the amount of retirement benefits which the officer would have drawn, had he not been appointed to the Commission and continued in service. A time limit of six months from the date of his entering office on Service Commission, may be allowed to exercise this option and the option so exercised will be final.

(2) If the officer elects to draw pension for the service as a member of an All India Service, his pay as Chairman or Member of the Commission may be reduced by the gross amount of pension and pension equivalent of the retirement benefits. He will also not be entitled to any other pension for the services as Member/Chairman of the Public Service Commission.

(3) Subject to the provisions of sub-para (2) above, the officer will be entitled to the pay of the post of Member/Chairman of the Public Service Commission, as prescribed under the relevant regulations. It will also not be necessary to equate the post in Commission to a cadre post which he would have held as a member of an All India Service. Nor will the officer be entitled to claim benefits under the Next Below Rule, after assuming office in the Commission.

(4) The officer may be permitted to carry forward all the leave at his credit at the time of assumption of office in the Commission. Such leave and also the leave earned by him during his tenure in the Commission may be availed of by the officer before his retirement from the service of the Commission. No leave may be granted so as to extend the tenure of the officer in the Commission. The State Government may, however, make a provision in the State Public Service Commission regulations to the effect that Chairman/Member, Public Service Commission shall be paid cash equivalent of leave salary in respect of unutilised portion of earned leave at his credit at the time of demitting office on the line of the provision contained in regulation 7A of the U.P.S.C.(Members) Regulations, 1969.

(5) The officer may also be permitted to contribute to the Provident Fund under the relevant rules and also to carry forward his balance in the A.I.S. Provident Fund to the new fund account.

## GOVERNMENT OF INDIA'S DECISION UNDER RULE 6

**1. State Government may follow the instructions contained in the Ministry of Finance O.M., dated 28th February, 1978 while granting provisional pension to All India Services Officers against whom departmental/judicial proceedings are instituted/ continued:** - The Ministry of Finance (Department of Expenditure) have issued orders in the case of Central Government servants to the effect that retired Central Government servants against whom departmental/judicial proceedings are pending under rule 65 and 74 of the C.C.S. (Pension) Rules, 1972 shall be sanctioned 100 per cent of the pension normally admissible to them as provisional pension vide their O.M. No. 4(1)-E. (V) (A)/78, dated the 28th February, 1978, copy (annexed).

1.2 Under sub-rule (2) of rule 6 of AIS (DCRB) Rules 1958, the State Government is competent to sanction provisional pension to an all India Service Officer against whom departmental/judicial proceedings under sub-rule (1) of this rule, are such proceedings are instituted/continued by the Central Government, the Central Government is the competent

authority to sanction provisional pension. The State Government may like to follow the instructions contained in the Ministry of Finance O.M., dated 28th February, 1978 referred to above while granting provisional pension to All India Services Officers against whom departmental/judicial proceedings are instituted/continued by them. It has been decided that the instructions contained in the said O.M. will be applied while dealing with the cases of All India Service Officers against whom departmental/judicial proceedings are initiated/continued by the Central Government.

[DP&AR letter No. 25011/5/79-AIS(II), dated the 31st August, 1979.]

*(ANNEXURE to DP&AR Letter No. 25011/5/79-AIS(II), Dated the 31st August, 1979.)*

*Copy of Ministry of Finance Department of Expenditure O.M. Dated the 28th February, 1978 regarding grant of provisional pension to retired Central Government servants against whom departmental or judicial proceedings are in progress.*

1. The undersigned is directed to refer to this Ministry's Office Memorandum No.11(6)-EV(A)/73, dated 22nd July, 1974 on the above subject (copy enclosed) in which it was clarified that the payment of provisional pension to the retiring Government servants against whom departmental/judicial proceedings had been instituted or are continued is mandatory under rule 65 and 74 of the Central Civil Services (Pension) Rules, 1972. It has been brought to the notice of this Ministry that in spite of this clarification provisional pension is not being authorised by some Heads of Officers where departmental/judicial proceedings are pending against a retiring Government servant. Since non-payment to such Government servants, and the Heads of Offices have no discretion in this matter, it is again emphasised that the provisional pension must be sanctioned in all such cases in accordance with the rules. Non-compliance with this rule will be viewed seriously by Government.

2. Rules 65 and 74 *ibid inter-alia* provide that the provisional pension in such cases should not exceed the maximum pension which would have been admissible on the basis of the qualifying service upto the date of retirement of the Government servant.

It has been reported that the discretion vested in the Heads of Offices by these rules which lay down the ceiling for provisional pension, is being used by them to pay less than 100 per cent of the admissible pension. The matter has been considered and it has been decided that even in cases covered by the above mentioned mentioned rules 100 per cent pension, which is otherwise admissible to the Government servants should be authorised as provisional pension, as in cases of normal retirement. No gratuity shall however be paid at this stage.

3. The instructions contained in Office Memorandum No. 14(3)EV(A)/76, dated 28th February, 1976 that provisional pension will become final after six months if not otherwise finalised, will not apply to the provisional pension granted in cases where departmental or judicial proceedings are pending. In these cases the pension can be finalised only after the proceedings are concluded and decision taken in the light of these proceedings.

4. In so far as persons serving in the India Audit and Accounts Department are concerned these orders have been issued after consultation with the Comptroller and Auditor General of India.

#### GOVERNMENT OF INDIA'S DECISION UNDER RULE 7

1. ***UPSC should be consulted before any order under rule 7 is passed:*** - The Government of India have decided that where, under rule 7, it is proposed to pass an order original, appellate or in exercise of powers of review, granting a pension less than the appropriate scales indicated in rule 18, the Union Public Service Commission should be consulted before the order is passed

[G.I., MHA letter No. 29/20/63-AIS(II), dated the 5th August, 1965.]

#### GOVERNMENT OF INDIA'S DECISION UNDER RULE 8

1. ***rates of pension contributions in respect of AIS officers on foreign service will be regulated under the procedure laid down in FR and SR:*** - The Government of India have decided that the rates of pension contributions, in respect of office of the All India Services on foreign service in or out of India, shall be the same as those applicable to officers of the Central Services. Class I, viz., the rates which are laid down in Appendix 11-A in Volume-II of the A.G.P & T's Compilation of the Fundamental and Supplementary Rules.

[G.I., M.H.A. letter No. 10/9/66-AIS(II), dated the 31<sup>st</sup> July, 1956.]

2. ***It has been decided to extend the period within which option under sub-rules (5) and (6) should be exercised, upto 31<sup>st</sup> October, 1963.***

[G.I., MHA letter No. 29/48/63-AIS(II), dated the 3<sup>rd</sup> September, 1963]

3. ***The service rendered by a moS in the Ministry of Defence on contract basis will be regulated by the revised sub-rule 2(A)(a) of rule 8:*** - A member of the Service, prior to his joining the Service was serving in the Ministry of Defence on contract basis, according to the terms of which he was entitled to bonus. It was decided in his case that his previous service might be treated as temporary contract service, although he was not entitled, to any contributory provident fund benefits for the same and counted as qualifying service to the extent of half under sub-rules (2) and (5) subject to his refunding to Government the bonus that he had drawn together with interest thereon from the date of payment to the date of final refund. The position has since been modified to the extent indicated in the revised sub-rule (2A) (a) of rule 8.

[G.I., MHA letter No. 2/39/59-AIS(III), dated the 1<sup>st</sup> December, 1959.]

4. ***Deficiencies in qualifying service cannot be condoned:*** - These rules do not contain any provision corresponding to article 423 of the Civil Service of Regulations. Deficiencies in qualifying service of members of the Service cannot, therefore, be condoned.

[G.I., MHA letter No. 2/106/59-AIS(III), dated the 8<sup>th</sup> December, 1959.]

5. ***Instructions on counting of war service rendered in conjunction with other military service:*** - The Government of India have decided that members of the Service, who were appointed against vacancies which arose after the 31<sup>st</sup> December, 1947 shall be allowed to count the war service rendered by conjunction with other military service towards civil pension

to the extent of one-half. It however, the whole or any portion of such service satisfies the conditions laid down in Article 356 of the Civil Service Regulations, that portion of the service may be allowed to count in full towards civil pension subject to the provisions of that article. The grant of concession is also subject to following conditions namely:-

- (i) The officer concerned should not have earned a pension under the military rules in respect of the service in question;
- (ii) In the case of service or posts in respect of which a minimum age is fixed for recruitment no military or war service rendered below that age, shall be allowed to count for pension.
- (iii) 'War Service' rendered in the Armed Forces of India and rendered in similar Forces of a Commonwealth country shall be allowed to count alike for pension and no contribution towards, or share of, pension earned as a result of this concessions shall be claimed from the foreign Government concerned.
- (iv) No refund of bonus or gratuity paid in respect of this 'War Service' shall be demanded from the officer concerned. If, however, the officer has been granted any retirement gratuity for service covering both the war and post-war period, such gratuity shall be refundable. If any portion of the service allowed to count towards civil pension under Article 356 of the Civil Service Regulations, whole of the gratuity received in lieu of pension (but not that portion given as a reward for war service) will have to be refunded by the officer concerned; and

2. The Government of India have also decided that in case where an officer is entitled in respect of the "War Service" rendered between 3<sup>rd</sup> September, 1939, and 1<sup>st</sup> April, 1946, to the concession on under Article 357C or Article 357D of the Civil Service Regulations, he may either avail himself of the concession under paragraph 1 above in respect of the whole of his military service, including 'War Service' or count the service rendered during the war period for civil pension under Article 357C or Article 357D as the case may be, and the remaining service rendered before or after the war period to the extent of one-half of that service. If however, in the latter case the officer concerned has rendered any military service pensionable under the military rules and satisfying the condition laid down in Article 356 of the Civil Service Regulations, before or after the war period, but did not earn a pension by his 'War them during the Second World War, by itself, or in shall be allowed to count it in full on his refunding an amount of gratuity which shall bear the same proportion to the total amount of gratuity received in lieu of pension as the period dealt with under article 356 bears to the total period of military service including the period of war service.

*[G.I., MHA letter No. 2/108/59-AIS(III), dated the 11<sup>th</sup> December, 1959.] read with DP&AR letter no. 25011/2/79-AIS (II), dated the 14<sup>th</sup> December, 1979.]*

**6. Sub-rule (4) will apply to State Service Officers appointed to the Service against the promotion quota:** - A question arose whether sub-rule (3) and (4) would apply to State Service officers appointed to the Service against the promotion quota and whether proviso to sub-rule (2) could not be relaxed in the case of war service in view of the fact that there was generally break between was service and subsequent civil service. Sub-rule (3) would apply only in those cases where the officer have been appointed against was reserved vacancies which arose for direct recruitment before 1<sup>st</sup> January, 1948. It would not therefore apply to State Service officers appointed to the Service against the promotion quota. War Service in their cases is to be regulated in accordance with sub-rule (4) read with Government of India's Decision (5) above.



(6.2) As regards sub-rule (2), it would apply to military service as distinguished from the not rendered in conjunction with war service, to which sub-rule (3) and (4) apply. In the case of military service, that counts as qualifying service under sub-rule (2), the conditions of such service being continuous cannot be relaxed.

**7. Previous pensionable service rendered in the State Government by the moS will count for qualifying service:** - A question arose whether the previous qualifying service of Uttar Pradesh State Services Officers, who were promoted to the Indian Administrative Services, should be regulated by sub-rule (2) or sub-rule (6), in view of the fact that they held pensionable posts under the State Government carrying Contributory Provident Fund Benefits. It was decided in the case that their previous pensionable service automatically counted as qualifying service invoke the provisions of sub-rule (6).

*[G.I., MHA letter No. 2/110/59-AIS(III), dated the 11<sup>th</sup> March, 1960.]*

**8. Service Breaks within the State Service can be condoned by the State Government if permissible under the State Rule:** - These rules do not contain a provision for condonation of breaks, within State Service. Further, sub-rule (2) provides that previous service shall count as qualifying service under these rules provided the service is otherwise continuous. A question was, therefore, raised whether the State Government were competent to condone breaks within State Service of member prior to his appointment to the Indian Administrative/Police Service. The continuity referred to in sub-rule (2) is referred not continuity within State Service but continuity between State Service and the Indian Administrative/Police Service. Breaks within State Service, to which the rules do not apply, can, therefore, be condoned, provided State Pension Rules permit condonation of such breaks.

*[G.I., MHA letter No. 2/5/60-AIS (III), dated the 14<sup>th</sup> May, 1960.]*

**9. INA Service recognised by the Ministry of Defence shall be counted as qualifying service for pension and gratuity:** - The I.N.A. Service, which has been recognised by the Ministry of Defence for the purpose of pension and gratuity shall be treated as Military Service/War Service and shall count as qualifying service to the extent and subject to the conditions stipulated in sub-rule (4).

*[G.I., MHA letter No. 29/1/60-AIS (II), dated the 13<sup>th</sup> October, 1960.]*

**10. Service of a Civilian Officer paid from the Defence Estimates and declared as war service will be regulated under sub-rule (4) for qualifying service:** - A doubt was raised whether only the enlisted or commissioned war service rendered in military capacity could be regulated under sub-rule (4).

2. Sub-rule (4) does not make any distinction between the war service in military capacity and civil capacity. In view of this, the Government of India have decided that even the service of a civilian officer paid from Defence Estimates, which has been declared as 'war service' in certain circumstances should be regulated under sub-rule (4).

*[G.I., MHA letter No. 29/63/60-AIS (II), dated the 24<sup>th</sup> December, 1960.]*

**11. Previous service rendered by the moS before appointment to AIS shall be treated according to Central or State Rules, as the case may be, for determination of qualifying service:** - Under sub-rule (2), the service rendered by an officer under the Central or a State Government shall count as qualifying service for the purposes of pension etc. to the extent admissible under the rules applicable to him prior to his appointment to the Indian Administrative/Police Service as they stand on the date of his retirement from the Service. In

other words, the service by him prior to his appointment in the Indian Administrative/Police Service shall be treated according to the Pension Rules of the Central or the State Government, as the case may be which were applicable to him prior to such appointment and as applicable to him prior to such appointment and as are in force at the time when he retires from service.

*[G.I., MHA letter No. 29/68/61-AIS (II), dated the 7<sup>th</sup> April, 1962.]*

**12. Sub-rule (2) is also applicable in case of an officer holds a post on temporary capacity or on probation, before joining to the AIS:** - The Government of India have held that the proviso to sub-rule (2) of rule 8 applies also to a case where an AIS officer before his appointment to the Service, had held one or more posts in a temporary capacity including service as a probationer (without being confirmed in any of them) followed by his appointment to the IAS/IPS and eventual confirmation in it. This is subject to the other conditions laid down in the said proviso.

*[G.I., MHA letter No. F. 29/29/63-AIS(II), dated the 14<sup>th</sup> February, 1964.]*

**13. Services in the Civil Defence Department during World War-II would be treated as 'war service' for the purpose of qualifying service:** - The Government of India have held that 'War Service' candidates are persons who had rendered during the World War II satisfactory paid whole time enlisted or Commissioned "War Service" between the 3<sup>rd</sup> September, 1939 and the 1<sup>st</sup> April, 1946 by itself or in conjunction with other military service in the Armed Forces of India or similar forces of a Commonwealth country which did not earn a service pension under the military, Naval or Air Force Rules. Service in the Civil Defence Department during World War II has also been treated as "War Service" vide Ministry of Finance OM No. F.3(8)-EVA/62, dated the 18<sup>th</sup> May, 1962.

*[G.I. MHA letter No. 29/51/63-AIS(II), dated the 16<sup>th</sup> August, 1963.]*

**14. Previous service rendered by the moS before appointment to AIS shall be treated according to Central or State Rules, as the case may be, for determination of qualifying service:** - The Government of India held that under the sub-rule (2) of rule 8, the service rendered by an officer under the Central or State Government shall count as qualifying service for purposes of pension etc., to the extent admissible under the rules applicable to him prior to his appointment to the Indian Administrative Service/Indian Police Service. In other words, the services rendered by him prior to his appointment to the IAS/IPS shall be treated according to the Pension Rules of the Central or the State Government concerned, as the case may be, which were applicable to him prior to such appointment and as are in force at the time when he retires from service.

*[G.I., MHA letter No. 29/66/61-AIS-(II) dated the 7<sup>th</sup> April, 1962.]*

**15. The Government of India have decided that the orders contained in the Ministry of Finance O.M. No. F. 3(29)-EV(A)/64, dated the 3<sup>rd</sup> June, 1965 (Annexure A) will apply to the All India Services officers governed by the AIS (DCRB) Rules, 1958 by virtue of rule 8(4).**

*[G.I., MHA letter No. 29/51/65-AIS(II), dated the 22<sup>nd</sup> December, 1965.]*

**16. It has been decided that the temporary or officiating service including service as a probationer mentioned in the Government of India Decision No. 12 below Rule 8 refers not only to service under the State Government but also to service under the Central Government.**

*[MHA letter No. 31/42/73-AIS(II), dated the 11<sup>th</sup> January, 1974.]*

**17. Procedure for verifying the service rendered by a moS on completion of 20 years of service:** - In partial modification of the instructions contained in Department of Personnel & AR letters No. 25011/48/78-AIS(II), dated the 6<sup>th</sup> November, 1978 and 26<sup>th</sup> April, 1979 it has been decided to lay down the procedure for verifying the service rendered by a member of an All India Service on completion of 20 years of service:-

- (i) States where accounts have not been separated from Audit or the simplified procedure of payment of salaries to Gazetted Officers, as in the Central Government has not been introduced. - It will be the responsibility of Accountant General to verify the service rendered by a member of an All India Service on completion of 20 years of service and communicate the result of verification to the officer concerned.
- (ii) In States where Accounts have been transferred from Audit or where accounts have not been transferred, but the simplified procedure of payment of salaries to Gazetted officers, as in the Central Government have been introduced. - It will be the responsibilities of the State Government/Union Territory Administration to verify the service rendered by a member of the service on completion of 20 years of service, in consultation with the Accountant General concerned, if found necessary, and communicate the result of verification to the officer concerned.

[DP & AR letter No. 25011/48/78-AIS(II), dated the 18<sup>th</sup> September, 1979.]

**18. State Governments are competent to determine the past service rendered by the moS under them before joining AIS:** - According to the provisions contained in sub-rule (2) to (6) of Rule 8 of the All India Services (DCRB) Rules, 1958, service rendered by a member of an All India Service before his appointment to the service under the Central Government or a State Government will count as qualifying service for pension subject to the fulfilment of the conditions laid down therein. Requests have been received from a few members of the Indian Administrative Service for counting the service rendered by them under the Central Government and/or a State Government before their appointment to the IAS as qualifying service for pension. Under rule 8 *ibid* Approval of the Central Government is not necessary for counting the previous service rendered by a member of the service as qualifying service for pension, provided the conditions laid down therein are satisfied. In such cases the Government of the State on whose cadre the officer is brone/the Accountant General concerned, will have to take necessary action in consultation with the Central Ministry/Department or the State Government concerned, if the officer had worked under the Central Government or another State Government, as the case may be, before joining the All India Services, to count such service as qualifying service for pension under rule 8 *ibid*. The State Governments were, requested that in future requests made by members of All India Services for counting the previous service rendered by them as qualifying service under rule 8 *ibid* need not be forwarded to the Central Government; the State Governments themselves may process such cases in consultation with the authorities concerned and issue necessary orders. If any clarification is required or Condonation of break in service is involved a reference may be to the Department of Personnel & AR in the case of members of the Indian Administrative Service, the Police Division of the Ministry of Home Affairs in the case of members of the Indian Police Service and the Department of Agriculture in the case of members of the Indian Forest Service.

[DP & AR letter No. 25011/43/80-AIS(II), dated the 9<sup>th</sup> January, 1981.]

**19. in all cases where a moS is deputed for foreign service under a public sector undertaking etc. owned or controlled by the Central Government, the pension/leave salary contributions should be paid to the State Government on whose cadre the officer**

**is borne:** - It has been provided in the Department of Personnel & AR letter No. 13/27/74-AIS(II), dated 17<sup>th</sup> January, 1975 (copy annexed) that the terms of deputation of a member of an All India Service who is deputation of a member of an All India Service who is serving in connection with the affairs of a State and who is deputed to public sector undertakings etc. Controlled by the Central Government should be issued by the Ministry/Department of the Central Government which is administratively concerned with that organisation in consultation with the State Government or Joint Cadre Authority on whose cadre the officer is borne. A doubt was raised whether in such cases the pension/leave salary contributions in respect of the officer should be paid by the organisation to the Central Government or to the State Government on whose cadre the officer is borne. It has been clarified that in all cases where a member of an All India Service is deputed for foreign service under a public sector undertaking etc. owned or controlled by the Central Government, the pension/leave salary contributions should be paid to the State Government on whose cadre the officer is borne.

*[D.P. & A.R. letter No. 250011/8/81-AIS (II), dated the 22<sup>nd</sup> May, 1981.]*

[ANNEXURE TO DP & AR LETTER NO. 25011/8/81-AIS (II), DATED THE 22<sup>ND</sup> MAY, 1981.]

1. I am directed to say that a question has been raised as to who should be the competent authority to issue the terms and conditions of deputation of a member of an All India Services serving in connection with the affairs of a State and who is deputed to a public sector undertaking or any organisation controlled by the Central Government.

2. The terms of deputation of an officer, deputed on foreign Service, are normally issued by the lending authority, in consultation with the borrowing authority. In the case of the All India Services, however, the All India Services (Leave) Rules, 1955, the All India Services Conduct Rules, 1968 and the All India Services (Discipline and Appeal) Rules, 1969 provided that a member of an All India Services whose services are placed at the disposal of a company, corporation etc. by the Central Government or the Government of a State shall, for the purpose of these rules, be deemed to be a member of the Service serving in connection with the affairs of the Union or in connection with the affairs of that State, as the case may be. By virtue of the provision contained in these rules, if the terms of deputation of a member of an All India Service, deputed to a public sector undertaking controlled by the Central Government, are issued by a State Government, 'Government' in his case will be the State Government concerned. It is however, only proper that such a member of the Service should be under the control of the Central Government for the purposes of these Rules. In view of this, the terms of deputation of a member of an All India Service who is serving in connection with the affairs of a State and who is deputed to a public sector undertaking etc. controlled by the Central Government should be issued by the Ministry/Department of the Central Government which is administratively concerned with that organisation in consultation with the State Government or Joint Cadre Authority on whose cadre the officer is borne.

*[letter No. 13/27/74-AIS (II), dated the 17<sup>th</sup> January, 1975.]*

**20. Ministry of Railways may be referred in case of previous service rendered by the moS under them and will be counted for qualifying service if that Ministry certifies, in case of doubts, it should be referred to the respective Cadre Controlling authorities of the Central Government.** - Requests from members of Indian Administrative Service for counting the service rendered by them under the Ministry of Railways before their appointment to the Indian Administrative Service as qualifying service for pension were hitherto being processed in this Department. Recently when such a case was referred to the Ministry of Railways(Railway Board) for verifying the service rendered by the officer in the Railways, that Ministry advised that particulars of service rendered by a Railway Service Probationer, who is subsequently appointed to an All India Service, might be got verified from the Railway concerned direct by the State Government. Such Service with the Railways could be counted as qualifying service for Pension without consulting the Ministry of Railways (Railway Board). In view of this, it is requested that in future, there requests made by All India Service officers for counting the service rendered by them in the Railways before their appointment to the All India Services as qualifying service for pension need not be referred to the Central Government. In such cases, the State Government may request the Railway concerned to verify the service rendered by the officer in the Railways and if the Railway certifies that the service rendered by the officer under it would have counted as qualifying service for pension under the Railway Service Rules applicable to him prior to his appointment to the All India Services, such service may be reckoned as qualifying service for pension under rule 8(2) *ibid* provided there is no break in his service. In case there is a break in his Railway service or if there is any doubt whether or not a particular spell of service will qualify for pension, then a reference may be made to this Department in the case of members of the Indian Administrative Service, Police Division of the Ministry of Home Affairs in the case of members of the Indian Police Service and Department of Agriculture in the case of members of the Indian Forest Service.

[DP & AR Letter No. 25011/37/77-AIS(II), dated the 7<sup>th</sup> October, 1978.]

**21. Period of deputation to Foreign Service to developing countries, International Organisations etc. would be regulated by the instructions issued by the Ministry of Finance, Ministry of External Affairs and Ministry of Personnel:** - The question of regulating the period of foreign service of members of All India Services, who are permitted to go on foreign service to the developing countries of Asia, Africa, and Latin America, for the purpose of pension, has been under the consideration of this Department. It has been decided that members of All India Services who are permitted to go on deputation to these countries by registering their names in the Foreign Assignment Section of the Department of Personnel and A.R. will be governed by the orders contained in the Ministry of Finance OM No.1(14)-E.III(B)/71, dated the 13<sup>th</sup> December, 1971, the 7<sup>th</sup> January, 1974 and No. 1(14)-E.III(B)/76, dated the 7<sup>th</sup> December 1976. The period of foreign service rendered by members of the Service who are deputed for assignment to developing countries under the Indian Technical and Economic Cooperation Programme of the Ministry of External Affairs will be regulated for the purpose of pension, in accordance with the orders issued by the Ministry of External Affairs.

2. Member of All India Services, who are deputed for service under the International Organisations like the U.N. Secretariat or other United Nations Bodies, such as I.M.F., I.B.R.D., etc., or the Commonwealth Secretariat, will be governed by the orders contained in the Department of Personnel & A.R. letter No. 25011/52/76-AIS(II), dated the 2<sup>nd</sup> March, 1977 and No. 25011/14/75-AIS(II) dated the 26<sup>th</sup> September, 1975.

*[DP & AR letter No. 25011/15/78-AIS(II), dated the 20<sup>th</sup> May, 1978.]*

**22. Regulation of foreign service with International Organisations, UN Sectt., Commonwealth Sectt. Etc.:** - The period of foreign service of members of All India Services with International Organisations like the U.N. Secretariat, Commonwealth Secretariat etc. for period of five years or more, shall be regulated as follows:-

(1) Members of the All India Services sent on deputation to the International Organisations like United Nations Secretariat, or other United Nations bodies the International Monetary Fund, International Bank for Reconstruction and Development, the Asian Development Bank or the Commonwealth Secretariat on a tenure of five years or more may at their option:-

- a) pay the pension contributions in respect of their foreign service and count such service as qualifying for pension under these rules;
- b) avail of the retirement benefits admissible under the rules of the aforesaid Organisation and not count such service as qualifying for pension under these rules;

Provided that where a member of the service opts for clause (b), the retirement benefits accrued to him under the United National Rules will be payable in rupees in India and pension contribution, if any paid by him shall be refunded to him.

(2) In the case of officer who opted for clause (b) of Rule 1 and who rejoin Government on the expiry of the foreign service with the United Nations Organisations the retirement benefits sanctioned by the United Nations will not be payable concurrently with the salary from the Government but will be credited to the revenues of the Government of the State concerned, under intimation to the concerned Accounts Officer, so that suitable record could be kept in the service record of the officer, of the amounts received from the United National authorities. This amount will be paid to the officer concerned along with other service of the Government. For the purpose a provision should be made for such payments under the relevant head of account, for the respective year:

*[DP & AR letter No. 25011/4/75-AIS(II), dated the 26<sup>th</sup> September, 1975.]*

**23. Instruction of the Ministry of Finance in O.M. No. 8(5)-E III2/79, dated the 8<sup>th</sup> April, 198 will also apply to members of the Services sent on deputation to U.N. Bodies and the Commonwealth Secretariat:** - In continuation of the Department of Personnel and A.R. letter No. 25011/4/75-AIS(II), dated the 26<sup>th</sup> September, 1975 reproduced as Government of India Decision No. 22 below Rule 8 of the All India Services (Death-cum-Retirement Benefits Rules, 1958). It has been decided, in consultation with the Ministry of Finance (Deptt. of Expenditure), that the decision contained in their O.M. No. 8(5)-E III2/79, dated the 8<sup>th</sup> April,

1981(reproduced below) will also apply to members of All India Services sent on deputation to U.N. Bodies and the Commonwealth Secretariat.

*[DP & AR letter no. 25011/16/81-AIS (II), dated the 5<sup>th</sup> November, 1981.]*

[ANNEXURE TO DP & AR LETTER NO. 25011/16/81-AIS (II), DATED THE 5<sup>TH</sup> NOVEMBER, 1981.]

1. The undersigned is directed to invite a reference to this Ministry's O.M. No. F.1(16)-E. III(B)/66, dated the 5<sup>th</sup> November, 1966 on the subject mentioned above and to state that the question of allowing interest on the amount of retirement benefits received in lump sum and deposited with the Government of India by the officers deputed on foreign service with U.N. Organisations has been under consideration for some time on receipt of a number of representations in this regard. The President is now pleased to decide that interest may be paid, as for deposits under G.P.S. Accounts, in respect of such amounts including the amounts, which were deposited by the Government servants who has served the U.N. Bodies in the past and which are at present lying with the Government even in respect of the past periods commencing from the date the deposits have been made.

2. In so far as the persons serving in the India Audit and Accounts Department are concerned, these orders are issued after consultation with the comptroller and Auditor General of India.

[O.M. No. 8(5)-E.III/79, dated the 8<sup>th</sup> April, 1981.]

**24. The instruction of the Ministry of Finance for regulation of the period of less than 5 years spent in foreign service for the purpose of pension will be applicable to the members of the Services:** - The manner in which the period of foreign service of members of All India Services with International organisations like U.N.Secretariat, etc. Or Commonwealth Secretariat, for a period of less than five years, should be regulated for the purpose of pension, has been under the consideration of the Central Government. It has been decided that the orders contained in the Ministry of Finance OM No.1(4)-E. III(B)/76, dated the 20<sup>th</sup> November, 1976 should apply to the members of All India Services also.

*[DP & AR letter No. 25011/52/76-AIS(II), dated the 2<sup>nd</sup> March, 1977.]*

Copy of Ministry of Finance O.M. No. 1(4)-E.III(B)/76, dated the 20<sup>th</sup> November, 1976.

1. The undersigned is directed to invite a reference to this Ministry's Office Memorandum No. F. 1(16)-E.III(B)/66 (Part II) dated the 4<sup>th</sup> June, 1971 on the subject mentioned above. Under this Office Memorandum, officers of the Central Services deputed to foreign service with International Organisations like the United Nations, Secretariat, Food and Agriculture Organisation, International Labour Organisation, etc., on a tenure of one year or more shall be allowed to join the United Nations Joint Staff Pension Fund as full members and the payment of retirement benefits accruing under the Regulations and Rules of the United Nations Joint Staff pension Fund will continue to be regulated by the conditions laid down in this Ministry's Office Memorandum No. F. 1(16)-E. III(B)/66 dated the 5<sup>th</sup> November, 1966 (copy enclosed).

2. Under Article 29 of the Regulations and Rules of the United Nations Joint Staff Pension Fund, retirement benefits shall be payable to a participant whose age on separation is 60 years or more and whose contributory service was five years or longer. Under Article 30 of the said Regulations and Rules, an earlier retirement benefits shall also be payable to a participant whose age on separation is at least 55 but less than 60 years and whose contributory

service was five years or longer. Under Article 31 *ibid* a deferred retirement benefits shall be payable to a participant whose age on separation is less than 60 years and whose contributory service was five years or longer. It will be observed from the aforesaid provisions that a contributory service of five years or longer is a sine qua non for eligibility for retirement benefits under the aforesaid Regulations and Rules. Accordingly, Rule 31 of the Central Civil Service (Pension) Rules, 1972 as amended by the C.C.S. (Pension) (Sixth Amendment) Rules, 1975 provides that a Government servant deputed on foreign service for a period of five year or more to the United Nations Secretariat or other United Nations Bodies, the International Monetary Fund, the International Bank of Reconstruction and Development or the Commonwealth Secretariat may, at his option pay the pension contribution in respect of his foreign service and count such service as qualifying for pension under the CCS (Pension) Rules, 1972 or avail of the retirement benefits admissible under the rules of the aforesaid Organisations, and not count such services as qualifying for pension under the CCS(Pensions) Rules, 1972. If the Government Servant opts to avail of the retirement benefits under the rules of the aforesaid Organisations, the retirement benefits shall be payable to him in India in rupees in accordance with the provisions of this Ministry's Office Memorandum No. F. 1(16)-E. III(B)/66 dated the 5<sup>th</sup> November, 1966.

3. The question of regulating the cases of Government servants deputed on foreign service to the Organisations mentioned in the preceding paragraph for one year or more but less than five years has been considered in this Ministry in the light of the provisions of Article 32 of the Regulations and Rules of the United Nations Joint Staff Pension Fund under which a withdrawal settlement would be admissible to a participant whose age on separation is less than 60 years or if he is 60 or more on separation but is not entitled to a retirement benefits under Article 29, 30 and 31 referred to in para 2 above. This withdrawal settlement consists of his own contributions if the contributory service of the participants was less than five years. The President is pleased to decide, in partial modification of this Ministry's Office Memorandum No. F. 1(16)-E. III(B)/66 (Part II) dated the 14<sup>th</sup> June, 1971 that a Government servant who is deputed on a foreign service for a period of one year or more but less than five years to the United Nations Secretariat or other United Nations Bodies, the International Monetary Fund, the International Bank for Reconstruction and Development, the Asian Development Bank or the Commonwealth Secretariat and who will not be entitled to retirement benefits under the Regulations and Rules of the aforesaid Organisations, will pay pension contributions monthly to the Government of India at the rates prescribed from time to time by the President under F.R. 116. On conclusion of foreign service, he may be allowed to receive from the foreign employer withdrawal benefits as may be admissible under their Rules.

4. While what has been stated in para 3 above would apply to officers who are entitled to only "withdrawal" benefits (as opposed to full retirement benefits) those who would be entitled to full retirement benefits under the Rules and Regulations of these organisations would be governed by Rule 31 of the CCS(Pension) Rules, 1972. In case they opt for availing of the retirement benefits admissible under the Rules and Regulations of the International Organisations (in which case their service in that organisation will not qualify for pension under Government) the payment of the retirement benefits in case they return to Government service will be governed by the orders of 5.11.1986. Pension contributions, if any, made to Government of India by officer, will be refunded to him.

5. These orders will also apply to officers who are already on deputation to the aforesaid Organisations. They will, however, have the option of paying pension contributions to



Government to count the period of foreign service for the purposes of pension or to continue on their existing terms under which they are not required to pay pension contributions. The officers would be required to exercise options within three months from the date of issue of these orders and those who opt to pay pensions contribution for the past period can be allowed to pay pension contribution for the said period in monthly instalments not exceeding 12 along with contribution for the current period.

6. In so far as the persons serving in the Indian Audit and Accounts Department are concerned, these orders are issued after consultation with the Comptroller and Auditor General of India.

*Copy of Office Memorandum No.F.1(16)-E.III(B)/66, dated the 5<sup>th</sup> November, 1966, Ministry of Finance, Department of Expenditure regarding Deputation of Central Government Servants on foreign service with United Nations Bodies - Participation in the U.N. Pension Fund Scheme.*

1. According to the Ministry of Home Affairs' Office Memorandum No. 2/52/53-AIS(I), dated the 24<sup>th</sup> August, 1953, read with this Ministry's Office Memorandum No. 1(47)-E.IV(A)/60, dated the 18<sup>th</sup> October 1960, officers of All India Services and Central Services deputed on foreign service to International Organisations like the United Nations Secretariat/Food and Agriculture Organisation/International Labour Organisation, etc., are eligible to join the United Nations Joint Staff Pension Fund only as Associate Participants where the period of foreign service is one year or more but less than five years. They are not allowed to become full members, when the period of foreign service exceeds five years. The question of permitting such officers to become full members has been under the consideration of Government. The President is now pleased to decide as follows:-

2. Officers of Central Services deputed on foreign service to United Nations Secretariat and other United Nations Bodies shall be allowed to join the United Nations Joint Staff Pension Fund as full members. During the period of foreign service, no payment of pension contributions will be made to the Government of India by or on behalf of the officer. This period will not count for purposes for calculation of pension under the Government. The officers will be eligible for the benefits due to him from the Organisation concerned under their rules for the period in question. In case the officer does not rejoin Government but retires from Government service while serving with the United Nations Organisation, his pension under the Government rules will be calculated on the basis of service rendered by him in case he rejoins and serves for another spell under Government, the pension admissible under Government rules will be calculated on the basis of the total of his earlier and later periods of service under Government.

3. The retirement benefits accruing under the United Nations rules will be payable to the officers in Rupees in India. In the case of officers who rejoin Government on the expiry of the foreign service with United Nations Organisations the retirement benefits sanctioned by the United Nations will not be payable concurrently with the salary from the Government but will be credited to the revenues of the Government of India by credit to XLVII - Contributions and recoveries towards the Accounts Officer, pension and other retirement benefits" under intimation to the Accounts Officers in case of Gazetted Officers and to the Heads of the Department in the case of Non-gazetted officers, so that a note could be kept in the service records of the officers concerned of the amount received from the United Nations authorities. This amount will be paid to the officer concerned along with his other pensionary benefits when he finally retires from the service of the Government of India, the provisions in the year concerned being made for the payment of this amount under '65 Pensions and Other

Retirement Benefits, etc.’.

4. Orders contained in this Ministry’s Office Memorandum dated the 18<sup>th</sup> October, 1960 referred to in the opening para will continue to apply in respect of associate participants.

5. Separate orders will be issued in respect in All India Services Officers.

6. In so far as the persons serving in the Indian Audit and Account Department are concerned, these orders are issued after consultation with the Comptroller and Auditor General of India.

## ANNEXURE ‘A’

1. The Government of India for some time past have had under consideration the question of counting the service rendered in the Indian National Army towards civil pension by persons now holding civilian posts. They fall into the following three categories:-

- (1) Persons who were holding civil posts before joining the Indian National Army and have been reinstated in the same post.
- (2) Persons who were holding civil posts or were members of the regular Indian Armed Force before joining the Indian National Army and have been re-employed in some other civil posts.
- (3) Persons who joined the Indian National Army from the general public or from the Armed Forces and have subsequently been absorbed in civil posts.

The President has been pleased to decide that the service rendered in the Indian National Army by the persons of the aforesaid categories may be treated as ‘war-service’ for the purpose of counting it towards civil pension in terms of article 357-C and 357-D of the Civil Service regulations and this Ministry’s Office Memorandum No.F. 11(15)/EV/56 dated the 5<sup>th</sup> August, 1958 as amended from time to time.

2. The service in the Indian National Army referred to in the preceding para will be admitted on the basis of a certificate issued by the administrative authorities to the effect that the claim is genuine and correct. The administrative authorities will give such certificates after verification of documents or collateral evidence etc., produced by the persons concerned. In the case of persons belonging to category (iii) the production of adequate proof like documents relating to their enrolment in the Indian National Army should be insisted upon along with the collateral evidence for their having been in that Army.

3. In so far as the Persons serving in the Indian Audit and Accounts Departments are concerned, these orders have been issued after consultation with the Comptroller and Auditor General of India.

**27. Verification of ‘war service’ of AIS officers would be done by the State Governments from appropriate military authorities:** - In accordance with the instructions contained in Ministry of Defence’s letter No. 5324/Gen/Org.3(Records(d)/411D (Pension/Service), dated the 19<sup>th</sup> January, 1963, the verification of war/military services of All India Services officers has to be done by the State Governments from the appropriate military authorities. The result of the verification, along with the relevant particulars of the case, should then be forwarded to the Accountant General concerned for making necessary entries in the History of Service. Wherever, there is doubt whether or not a particular period of war/military service rendered by

an All India Service Officer counts for pension a reference should be made to the Ministry of Home Affairs.

*[G.I. MHA letter No. 29/36/36/65-AIS(II) dated 29.9.1966]*

**28. Guidelines regarding regulation of service of the moS from All India Service to autonomous bodies and vice versa:** - I am directed to say that this Department have issued orders vide OM No.28/10/84-Pension Unit dated the 29<sup>th</sup> August, 1984 regarding counting of service rendered by a Central Government servant for pension when he moves from Central Government service to the service of a central autonomous body and vice versa. According to these orders, when a Central Government servant borne on a pensionable establishment is allowed to be absorbed in an autonomous body having a pension scheme, the service rendered by him under the Government shall be allowed to be counted towards pension under the autonomous body. Similarly, a person working under such an autonomous body joins government service, the service rendered by him under the autonomous will be counted as qualifying service for pension under the Government. The Government/autonomous body will discharge its pension liability by paying a lump sum amount, as a one time settlement, of pro-rata pension etc. to the Government or autonomous body as the case may be. An employee of autonomous body having CPF scheme on absorption under the Central Government will have an option either to receive CPF benefits which have accrued to him from the autonomous body – and start his service afresh under the Government or choose to count service rendered by him under that body as qualifying service for pension under the Government by foregoing employer's contribution with interest thereon, which will be payable to the Central Government Department concerned by the autonomous body.

2. This Department have considered the question of extending the above orders to members of All India Services. The case of a member of an all India Service permitted to get absorbed permanently in the service of a central autonomous body can be regulated under the provisions contained in rule 5 A of All India Services(DCRB) Rules, 1958. If an employee of an autonomous body who joins service under the Central Government or a State Government and later on is appointed t an All India Service, his case can be regulated under the provisions contained in rule 8(2) ibid. Thus the case of an employee of an autonomous body who joins an All India Service direct is not covered under the rules and instructions issued by the Central Government. It has, therefore, been decided that the case of an officer who was working under a central autonomous body, as defined in para 4 of this Department's OM dated 29.8.84 referred to above, before his appointment to an All India Service should be regulated as follows:-

- (a) The service rendered by an All India Service Officer, under a central autonomous body having a pension scheme, before his appointment to the Service, will be counted as qualifying for pension under the AIS(DCRB) Rules, 1958. The autonomous body will discharge its pension liability by paying a lump sum amount, as a one-time payment, equal to the pro-rata pension/service gratuity/terminal gratuity and the DCRG for the service rendered by him under them to the State Government on whose cadre the officer is borne.
- (b) An All India Service officer who has rendered service under a central autonomous body not having a pension scheme, before his appointment to the service, can exercise option either to receive contributory provident fund benefits which have accrued to him from the autonomous body and start his service afresh under Government or choose to count service rendered in that body as qualifying service for pension under Government by foregoing employer's share of CPF contributions with interest thereon, which will be paid to the State Government concerned. The

option shall be exercised within one year from the date of appointment to the All India Service. If no option is received within the stipulated period, the officer shall be deemed to have opted to receive CPF benefits. The option once exercised or deemed to have exercised shall be final.

3. An officer who was appointed to an All India Service prior to the date of issue of these orders but not yet retired from service, shall also be governed by these orders. Such an officer will have an option either:-

- a) To retain the pro-rata retirement and other benefits received by him from the autonomous body. In that event the service rendered by him under the autonomous body will not count as qualifying service for pension

Or

- b) To have the service rendered by him under the autonomous body counted as qualifying service for pension in which case the pro-rata retirement or other terminal benefits received by him, will have to be deposited with the State Government concerned along with interest thereon from the date of receipt of those benefits by him till the date of deposit with the State Government. The right to count previous service as qualifying service for pension shall not revive until the whole amount has been paid

4. The option shall be exercised within a period of one year from the date of issue of these orders. If no option is received within the prescribed time limit, the officer will be deemed to have opted for retention of the benefits received by him. The option once exercised or deemed to have exercised shall be final.

5. The benefits of these orders will be admissible only if

- (i) The officer had applied or has applied to the UPSC for taking the competitive examination on the basis of which he was appointed to the IAS/IPS/IFS through proper channel or after obtaining permission from the autonomous body under whom he was working, and
- (ii) The officer was eligible for pro-rata retirement benefits/CPF benefits from the autonomous body at the time of leaving the service of the autonomous body and the autonomous body (or the officer, in a case coming under para 3 above) is prepared to pay to the State Government concerned such pro-rata retirement benefits/CPF benefits.

6. It is requested that the above order may be brought to the notice of all concerned for information and guidance.

*[D/P&T letter No. 25011/27/85-AIS(II) dated the 19<sup>th</sup> May, 1986]*

*Copy of D/P&T letter No.25011/3/93-AIS(II) dated the 4<sup>th</sup> February, 1993*

1. I am directed to say that instructions had been issued vide letter No.25011/27/85-AIS(II) dated the 19<sup>th</sup> May, 1986 laying down guidelines for counting the previous service rendered by an All India Service Officer under a central autonomous body having a pension scheme prior to his appointment to the service as qualifying service for pension purposes under the AIS(DCRB) Rules.

2. According to the instructions mentioned above an officer who had been appointed to an All India Service prior to issue of those orders and who was still in service was required to exercise an option either (a) to retain the pro-rata retirement benefits received by him from the autonomous body, in which event the service rendered by him under the autonomous body

would not count as qualifying service for pension in Government service or (b) to have the service rendered by him under the autonomous body counted as qualifying service for Government pension, in which case, the pro-rata retirement benefits or other terminal benefits received by him would have to be deposited with the State Government, along with interest thereon.

3. All AIS Officers were required to exercise their option within a period of one year from the date of issue of the above mentioned orders. However, a number of references have been received from officers seeking permission to exercise the option belatedly, on the ground that they were unaware of the contents of our earlier OM dated 19.5.86.

4. In this background, it has been decided to give all AIS Officers another chance to exercise their option in this regard. Such an option shall be exercised latest by 30<sup>th</sup> September, 1993. If no option is received within the prescribed time limit, the officer concerned will be deemed to have opted for retention of the benefits received by him from the autonomous bodies at the time of his termination of service with them.

5. It is requested that the contents of this circular may be brought to the notice of all All India Service Officers of your State, as are eligible, with the request that if they so desire, may exercise the required option well in time. The options received may please be forwarded to this Department within the prescribed time limit.

**29. one time relaxation, to provide a last opportunity to ex-service pensioners who are at present re-employed in All India Services to exercise the option for counting of their past military service as qualifying service:** - I am directed to refer to this Department's letter No.25011/14/80-AIS(II) dated the 17<sup>th</sup> December, 1980 and 28<sup>th</sup> August, 1982 and to say that sub-rule(4) of Rule 8 of AIS(DCRB) Rules, 1958 provides that war/military service rendered by a member of the service before his appointment to the AIS shall count as qualifying service to the extent to which such service is counted as qualifying service for pension under the Civil Services Regulation as applicable to the members of the Central Civil Services Class-I (now Group "A") or under any orders that might be issued by the Central Government in this behalf. In the aforesaid letter it was provided that members of AIS who had rendered pensionable war/military service before joining the AIS but have not so far opted for such service to be counted for Civil pension, could exercise fresh option within a period of 6 months from the date of issue of the Order.

2. It has been represented to this Department by Association of Released ECO/SSC Officers and individuals that in some cases it has not been possible for Ministries/Departments and field officers to disseminate the information about the facility for exercise of option in terms of the above mentioned orders to the affected officers who were posted in the different parts of the country. As a result, many of these officers could not avail of the opportunity to exercise their option within the stipulated period. Keeping in view these representations, it has been decided as a one time relaxation, to provide a last opportunity to such ex-service pensioners who are at present re-employed in All India Services to exercise the option for counting of their past military service as qualifying service within a period of six months from the date of issue of these orders. They may also be informed that no further extension of time will be allowed to exercise option.

3. The option exercised by the members of the Service may be processed by the State Governments as laid down in the Government of India instructions below rule 8 ibid.

[D/P&T letter No.25011/11/98-AIS(II) dated the 30<sup>th</sup> July, 1998.]

**1. *Invalid pension is not automatic on the expiry of 6 month of the issue of the certificate of Medical Board, but should be followed by an order of the Government:*** - It has been held that retirement of a member of an All India Service on invalid pension is not automatic on the expiry of six months from the date on which the Medical Board signed the certificate declaring him to be permanently incapacitated for further service; Government will have to issue an order retiring such an officer from service on invalid pension and the order cannot have retrospective application.

(Law Ministry's advice in MHA File No.13/11/75-Pers.II)

## GOVERNMENT OF INDIA'S DECISION UNDER RULE 16

**1. *State Governments are free to initiate action and suggest the compulsory retirement in public interest of AIS officer who have put in 30 years of qualifying service or have attained the age of 50 years after giving them three months notice in writing:*** - A question was raised whether under rule 16(3) the State Governments have no power to initiate action for retirement of an AIS officer who has completed 30 years of qualifying service or has attained the age of 50 years. The Government of India have held that the State Governments are free to initiate action and suggest the compulsory retirement in public interest of AIS officer who have put in 30 years of qualifying service or have attained the age of 50 years after giving them three months notice in writing. The recommendations of the State Governments in these matters would be given due consideration.

2. According to rule 16(3), the orders in each case would need to be issued by the Central Government but the formal Notification giving effect to the above orders would be issued by the State Government.

(G.I., MHA letter No.9/10/64-AIS(II), dated the 16<sup>th</sup> March, 1966).

**2. *It has been decided that a notice under sub-rule (2) of Rule 16, addressed to the Central Government can be treated as valid as defect in the notice is only formal, and in the absence of a prescribed form, endorsing a copy of the notice amounts to addressing the notice.***

[File No. 28/8/72-AIS(II).]

**3. *Government can serve notice of retirement of a member of an All India Service even before he attains the age of 50 years or has completed 30 years of qualifying service:*** - It has been decided that Government can serve notice of retirement of a member of an All India Service even before he attains the age of 50 years or has completed 30 years of qualifying service subject to the condition that the actual retirement takes place after he has attained age of 50 or has completed 30 years of qualifying service.

[File No. 2/8/72-AIS(II).]

**4. *It has been held that there is no bar to issue orders under rule 16(1) granting extension of service to a member of the Service with retrospective effect.***

[DP & AR File No. 19/2/74-AIS(II).]

**5. *A moS, who has given notice for voluntary retirement under the aforesaid rule will retire from service on the expiry of the period of the prescribed three months even if he***

***is placed under suspension after he gave notice:-*** Under sub-rule (2) of rule 16, *ibid*, retirement of a member of the service becomes effective on the expiry of three months' notice given by him, unless he is under suspension. Once the notice period begins to run, it may not be open to the Government a unilateral act of suspension to prevent the running of the three month's period. In other words, a member of the Service, who has given notice for voluntary retirement under the aforesaid rule will retire from service on the expiry of the period of the prescribed three months even if he is placed under suspension after he gave notice. However, as provided in the explanation below rule 6(1) *ibid*, a departmental proceedings in terms of the aforesaid rule shall also be deemed to have been instituted against the pensioner on the date he was placed under suspension. In view of this if a member of the service is placed under suspension after he gives notice for retiring from service voluntarily, the benefit of the limitation contained in clause (b) (ii) of the proviso to rule 6(1) *ibid* will not be available to him, and departmental proceeding under this rule for reduction of his pensionary benefits can be initiated against him, even after the date of his retirement, for a misconduct committed by him while in service, although such proceeding may be in respect of an event which took place more than four years before the institution of such proceedings.

[DP &AR letter No. 25011/47/78-AIS(II) dated the 16<sup>th</sup> October, 1978].

***6. Procedure for processing proposals for the grant of extension of service/re-employment to members of All India Services beyond the age of superannuation:-*** It has been decided to lay down the following procedure for processing proposals for the grant of extension of service/re-employment to members of All India Services beyond the age of superannuation:-

***Extension of Service:*** The Ministry/Department of the Government of India which proposes to grant extension of Service to an All India Service officer beyond the age of superannuation, should obtain concurrence of the Government of the State on whose cadre the officer is borne (Joint Cadre Authority if the officer is borne on a Joint Cadre) and the Cadre Controlling Authority, namely, Department of Personnel and A.R. in the case of IAS Officer, Police Division of the Ministry of Home Affairs in the case of IPS officers and the Department of Agriculture in the case of IFS officers, before submitting the proposal to the Appointments Committee of the Cabinet. After obtaining approval of the A.C.C., the administrative Ministry/Department should request the State Government concerned, under intimation to the Cadre Controlling Authority to issue orders under proviso to rule 16(1) of All India Services (DCRB) Rules, 1958, extending the service of the member of the Service concerned, which the State Government alone are competent to issue.

***Re-employment:*** The Ministry/Department of the Government of India, which proposes to re-employ a retired All India Service officer should consult the Government of the State on whose Cadre the officer is borne (Joint Cadre Authority if the officer is borne on a Joint Cadre). Therefore, the administrative Ministry should refer the proposal to the Cadre Controlling Authority for its concurrence before submitting the case to the A.C.C.

Subject to the above, the grant of extension in service/re-employment to All India Service officers beyond the age or superannuation will be governed by the criteria and procedure laid down in the Department of Personnel & A.R.'s OM No. 26011/1/77-Est.B, dated the 18<sup>th</sup> May, 1978.]

[DP &AR O.M. No. 25011/42/72/AIS(II), dated the 29<sup>th</sup> August, 1978.]

**7. Criteria and procedure laid by the Central Government should be strictly followed while granting re-employment/extension of service to All India Service officers under the Central Government:**

- The criteria and procedure laid down in the Ministry of Home Affairs O.M. No. 26/11/68-Est. B, dated the 17<sup>th</sup> June, 1969 (since replaced by the DP & AR OM No. 26011/1/79-Estt. B., dated the 18<sup>th</sup> May, 1978) are strictly followed while granting re-employment/extension of service to All India Service officers under the Central Government. It is suggested that these instructions may be kept in mind by the State Government while deciding cases of re-employment/extension of service to All India Service officers under them.

[DP & AR letter No. 5/16/74-AIS(II), dated the 26<sup>th</sup> August, 1974.]

*Copy of Department of personnel & A.R. O.M. No. 26011/1/77-Estt.B, dated the 18<sup>th</sup> May, 1977 regarding Grant of extension/re-employment of Central Government employees beyond the age of superannuation- Issue of consolidated instructions-*

The instructions on the grant of extension of service/re-employment to Central Government employees beyond the age of superannuation have been issued by the Ministry of Home Affairs (the Department of Personnel and Administrative Reforms) from time to time over a period of years starting from 1945 onwards. The existing instructions, being spread over a number of memoranda, have been summarised and given below in a consolidated form.

The age of retirement of different categories of Central Government employees have been laid down in the Fundamental (Amendment) Rules, 1975 notified vide Notification No. 7(7)EV(A)/74, dated 7-2-75 of the Ministry of Finance (Department of Expenditure). On attaining the age indicated in the above rules, 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. The date superannuation of a Government servant is known in advance and ordinarily there should not be the question of failure to make arrangements for his release sufficiently in advance. It is the responsibility of the administrative authority concerned to ensure that the Government servants under their control so retire.

It would be appreciated that in each case of extension or re-employment, it is not only the next man who misses promotion but often several people miss consequential promotions all along the hierarchical strata. Thus, one person getting re-employment/extension means deferment of promotion for six or seven persons. Too many cases of extension in service or re-extension are to cause frustration and affect the moral of the staff in general. Keeping in view these circumstances the following criteria and that extensions/re-employment of superannuated officers are resorted to only in really exceptional circumstances.

The procedure indicated in the following paragraphs should also be followed by the Ministries/Departments in regard to posts in statutory/autonomous bodies and Public sector Undertakings the initial appointments to which are required to be made by or with the approval of the President/Central Government. Ministries/Department of the Government of India should bring to the notice of the autonomous bodies the instructions mentioned herein and request them to consider whether similar principles should not be adopted by them for other appointments.

## **2.CRITERIA FOR EXTENSION/RE- EMPLOYMENT**

(1) No proposal for extension of service/re-employment beyond the age of superannuation should ordinarily be considered.



(2) Extension of service/re-employment can be justified only in very rare and exceptional circumstances. Even in such cases, 60 years of age should be the deadline for non-scientific/non-technical posts and 62 years in the case of scientific/technical personnel. This should not be construed to mean that extensions of service/re-employment can be granted to non-scientific/non-technical personnel upto the age of 60 years and to scientific/technical personnel upto the age of 62 years more or less as a matter of course. The over-riding consideration for the grant of extension of service/re-employment is that it must be clearly in the public interest and in addition satisfy one of the following two conditions:

- (i) that other officers are not ripe enough to take over the job; or
- (ii) that the retiring officer is of outstanding merit.

Test (i) would be satisfied only if there is shortage in a particular specialisation, or if it is not possible to find a suitable successor or if the officer is engaged on a work or project of vital importance which is likely to produce results in a year or two. If officers in the next lower post are not eligible for promotion on the ground that they have not put in the minimum service in the lower grade prescribed under the rules, no promotions can be made to the higher grade, unless such officer put in the requisite length of service. But officers who are eligible for promotion to the post against which extension/re-employment is recommended, should not be rejected solely on the ground that they do not have as much experience as the retiring officer. They should be considered for promotion according to the recruitment rules and if they are found suitable they should be promoted to the posts being vacated by the retiring officer.

Test (ii) would not be satisfied by the mere fact that the specialist (e.g. a scientific or technical officer) is fit in all respects or is otherwise able to discharge effectively of the post held by him.

(3) No extension of service/re-employment should be considered on the ground that a suitable successor is not available unless it is established that action to select a successor had been taken well in advance, but the selection could not be finalised in time for justifiable reasons.

(4) A proposal for the grant of extension of service/re-employment based merely on the consideration that the officer's predecessor had been given extension/re-employment should obviously not be accepted.

(5) Honorary appointment in Public Sector Undertakings in the case of honorary appointments, e.g. appointments on the Board of Directors of Public Sector Undertaking, the limit may be 65 years provided the appointment is really honorary and does not carry any substantial remuneration.

(6) Appointments of retired officers even in honorary posts of Chairman and Members of the Board of Management including the Managing Director and the Financial Adviser (if the Financial Adviser is a member of the Board of Management) of any State/Government owned corporation, company or Enterprise or of various Public Sector Undertaking should not, as a general rule, be proposed for the approval of the Appointments Committee of the Cabinet. However, where the Administrative Ministry/Department considers that there are exceptional circumstances which would justify the appointment of a retired officer, a detailed justification should be given for the consideration of the Appointments Committee.

**(3) Criteria for higher officers:- While making proposals for extension of**

service/re-employment in higher posts, it is all the more necessary to apply higher standards of efficiency to persons whose appointments to the higher posts are recommended for approval of Appointments Committee of the Cabinet. The number of top posts is bound to be very limited and a few persons should not have them for too long.

**VI. CENTRAL GOVERNMENT EMPLOYEES WHO TOOK PART IN NATIONAL MOVEMENT:**

Persons who took part in the National Movement and were thereby prevented from the availing themselves the normal opportunities for entry into Government service has been granted age concessions in the matter of entering into government service (vide MHA's Office Memorandum No. 15/21/48-Estt., dated 29.11.48 and No. 6.1.51-MGS, dated 14.2.1951). They have also been allowed, subject to certain conditions, to add to their service qualifying for superannuation persons, (but not for any other class of pension), the actual period not exceeding  $\frac{1}{4}$  of the length of their service of the actual period of 5 years whichever is least, However, as regards the question of grant of extension of service/re-employment beyond the age of superannuation, they will be governed by the same orders as are applicable to other Central Government employees.

**VII. CURTAILMENT OF THE PERIOD OF EXTENSION/RE-EMPLOYMENT:**

A situation might arise where the grant of extension of service/re-employment beyond the age of superannuation for a specified period might have to be cancelled or modified at a later date for administrative reasons. As the Government is committed to retaining the officer for a specified period, it cannot dispense with his service before the expiry of that period except on disciplinary grounds. It is, therefore, necessary that in every case the order granting an extension of service/re-re-employment should include a clause providing for termination of service after three month's/one month's notice at any time within the period of extension/re-employment.

**VIII. PROMOTION:**

No government servant who is on extension of service after the prescribed date of retirement should be promoted to another post during the period of extension of service.

**IX. PAY:**

The pay of superannuated Government servants re-employed in Central Civil Department will be regulated in accordance with the instructions contained in Ministry of Finance Office Memorandum No.8(34)-E.III/57 dated 25-11-1958 (as amended from time to time).

\* \* \* \* \*

Proforma for sending proposals for approval of Ministry of Home Affairs or for internal use in a Ministry/Department for grant of extension/re-employment to Government servants beyond the age of superannuation

1. Designation of the Post:
2. Duration of the Post:
3. Scale and terms of the post and perquisites attached, if any:

4. Whether financial sanction for the creation of the post/continuance of post for the duration shown at (2) has been obtained;
5. Method of recruitment:
6. Name and the terminal date of appointment of the outgoing incumbent of the post:
7. Name of the officer proposed for appointment and the service to which he belongs:
8. Full service particulars of the Officer with date of birth and pay drawn:
9. Names of other officers considered:
10. If promotion post, whether copies of proceedings of a D.P.C. are being enclosed? if not, why?
11. Whether character roll of the officers proposed and those considered are being sent? if not, why?
12. If the proposal involves extension/re-employment, please indicate:
  - (i) (a) Whether the post is scientific/technical or non-scientific/non-technical:  
 (b) Whether the officer is to be granted extension of service or re-employment:  
 (c) Period of extension/re-employment granted earlier to the officer, if any:  
 (d) Date from which extension/re-employment is to be granted:  
 (e) Period of extension or service/re-employment:
  - (ii) Justification for grant of extension/re-employment if the post is technical/scientific:
  - (iii) Justification for grant of extension/re-employment if the post is non-technical/ non-scientific:
  - (iv) (a) The date from which it was known that vacancy would occur:  
 (b) Action taken to select a successor with chronological details:  
 (c) If selection is being made, reasons why this could not be finalised in good time:  
 (d) If proposal involves extension/re-employment; can some officiating or ad hoc arrangements be made, pending fresh appointment by proper selection? if not, why not?
  - (v) If the case is referable to A.C.C., whether the case has been discussed with Cabinet Secretary? if so, his reaction to the proposal:
  - (vi) Whether orders of the Minister-in-charge have been obtained?
13. Whether the prescribed Integrity certificate, from the appropriate authority, is enclosed.

\*

\*

\*

\*

## GOVERNMENT OF INDIA DECISION UNDER RULE 16(2A)

1. **Guidelines for acceptance of notice of voluntary retirement:** - It has been decided to lay down the following guidelines for the acceptance of the notice of retirement under sub-rule (2A) of Rule 16 of the All India Service (Death-cum-retirement Benefits) Rules, 1958 for the information and guidance of the State Governments:-

- (i) A notice of voluntary retirement given by a member of the service may be withdrawn by him, after it is accepted by the State Government, only with the approval of the State

Government concerned provided the request for such withdrawal is made before the expiry of the period of notice.

- (ii) In cases where disciplinary proceedings are pending or contemplated against a member of the Service for the imposition of a major penalty and the disciplinary authority having regard to the circumstances of the case, is of the view that the imposition of the major penalty of removal or dismissal for service would be warranted, the notice of voluntary retirement given by the officer concerned may not ordinarily be accepted.
- (iii) In cases where prosecution is contemplated or may have been launched in a court of law against a member of the service, the notice of voluntary retirement given by him may not ordinarily be accepted.
- (iv) The notice of voluntary retirement given a member of the Service, Who is on study leave or who has but not completed a minimum service of 3 years on completion of study leave, may not ordinarily be accepted.

[DP & AR letter No. 25011/2/80-AIS(II), dated the 16<sup>th</sup> October, 1980.]

**2. EOL cannot run concurrently with the period of notice of voluntary retirement:** - I am directed to refer to sub-rule (2) of Rule 16 of the AIS(DCRB) Rules which requires that a member of the service should give 3 month's previous notice in writing to retire from service on the date on which he/she completes 30 tears of qualifying service or attains 50 years of age or any date thereafter to be specified in the notice. Sub-rule (2A) 3 month's notice in advance in order to retire from service on the date on which he completes 20 years of qualifying service or on any date thereafter to be specified in the notice.

2. A question has arisen whether a member of the service could be granted Extra Ordinary Leave on private affairs or on medical grounds during the period of the notice for voluntary retirement. The mater has been considered and it is clarified that Extra Ordinary Leave cannot run concurrently with the period of notice given by a member of the service for seeking voluntary retirement.

## GOVERNMENT OF INDIA DECISION UNDER RULE 17

**1. A moS cannot pledge his retirement benefits to L.I.C.:** - It was brought to the notice of the Government that an officer of the All India Services had obtained a loan from the Life Insurance Corporation and in the mortgage deed executed by him, he agreed *inter alia*, that in the event of termination of his service by death, retirement or otherwise, the retirement benefits to be received will be paid towards discharging all amount under the said Mortgage Deed by way of principal, interest or otherwise, if so due at the relevant time. He also agreed that if possible, he would appoint the Corporation as his nominee to receive the provident fund, gratuity and other retirement benefits.

2. The Government of India have examined the question whether the A.I.S. officers can pledge their retirement benefits to the Life Insurance Corporation. Section 12 of the Pension Act., 1871 and Section 3 or the Provident Fund Act, 1925 do not permit an officer to pledge his pension or provident fund in this manner.

1.3 As regards nominating the Life Insurance Corporation to receive the retirement benefits like gratuity, provident fund, etc., the respective rules regarding nomination do not permit such a course when the officer has a family.

[G.I., MHA letter No. 29/53/64-AIS(II), dated the 22<sup>nd</sup> March, 1965.]

2. It has been decided that pension can be held in abeyance.

[Deptt. of Personnel & AR File No. 29/88/71-AIS(II).]

## GOVERNMENT OF INDIA DECISION UNDER RULE 18

**1. Simplification of procedure with a view to eliminating delays in the payment of pension and gratuity:-** The undersigned is directed to refer to this Ministry's O.M. No. F.11(3)-EV(A)/76, dated the 28<sup>th</sup> February, 1976, on the subject mentioned above, and to say that certain related issues have been separately under the consideration of the Government viz. (a) the manner in which pension cases which were pending on the date of effect of the afore said O.M. should be processed; (b) the application of the provisions of that O.M. to those cases of retirement on or after 29.2.76 in which the full two-year period envisaged in the time-table is not available; and (c) the manner in which pension papers should be processed in those cases in which retirement occurs ahead of the age of superannuation. Appropriate instructions in regard to these matters are laid down in the ensuing paragraphs.

2. Pending pension cases - As the O.M. dated 28.2.76, was made applicable to persons retiring on or after 29.2.76, such provisions of that O.M. as involve a liberalisation of entitlements would not be applicable to those who had retired prior to 29.2.76. It is, however, the Government's intention that the spirit and approach behind the procedural changes introduced in that O.M. should fully govern the processing of such pending pension cases. Even prior to the issue of that O.M., the C.C.S. (Pension) Rules, 1972, required advance action in regard to pension cases to be initiated one year ahead of the date of the retirement, vide Rules 62, 63 & 66; from July, '75 onwards the advance action was to be initiated two years prior to the date of retirement, vide this Ministry's notification No. F.11(1)-EV(A)/73, dated the 14.7.75. Moreover, even prior to the issue of the O.M. dated 28.2.76, the procedures in force were designed to facilitate the commencement of the payment of pension on the first of the months in which it is due; the O.M. of 28.2.76 merely sought to reinforce those intentions and objectives. In the light of the above, it has been decided that all pending pension cases of those who retired before 29.2.76 should be processed and finalised (where this has been done already) strictly in accordance with the following instructions:

- (i) Where pension and death-cum-retirement gratuity have not yet been released even on provisional basis, action to draw and disburse provisional pension and provisional death-cum-retirement gratuity should be taken forthwith and the payments should commence not later than 1<sup>st</sup> June, 1976. For this purpose, recourse may be had, if necessary, to the summary procedures laid down in paragraph 8(a) and (b) of the O.M. dated 28.2.76.
- (ii) A flat period of six months at the maximum (four months for the Head of Office and two months for the office which is to issue (PPO/GPO) will be allowed for the final determination of pension and gratuity; the issue of the LPC, the ascertainment and adjustment of recoverable balance of loans and advances and other Government dues etc. Whatever the progress of work upto 29.2.76, the pension cases should be positively completed during the period of six months from 1<sup>st</sup> March, 1976, fully in conformity with the spirit of the O.M. dated 28.2.76; and the final pension and gratuity payment orders should be issued not later than 31<sup>st</sup> August, 1976. If the final PPO/GPO has not been issued by that date in any case, the provisions of paragraphs 8(c), 9 and 10 should be fully applicable. After 1<sup>st</sup> September, 1976, there should be no pending pension cases relating to any Government servant who retired

prior to 29.2.76 (except those in which disciplinary proceedings are in progress). It shall be the responsibility of Heads of Departments to ensure that the dates laid down above are adhered to.

3. Cases of retirement on or after 29.2.76 in which the two-year time table is not feasible. (I) Some Government servants might have already retired on or after 29.2.76 and others might be due to retire on varying dates in the future but with less than two years to go. However, as already mentioned, the rules and orders in force prior to the issue of the O.M. dated 28.2.76 did require advance action to be taken to initiate pension cases one year prior to the date of retirement; and this was changed to two years by this Ministry's notification No. 11(1)-EV(A)/73 dated 14.7.75. There should, therefore, be no difficulty in processing the pension and gratuity in accordance with the time-table laid down in paragraph 2(a) of the O.M. dated 28.2.76, at least in all those cases in which the Government servants are due to retire in July, 77 or later (i.e., two years after the issue of the notification of 14.7.75 referred to above).

(ii) In respect of Government servants who are due for retirement before July, 1977 it has to be presumed that in pursuance of the extant rules and orders, preparatory work on pension cases, must have started one year prior to the date of retirement. In cases where the preparatory work was not taken in hand, the work should be taken in hand immediately. To the extent that the two-year period envisaged in clause (a) of para 2 of the O.M. dated 28.2.76 is not fully available, the abridgement of the time table should take place essentially by a reduction of the time allotted to the first stage envisaged in the aforesaid clause, the other stages remaining unaltered; and the actual work of preparation of pension papers, viz. the reckoning of qualifying service and average emoluments should be taken in hand eight months before the date of retirement and the rest of the time-table applied accordingly.

(iii) In respect of government servants who are due to retire in the very near future (say within the next ten months) and in whose cases the preparatory work on the processing of the pension cases has not been taken in hand, the provision of the O.M. dated 28.2.76 would be fully applicable subject only to the practical limitation that the four separate stages envisaged in sub-paragraphs (a), (b), (c) & (d) of paragraph 2 of the O.M. would get compressed into one stage. The grant of provisional pension and provisional gratuity on the first of the month in which pension is due and the final settlement of the pension case and all related matters within a period of 6 months from the date of retirement in terms of paragraphs 8, 9 10 of the O.M. dated 28.2.76 would, of course, be mandatory.

4. Retirement ahead of the age of superannuation - In case of retirement on a retiring pension clause (l) or (k) under F.R. 56 or under Rule 48 of the CCS (Pension) Rules, 1972, or retirement on invalid pension or compensation pension under Rule 38 and 39 respectively of the CCS(Pension) Rules, or retirement on absorption in or under a Corporation, Company or Body under Rule 37 of those rules, it is not possible to anticipate the date of retirement and consequently it is not feasible to initiate advance action in accordance with the two-year time table laid down in the O.M. dated 28.2.76. Nevertheless, this does not detract from the principle that the pension case has to be finalised as quickly as possible in such cases also. Action should be commenced immediately after the fact of the impending retirement of the government servant is known and the pension case and all other related matters and formalities should be fully completed not later than six months from the date of retirement. In such cases also, a provisional Rules, and no permission of the Government of India is required.

5. AIS (DCRB) Rules, 1958 provides that the sanction and payment of retirement benefits to a member of an All India Service shall be regulated by such procedural instructions as may be issued by the Central Government. In pursuance of this rule, the Central Government have decided that when a member of an All India Service completes 20 years of service, the Audit Officer shall verify the service rendered by him in accordance with the rules in force at that time and determine the qualifying service rendered by him and communicate the same to the officer concerned. This verification is subject to final verification of qualifying service which shall be made, if found necessary, at the time of retirement of a member of the service. [DP& AR letter No. 25011/48/78-AIS(II), dated 6<sup>th</sup> November, 1978].

6. The Central Government have decided that the simplified procedure laid down in the Ministry of Finance O.M. No. 11( 3)-EV(A)/76, dated the 28<sup>th</sup> February, 1976 (Annexure A) and No. 11(3)-EV(A)/76, dated the 6<sup>th</sup> May, 1976 (Annexure B) for the calculation of retirement benefits in the case of Central Government servants apply mutatis mutandis to members of All India Services. [DP& AR File No. 11023/4/76-AIS(II)].

[Ministry of Finance OM No. F.11(3)-EV(A)/76 dated 6<sup>th</sup> May, 1976.]

**2. Clarification to Government of India Notification dated 14/1/99- amendment to rules 18 and 22B of the AIS(DCRB) Rules, 1958:** - I am directed to state that this Department had issued a notification No. 14021/5/98-AIS(II) dated 14<sup>th</sup> January, 1999 making amendments to Rules 18 and 22B of the AIS(DCRB) Rules, 1958, for fixation of pension/family pension of the member/deceased members of the All India Services.

2. In the course of implementation of the aforesaid notification clarifications have been sought by the State Governments and individuals about the actual connotation of the "post last held" by the pensioner at the time of his/her superannuation. In exercise of powers conferred on the Central Government under Rule 29 of the AIS(DCRB) Rules, 1958, it is clarified that the proviso to rule 18(1)(b)(i) *ibid*, issued in the aforesaid notification i.e. "the pension of all pensioners irrespective of their date of retirement shall not be less than 50% of the minimum pay in the revised scale of pay w.e.f. 1/1/1996 of the post last held by the pensioner" shall mean that pension of all pensioners irrespective of their date of retirement shall not be less than 50% of the minimum of the corresponding scale as on 1/1/1996 of the scale of pay held by the pensioner at the time of superannuation/retirement. The provisions of sub-rule (2) of rule 22B *ibid* may also be similarly defined.

[letter No. 14021/5/98-AIS(II), dated 6/5/2003]

**3. Instructions on dure for payment of pension and other retirement benefits to the All India Service Officers retiring from the Government of India:** - The undersigned is directed to state that the question of simplification of administrative procedure for payment of pension, gratuity etc. to the All India Services Officers retiring from the Government of India has been under consideration of this Department. The following decision has been taken in consultation with the Ministry of Finance and the Department of Pension and PW In the light of the earlier Government of India decisions taken in this regard.

- (i) It is clarified that pensionary benefits of officers belonging to the All India Services who retire from Government of India while on Central deputation with the Central Government may, at their option, be finalized and paid by the Ministries/Departments from which they

retire as per the procedure in respect of similarly placed AIS officers belonging to the UT Cadre vide this Department's letter No.25011/4/83-AIS(II) dated 11<sup>th</sup> July, 1984 (p.314, AIS Manual Vol.I, 2002).

- (ii) Other benefits like leave encashment, GPF etc. shall also be finalized by the Ministries/Departments from which they retire.
- (iii) The pensionary liability of All India Services Officers is of the State Government on whose Cadre they are borne. This pensionary liability would continue to be of the State Government concerned. Therefore debit would need to be raised against the respective State Government for pension paid by the Ministries/Departments of the Government of India in respect of such All India Service Officers.

2. The aforesaid decision of the Government of India is hereby conveyed to all the Ministries/Departments of the Government of India for further necessary action accordingly.

[O.M.No. 25014/2/2002-AIS(II) dated 3<sup>rd</sup> June, 2004]

**4. Simplification of Procedure for payment of pension and other benefits to All India Service officers retiring from Government of India/State Governments:-** I am directed to refer to the earlier O.M.s of even number dated 3<sup>rd</sup> June, 2004 and 11<sup>th</sup> July, 2005 issued by this Ministry on the subject mentioned above. Earlier, the payment of pension to All India Service officers, including those officers who were on deputation with the Central Government, was being made by the respective State Governments on whose cadre those officers were borne. After considering the difficulties experienced by these officers and with a view to simplifying the procedure it was decided by the Government that the AIS officers who were on deputation with the Union Government at the time of retirement could opt for payment of pension and other retirement benefits through the Central Government. Accordingly, suitable instructions were issued by the Controller General of Accounts, Ministry of Finance, Department of Expenditure.

2. Measures for further simplification of the procedure for payment of pension and other retirement benefits to AIS officers retiring from Government of India/State Governments has been under consideration of the Government of India. In consultation with the Ministry of Finance and Department of Pension and Pensioners' Welfare it has now been decided that the following revised procedures/systems would be followed.

- i) Government of India would take over the entire pension liability of all AIS officers, retired as well as retiring, both from the State and Central Government.
- ii) All retiring AIS officers would uniformly have the option of drawal of pension through Government of India or through the State Government. Authorisation of pension for members of the services retiring from State Government would continue with the State Governments. However, officers who retire from the State Government can now opt for payment of pension from the Central Government or the State Government. Similarly, officers retiring from Government of India may opt for authorisation of pension through Government of India or the State Government.
- iii) Existing AIS pensioners shall also be given an option to draw their pension from the State/Central Government as in the case of future retirees.
- iv) In respect of officials retiring from the State Governments and opting to receive pension through State Government, the existing system of authorisation/issue of



Pension Payment Order (PPO), payment and accounting of pension and other retirement benefits through the administrative structure of the State Governments/Accountants General will continue as hithertofore. In these cases, the Government of India would reimburse the expenditure to the State, subject to compliance with the Central Government rules and instructions in this regard, in a manner similar to the reimbursement of House Building Advance scheme for All India Services. Guidelines for claiming reimbursement from the Central Government would be issued separately by the Controller General of Accounts, Ministry of Finance, Government of India.

- v) Pension authorisation, etc. of officials retiring from the Government of India and opting to draw pension through the Government of India, shall be processed in accordance with the O.M.s dated 3/6/2004 and 11/7/2005 referred to in paragraph 1 above.
- vi) In respect of officials retiring from the State Government and opting to draw pension through the Government of India, a Designated Authority in each State would completely process all matters relating to the determination of pension, gratuity, adjustment/recovery of advances/other dues and send the PPO for further processing by the Central Pension Accounting Office, Ministry of Finance, New Delhi (CPAO). The CPAO would, thereafter, process/forward these cases to the relevant bank branches (through whom the pensioner desires drawl of pension) in a manner similar to the other Central Civil Pensioners. The Designated Authority in each state, shall be communicated by the State Government to the CPAO.
- vii) The banks would follow a procedure similar to those followed in respect of central civil pensioners, while disbursing pension to the All India Service officials. The 'Scheme for Payment of Pension to Central Government Civil Pensioners by Authorised Banks' shall be followed, mutatis-mutandis, in respect of AIS officials.
- viii) Currently, the monthly pension disbursement on the PPOs of AIS officials issued by the Ministries/Departments of GOI through CPAO, are scrolled to the accounts of the respective State Government directly (without routing it through Government of India). In the new system, all monthly disbursement on the PPOs, routed through CPAO, Government of India, will be scrolled by the banks to the CPAO, irrespective of whether the person has retired from the Central Government or State Government.
- ix) In respect of existing pensioners opting to draw pension through Government of India, separate instructions to facilitate transition would follow.
- x) In order to facilitate accounting, reimbursement to State Governments etc. a separate Head of Accounts for pension of AIS officers will be opened by the Controller General of Accounts, Ministry of Finance, in consultation with Budget Division, Department of Economic Affairs and Comptroller and Auditor General of India.
- xi) Each State will prepare and send the relevant Budget Estimates against various pensionary benefits in respect of AIS officers to the CPAO by the prescribed dates.

3. Detailed operational procedure to be followed by various agencies for preparation of pension papers, issue of PPO and arranging payment and accounting of payments etc. will be issued by the Controller General of Accounts, Ministry of Finance, Department of Expenditure.

4. In cases of any problem/dispute in individual cases, references may be made to the respective Cadre Controlling Authorities in the Central Government, for appropriate action, if necessary, in consultation with other Departments.

[Instruction issued vide F.no. 25014/2/2002-AIS(II) dated 11/4/2007]

## GOVERNMENT OF INDIA'S INSTRUCTIONS UNDER RULE 19

1. **Gratuity is not covered under the term 'pension' in the Pensions Act, 1871, and therefore, does not enjoy the protection:** - Gratuity is not covered by the term 'Pension' occurring in the Pensions Act, 1871, and therefore, does not enjoy the protection, conferred by the various provisions of that Act. It is, therefore, permissible to make recovery of any amount owed by a retired officer to Government from the death-cum-retirement gratuity due in respect of him, even without obtaining his consent or that of the members of his family in the case of deceased officers, as the case may be.

(G.I. MHA letter No. 2/13/59-AIS(III), dated the 29<sup>th</sup> December, 1959)

2. The **daughter of a moS, who was unmarried at the time of his death, does not forfeit her share of moS' gratuity on account of her subsequent marriage:** - A member of the service died while in service without making any nomination. One of the surviving members of his family, an unmarried daughter, got married subsequently before the death gratuity was paid. A question arose whether the daughter who was unmarried at the time of his death and was eligible for a share of the death gratuity, forfeited her share on account of her subsequent marriage.

2. According to sub-rule (2) (i) the death gratuity became payable to the surviving members of the officer's family mentioned in sub-clauses (i), (ii) and (iii) of rule 21(i) (a) on the date of his death. An interest in the gratuity had thus accrued to and became vested in each member of the family of the deceased at the time of death. His daughter who was since married was, therefore, entitled to payment of an equal share of the death gratuity along with other members of his family and her right was not forfeited on account of her subsequent marriage.

(G.O.I, MHA letter No. 2/47/60-AIS(III) dated the 8<sup>th</sup> August, 1960)

3. **Scheme for grant of death-cum-retirement gratuity to member of former ICS, who are now IAS:** - The Government of India have decided to allow an option to the members of the former ICS who are now members of the IAS, to get the benefits of death-cum-retirement gratuity by surrendering a portion of pension admissible to them under the existing rules.

2. The details of the Scheme for grant of death-cum-retirement gratuity as finally approved by the Government of India are given below:-

(1) Amount of Gratuity Admissible:

- (i) Retirement gratuity – At the rate  $\frac{1}{4}$ <sup>th</sup> of the emolument of Rs.1,800(maximum) for each complete six monthly period of qualifying service subject to a maximum of Rs.24,000.
- (ii) Death gratuity – On death while in service gratuity as in (i) above subject to a minimum of 12 times of Rs.1,800.

(2) Amount of Pension to be surrendered - The pension equivalent of the death-cum-retirement gratuity calculated on the basis of commutation table current at the time of retirement of the officer concerned.

(3) Nominations – The nominations in regard to death-cum-retirement gratuity shall be in accordance with the provisions of Rule 21 of the AIS(DCRB) Rules, 1958.

(4) Commutation of Pension – Further commutation of pension will be permissible to the extent of 1/3<sup>rd</sup> of the balance left after deducting pension equivalent of death-cum-retirement gratuity.

3. The benefits of the death-cum-retirement gratuity Scheme detailed above will be admissible to all I.C.S. officers who were in service on the 1<sup>st</sup> January, 1964.

4. The I.C.S. officers concerned, including those, who have retired on or after the 1<sup>st</sup> January, 1964 had to exercise their option in the matter within 6 months from the date of issue of these orders (7.12.1965). The option was required to be exercised in writing and communicated to the Accountant General concerned. The option once exercised shall be final.

5. Those who failed to opt for the scheme within the specified period will not be entitled to any benefits of this scheme, as the conditions of service of the I.C.S. officers are different in this respect as compared with those of the other services.

6. The officers who were in service on the 1<sup>st</sup> January, 1964 but have died thereafter should be deemed to have opted for the new Scheme and their family should be allowed benefits admissible under it.

(G.O.I. MHA letter No. 29/20/61-AIS(II) dated 7.12.1965)

#### GOVERNMENT OF INDIA'S DECISION UNDER RULE 19-A 19-B 19-BB AND 19-C

**1. Extra expenditure under the Deposit Linked Insurance Scheme will be debited by the State Government if the moS serves in the State, otherwise the Account Officer who maintains the provident fund account of the office concerned shall make final payment out of the provisions of the State:** - A question has been raised as to whose Budget (State or Central) the extra expenditure under the Deposit Linked Insurance Scheme will be debited in cases where members of the All India Services die while working under the State Government or the Central Government. It has been decided in consultation with the Ministry of Finance and C & AG that the payments has to be debited against the Budget provision made by the concerned Accountant General out of the estimate in respect of the scheme prepared by him. In respect of members of the All India Services allotted to different States, the Budget provision will be made from the State Govt.'s budget under an appropriate Head. When the members of the All India Services borne on a State Cadre are on deputation either to the Central Government or to any other State Government, the Accounts Officer who maintains the provident fund account of the office concerned shall make final payment out of the provisions of the State.

[DP & AR letter No. 15011/65/75-AIS(II), dated 14.11.1965]

#### **2. Regulation of delay in payment of gratuity in case of administrative lapse: -**

Copy of letter No. 7/20/89-P & No. (F) dated 22.1.91 extended to members of AIS vide letter 25011/10/91-AIS(II) dated 21.3.91 of D/P&T, GOI

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 Govt. 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 proceeding, the payment of gratuity will be deemed to have falling due on the date following the date of retirement vide DP &AR OM No. 1/4/Pen. Unit/82 dated 10/1/83, If the payment of gratuity has been delayed, interest may be allowed beyond the period of 3 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 3 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 DP &AR's OM No. 7(1)/79P dated 11.7.1979. If the payment of gratuity is delayed in such cases interest will be payable for the period of delay beyond 3 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 sanctioning authority does not get adequate time for processing pension papers, contrary to 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 and should not be kept in arrears. Provisions also exist that on completion of 25 years of service (qualifying) or on one being left with 5 years service before the date of retirement, whichever is earlier, the Head of Office should verify the service rendered by such government communicate to him the period of qualifying service as determined vide Rule 32 of the CSS(pension) Rule, 1972. It is, therefore, expected that even in cases of retiring employees. It has therefore been decided that where the payment of gratuity in such cases is delayed beyond 6 months from the date of such retirement, interest should be paid for the period of delay beyond 6 months from the date of retirement.

(iii) On death of the government servant while in service:-

Such cases may be considered on the same line as mentioned in clause (ii) above. Detailed procedure for processing the payment of death gratuity is explained in Rule 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 6 months from the date of death, interest should be paid for the period of delay beyond 6 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 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 the 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 of arrears of a gratuity is delayed beyond a period of 3 months from the date of issue of the orders revising the emoluments/liberalisation in the rules, interest may be allowed for the delay beyond the period of 3 months of the date of issue on the said orders.

- (v) In cases of permanent absorption in PSU/autonomous bodies otherwise than on en-mass 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 above. If the payment of gratuity has been delayed beyond 6 months from the date of permanent absorption the interest may be allowed for the period of delay beyond 6 months.

2. 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 3 months from the date of retirement.

3. 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 reasonable 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 lapse 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 upto the end of the months preceding the months in which gratuity/arrears of gratuity is paid.

4. These orders shall take effect from the date of issue of this O.M. 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 payment 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 .

[25011/10/91-AIS(II) dated 21.3.91.]

### **3. Procedure of payment of retirement benefits to the family members of the moS who has disappeared: -**

*O.M.No. 1/17/86-P&PW dated 29/8/86. extended to members of AIS vide letter 25011/12/89-AIS(II) dated 17/5/89.*

1. 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.

2. 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.

3. Withholding of the benefits due to the family has been causing a great deal of hardship and 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 G.P.F. having regard to the nomination made by the employee,
- (ii) After the elapse of a period of one year, other benefits like DCRG/family pension may also be granted to the family subject to the fulfillment of living conditions.

4. The above benefits may be sanctioned by the administrative Ministry/Department after observing the following formalities:-

- 1) 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.
- 2) An Indemnity Bond should be taken from the nominee/dependents of the employee that all payments will be adjusted against the payments due to the employee in case he appears on the scene and make any claim.

5. The Head of Office will assess all Government dues outstanding against the Government servant and effect their recovery.

6. The family can apply to the Head of the Office of the Government servant for grant of family pension and DCR 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 DCR Gratuity. In case the disbursement of DCR 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.

[25011/12/89-AIS(II) dated 17.5.89]

**4. The admissibility of interest on the gratuity allowed after the conclusion of judicial/departmental proceedings: -** I am directed to state that the Central Government has been receiving references from the State Governments about the admissibility of interest on the withheld amount of gratuity and commutation of pension during the pendency of

judicial/departmental proceedings against the retired All India Services Officers. The question of grant of interest in such cases has been examined in this Department in consultation with the Department of Pension & Pensioners' Welfare.

2. It has been decided to follow the provision contained in the Government of India Decision No. (1) below Rule 68 of CCS(Pension) Rules, 1972, as reproduced below, regarding the admissibility of interest on the gratuity allowed after the conclusion of judicial/departmental proceedings as there is no such provision under the All India Services (Death-cum-Retirement Benefits) Rules, 1958:-

“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. 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 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 of 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.”

3. The decision in this respect shall be applicable in those cases only which have not been decided so far and future cases. Past cases are not to be re-opened.

4. In its 44<sup>th</sup> Report, the Parliamentary Standing Committee on the Ministry of Home Affairs had observed that timely payment of pension and retirement dues is not being made to the retiring Government employees and the Committee had recommended certain steps to ensure timely payment of pension and retirement dues to the retiring employees of the Union Government. The Government has decided to implement the recommendations vide Department of Pension & Pensioners' Welfare O.M.No.38/64/98-P&PW(F) dated the 5<sup>th</sup> October, 1999 and it has been further decided to extend the same to AIS officials with suitable changes as follows:

- (a) All pensioners' dues are to be settled by strictly following the procedures laid down in the All India Services(Death-cum-Retirement Benefits) Rules, 1958.
- (b) Wherever delays are anticipated, provisional pension should be sanctioned immediately.
- (c) Any delay in processing of pension resulting in pension not being authorised on the last working day of retirement of the Government servant should be reported by the Head of the Office to the next higher authority who would watch the settlement of delayed cases.
- (d) In respect of payment of gratuity, Rule 19A of the All India Services(Death-cum-Retirement Benefits) Rules, 1958 may be referred to. As per this Rule, if the payment of gratuity has been delayed because of administrative lapse by more than three months from the date when its payment became due, interest at the rate prescribed by the Central Government from time to time shall be paid on the amount of gratuity in respect of the period beyond three months. In case of any such eventuality, the Chief Secretary of the State Government concerned would initiate action to fix responsibility to recover the amount from the concerned dealing official, Supervisor or Head of Office in proportion to their salary by

following the prescribed procedure for the purpose.

- (e) Once it has been decided to pay gratuity, the amount should be paid immediately pending a decision regarding payment of interest. This would reduce the interest liability, if any, on delayed payment of gratuity.
- (f) In the matter of delayed payment of leave encashment, it is noted that there is no provision for payment of interest or for fixing responsibility. Moreover, encashment of leave is a benefit granted under the Leave Rules and not a pensionary benefit.
- (g) In the matter of CGEGIS, the Department of Expenditure, Ministry of Finance in their U.O.No.709/EV/99 dated the 6<sup>th</sup> August, 1999 has clarified that payments under CGEGIS cannot be termed as terminal benefit. As payments under this Scheme are made in accordance with a Table of benefit which takes into account the interest upto the date of cessation of service, no interest is payable on account of delayed payment in the Scheme. They have also clarified that CGEGIS payment cannot be withheld and no Government dues can be recovered from the accumulation except the amount claimed by the financial institution as due from the employee on account of loans taken for House building purpose.

5. There is no provision either under the All India Services(Commutation of Pension) Regulations, 1959 or CCS(Commutation of Pension) Rules, 1981 for payment of interest on commutation value of pension. There is no prescribed date for payment of commutation value. A pensioner continues to draw full pension till the payment of commutation value. As such, payment of interest on commutation value does not arise. Further, it may be stated that as per Rule 3 of AIS(Commutation of Pension) Regulations, 1959, a pensioner is not eligible to apply for commutation if any departmental/judicial proceedings is pending against him at the time of his retirement. He becomes eligible only after the departmental/judicial proceeding is over.

6. The State Governments are requested to deal with the matters for payment of gratuity or DCRG and other pensionary benefits to the retiring Members of the All India Services in accordance with the provisions enumerated above. These orders shall be applicable on those cases only which have not been decided so far and future cases. Past cases are not to be re-opened.

[D/P&T letter No.25014/30/99-AIS(II) dated 7.8.2000]



10. (1) Emoluments for Family Pension (as indicated in PPO)  
(2) Family Pension admissible

Calculations to be shown as follows:

(a) Ordinary Family Pension:

Pay last drawn x Prescribed % subject to prescribed minimum & maximum

(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.

Head of Office

Countersigned

PAO

P.A.O.

[25011/4/92-AIS(II) dt. 3.3.92]

**2. Extra-ordinary Pension- Cases of All India Service Officers:-** Rates applicable to after consultation with State Governments as required under rule 2(b) of the All India Service (conditions of Service:- Residuary Matters) Rules, 1960- it has been decided that in the matter of grant of Extra-ordinary Pension to AIS officers serving in connection with the affairs of a State an option may be granted to officers to elect the extra-ordinary pension rules of the State Government or orders issued by Government of India, whichever is more favourable to them. [30/2/66-AIS(II) dated 3/7/67]

**3. Special benefits in cases of death and disability in service – payment/revision of disability pension/family pension – recommendations of the 5<sup>th</sup> Central Pay Commission:**

- I am directed to state that the Department of Pension and PW vide their OM No. 45/22/97-P&PW( C) dated 3<sup>rd</sup> February, 2000 had issued orders for determination of compensation payable for death or disability under different circumstances, which are applicable to the Central Civil Services. Further that Department has issued OM No. 45/22/97-P&PW( C) dated 11<sup>th</sup> September, 2001 for revision of pension and family pension under the Central Civil Services(Extra-ordinary Pension) Rules/Liberalised Pensionary Award Scheme, applicable to the members of the Central Civil Services. Copies of the aforesaid two Office Memoranda are enclosed.

2. It has come to notice that dependents of the members of the All India Services had been granted Extra-ordinary Family Pension under the CCS(Extra-ordinary Pension) Rules on death of the member of the service. References have also been received in this Department for revision of such family pension. Recently this Department has issued orders extending the benefit of Liberalised Pensionary Award(LPA) and payment of ex-gratia lump sum

compensation in the case of death/disability, originally issued by the Department of Pension and PW in respect of the Central Civil Services, to the members of the All India Services.

3. In view of the position mentioned above, it has been decided to extend provisions of the Department of Pension & PW's OM dated 3<sup>rd</sup> February, 2000 and 11<sup>th</sup> September, 2001, as referred to in para 1 above, to the members of the All India Services also, mutatis – mutandis.

[letter no. 25014/6/02-AIS(II), dated 9<sup>th</sup> August, 2002]

**(Annexure)**

*Copy of the Department of Pension & Pensioner's Welfare's O.M. No. 45/22/97-P&PW(C) dated the 3rd Feb. 2000*

1. The undersigned is directed to say that the Fifth Central Pay Commission inter alias recommended that for determining the compensation payable for death or disability under different circumstances, the case could be broadly categorized in five distinct categories as under: -

Category 'A'

Death or disability due to natural causes not attributable to Government service Examples would be chronic ailments like heart and renal diseases, prolonged illness, accidents while not on duty, etc.

Category 'B'

Death or disability due to causes which are accepted as attributable to or aggravated by Government service. Diseases contract because of continued exposure to a hostile work environment, subjected to extreme Weather conditions or occupational hazards resulting in death or disability would be examples.

Category 'C'

Death or disability due to accidents in the performance of duties. Some examples are accidents while travelling on duty in government vehicles or public transport, a journey on duty is performed by service aircraft, mishaps at sea, electrocution while on duty etc.

Category 'D'

Death or disability attributable to acts of violence by terrorists, anti-social elements, etc, whether in their performance of duties or otherwise. Apart from cases of death or injury sustained by personnel of the Central Police Organizations while employed in aid of the civil administration in quelling agitation, riots or revolt by demonstrators, other public servants including police personnel etc. bomb blasts in public places or transport, indiscriminate shooting incidents in public, etc would be covered under this category.

## Category 'E'

Death or disability arising as a result of (a) attack by or during action against extremists, anti social element. etc. and (b) enemy action in international war or border skirmishes and war like situations, including cases which are attributable to (i) extremists acts, exploding mines etc. While on way to an operational area: (ii) kidnapping by extremists; and (iii) battle inoculation as part of training exercises with live ammunition.

2. The Fifth Central pay Commission recommended various relief packages for the above categories, in modification of the existing provision on the subject.

3. The recommendations of the Commission have been under consideration of the Government for some time. Orders have already been issued regarding ex-gratia payment in case of death in service vide this Deptt. OM. No. 45/55/97-P&PW(C) dated 11.09.98. In respect of disability pension/family pension the President is now pleased to decide as under:-

- (i) Cases covered under the Category (A) would continue to be covered under the normal existing provision of CCS (Pension) Rules.
- (ii) In cases covered under categories (B), (C), (D) & (E) the Scales of the family pension/disability pension would be as under :-

## I . FAMILY PENSION-FOR CATGORIES B&C

(1) Distinction between widows without children or those with children, for determination of the quantum of Extra- ordinary family Pension shall stand abolished. The quantum of monthly extra -ordinary family pension for all categories of widows shall be: -

- (a) Where the deceased Government servant was not holding a pensionable post.  
40% of basic pay subject to a minimum of Rs. 1,650/-
- (b) Where the deceased Government servant was holding a pensioable post.  
60% of basic pay subject a minimum of Rs. 2500/-

(2) In case where the widow. dies or remarries, the children shall be paid family pension at the rates mentioned at (a) or (b) above, as applicable, and the same rate shall also apply to fatherless/motherless children. In both cases, family pension shall be paid to children for the period during which they would have been eligible for family pension under the CCS(Pension) Rules. Dependent parents/brothers/sisters etc. Shall be paid family pension one half the rate applicable to widows/fatherless or motherless children.

## II. FAMILY PENSION UNDER CATEGORY 'D' & 'E'

(1) Family pension in cases, falling under categories D & E shall be determined under the existing provision of, Liberalised Pensionary Awards Scheme.

(2) If the Government servant is not survived by widow but is survived by Child/children only, all children together shall be eligible for family pension at the rate of 60% of basic pay subject to a minimum of Rs. 2500/- Children allowance, as admissible now, shall stand abolished.

(3) When the Government servant dies a bachelor or as a widower without children, dependent pension will be admissible to parent without reference to pecuniary circumstances, at the rate of 75% of pay last drawn if both parents are alive and at the rate of 60% if only one of them is alive.

## (III) DISABILITY PENSION-FOR CASES COVERED UNDER CATEGORY 'B' & 'C'

- (i) Normal pension and gratuity admissible under the-CCS (Pension) Rules, 1972 plus disability pension equal to 30% of basic pay, for 100% disability.
- (2) For lower percentage of disability, the monthly disability pension shall be proportionately lower as at present, provided that where permanent disability is not less than 60% the total pension (i.e, pension or service gratuity admissible under the ordinary pension rules plus disability pension as indicated at (1) above shall not be less than 60% of basic pay subject to a minimum of Rs. 2500/-

## IV. DISABILITY PENSION-FOR CASES COVERED UNDER CATEGORY 'D'

- (1) Disability pension comprising a service element equal to the retiring pension and gratuity to which the employee would have been entitled to on the basis of his pay on the date of invalidation but counting service upto the date on which he would have retired in the normal course and disability element equal in amount to normal family pension subject to the condition that the aggregate of the service and disability element shall not be less than 80% of the pay last drawn, for 100% disability.
- (2) For lower percentage of disability, the disability element shall be proportionately lower as at present.

## V. DISABILITY PENSION-FOR CASES COVERED UNDER CATEGORY 'E'

- (1) Disability pension, comprising a service element equal to the retiring pension and gratuity to which the employee would have been entitled to on the basis of his pay on the date of invalidation but counting service upto the date on which he would have retired in normal course and disability element equal in amount to the pay last drawn subject to the condition that the aggregate of the service and disability elements shall not exceed the pay last drawn, for 100% disability.
- (2) For lower percentage of disability, the disability element shall be proportionately lower as at present.

4. Other terms and conditions in the CCS (EOP) Rules and Liberalised Pensionary Awards Scheme which are not specifically modified by these orders shall continue to remain operative.

5. The Fifth Central Pay Commission also suggested certain procedural changes. These have also been considered by the Government. The President is now pleased to decided as under :-

- (i) The extant of disability or functional incapacity shall be determined in the following manner for purpose of computing the disability element forming part of benefits: -

Percentage of disability assessed by Medical Board	Percentage to be reckoned for Computation of disability
--	---

	Element
Less than 50	50
Between 50 and 75	75
Between 76 and 100	100

(ii) The findings of the Medical Board on the extent of -disability would be treated as final and binding unless the employee himself seeks a review by preferring an appeal to an Authority immediately superior to the one who had constituted the Board. In case the appeal is accepted and a review Medical Board is constituted the findings of the Board would be binding on all parties.

The extent of disability as determined and accepted would be treated as final and the employee would not be required to appear before Medical Board periodically for the purpose of obtaining a certificate that the disability continues to persist.

(iii) Different department and offices shall have the powers to grant disability/family pension covered under the Government orders and instructions issued on the subject. They shall exercise these powers, wherever necessary, in consultation with the Financial Advisers. Only in cases not covered strictly in terms of the Government guidelines and instructions, reference to Department of Pension and Pensioner's Welfare shall be made.

6. These orders will be effective from 01.01.1996. The past cases of pre-1996 pensioners/family pensioners will be revised under this Dept's OM No. 45/86/97-P&PW(A)-Part-II dated 27.10.1997. Such consolidated pension, shall however, be subject to the provisions of the Dept's OM No. 45/10/98-P&PW(A) dated 17.12.1998.

7. This issues with the concurrence of the Ministry of Finance, Department of Expenditure vide their U.O.NO. 20/E.V/2000 dated 6.1.2000.

8. In so far as employees of India Audit and Accounts Department are concerned, these orders have been issued after consultation with the C & AG of India.

To All Ministries/Departments of Government of India .

**(Annexure)**

In para 6 of O.M. 45/22/97-P & P.W. (C), dated the 3rd February, 2000 (Decision (1) above), it has been provided that the past cases of pre-1996 pensioners/family pensioners will be revised under this Department's OM, dated 17-12-1998.

2. The question of modified parity between past and present pensioners, covered under the Central Civil Services (Extraordinary Pension) Rules/Liberalized Pensionary Award Scheme, on the lines of benefits sanctioned for ordinary pensioner/family pensioners, has been under the consideration of the Government. It has now been decided that the revision of pre-1996 pensioners/family pensioners coming under this category would be done as under.

(A) The past cases of pre-1996 pensioners/family pensioners will be revised under this Department' O.M No. 45/86/97-P & P.W. (A) (Part-II), dated 27-10-1997 as is being done hithertofore and the revised pension on the basis of the provisions of this OM worked out.

(B) The benefits under this Department's O.M. No. 45/86/97-P. & P.W. (A) (Part-III), dated 10-2-1998 shall also be extended in the case of pensioners/family pensioners of these categories. In other words, the pay of the employee would be updated from one Central Pay Commission to the subsequent one, etc., and fixed notionally as on 1-1-1986, as if he was in service on that day, as per the procedure laid down in the OM, dated 10-2-1998. The pension/family pension on such notionally fixed emoluments would now be calculated by applying the rates applicable for each category of Extraordinary Pension/Family Pensioners and this would be further consolidated for fixation of pension as on 1-1-1996 by applying the usual procedure.

(C) The pension/family pension shall also be calculated as on 1-1-1996 by applying the following procedure.

### 1. Family pension for Categories "B" & "C"

	Where the deceased Government servant was not holding a pensionable post:
(a)	40% of minimum basic pay in the revised scale, applicable from 1-1-1996, of the post last held by the employee, subject to a minimum of Rs. 1650.
	Where the deceased Government servant was holding a pensionable post :
(b)	60% of minimum basic pay in the revised scale, applicable from 1-1-1996, of the post last held by the employee, subject to a minimum of Rs. 2500.

In case where the widow dies or remarries, the children shall be paid family pension at the rates mentioned at (a) or (b) above, as applicable, and the same rate shall also apply to fatherless/motherless children. In both cases, family pension shall be paid to children for the period during which they would have been eligible for family pension under the CCS(Pension) Rules. Dependent parents/brothers/sisters, etc., shall be paid family pension one-half the rate applicable to widows/fatherless or motherless children.

### II. Family Pension under categories 'D' & 'E'

Family pension shall be calculated as the minimum pay in the revised scale of pay, applicable from 1-1-1996, of the last post held by the employee.

(a)	If the Government servant is not survived by his widow but is survived by child/children only, all children together shall be eligible for the family pension at the rate of 60% of minimum basic pay in the revised scale, applicable from 1-1-1996, of the post held by the employee, subject to a minimum of Rs. 2,500.
(b)	When the Government servant dies as a bachelor or as a widower without children, dependent pension will be admissible to parent without reference to pecuniary circumstances, at the rate of 75% of minimum basic pay in the revised scale applicable from 1-1-1996, of the post last held by the employee, if both parents are alive and at the rate of 60% if only one of them is alive.

### III. Disability Pension for Categories 'B' & 'C'

(a)	Disability pension calculated as 50% of the minimum basic pay in the revised scale, applicable from 1-1-1996, of the post last held by the employee, to be reduced proportionately, if the employee did not have required qualifying service for full pension plus disability pension equal to 30% of the same minimum basic pay, for 100% disability.
(b)	For lower percentage of disability, proportionate reduction would be made in the same manner as provided in the OM, dated 3-2-2000. [Decision (1) above. ]

## IV. Disability Pension for Category 'D'

(a)	Disability pension would comprise of a service element equal to 50% of the minimum basic pay in the revised scale, applicable from 1-1-1996, of the post last held by the employee subject to proportionate reduction in case his qualifying service up to the deemed date of retirement falls short of full qualifying service and disability element equal to 30% of the same minimum basic pay, subject to the condition that the aggregate of service and disability element shall not be less than 80% of the minimum basic pay in the revised scale, applicable from 1-1-1996, of the post last held by the employee, for 100% disability.
(b)	For lower percentage of disability, proportionate reduction shall be made as provided in OM, dated 3-2-2000. [Decision (1) above.]

## V. Disability Pension for cases under Category 'E'

(a)	Disability pension would comprise of a service element equal to 50% of the minimum basic pay in the revised scale applicable from 1-1-1996 of the post last held by the employee subject to proportionate reduction in case his qualifying service up to the deemed date of retirement falls short of full qualifying service and a disability element equal to the same basic pay, subject to the condition that the aggregate of service and disability elements shall not exceed the minimum basic pay in the revised scale, applicable from 1-1-1996, for the post last held by the employee, for 100% disability.
(b)	For lower percentage of the disability, proportionate reduction would be made as provided in OM, dated 3-2-2000. [ Decision (1) above ].

3. After the revised pension/family pension has been calculated in accordance with the methods indicated in (A), (B) and (C) above, the highest of the three shall be granted as revised pension with effect from 1-1-1996.

4. All other terms and conditions contained in OM, dated 3-2-2000 [Decision (1) above ] shall remain unchanged.



5. This issues with the concurrence of the Ministry of Finance, Department of Expenditure vide their U.O. No. 355/E. V/2001, dated 26-6-2001.

[G]. Dept. of P. & P.W., No. 45/22/97-P & P.W. (C), dated the 11<sup>th</sup> September, 2001. ]

## GOVERNMENT OF INDIA'S DECISION UNDER RULE 21.

1. ***The second nomination may valid even if the first nomination is not cancelled:*** - Mr. X, a member of the Indian Administrative Service filled in two nominations on two different dates. While forwarding the second nomination to the Accountant General the first one was not cancelled. The validity of the nominations was therefore, called in question.

2. The apparent intention of the officer in filling in the second nomination was that the first one shall be superseded, although it was not formally cancelled by him. In view of this, the Government of India decided that his second nomination might be treated as valid.

[G.I., MHA letter No. 2/27/59-AIS(III), dated the 1st April, 1959].

2. ***Nieces do not fall within the definition of the term family given in this rule and are not, therefore, entitled to any family pension:*** - A question arose whether in view of judgements of certain High Courts nieces could be deemed to be members of an officer's family and family pension given to them under rule 22.

2. All India Services (Death-cum-Retirement Benefits) Rules, 1958 are statutory rules. As such it is not necessary to rely on any High Court ruling for the definition of family. For the purpose of these rules the definition of family of a member of the service shall be as given in this rule. Nieces do not fall within the definition of the term family given in this rule and are not, therefore, entitled to any family pension.

[G.I., MHA letter No. 2/117/59-AIS(III), dated the 17th January, 1960.]

## GOVERNMENT OF INDIA'S DECISION UNDER RULE 22

1. ***See Government of India's Decision (2) below rule 21.***

2. ***Proposals for the grant of family pension under the proviso to sub-rule (1) should be accompanied by information on the following points:-***

- (i) The amount received or receivable by the family of the deceased officer by way of insurance, Provident Funds and death gratuity.
- (ii) The pay (indicating separately the officiating pay and other emoluments in the nature of Pay including dearness pay) the officer was in receipt of at the time of his death.
- (iii) The number of children left behind, if any, with their ages and the classes in which studying.

[G.I., MHA letter No. 2/53/59-AIS(III), dated the 9<sup>th</sup> June, 1959.]

3. ***Former I.C.S. who were in service on 1.1.64, and who have opted for the scheme of DCR Gratuity introduced vide M/O Home Affairs Letter No29/20/61-AIS(II) dated the 7<sup>th</sup>***

**December, 1965, may be allowed an option to come under the revised family pension scheme as applicable to the Central Govt. Servants:** - The Government of India have decided that the members of the former I.C.S. who were in service on 1.1.64, and who have opted for the scheme of DCR Gratuity introduced vide M/O Home Affairs Letter No29/20/61-AIS(II) dated the 7<sup>th</sup> December, 1965, may be allowed an option to come under the revised family pension scheme as applicable to the Central Govt. Servants.

2. The orders regarding the revised family pension scheme contained in the Ministry of Finance O.M. No F.9(16)-EV/63, dated the 31<sup>st</sup> December, 1965, shall apply *mutatis mutandis* to the I.C.S. officers who were in service on 1.1.1964 and who opt for both the D.C.R. gratuity and revised family pension schemes.

3. The I.C.S. officers concerned, including those who have retired on or after 1.1.1964, were required to exercise their option in the matter in writing in the prescribed proforma within 6 months from the date of issue of these orders (8.12.1965). The option once exercised shall be final.

4. Those who failed to opt for the schemes within the specified period would not be entitled to any benefits of this scheme, as conditions of service of the I.C.S. officer are different in this respect as compared with those of other services.

5. The officers who were in service on 1.1.1964 but have died thereafter shall be deemed to have opted for the revised family pension scheme and their families should be allowed benefits admissible under it.

*[G.I., MHA letter No. 29/6/65-AIS(II), dated the 8<sup>th</sup> December, 1965]*

## GOVERNMENT OF INDIA'S DECISION UNDER RULE 22

**1. Revised scheme of family pension applicable to Central Government servants has been extended to the All India Services Officers:** - It has been decided to extend the revised scheme of family pension applicable to Central Government servants to the All India Services Officers governed by the AIS(DCRB) Rules, 1958. The orders contained in the Ministry of Finance OM No.F.9(16)-EV(A)/63, dated the 31<sup>st</sup> December, 1963, would apply *mutatis mutandis* to the All India Services Officers governed by the said Rules, with effect from 1<sup>st</sup> January, 1964. A formal amendment to the AIS(DCRB) Rules, 1958 has since been made vide Rule 22-B.

2. The officers had to exercise option for the above mentioned orders within 6 months from 1<sup>st</sup> January, 1964. Those who failed to opt out of the scheme within the stipulated period would be deemed to have opted for it. Those who have been appointed to the Service after 1<sup>st</sup> January, 1964 or would be appointed subsequently would automatically be covered by the revised scheme and would not be required to exercise the option.

3. The officers who have retired on or after the 1<sup>st</sup> January, 1964 or the families of those officers who have died while in service after this date are also eligible for the benefit of the revised scheme. In their cases Accountants General have to work out whether the old scheme as laid down in Rule 22 of the AIS(DCRB) Rules, 1958 or the new scheme laid down in Rule 22B is more beneficial to them. Accordingly, they should be deemed to have exercised their option for the old or the new scheme, as the case may be.

*[G.I., MHA letter No.F.29/74/63-AIS(II), dated 25.2.64]*

**2. Modifications contained in para 1 of the Ministry of Finance OM No.F.9(24)-EV(A)/65,**

***dated the 5<sup>th</sup> January, 1966, Annexure 'A' will apply to AIS & ICS officers:*** - The Government of India have decided that the modifications contained in para 1 of the Ministry of Finance OM No.F.9(24)-EV(A)/65, dated the 5<sup>th</sup> January, 1966, Annexure 'A' will also apply to the officers of the All India Services and also of the Indian Civil Service.

2. These orders will be effective from 1<sup>st</sup> January, 1966.

3. Those All India Services Officers who were in Service on 31<sup>st</sup> December, 1963 and had not opted to be governed by the Family Pension Scheme 1964, but who may now desire to avail of the benefits of the present concession may be allowed to exercise by the 30<sup>th</sup> April, 1966, a fresh option in terms of paras 2 and 4 of the Ministry of Home Affairs letter No.F.29/74/63-AIS(II), dated the 25<sup>th</sup> February, 1964.

*[G.I. MHA letter No.29/5/56-AIS(II), dated 23.2.1966]*

## **ANNEXURE 'A'**

*Copy of OM No.F.9(24)-EV(A)/65, dated the 5<sup>th</sup> January, 1966 from the Government of India, Ministry of Finance, Department of Expenditure addressed to All Ministries of the Government of India etc. regarding liberalisation of the provision of the Family Pension Scheme, 1964 in respect of families of Central Government employees who die while in service*

Recently there have been a number of deaths of civilian officers in harness where they have left their dependents rather badly off. Government have accordingly considered the question of making suitable provisions so as to alleviate the distress of the families who require greater assistance during the first few years after a Government servant's death while still in service and in partial modification of the orders issued in this Ministry OM No.F.9(6)-EV(A)/63, dated 31.12.1963 and No.F.19(3)-EC(A)/65, dated 9.9.1965, the President has been pleased to decide as under:

- (i) For a period of 7 years from the date of death or till the date on which the Officer would have reached the normal age of superannuation had he remained alive, whichever period is shorter, the pension payable under the aforesaid orders will be at 50 per cent of the basic pay last drawn, subject to a maximum of twice the pension admissible under para 4 of the OM dated 31.12.1963 referred to above.
- (ii) The pension payable thereafter will be at the rates laid down in the respective orders.
- (iii) These orders will not be applicable if the Government servant had put in less than 7 years continuous service prior to his death.
- (iv) The other provisions in the existing orders will continue to operate.

Note 1. In the case of widows/widowers governed by the provisions of OM dated 9.9.1965 referred to above, the child allowance, if any, will be paid in addition.

Note 2. In the case of a person who dies while on extension of service, the date upto which the extension of service had been sanctioned to him before his death will be deemed to be the normal date of superannuation.

2. These orders will have effect from 1<sup>st</sup> January, 1966.

3. Government servants who were in service on 31.12.1963, and had opted not to be governed by the Family Pension Scheme, 1964 but who may now desire to avail of the benefits of the present concession will be allowed to exercise by the 31<sup>st</sup> March, 1966, a fresh option in terms of para 8 of this Ministry's OM No.9(16)-EV(A)/63, dated 31.12.1963. In case of failure to exercise a fresh option within the stipulated period, the earlier option, if any, will be deemed

to subsist. The option should be exercised in writing and communicated by the Officer concerned to the Head of Office if he is a non-gazetted officer and to his Accounts Officer if he is a gazetted officer. The option when received from a non-gazetted should be countersigned by the Head of Office and pasted in the service book of the officer concerned. It will be the responsibility of the individual concerned to ensure that the option has reached the Head of Office/Accounts Officer.

4. The administrative authorities are requested to take urgent steps to bring the contents of this OM to the notice of all concerned persons employed under their administrative control, including those on leave or on foreign service.

5. These orders will not be applicable to cases where the deceased Government servant was not governed by the Family Pension Scheme, 1964 for Central Government employees. These orders will not also be applicable to those Government servants who are governed by the Workmen's Compensation Act.

6. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders have been issued after consultation with the Comptroller & Auditor General of India.

(2) The Government of India have decided that the modifications contained in the Government of India, Ministry of Finance OM No.F.15(14)-E.V./66, dated the 23<sup>rd</sup> November, 1966(Annexure 'C') will also apply to Officers of All India Services and the Indian Civil Service.

(2.2) These modifications will be effective from the dates of the orders issued by the Ministry of Finance.

(2.3) Formal amendments to the AIS(DCRB) Rules, 1958 will be issued in due course.

[G.I. MHA No.29/5/66-AIS(III), dated 1.4.67]

## ANNEXURE 'B'

*Copy of OM No.F.15(14)-EV/66, dated the 19<sup>th</sup> November, 1966, from Shri C.K. Subramanian, Under Secretary to the Government of India, Ministry of Finance, Department of Expenditure, New Delhi, to all Ministries of the Government of India etc. regarding Family Pension for Central Government employees, 1964 – Grant of Family Pension to the widows.*

The President has been pleased to decide that the Note below para 6(iii) of this Ministry's OM No.F.9(16)-E.V.(A)/63, dated the 31<sup>st</sup> December, 1963 should be substituted as under:-

“(i) where an Officer is survived by more than one widows, the pension will be paid to them in equal shares. On the death of a widow her share of the pension will become payable to her eligible minor child. It at the time of her death, a widows leaves no eligible minor child, the payment of her share of the pension will cease.

(ii) where an Officer is survived by a widow but has left behind an eligible minor child from another wife, the eligible minor child will be paid the share of pension which the mother would have received if she had been alive at the time of the death of the Officer.”

2. In consequence of the above amendment, sub-para 6 of this Ministry's OM

No.9(16)E.V.(A)/63, dated the 31<sup>st</sup> December, 1963 will be substituted as follows:-

“Except as provided in the Note below sub-para (III) of this para, pension awarded under this scheme will not be payable to more than one member of an Officer’s family at the same time. It will first be admissible to the widow/widower and thereafter to the eligible minor children.”

3. Cases which have already been settled will not be re-opened; cases outstanding on the date of issue of these orders will be dealt with in terms of these orders.

#### ANNEXURE ‘C’

*Copy of OM No.F.15(33)-E.V./66, dated the 23<sup>rd</sup> November, 1966 from Shri C.K. Subramanian, Under Secretary, Ministry of Finance, Department of Expenditure, New Delhi to all Ministries of the Government of India etc. regarding Liberalisation of the provisions of the Family Pension Scheme, 1964 in respect of the families of Central Government employees who die while in service.*

The undersigned is directed to invite a reference to this Ministry’s OM No.F,9(24)-E.V.(A)/65, dated the 5<sup>th</sup> January, 1966 on the above subject and to state that the existing para 1(i) therein may be substituted as under:-

“For a period of 7 years from the date following the date of death or till the date on which the Officer would have reached the normal age of superannuation had he remained alive, whichever period is shorter, the pension payable under the aforesaid orders will be at 50 per cent of the basic pay last drawn, subject to a maximum of twice the pension admissible under para 4 of the OM dated 31<sup>st</sup> December, 1963 referred to above.”

**3. Liberalised pensionary awards in the case of death/disability in certain circumstances and special benefits in cases of death and disability in service – payment of ex gratia lump sum compensation to families of Government civilian employees:** - I am directed to refer to this Department’s letter of even number dated 3<sup>rd</sup> February, 1999 and dated 10<sup>th</sup> December, 2001 on the subject mentioned above and to state that the Department of Pension and PW in their OM No. 33/5/89-P&PW(K) dated 9<sup>th</sup> April, 1990 and OM No.45/55/97-P&PW© dated 11<sup>th</sup> September, 1998 (copies enclosed) had issued orders for Liberalised Pensionary Award in the case of death/disability as a result of (i) attack by or during action against extremists, anti-social elements etc., and (ii) enemy action in international war or border skirmishes and payment of special benefits of ex gratia lump sum compensation in the case of death in certain cases, as mentioned in the aforesaid orders of the Department of Pension and PW. These orders are issued by the aforesaid Department in respect of Central Civilian Government servants, as a measure of welfare scheme, in certain circumstances.

2. Keeping in view the working conditions of the members of the All India Services it is felt that these officers are exposed to same amount of risk while performing their official duties. The question of extending the aforesaid schemes to the members of All India Services has been examined in this Department in consultation of the State Governments and it has been decided that the provisions of the aforesaid two Office Memoranda, issued by the Department of Pension & PW will be equally applicable to the members of the All India Services, mutatis-mutandis, from the date these are applicable to the Central Civilian Government servants, irrespective of their place of posting.

[letter no. 25014/3/99-AIS(II), dated 12<sup>th</sup> July, 2002]

(Annexure)

A number of instructions have been issued from time to time on the subject mentioned above, the last in the series being those contained in O.M. No. 2/6/87-PIC (II), dated 7-8-1987 in implementation of Government's decision on the recommendations of the Fourth Central Pay Commission. A need has, therefore, been felt to consolidate these instructions into a single order. For facility of reference in application these instructions have been re-arranged in succeeding paragraphs under suitable subject heads.

## 2. Applicability

(1) These orders apply to all Civilian Central Government servants, who are governed by the Central Civil Services (Extraordinary Pension) Rules.

(2) These orders also apply to Civilian Central Government servants governed by the Workmen's Compensation Act, 1923, subject to certain adjustments being made as provided in paragraph 9.

## 3. Scope

(1) These orders apply to Government servants in the following circumstances -

**Category 'D'**      Death or disability attributable to acts of violence by terrorists, anti-social elements, etc., whether in their performance of duties or otherwise. Apart from cases of death or injury sustained by personnel of the Central Police Organizations while employed in aid of the civil administration in quelling agitation, riots or revolt by demonstrators, other public servants including Police personnel, etc., bomb blasts in public places or transport, indiscriminate shooting incidents, in public, etc., would be covered under this category.

**Category 'E'**      Death or disability arising as a result of (a) attack by or during action against extremists, anti-social element, etc., and (b) enemy action in international war or border skirmishes and warlike situations, including cases which are attributable to (i) extremists acts, exploding mines, etc., while on way to an operational area, (ii) kidnapping by extremists; and (iii) battle inoculation as part of training exercises with live ammunition.

NOTE - It has been decided that the Liberalized Pensionary Awards as modified shall be extended to casualties suffered by the civilian Central Govt. employees assisting the IPKF in Sri Lanka.

(2) The benefits under these orders will be restricted only to those cases where the death/disability is directly caused by actual operations. The following illustrations are mentioned for guidance of sanctioning authorities to determine whether the benefits under the scheme are attracted or not. In case of any doubt, cases shall be referred to the Department of Pension and Pensioners' Welfare.

### Illustration I

Officers of Income Tax/Custom/Excise/Police proceed to carry out a raid. If on the way, any member of the team meets with an accident while travelling in a public/private/official vehicle or otherwise, the family shall not be allowed the benefit of these orders as the injury/death in such

a case is not due to any actual operation. However, if any officer/member of the raiding party gets killed/injured as a result of attack by members of the opposite party, family of such a civil servant shall be entitled to the benefits of these orders.

## Illustration II

A team of Police/Armed Police members is deployed on duty during agitations. The agitation does not turn violent but the civil servant dies because of, say, heart failure, and not due to any attack by the crowd. The widow of such a civil servant shall not be entitled to the benefits of these orders. However, where a team of civil servants including Police personnel are deployed to contain an agitation by extremists, etc., and death of any civil servant takes place as a result of violence during such an agitation, the widow of the deceased shall be entitled to the benefits under these orders.

## Illustration III

An anti-social element/extremist, etc., deliberately kills/injures any civil servant with a view to spread terror. The widow of such a deceased civil servant shall be allowed the benefit of these orders.

(3) If a Government servant having sustained an injury is invalided out of service with a disability pension under these orders but dies subsequently as a result of the same injury, he will be deemed to have been killed in action and the awards under these orders will be admissible to the family from the date following the date of his death.

### **4. Benefit to the family in the event of the Death of the Government Servant - family pension under categories 'D' & 'E'.**

(1) If the Government servant is survived by the widow, she will be entitled to family pension equal to the pay last drawn by the deceased Government servant. The said family pension shall be admissible to her for life or until her remarriage.

(2) In the event of remarriage of the widow, family pension will be allowed at the rates of family pension and subject to the conditions laid down for family pension under the CCS (Pension) Rules, 1972, from the date following the date of her remarriage.

(3) If the Government servant is not survived by widow but is survived by child/children only, all children together shall be eligible for family pension at the rate of 60% basic pay, subject to a minimum of Rs. 2,500/- Children's Allowance, as admissible now, stands abolished.

The above family pension shall be payable to the children for the period during which they would have been eligible for family pension under the CCS (Pension) Rules, 1972. The family pension shall be paid to the seniormost eligible child at a time on the lines on which family pension is regulated under the CCS (Pension) Rules, 1972.

(4) Where the Government servant dies as a bachelor or as a widower without children, dependant pension will be admissible to parents without reference to the pecuniary circumstances at 75 % of the pay last drawn by the deceased Government servant for both parents and 60% of the pay last drawn by the deceased Government Servant for a single parent. On the death of one parent dependant pension at the latter rate will be admissible to the surviving parent.

(5) Where family pension or dependant pension is allowed in terms of these orders, no other family pension or dependant pension will be admissible under any other orders or rules in consideration of death of the same deceased Governmentservant.

### **5. Children's Allowance -- Stands abolished with effect from 1-1-96.**

**6. Benefit to Government servant in the event of his being invalided out of service on account of injury -- Grant of Disability Pension.**

(a) Disability Pension -- for cases covered under Category 'D'

(1) Disability Pension comprising a service element equal to the retiring pension and gratuity to which the employee would have been entitled to on the basis of his pay on the date of invalidation but counting service up to the date on which he would have retired in the normal course and disability element equal in amount to normal family pension subject to the condition that the aggregate of the service and disability element shall not be less than 80% of the pay last drawn, for 100% disability.

(2) For lower percentage of disability, the disability element shall be proportionately lower as at present.

**(b) Disability Pension - for cases covered under Category 'E'**

(1) Disability pension, comprising a service element equal to the retiring pension and gratuity to which the employee would have been entitled to on the basis of his pay on the date of invalidation but counting service up to the date on which he would have retired in normal course and disability element equal in amount to the pay last drawn subject to the condition that the aggregate of the service and disability elements shall not exceed the pay last drawn, for 100% disability.

(2) For lower percentage of disability, the disability element shall be proportionately lower as at present.

(i) The extent of disability or functional incapacity shall be determined in the following manner for purposes of computing the disability element forming part of benefits:--

Percentage of disability assessed by Medical Board	Percentage to be reckoned for computation of disability element
Less than 50	50
Between 50 and 75	75
Between 76 and 100	100

(ii) The findings of the Medical Board on the extent of disability would be treated as final and binding unless the employee himself seeks a review by preferring an appeal to an Authority immediately superior to the one who had constituted the board. In case the appeal is accepted and a review Medical Board is constituted, the findings of the Board would be binding on all parties.

The extent of disability as determined and accepted would be treated as final and the employee would not be required to appear before medical Board periodically for the purpose of obtaining a certificate that the disability continues to persist.

(2) Where disability pension is allowed under these orders, no other pension will be admissible.



## **7. Benefits under these orders not to affect normal entitlements to Death/Retirement Gratuity, etc.**

Grant of family pension under para. 4 or disability pension under para. 6 of these orders does not in any way affect normal entitlement to Death Gratuity or Retirement Gratuity, as the case may be, under the CCS (Pension) Rules, 1972, or the employer's contribution to the Contributory Provident Fund in the case of persons governed by CPF Scheme or the benefits under the Central Government Employees' Group Insurance Scheme.

## **8. Definition of expression 'Pay'**

The term 'Pay' referred to in these orders means the basic pay in the revised scales of pay promulgated under CCS (Revised Pay) Rules, 1997, as defined in FR 9 (21) (a) (i) and also includes non-practising allowance granted to medical officers in lieu of private practice. It also includes stagnation increments.

## **9. Government servants governed by Workmen's Compensation Act, 1923**

The Government servants governed by the provisions of the Workmen's Compensation Act, 1923, shall also be eligible for the awards under these orders. Where the benefit admissible under these orders is more than the benefits admissible under the Workmen's Compensation Act, 1923, the compensation admissible under the said Workmen's Compensation Act, 1923, will not be separately payable. If, however, the sum admissible under these orders is less than the amount payable as compensation under (i) the Personal Injuries (Emergency Provision) Act, 1962, as amended by the Personal Injuries (Emergency Provision) Amendment Act, 1971, and (ii) the Personal Injuries (Compensation Insurance) Act, 1963, as amended by the Personal Injuries (Compensation Insurance) Amendment Act, 1971, they shall have a right to receive an amount equal to the difference between the sum admissible under these orders and the amount of compensation payable under the said Acts. For the purpose of determining such difference, the latter amount shall be converted, if necessary, into a recurring monthly payment by applying the table given in the [annexure](#) as in the illustration below -

### **Illustration**

Suppose the lump sum amount is Rs. 2,437 and the age last birthday of the beneficiary is 43 years. The factor given in Col.(2) against age 43 of the table enclosed is 0-00652957. The equated monthly installment will be equal to  $2,437 \times 0.00652957$ , i.e., Rs. 15.91 (rounded to the nearest paise).

## **10. Procedure for Grant of Awards and Residuary Provisions**

(1) The procedure prescribed for grant of awards under the CCS (EOP) Rules will continue to be followed for grant of award under these orders.

(2) Except where expressly provided otherwise in these orders, the other conditions prescribed for grant of awards under the CCS (EOP) Rules will continue to be applicable.

Different departments and offices shall have the powers to grant disability/family pension covered under the Government orders and instructions issued on the subject. They shall exercise these powers, wherever necessary, in consultation with the Financial Advisers. Only in cases not covered strictly in terms of the Government guidelines and instructions, reference to Department of Pension and Pensioners' Welfare shall be made.

## **11. Date of Effect**

These orders will be effective from 1-1-1996. The past cases of pre-1996 pensioners/family pensioners will be revised under this Dept.'s O.M. No. 45/86/97-P.& P.W.(A)-Part-II, dated 27-

10-1997. Such consolidated pension, shall, however, be subject to the provisions of the Dept.'s O.M. No. 45/10/98-P. & P.W. (A), dated 17-12-1998.

## 12. Interpretation

Where any doubt arises as to the interpretation of the provisions of these orders, it shall be referred to the Government in the Department of Pension and Pensioners' Welfare for decision.

13. In their application to the staff working in the Indian Audit and Accounts Department, these instructions have been issued in consultation with the Comptroller and Auditor-General of India.

14. Ministry of Agriculture, etc., are requested to bring these orders to the notice of all concerned for their guidance.

## ANNEXURE

**Table showing the equated monthly instalments payable for life in lieu of a lump sum payment of Re. 1 (One rupee) due at ages shown in col. (1).**

Age last birthday of the beneficiary on the date of death of the employee (x) (1)	Equated monthly instalment for a lump sum payment of one rupee due at age (x) last birthday of the beneficiary (Rupee) (2)	Age last birthday of the beneficiary on the date of death of the employee (x) (1)	Equated monthly instalment for a lump sum payment of one rupee due at age (x) last birthday of the beneficiary (Rupee) (2)
15	.00471732		
16	.00475242	46	.00685763
17	.00478911	47	.00697478
18	.00482604	48	.00709629
19	.00486170	49	.00722304
20	.00489705	50	.00735539
21	.00493425	51	.00749383
22	.00497370	52	.00763891
23	.00501551	53	.00779068
24	.00505986	54	.00794944
25	.00510711	55	.00811588
26	.00515735	56	.00828975

27	.00521044	57	.00847108
28	.00526648	58	.00866105
29	.00532588	59	.00885957
30	.00538879	60	.00906678
31	.00545532	61	.00928264
32	.00552586	62	.00950790
33	.00560069	63	.00974405
34	.00567982	64	.00999134
35	.00576319	65	.01024980
36	.00585008	66	.01051930
37	.00593983	67	.01080167
38	.00603239	68	.01109777
39	.00612737	69	.01140868
40	.00622483	70	.01173582
41	.00632463	71	.01207896
42	.00642615	72	.01243851
43	.00652957	73	.01281669
44	.00663558	74	.01321462
45	.00674469	75	.01363359

(annexure)

[ Instructions issued vide No. 45/55/97-P&PW (C) dated 11<sup>th</sup> September, 1998]

Subject : Special Benefits in cases of Death and Disability in Service-Payment of Ex Gratia Lumpsum compensation to families of Central Government Civilian Employees who die in harness. Recommendations of the Fifth Central Pay Commission.

Central Government Civilian Employees paid from Civil Estimates, other than those to whom the Workmen's compensation Act applies, who sustain injuries or contract diseases or die or are disabled or incapacitated on account of causes which are accepted as attributable to or aggravated by government service are eligible for certain special benefits under the Central Civil Services (Extra ordinary Pension Rules). The benefits available under these Rules have been amended and liberalized from time to time. Separate orders have also been issued by Government to provide for the grant of Liberalized pensionary Awards in cases of death or disability arising in certain special circumstances, such as (i) attack by or during action against extremists. anti-social elements etc. and (ii) enemy action in international war or border skirmishes. Instructions issued in this regard from time to time were consolidated in this Department's O.M.No. 33/5/89-P&PW (K) dated April 9, 1990.

2. Orders were also issued in this Department's D.O. Letter No. 46/1/88-P &PW(F) dated November 24, 1988 in regard to payment of ex gratia lumpsum compensation to the families of Central Government employees killed in incidents of terrorist violence in Punjab. These orders were subsequently extended in this Department's D.O. letter NO. 46/1/88-P&PW(K) dated May 25, 1990 to the families of Central Government employees killed in terrorist violence in Jammu & Kashmir.

3. Apart from the general orders and instruction issued by this Department from time to time, individual ministries and departments such as the Ministry of Home Affairs, Ministry of Information & Broadcasting, etc. have also issued separate orders to provide for the payment of ex gratia compensation at the prescribed rates to the families of personnel of the Central Police Organisations, Akashwani, Doordarshan etc. killed in the course of performance of their duties as a result of violence by armed hostile, extremists, etc. or as a result of encounters with antisocial elements.

4. The question of rationalization and further liberalization of the existing schemes and guidelines has been engaging the attention of Government for quite some time, particularly in the context of the increase in militancy and extremist activities in different parts of the country. The Fifth Central Pay Commission having been appointed in the meantime, the commission had been requested to examine the existing benefits available in terms of various schemes and guidelines and to recommend a comprehensive policy that could be adopted in regard to ex gratia payments in cases of death in various circumstances in any part of the country, which could replace all isolated decisions that might have been taken in the past by the Government or by various individual ministries for different disturbed region in the country.

5. In supersession of all earlier orders issued by Government as well as by individual ministries and departments in so far as these relate to payment of an ex gratia lumpsum compensation in certain specified circumstances the President is pleased to decide that families of Central Government Civilian employees who die in harness in the performance of their bonafide official duties under various circumstances shall be paid the following ex gratia lumpsum compensation.

(a) Death occurring due to accidents in the course of performance of duties	Rs. 5.00 lakhs
(b) Death occurring in the course of performance of duties attributable to acts of violence by terrorists, anti-social elements, etc.	Rs. 5.00 lakhs
(c) Death occurring during (a) enemy action in international war or border skirmishes and (b) action against militaries, terrorists, extremists, etc.	Rs. 7.50 lakhs

6. The graded structure of ex gratia lumpsum compensation takes into account the hardships and risks involved in certain assignments, the intensity and magnitude of the tragedy and deprivation that families of government servants experience on the demise of the breadwinner in different circumstances, the expectations of the employer from the employees to function in extreme circumstances etc. The Compensation is intended to provide an additional

insurance and security to employees who are required to function under trying circumstances and are exposed to different kinds of risks in the performance of their duties.

7. Power were delegated in the Ministry of Finance O.M. No. 19(18) -EV (A)/66 dated February 26. 1966 to the appointing authorities to sanction awards under the relevant Extraordinary Pension Rules in those cases in which the proposed pension or gratuity is held to be clearly admissible under the rules. However, any awards proposed to be granted on ex gratia basis were to continue to be referred to the Ministry of finance as usual. In partial modification of these orders, in so far as they relate to ex gratia awards, the admissibility of and entitlement to the ex gratia lumpsum compensation in the circumstances specified in these orders may be decided in each individual case by the concerned Administrative Ministries themselves in consultation with their Financial Advisers.

8. The Conditions governing the payment of ex gratia lumpsum compensation in terms of these orders and the guidelines to be observed have been indicated in the Annexure to this Office Memorandum.

9. The orders shall apply to all cases of death in harness occurring on or after August 1, 1997 In So far as cases of death, which occurred prior to August 1, 1997 are concerned, these shall be regulated and finalized in terms of the orders and instruction in force prior to the issue of these orders.

10. In so far as persons serving in the Indian Audit and Accounts Department are concerned these orders issue in consultation with the Comptroller and Auditor General of India.

11. The Ministry of Agriculture etc. are requested to bring the contents of this O.M. to the notice of all concerned for their guidance and compliance.

12. Hindi version will follow.

ANNEXURE TO DEPARTMENT OF PENSION & PENSIONERS WELFARE O.M. NO. 45/55/97-P&PW(C) DATED 11TH SEPTEMBER, 1998

Conditions governing the payment of ex gratia lumpsum compensation and guidelines to be observed

1. The Main condition to be satisfied for the payment of the ex gratia lumpsum compensation in the specified circumstances is that the death of the employee concerned should have occurred in the actual performance of bonafide official duties. In other words, a causal connection should be established between the occurrence of death and government service.

2. Powers having been delegated to the Administrative Ministries to sanction ex gratia Payments under these orders, it shall be their responsibility as well as that of the Financial Advisers to satisfy themselves that the death of the government servant to be compensated by the payment of the lumpsum ex gratia to the family in fact occurred in the actual performance of bonafide official duties and to establish its causal connection and nexus with government service. This could be done on the basis of medical and other documents relating to the case.

3. Even if a Government servant had died in such circumstances that a medical report could not be secured, the nexus and causal connection with government service would need to be adequately established in determining the entitlement to the ex gratia lumpsum payment. In deciding this issue all evidence (both direct and circumstantial) shall be taken into account and the benefit of reasonable doubt given to the claimant. The benefit of reasonable doubt will be extended more liberally in field service cases, as provided in the guidelines for conceding attributability of disablement or death to Government service forming part of the Central Civil Services (Extra ordinary Pension) Rules.

4. In cases of accidents to commercial aircraft resulting in the death of passengers, compensation is payable to the next of kin by the national or private airline concerned in terms of international conventions. The ex-gratia lump sum compensation in terms of these orders will therefore, not be admissible in addition in the event of death due to accidents while travelling on duty by commercial aircraft and shall be restricted only to those cases where death occurs in an accident while travelling on duty by service aircraft. The payment of ex gratia in these cases will be without prejudice to the bond required to be executed by the civilian government employees indemnifying the Government against any claims on account of death while travelling by service aircraft.
5. Railways also pay compensation to the next of kin of passengers killed in train accidents. Therefore, the ex gratia compensation admissible in terms of clause (a) of para 5 of these orders shall be reduced by the compensation, if any, received by the next of kin of Central Government Civilian employees killed in train accidents while travelling on duty.
6. Ex-Gratia compensation under clause (b) of para 5 will be admissible to police personnel killed while employed in aid of the civil administration in quelling agitations, protest demonstrations, riots, etc. regardless of whether such agitations, demonstrations, etc. are resorted to by members of the public, political parties, etc. or by other public servants, including police personnel. In addition, in the context of a perceptible increase in violence-related incidents over the years, Central Government Civilian employees on duty could become unwitting victims of bomb blasts in public places or vehicles, indiscriminate shooting incidents in public, etc. often resorted to by terrorists, anti-social elements, etc. The compensation under clause (b) will also, therefore, be admissible in cases of death in such incidents, provided the employees concerned were actually on duty at the relevant time.
7. Cases of death resulting from acts of violence or assault by terrorists, anti-social elements, etc. against a Government servant with the intention of deterring or preventing him from performing his duties: or because of any act done or attempted to be done by such Government servant in the lawful discharge of his duties: or because of his official position will also be covered under clause (b).
8. Ex-Gratia compensation under clause (c) of para 5 will generally be restricted only to those cases where the death of the employees is directly caused by actual field operations. In addition, families of Central Government Civilian Employees killed after being kidnapped by militants, terrorists, extremists, etc. because of their official position or with a view to spreading terror will also be entitled to the compensation under this clause.
9. Few illustrative examples of cases to be covered under the different clauses of para 5 are contained in the Appendix for the guidance of sanctioning authorities. In case of any doubt in regard to the applicability of the ex gratia compensation scheme, such cases will be referred to the Department of Pension & Pensioners' Welfare for appropriate decision in consultation with the Department of Expenditure.
10. The ex-gratia compensation in the circumstances specified in these orders shall be admissible in addition to such other benefits as may be admissible under the Central Civil Services (Extraordinary Pension) Rules or the Liberalized pensionary Awards Scheme, as the case may be. This will also be mutually exclusive of such other benefits as may be admissible under the Central Government Employees' Group Insurance Scheme, General/Contributory Provident Fund. etc. and will be payable in addition to such benefits.
11. In determining the admissibility of the ex gratia compensation payable from Central Government funds, ex gratia payments, if any, made to families of the deceased Government

servants from State funds by the State Government concerned shall not be taken into account and shall be excluded.

12. In certain cases, relief is also provided to families of deceased Government servants from sundry government sources, such as the Prime Minister's Relief Fund, Chief Minister's Relief Fund etc. In such cases, it should be ensured that the aggregate of the relief/ex gratia compensation paid from different sources does not exceed Rs 10 Lakhs in each individual case.

13. In view of the fact that the ex gratia compensation in terms of these orders is payable to the families of the deceased Government servants, default or contributory negligence, if any, on the part of the Government servants concerned shall not be taken into account in sanctioning the compensation.

14. Any related issue not specifically covered in these orders shall be decided in terms of the relevant provisions in this regard contained in the Central Civil Services (Extraordinary Pension) Rules as amended from time to time and the instructions issued thereunder.

15. Where any doubt arises as to the interpretation of the provisions of these orders, it shall be referred to the Department of Pension & Pensioners' Welfare for decision.

illustrative Examples of Cases Covered Under Different Clauses of Para 5 of Department of Pension & Pensioners Welfare

O.M. No.45/55/97-P&PW(C) DATED 11th SEPTEMBER, 1998

[Refer Sl. No. 9 of Guidelines annexed to the O..M.]

Clause (a): Death Attributable to accidents while on duty:

1. Death, as a result of an accident while travelling in a public, private or official vehicle or otherwise of a Group 'D' employee, Dispatch Rider, Messenger, Postman, Notice Server, etc. deputed to distribute dak, notices etc. or of personnel on field duties.
2. Death occurring due to an accident while travelling on bonafide official duties in a service aircraft.
3. Accidents during test flights of aircraft and non-scheduled flights of chartered aircraft resulting in death of employees travelling on duty in public interest in such flights.
4. Death in train accidents, of personnel undertaking official journeys on duty.
5. Accidents to ships, river steamers, etc. resulting in death of Government servants undertaking journeys on duty by these modes of travel.
6. Death as a result of accidents, of personnel of Income Tax and Customs & Central Excise Departments, Central Police Organisations, etc. while proceeding on raids against tax evaders, anti-social elements, etc.
7. Death due to contact with live electric/power lines, of personnel deployed on flood /cyclone relief activities.
8. Death due to electrocution, of departmental employees engaged in rectification of defects in generator and distribution of electricity.
9. Accidents while engaged in rectification of defects in machinery and equipment.

10. Death due to accidental explosion of boilers, storage tanks of inflammable materials, chemicals, etc.
11. Death due to fire accidents while on duty.
12. Death of fire Fighting Staff engaged in fire-fighting operation.

Clause (b): Death Attributable to acts of violence by terrorists, anti-social elements, etc

1. Death resulting from acts of violence or assault by terrorists, smugglers, Dacoits, anti-social elements, etc. against an individual Government servant-

- (a) with the intention of deterring or preventing him from performing his duties; or
- (b) because of any act done or attempted to be done by him in the lawful discharge of his duties; or
- (c) Because of his official position.

2. Personnel of Akashwani, Doordarshan, and other Central Government departments killed in the course of performance of their duties as a result of violence or attack by armed hostile, extremists, terrorists, anti-social elements, etc.

3. Central Government employees, on duty, killed in incidents of terrorist violence in Jammu & Kashmir, the North Eastern Region, Punjab, etc. other than in actual operations and encounters.

4. Death due to stone-throwing use of weapons and other violent acts by demonstrators, anti-social elements, etc., of police and other civilian personnel while employed in aid of the civil administration in quelling agitations, protest demonstrations, riots, etc.

5. Death of personnel of Income Tax and Customs & Central Excise Departments, Police personnel etc. while proceeding on raids against tax evaders, smugglers, anti-social elements etc. attributable to attacks by the parties so raided, including anti-social elements.

6. Death of forest personnel engaged in anti-poaching and forest protection activities in encounters with poachers, timber smugglers, etc.

7. Death, while on duty, as unwitting victims of bomb blast in public places or vehicles, indiscriminate shooting incidents in public. etc. often resorted to by terrorist, anti-social elements etc.

Clause (c): Death occurring during wars or border skirmishes and action against militants, terrorists, and extremists.

The ex-gratia compensation under clause (c) of para 5 will be restricted only to those cases where Central Government employees are killed in actual field operations, A higher rate of compensation has been prescribed in these cases having regard to the magnitude of the hardships and risks involved in field operations, including combing operations against terrorists, militants, etc. This will generally be applicable only to the personnel of the Central Para Military forces deployed along the borders, Line of Control etc. as well as those engaged in combating terrorism. The condition of being actually involved in field operations will, therefore, have to be satisfied before the higher ex gratia compensation of Rs. 7.50 lakhs is sanctioned.

As indicated in para 5 of the O..M., compensation under this clause will be admissible to families of Central Government Civilian Employees killed-

- (i) in action in international wars:



- (ii) while fighting in war-like situations or border skirmishes with any country;
- (iii) in action against armed hostile, militants, terrorists and extremists;
- (iv) during laying or clearance of mines, including those laid by enemies, militants, and terrorists, etc. as well as in the course of mine-sweeping operations;
- (v) as a result of exploding mines en route to an operational area;
- (vi) during battle inoculation as part of prescribed training exercises involving the use of live ammunition:

In addition families of Central Government Civilian Employees killed after being kidnapped by militants, terrorists, extremists, etc. because of their official position or with a view to spreading terror will also be entitled to the compensation under this clause.

### GOVERNMENT OF INDIA'S DECISION UNDER RULE 26

1. **Re-employment to cadre posts will be regulated by rule 9 of these rules and to non-cadre posts, State Government rules will apply:** - These rules do not contain any provision regarding reemployment of retired Indian Administrative/Police Service Officers. A question therefore, arose by what rules their re-employment under State Government should be regulated.

2. Indian Administrative/Police Service Officers are treated as non-cadre officers after their retirement. Their re-employment in cadre posts shall be regulated by rule 9 of Indian Administrative/Police Service (Cadre) Rules, 1954. As regards reemployment in non-cadre posts, State Government rules will apply.

[G.I., M.H.A. letter No. 10/5/59-AIS(II), dated the 16<sup>th</sup> June, 1959.]

2. **No permission of the Government of India is required for re-employment of a member of service on the administrative staff of a university:** - A question having arisen, it was decided that re-employment of a member of service on the administrative staff of a university, does not come within the purview of Rule 26 of AIS(DCRB) rules, and no permission of the Government of India is required.

(F.No.10/7/62-AIS(II))

3. **permission of the Government of India is not necessary for re-employment under the State Government or body corporate or not, which is wholly or substantially controlled by State Government:** - Re-employment under the State Government or body corporate or not, which is wholly or substantially controlled by State Government or an Institute like the Indian Institute or Public Administration, does not come within the definition of 'commercial employment' and permission of the Government of India is not necessary.

[Ministry of Home Affairs letter No. 10/3/62-AIS(II), dated 23.4.1962 & F. No. 11/18/62-AIS(II).]

**4. It has been decided that fixation of pay of re-employed IAS/IPS officers under the State Government will be regulated in accordance with Government of India, Ministry of Finance O.M. No. 8/E.II/57, dated the 25<sup>th</sup> November, 1958.**

[MHA letter No. 13/19/58-AIS(III), dated 26.6.1959 and F. No. 1/5/26-AIS (II).]

**5. State Governments are not competent to grant permission for re-employment within two years of retirement of the moS:** - Recently, a State Government had referred to the Central Government a request from a retired officer of an All India Service for permission to accept commercial employment within two years after retirement. While forwarding the case, the State Government informed the Government of India that in view of the urgency represented by the officer, the State Government had permitted him to accept the employment provisionally in anticipation of the Central Government's approval subject to the condition that he should resign the appointment if the Government of India did not approve of such reemployment.

2. As under Rule 26(1) of the AIS(DCRB) Rules, 1958, the responsibility of examining such cases and sanctioning permission has been cast upon the Government of India, State Governments are requested not to permit All India Services Officers to accept such commercial employment, in anticipation of Government of India's orders. As a matter of general policy, the Government of India are averse to the acceptance of such commercial employment, by retired All India Services Officers within two years of retirement.

(G.I., Ministry of Home Affairs letter No. 11/10/63-AIS(II), dated the 16<sup>th</sup> August, 1963.)

**6. It has been decided that no permission is required for acceptance of Professorship at MIT Harward after retirement.**

[File No. 26013/4/75-AIS(II).]

**7. It has been decided that the acceptance of appointment as Arbitrator does not constitute commercial employment.**

[File No. 17/7/72-AIS(II).]

**8. The reputation of the firm offering employment would also be a consideration which should be taken into account by the State Government with reference to the relevant five criteria :** - It has been decided that the reputation of the firm offering employment would also be a consideration which should be taken into account by the State Government with reference to the relevant five criteria. For instance, the fact that firm is blacklisted by Government will be one of the factors which will render the employment to be considered as not being of a thoroughly reputable kind.

[G.I. DP&AR Letter No. 26013/2/75-AIS(II), dated 14.2.1975].

**9. Employment of All India Services pensioner in a nationalised bank and State Bank of India and its subsidiaries will not amount to acceptance of commercial employment.**

[DP&AR File No. 18/19/73-AIS(II).]

**10. Instructions to the States for re-employment of AIS officers in a private undertaking as a nominee Director by the Government or a public financial institution:** - The question whether appointment of an All India Service pensioner in a private undertaking as a nominee

Director by the Government or a public financial institution, amounts of acceptance of commercial employment under rule 26(1) of All India Service (DCRB) Rules, has been under the consideration of this Department. It has been decided to lay down the following instructions for the information and guidance of State Governments:-

- (1) Where the management of a private company is taken over by a public financial institution/State Government/ Central Government, the appointment of a retired member of an All India Service as Chairman/Director/Managing Director by the public financial institution of the Government should be construed as "employment under a corporation controlled by Government", as envisaged in explanation 1 below rule 26(1) *ibid*. Such an employment will not amount to commercial employment and the officer concerned will not require to obtain prior permission of the Central Government.
- (2) Where a public financial institution/Government appoints a retired member of an All India Service as Chairman/Director/Managing Director in a company, whose management continues in private hands, such employment will technically fall in the purview of expression "commercial employment". It is, however, not necessary to treat such employment on par with normal commercial employment as it is the Government or the public financial institution as the case may be, that seeks to protect its interest through appointment of the retired member of the service as a nominee Director. The retired officer would be an appointee of the institution or the Government though he would receive his pay or free from the private company. In such cases, approval of the Central Government for permitting the officer to accept the appointment in question under rule 26(1) of All India Service (DCRB) Rules, 1958, could be presumed [DP& AR letter No. 26014/17/77-AIS(II), dated 4.1.1978].
- (1) While forwarding applications from individual offices for permission to accept commercial employment during leave preparatory to retirement or after retirement, the State Government/Ministry may clearly specify whether they are satisfied that each of the following criteria is fulfilled, viz.
  - (i) Has the officer while in service had any such dealing with the proposed employer as might create the suspicion that he had shown favour to the latter?
  - (ii) Will his commercial duties be such that his official knowledge and experience could be used to give the employer an unfair advantage?
  - (iii) Will his duties be such as might bring him into conflict with Government?
  - (iv) Is the proposed employment of a thoroughly reputable kind?
  - (v) Are there any exceptional circumstances which would make the refusal of consent a real hardship?

They may also indicate the salary which the officer expects to receive on accepting commercial employment, [G.I., Ministry of Home Affairs letter No. 11/20/59-AIS(II), dated the 7<sup>th</sup> August, 1959.]

- (2) It has been decided that an All India Service Pensioner, who wants permission to take up commercial employment under rule 26 of AIS(DCRB) Rules, 1958, will have to indicate in his application the details of posts held by him under the Central Government any time before his retirement from service. Accordingly, the form of application for permission to accept commercial employment prescribed under the Ministry of Home Affairs Letter No. 11/1/68-AIS(II), dated the 23<sup>rd</sup> January, 1968 has been slightly amended and the revised form is annexed herewith.

[D.P. & A.R. letter No. 26013/22/78-AIS(II), dated the 16<sup>th</sup> August, 1979.]

## **GOVERNMENT OF INDIA DECISION UNDER RULE 28**

### **ANNEXURE A**

*Copy of Ministry of Finance OM No.11(3)-EV(A), dated the 28<sup>th</sup> February, 1976 regarding simplification of procedures with a view to eliminating delays in the payment of superannuation pension and death-cum-retirement gratuity.*

The question of simplifying and expediting the procedures for the sanctioning and grant of pension to Central Government employees has been under Government's consideration. The President is pleased to decide that the following modification in the CCS(Pension) Rules, 1972, and other relevant orders will come into effect from 1<sup>st</sup> March, 1976, that is, in respect of persons retiring on or after 29<sup>th</sup> February, 1976.

#### **(a) Time table for the work**

The payment of superannuation pension should in all cases commence on the first of the month in which they are due. For this purpose, Head of Offices and others responsible for or connected with pension cases, including those responsible for issuing pension payment orders, will be required to observe the following time-schedule for the various processes leading to the authorisation and payment of pension and gratuity. The Government's intention is that while the preliminary and preparatory work should be commenced sufficiently in advance and adequate time allowed for the various stage and processes of work, these should not be allowed to be unduly prolonged or to become interminable; to obviate this, firm cut off dates are prescribed for each stage such that when a cut-off date is reached the work will then necessarily proceed to the next stage.

- (i) The Head of Office or other authority responsible for preparing the pension papers will initiate the pension case two years before the date of retirement of the Government servant. At this stage, the work will be essentially that of assembling the information necessary for working out the qualifying service(or, at a later date, the calculation of average emoluments). As most delays in pension cases arise from gaps, deficiencies and imperfections in the service book records every effort should be made at this stage to remove these while at the same time keeping in mind that what is intended is not a total overhaul or audit of the entire service book or records, but only a scrutiny limited to the immediate purpose on hand, namely the preparation of the pension papers. This process should be completed in good time and at any rate not later than 8 months in advance of the date of retirement of the Government servant.
- (ii) On reaching that stage i.e., 8 months before the retirement date, the actual work of preparation of pension papers viz. the reckoning the qualifying service and the calculation of average emoluments, should be taken up. Any deficiency or imperfection or omission which still remains in the service records will be ignored at this stage and the determination of the qualifying service will be proceeded on the basis of entries in the service records, whatever the degree of perfection to which it might have been possible to bring them by that time.
- (iii) The average emoluments will be determined with reference to emolument drawn

during the last 10 complete months and not 36 months as was the practice here-to-from (while the period to be taken for average calculations has been reduced the other provisions of Rule 34 of the CCS(Pension) Rules, 1972, will continue to apply *utates mutandis*). This work involves not merely an arithmetical calculation of the average emoluments but also a check of the correctness of the emoluments on the first date of the ten-month period would naturally depend on the correctness of the emoluments prior to this date. However, any such check of the correctness of past emoluments, whether in the office preparing the pension papers or later in the office, responsible for issuing the pension payment order, should not become an occasion for an extensive examination going back into the distant past; the check should be the minimum which is absolutely necessary, and it should in any case not go back to a period earlier than a maximum of 34 months preceding the date of retirement.

- (iv) The process of determining the qualifying service and the average emoluments and the admissible pension and gratuity should be positively completed within a period of 2 months, and the pension paper should be sent to the one responsible for issuing the pension payment order not later than 6 months before the date of retirement. That office will, after the necessary scrutiny of the papers (limited to the immediate purpose on hand as mentioned in sub-paragraph (a) and (c) above issue the pension payment order including the order for the payment of the death-cum-retirement gratuity) not later than 1 month in advance of date of retirement.
- (v) The time-schedule and procedures, mentioned above will equally apply *utates mutandis* to those cases in which the office which is to issue the Pension Payment Order has also the responsibility for the preparation of pension papers.
- (vi) In those cases in which the retirement of a Government servant takes place earlier than the normal date of compulsory retirement either in pursuance of the provisions of FR 56(i) or (k) (and the corresponding provision in the CCS(Pension) Rules, 1972, or because of the deemed retirement in terms of Rule 37 of the CCS(Pension) Rules, 1972 on the grounds of permanent absorption in a public sector undertaking, autonomous bodies, the nature of the retirement would preclude advance action in regard to the pension case. In such case too, the pension case would have to be processed very expeditiously and instructions in this regard will be issued separately.

## 2. Extraordinary Leave and Suspension

(a) 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 the duty on account of civil commotion, or
- (ii) for prosecution higher technical and scientific studies, extraordinary leave taken on other grounds is treated as non-qualifying, and , therefore, a definite entry in the service book being qualifying or otherwise is 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 upto 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 as laid down in paragraph 2(b) above) no

further inquiry 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 spells of extraordinary leave not covered by such specific entries will be deemed to be qualifying service.

(b) Similarly, Rule 23 of the CCS(Pension) Rules, 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 the specific entry, period of suspension shall be taken as counting towards the qualifying service.

### 3. Break in Service

In the absence of a specific indication to the contrary in the service records, an interruption between two spells of service rendered under the Central Government including service aid out of Defence Services Estimates or Railways Estimates will be treated as automatically condoned and the pre-interruption service treated as qualifying service for pension, except where it is otherwise known that the interruption was caused by resignation, dismissal or removal from service or participation in a strike. The period of interruption itself will under no circumstances be reckoned as qualifying service for pension.

### 4. Deputation/Foreign Service

(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 pension contributions. In such cases, it will be necessary to ascertain whether the recoveries have been made before the period of foreign service is reckoned as qualifying service. However, the Government servant is sometimes put to considerable difficulty because of defective or incomplete record maintenance by the administrative/accounts offices. In such case 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 a accommodation in evaluating and accepting such evidence as he is able to put forward, and not insist rigidly on formal proof.

(b) Where, however, the responsibility for making pension contributions is that of the borrowing organisation 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 organisation separately for appropriate action this should have no bearing on the processing and finalisation of pension papers.

### 5. Administrative sanction to pension and the concept of approved service

(a) It has been noticed that the submission of pension papers to the Head of the Department or Appointing Authority for administrative sanction to pension with reference to a concept of approved service though this is largely a formality in the vast majority of cases, nevertheless leads to a good deal of delay in the finalisation of pension cases, it has, therefore, been decided that the requirement of an administrative sanction to pension which is referred to in a number of places in the CCS(Pension) Rules, should be dispensed with the determination of pension will thereafter be merely a matter of calculation in accordance with the

rules and the pension papers need not be submitted to the Head of the Department or the Appointing Authority.

(b) However, the intention behind the provisions in Rule 6 of the CCS(Pension) Rules, under which less than the full admissible quantum of pension/gratuity can be granted after a summary procedure in a particular case on the grounds of unsatisfactory service or conduct, is not proposed to be given up. Recourse to this provision will, obviously be had only in exceptional cases and for this purpose it is not considered necessary to submit all pension cases to the Head of the Department or the Appointing Authority or subject them to a process of administrative sanction. Instead, at the time when the preparation of pension papers is taken up, i.e. 8 months prior to the retirement date, the Head of the Office should address a separate inquiry to the Appointing Authority whether there is any intention to grant less than full pension or to institute any proceedings. (The pension papers need not be sent to that authority for this purpose). In the absence of a reply to this inquiry, the authority preparing the pension papers should assume that there is no intention to grant less than full pension/gratuity and should process the pension paper accordingly so as to transmit them by the prescribed deadline to the authority responsible for issuing the pension payment order. If, on the other hand, the appointing authority does decide that there is a case for granting less than the full admissible pension/gratuity the procedure laid down in Rule 6 of the CCS(Pension) Rules, 1972 should be followed, and this process should be positively completed before the deadline for sending the pension papers to the authority responsible for issuing the pension payment order is reached i.e., earlier than 6 months prior to the retirement date.

(c) Where the responsibility for preparing the pension papers rests with an authority other than the Head of the Office concerned, it shall be the responsibility of the Head of the Office (or that of the next higher authority, where the pension case is that of the Head of the Office himself) to ascertain in advance from the appointing authority and communicate to the authority responsible for preparing the pension papers any intention to grant less than the full admissible pension/gratuity, not later than 6 months prior to the retirement date. Where no such intimation has been received the authority responsible for preparing pension papers will process the pension case on the assumption that full admissible pension and gratuity may be granted.

## 6. Right to withhold or withdraw pension

(a) Nothing contained in para 6 above is intended to affect the provisions of the CCS(Pension) Rules, 1972 which provide for the withholding or withdrawing of pension.

(b) Where departmental or judicial proceedings instituted during the service of the Government servant are not likely to be finalised by the date of retirement, action to grant provisional pension in terms of Rule 65 or Rule 74 of the CCS(Pension) Rules, 1972, should be taken so that the retiring Government servant not be put to undue hardship. The provisions of paragraph 8(c) below will not apply to provisional pension granted in terms of Rules 65 or Rule 74 of the CCS(Pension) Rules, 1972.

(c) If, after the pension papers have been forwarded to the office responsible for issuing the Pension Payment Order in accordance with the provisions of paragraph 2(d) above, any event occurs which has a bearing on the amount of pension admissible, the fact shall be promptly reported to the office responsible for issuing the Pension and Gratuity Payment Orders.

## 7. Payment of Provisional Pension and Gratuity

(a) The time table laid down in paragraph 2 above is intended to be followed strictly. If however, for any special reasons it has not been found possible to complete and forward the

pension papers to the office responsible for issuing the Pension payment Orders within the prescribed time schedule in a particular case, of if the pension papers have been sent late to that office and/or that office has either returned the papers to the Head of Office for eliciting further information or has not been able to issue the Pension Payment Order before one month prior to the date of retirement of the Government servant, steps shall be taken by the Head of Office to authorise the payment of provisional pension and gratuity by the first of the month in which it is due. For this purpose, such information as is available in the official records may be used, and further, the Head of Office should ask the retiring Government servant, for a simple statement giving his total length of service (from the date of joining duty to the date of retirement indicating the period of breaks, if any) and also the emoluments during the last ten months of service. The retiring Government servant may also be asked to certify that the facts stated by him are correct to the best of his knowledge and belief. If complete information in regard to the emoluments drawn during the last ten months is not available either with the Head of Office or with the Government servant, the emoluments last drawn should be taken provisionally as average emoluments. The Head of Office shall sanction 100% of the pension calculated with reference to the information so obtained as a provisional pension. The death-cum-retirement-gratuity should similarly be determined. The provisional pension and gratuity will be drawn and disbursed by the Head of Office in respect of non-gazetted Government servants. Before disbursing the provisional gratuity, all known dues such as long term advances still outstanding, over-payment of pay and allowances etc. and other recoveries due, shall be adjusted. Where no such adjustments are due, a deduction of 10% of the gratuity of Rs.1,000/- whichever is less, shall be made partly for adjustment in the light of the final determination of the gratuity.

(b) At present, in respect of gazetted Government servants it is the Accounts Office which issues an Anticipatory Pension Payment Order where the final pension has not been determined. In modification of this it has been decided that in these cases too, if the final pension payment order has not been issued by the Accounts Officer one month before the retirement date, the Government servants may ask the Head of Office for the drawal and disbursement of a provisional pension and gratuity. For this purpose, the procedure laid down in clause(a) will equally apply.

(c) Provisional Pension to become final after six months - The provisional pension is not intended to be continued on provisional basis beyond a period of six months from the date of retirement. If the office responsible for issuing the Pension Payment Order has not finalised the pension case by that time, the provisional pension shall be deemed to have become final and it will be obligatory for the office concerned to issue the final Pension Payment Order for the amount of pension and gratuity already calculated on a provisional basis: and the deduction made from the gratuity as per sub-paragraph (a) above shall also be released subject to the provisions of paragraphs 9 and 10 below.

#### 8. 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 as per paragraph 2(d) above, or after his retirement and after the grant of a provisional pension), the Gratuity Payment Order will in any case include a provision for the withholding 10% of the gratuity of Rs.1,000/- whichever is less, pending the production of the Last Pay Certificate.

#### 9 Adjustment of Government dues



(a) Dues pertaining to Government accommodation - The existing procedures for the issue of No Demand Certificates by the Directorate of Estates and the adjusted dues pertaining to the continued occupation of Government accommodation after retirement will for the present continue.

(b) Dues other than those 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 this 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 payments 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 death-cum-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, 10% of the gratuity of Rs.1,000/- has been withheld because there might be unassessed Government dues, or because the gratuity has been provisionally paid as per paragraph 9(a) above, or because Last Pay Certificate has not been received(see paragraph 9 above), the withheld amount shall 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 shall be released by the office 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 sums from the withheld amount are issued within the aforesaid period.

10. Accountability of officers charged with the maintenance of records - In taking the above decisions, Government have preceded 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 finalising pension case, 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 Department will ensure that these directions are complied with.

In supersession of Department of Personnel & AR letters No.25011/9/79-AIS(II), dated the 5<sup>th</sup> September, 1979 and 11<sup>th</sup> November, 1980, it has been decided to lay down the following procedure for preparation of pension papers and issue of pension payment orders in the case of IAS and IPS officers borne on the Union Territories Cadre:-

- (i) Officers retiring from service while working under Union Territory Administrations – The Union Territory Administration concerned will prepare pension papers and the Accounts Officer accredited to the UT Administration will issue the pension payment order.
  - (ii) Officers retiring from service while on deputation to Central Ministries/Departments – The borrowing Ministry/Department of the Government of India will prepare the pension papers and the Accounts Officer accredited to them will issue the pension payment order.
  - (iii) officers retiring from service while on foreign service or inter-cadre deputation to a State Government – The Delhi Administration will prepare the pension papers and the PAO No. VI Tiz Hazari under the Controller of Accounts, Delhi Administration, will issue the pension payment order.
2. In so far as members of Indian Forest Service borne on the Union Territories Cadre are concerned, instructions will be issued separately.

[D/P&AR letter No.25011/4/83-AIS(III), dated the 11<sup>th</sup> July, 1984]

## MISCELLANEOUS GOVERNMENT OF INDIA'S DECISIONS

1. ***The Government of India have decided that, in regard to matters specified in sub-rule (4), the procedure contained in Part X of the Civil Services Regulations, et se will apply.***

[G.I.MHA letter No.20/10/61-AIS(II) dated the 21<sup>st</sup> February, 1961]

2. ***that members of AIS non-Asiatic domicile cannot be permitted to draw pension in sterling:*** - It was decided that members of AIS non-Asiatic domicile cannot be permitted to draw pension in sterling. They will have to make their own arrangements for remittance of pension through normal banking channels.

[G.I. MHA F.No.29/36/62-AIS(II)]

3. ***State Governments, instead of invoking Article 282 may, in individual cases make recommendations to the Government of India for relaxation of DCRB Rules for sanction of ex-gratia grants:*** - Instances have come to the notice of the Government of India when State Government in exercise of their extraordinary powers in terms of Article 282 of the Constitution, sanctioned exgratia grants to the families of AIS officers dying in harness, the Attorney General of India and the Ministry of Law, who were consulted by the Government of India, opined that though the State Government were fully competent to determine "public purpose" within the meaning of Article 282 and their action is not justifiable but any grant excess of those provided by the rules would, serve an individual purpose and not a public purpose. It would, therefore, be advisable that the State Governments, instead of invoking Article 282 may, in individual cases make recommendations to the Government of India for relaxation of DCRB Rules.

[G.I. MHA F.No.29/52/60-AIS(II) and No.29/30/62-AIS(III)]

4. ***When a moS completes 20 years of service, the Audit Officer shall verify the service rendered by him in accordance with the rules in force at that time and determine the qualifying service rendered by him and communicate the same to the officer concerned:-***  
A clarification has been sought whether or not the provisions contained in Rule 32 of Central

Civil Service(Pension) Rules, 1972, which lays down that when Government servant completes 25 years of service, his service should be verified and the result of the verification should be communicated to him, has been extended to All India Services. Sub-rule(4) of Rule 28 of All India Services(DCRB) Rules, 1958 provides that the sanction and payment of retirement benefits to a member of an All India Service shall be regulated by such procedural instructions as may be issued by the Central Government. In pursuance of this rule, the Central Government have decided that when a member of an All India Service completes 20 years of service, the Audit Officer shall verify the service rendered by him in accordance with the rules in force at that time and determine the qualifying service rendered by him and communicate the same to the officer concerned. This verification is subject to final verification of qualifying service which shall be made, if found necessary, at the time of retirement of a member of the Service.

[DP&AR letter No.25011/48/78-AIS(II), dated the 6<sup>th</sup> November, 1978]

**5. *The Central Government have decided that the simplified procedure laid down in the Ministry of Finance OM No.11(3)-EV(A)76, dated the 28<sup>th</sup> February, 1976 (Annexure A) and No.11(3)-EV(A)76, dated the 6<sup>th</sup> May, 1976(Annexure B) for the calculation of retirement benefits in the case of Central Government servants apply mutatis mutandis to the members of All India Services.***

[DP&AR File No.11023/4/76-AIS(II)]6

## **I. INSTRUCTIONS ISSUED UNDER NEW DEFINED CONTRIBUTION PENSION SCHEME**

### **1. Extension of scope of family pension to unmarried daughters of All India Service officers/ All India Service pensioners.**

1.1 I am directed to refer to the Department of P&PW' O.M. No.I/19/03-P&PW (E) dated the 6th September, 2007 (copy enclosed) extending the scope of family pension to unmarried daughters of Central Government servants/pensioners beyond 25years of age at par with the widowed 1 divorced daughters.

1.2. The applicability of the provisions of the aforesaid OM to unmarried daughters of All India Service officers<sup>1</sup> All India Service pensioners has been considered by this Department and it has been decided to make applicable the provisions of the aforesaid OM of Department of Pension & PW in this respect, ***mutatis mutandis*** to unmarried daughters of All India Service officers/ All India Service pensioners.

1.3. It has also been decided to make applicable the provisions of Department of Pension &PW' O.M. No. 45/51/97-P&PW (E)(Vol.II)dated 25<sup>th</sup> July 2001 (copy enclosed) regarding

eligibility of disabled divorced/ widowed daughter for family pension for life subject to conditions mentioned therein and O.M. No. 45/51/97-P&PW (E)(Vol.II) dated 25th August, 2004 (copy enclosed) for making the widowed/ divorced daughter eligible for family pension, **mutatis mutandis** to disabled divorced/ widowed daughter and the widowed/ divorced daughter of All India Service officers/ All India Service pensioners.

*[DOPT's letter no.25014/2/2008-AIS(II) Dated 14<sup>th</sup> July, 2008]*

**A. Department of Pension and PW's OM No. 1/19/03-P&PW (E) Dated: 6<sup>th</sup> September 2007**

**Sub: Extension of scope of family Pension to unmarried daughters of Central Members of All India Service/ pensioners.**

The undersigned is directed to say that as per existing provisions under clauses (ii) and (iii) of sub-rule (6) of Rule 54 of the C.C. S. (Pension) Rules, 1972, read with of para 7.2 (b) of this Department's O.M. No. 45/86/97-P&PW (A)-Part I dated the 27<sup>th</sup> October 1997, son/daughter including widowed/ divorced daughter is eligible for grant of family pension till he/ she attains the age of 25 years or upto the date of his / her marriage/ remarriage, whichever is earlier subject to income criterion laid down in this Department's O.M. No. 45/51/97-P&PW(E) dated the 5<sup>th</sup> March 1998 which stipulates that a son/ daughter, including widowed/ divorced daughter, shall not have an income exceeding Rs. 2550/- per month from employment in Government, the private sector and self employment, etc., to be eligible for family pension. Orders were also issued vide this Department's O.M. No. 45/51/97-P&PW (E)(Vol.II) dated 25<sup>th</sup> July 2001 regarding eligibility of disabled divorced/ widowed daughter for family pension for life subject to conditions mentioned therein. Further, orders were issued for making the widowed/ divorced daughter eligible for family pension vide this Department's O.M. of even number dated 25<sup>th</sup> August, 2004.

2. The Staff Side of National Council (JCM) had raised the issue of extension of scope of family pension to unmarried daughters of the Members of All India Service/ Pensioners even after attaining the age of 25 years at par with the widowed/ divorced daughters, which has been agreed to in principle. It has, accordingly, been decided that the unmarried daughters beyond 25 years of age shall also be eligible for family pension at par with the widowed/ divorced daughters subject to other conditions being fulfilled. Grant of family pension to unmarried/ widowed/ divorced daughters shall be payable in order of their date of birth and younger of them will not be eligible for family pension unless the next above her has become ineligible for grant

of family pension. It is further clarified that family pension to unmarried/ widowed/ divorced daughters above the age of 25 years shall be payable only after the other eligible children below the age of 25 years have ceased to be eligible to receive family pension and that there is no disabled child to receive the family pension.

3. This issues with the concurrence of the Ministry of Finance, Department of Expenditure vide their U.O. No. 380/E.V/2006 dated 05.01.2007.

4. These orders, in so far as their applicability relates to the employees of the Indian Audit and Accounts Department, are being issued in consultation with the Comptroller and Auditor General of India, vide their U.O. No. 56 Audit (Rules)/12-2007 dated 22.05.2007.

**B. Department of Pension and PW's O.M.No. 45/51/97-P&PW(E) Vol. II dated 25<sup>th</sup> July, 2001**

**Sub: Eligibility of disabled divorced/ widowed daughter for grant of family pension.**

The Government of India vide its Office Memorandum of even number dated 5<sup>th</sup> March, 1998 read with the Office memorandum dated 21<sup>st</sup> July, 1999 has made eligible divorced/widowed daughter for grant of family pension subject to the conditions specified in these OMs. Further, the disabled daughter is already eligible for family pension for life under the proviso to Rule 54(6) of the CCS (Pension) Rules, 1972 on fulfillment of the conditions specified under this proviso and one of the conditions therein is that the disabled daughter is eligible for family pension till her marriage or earning her livelihood.

2. In view of the above provisions, this Department has been receiving representations regarding eligibility of the disabled daughter who has been divorced after her crossing 25 years of age, as the family pension to the divorced daughters under this Department's O.M. dated 5.3.1998 is admissible till 25 years or till their remarriage or their earning a sum of Rs. 2550/- whichever is earlier. The matter has been considered in this Department. It has been decided that if the marriage of the disabled daughter is legally annulled, she would be eligible for family pension for life from the date her marriage stands annulled, subject to the following conditions:-

- (i) Divorce is valid in law

- (ii) Divorced daughter comes back to her parental home
- (iii) Disability is certified by an appropriate authority as required under the rules.
- (iv) The requirement regarding submission of the requisite certificates as laid down under Rule 54(6) of the CCS (Pension) Rules, for becoming eligible to family pension for life shall continue to remain operative.

3. Similarly, the widowed disabled daughter would also be eligible for family pension for life from the date of death of her husband, subject to fulfillment of above mentioned conditions, as applicable in her case.

4. This issues with the concurrence of the Ministry of Finance, Department of Expenditure vide their U.O. No. 523/EV/2001 dated 12.6.2001.

## **C. Department of Pension and PW's O.M.No.1/19/03-P&PW(E) dated 25 August, 2004**

### **Sub: Eligibility of divorced/widowed daughter for grant of family pension.**

The undersigned is directed to say that 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. 2550/- 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 or 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 other conditions prescribed in the case of son/daughter. Such daughter, including disabled divorced/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 issues with the concurrence of the Ministry of Finance, Department of Expenditure vide I.S.No. 98/E.V/2004 dated 13.02.2004.

4. These orders, in so far as they apply to the employees of the Indian Audit and Accounts Department, are issued in consultation with the Comptroller and Auditor General of India vide U.O.No.67 Audit (Rules)/37-99 dated 20.05.2004.

**D. Instructions issued vide D/o P&PW's O.M. no.38/37/08-P&PW(A) dated 1.9.2008)**

**Sub: Implementation of Government's decision on the recommendations of the Sixth Central Pay Commission Revision of pension of pre-2006 pensioners/family pensioners etc.**

The undersigned is directed to say that in pursuance of Government's decision on the recommendations of Sixth Central Pay Commission, sanction of the President is hereby accorded to the regulation, with effect from 1.1.2006, of pension/ family pension of all the pre-2006 pensioners/ family pensioners in the manner indicated in the succeeding paragraphs. Separate orders will be issued in respect of employees who retired/died on or after 1.1.2006.

2.1 These orders apply to all pensioners/family pensioners who were drawing pension/family pension on 1.1.2006 under the Central Civil Services (Pension) Rules, 1972, CCS (Extraordinary Pension) Rules and the corresponding rules applicable to Railway pensioners and pensioners of All India Services, including officers of the Indian Civil Service retired from service on or after 1.1.1973.

2.2 Separate orders will be issued by the Ministry of Defence in regard to Armed Forces pensioners/family pensioners.

2.3 These orders do not also apply to retired High Court and Supreme Court Judges and other Constitutional/Statutory Authorities whose pension etc. is governed by separate rules/orders.

3.1 In these orders :

- a. Existing pensioner or Existing Family pensioner means a pensioner who was drawing/entitled to pension/family pension on 31.12.2005.
- b. Existing pension means the basic pension inclusive of commuted portion, if any, due on 31.12.2005. It covers all classes of pension under the CCS (Pension) Rules, 1972 as also Disability Pension under the CCS (Extraordinary Pension) Rules and the corresponding rules applicable to Railway employees and Members of All India Services.
- c. Existing family pension means the basic family pension drawn on 31.12.2005 under the CCS (Pension) Rules and the corresponding rules applicable to Railway employees and Members of All India Services.

4.1 The pension/family pension of existing pre-2006 pensioners/family pensioners will be consolidated with effect from 1.1.2006 by adding together:-

- i. The existing pension/family pension.
- ii. Dearness Pension, where applicable
- iii. Dearness Relief upto AICPI (IW) average index 536 (Base year 1982=100) i.e. @ 24% of Basic Pension/Basic family pension plus dearness pension as admissible vide this Department's O.M. No. 42/2/2006-P&PW(G) dated 5.4.2006
- iv. Fitment weightage @ 40% of the existing pension/family pension.

Where the existing pension in (i) above includes the effect of merger of 50% of dearness relief w.e.f. 1.4.2004, the existing pension for the purpose of fitment weightage will be re-calculated after excluding the merged dearness relief of 50% from the pension.

The amount so arrived at will be regarded as consolidated pension/family pension with effect from 1.1.2006.

4.2 The fixation of pension will be subject to the provision that the revised pension, in no case, shall be lower than fifty percent of the minimum of the pay in the pay band plus the grade pay corresponding to the pre-revised pay scale from which the pensioner had retired. In the case of HAG+ and above scales, this will be fifty percent of the minimum of the revised pay scale.

4.3 Since the consolidated pension will be inclusive of commuted portion of pension, if any, the commuted portion will be deducted from the said amount while making monthly disbursements.

4.4 The upper ceiling on pension/family pension laid down in the Department of Pension and Pensioner's Welfare Office Memorandum No 45/86/97-P&PW(A)(Part-I) dated 27.10.1997 has been increased from Rs. 15000/- and Rs. 9000/- to 50% and 30% respectively of the highest pay in the Government (The highest pay in the Government is Rs. 90,000 since 1.1.2006).

4.5 The quantum of pension/family pension available to the old pensioners/ family pensioners shall be increased as follows:-

<b><u>Age of pensioner/family pensioner</u></b>	<b><u>Additional quantum of pension</u></b>
From 80 years to less than 85 years	20% of revised basic pension/ family pension
From 85 years to less than 90 years	30% of revised basic pension / family pension
From 90 years to less than 95 years	40% of revised basic pension / family pension
From 95 years to less than 100 years	50% of revised basic pension / family pension
100 years or more	100% of revised basic pension / family pension

The amount of additional pension will be shown distinctly in the pension payment order. For example, in case where a pensioner is more than 80 years of age and his/her consolidated



pension in terms para 4.1 and 4.2 above is Rs.10,000 pm, the pension will be shown as (i).Basic pension=Rs.10,000 and (ii) Additional pension = Rs.2,000 pm. The pension on his/her attaining the age of 85 years will be shown as (i).Basic Pension = Rs.10,000 and (ii) additional pension = Rs.3,000 pm.

4.6 Some of the existing pensioners who retired between 31.3.1985 and 31.12.1985 are in receipt of personal pension. The said personal pension will continue to be granted as a separate element and will not be merged into the pension as consolidated above.

4.7 Since the consolidated pension/family pension arrived at as per paragraph 4.1. includes dearness relief upto average index level 536(Base year 1982=100), dearness relief will be admissible thereon only beyond index average 536 (Base year 1982=100) in accordance with the revised scheme of dearness relief for which orders are being issued separately. The four installments of dearness relief sanctioned earlier from 1.7.2006, 1.1.2007, 1.7.2007 and 1.1.2008 in this Department's Office Memorandum No. 42/2/2006-P&PW(G) dated the 15.9.2006, Office Memorandum No. 42/2/2006-P&PW(G) dated the 23.3.2007, Office Memorandum No. 42/2/2006-P&PW(G) dated the 18.9.2007 and Office Memorandum No. 42/2/2006-P&PW(G) dated the 19.3.2008 respectively shall be adjusted against revised Dearness Relief becoming due on the consolidated pension/family pension.

5.1 Where the consolidated pension/family pension in terms of paragraph 4 above works out to an amount less than Rs. 3500/- the same shall be stepped upto Rs. 3500/-. This will be regarded as pension/family pension with effect from 1.1.2006. In the case of pensioners who are in receipt of more than one pension, the floor ceiling of Rs. 3500/- will apply to the total of all pensions taken together.

5.2 Where the disability pension under the CCS(EOP) Rules, is drawn in addition to invalid pension under the CCS (Pension) Rules, 1972, the minimum limit of Rs. 3500/- will apply to total of two pensions as indicated in paragraph 5.1. Where the disability pension is drawn in isolation, the minimum limit of Rs. 3500/- will apply for 100% disability. For lesser degree of disability the minimum limit will be proportionately less.

6. The employed/re-employed pensioners/family pensioners are not getting dearness relief on pension at present under the extant orders. In their case the notional dearness relief which would have been admissible to them but for their employment/re-employment will be taken into account for consolidation of their pension in terms of paragraph 4.1. above as if they were drawing the dearness relief. Their pay will be re-fixed w.e.f. 1.1.2006 with reference to consolidated pension becoming admissible to them. Dearness relief beyond 1.1.2006 will, however, not be admissible to them during the period of employment/re-employment.

7. The cases of Central Government employees who have been permanently absorbed in public sector undertakings/autonomous bodies will be regulated as follows:-

## (a) PENSION

Where the Government servants on permanent absorption in public sector undertakings/autonomous bodies continue to draw pension separately from the Government, the pension of such absorbees will be updated in terms of these orders. In cases where the Government servants have drawn one time lump sum terminal benefits equal to 100% of their pensions and have become entitled to the restoration of one-third commuted portion of pension as per Supreme Court judgement dated 15.12.1995, their cases will not be covered by these orders.

**(b) FAMILY PENSION**

In cases where, on permanent absorption in public sector undertakings/autonomous bodies, the terms of absorption permit grant of family pension under the CCS (Pension) Rules, 1972 or the corresponding rules applicable to Railway employees/members of All India Services, the family pension being drawn by family pensioners will be updated in accordance with these orders.

8. All Pension Disbursing Authorities including Public Sector Banks handling disbursement of pension to the Central Government pensioners are hereby authorised to pay pension/family pension to existing pensioners/family pensioners at the consolidated rates in terms of para 4.1 above without any further authorisation from the concerned Accounts Officers/Head of Office etc. A table indicating the existing basic pension/family pension without Dearness Pension, the basic pension/family pension with dearness pension and the revised consolidated pension/family pension is enclosed for ready reference. **(Annexure I)**. This table may be used where the pensioner is in receipt of a single pension only. Where a pensioner is in receipt of more than one pension, consolidation may be done separately in terms of paragraph 4.1 and as indicated in paragraph 5 floor ceiling of Rs. 3500/- may be applied to total pension from all sources taken together. Wherever the age of pensioner/ family pensioner is available on the pension payment order, the additional pension/ family pension in terms of para 4.5. above may also be paid by the pension disbursing authorities immediately without any further authorisation from the concerned Account Officer/ Head of Office, etc. A suitable entry regarding the revised consolidated pension shall be recorded by the pension Disbursing Authorities in both halves of the Pension Payment Order. An intimation regarding disbursement of revised pension may be sent by the pension disbursing authorities to the Office of CPAO and Accounts Officer which had issued the PPO in the form given at [Annexure-II](#) so that the latter can update the Pension payment Order Register maintained by him. An acknowledgement shall be obtained by the Pension Disbursing Authorities from Office of CPAO and the respective Accounts Officers in this behalf.

9. The consolidated pension/family pension as worked out in accordance with provisions of Para 4.1. above shall be treated as final 'Basic Pension' with effect from 1.1.2006 and shall qualify for grant of Dearness Relief sanctioned thereafter.

10. 40% of the arrears of pension will be paid in the year 2008-09 and the remaining 60% in the year 2009-10.

11. It shall be the responsibility of the Head of the Department of the Ministry, Department, Office, etc. from which the government servant had retired or where he was working prior to his demise to revise the pension/family pension of all pensioners/ family pensioners with effect from 1st January 2006 in accordance with the provisions mentioned in para 4.1 and 4.2 above and to issue revised Pension Payment Order (PPOs). Action to revise pension/ family pension in terms of these provisions shall be initiated suo moto by the concerned Heads of Departments. In the case of the Defence Civilian Employees, however, the procedure prescribed in this regard by the Ministry of Defence shall be followed. It is emphasised that the Pension Sanctioning Authority, in no case, will ask the pensioner/ family pensioner to surrender his/ her original Pension Payment Order (PPO) for issuing revised authority. In case, however, the age of pensioner/family pensioner is not available on the PPO/office records, the same shall be obtained from the pensioner/family pensioner and indicated in the revised PPO. The authenticity of the age declared by the pensioner/family pensioner shall be verified by the pension sanctioning authority. It may also be ensured that a copy of the revised PPO should be invariably endorsed to the pensioner/ family pensioner.

12. It is considered desirable that the benefit of these orders should reach the pensioners as expeditiously as possible. To achieve this objective it is desired that all Pension Disbursing Authorities should ensure that the revised pension and the first installment of arrears due to the pensioners in terms of para 4.1. and para 4.5 above is paid to the pensioners or credited to their account by 30th September, 2008 or before positively. Instructions regarding release of second installment of arrears will be issued later. Concerted efforts should be made by all the authorities concerned to ensure that the revised PPO's are issued, wherever necessary, with the utmost expedition in terms of para 4.1, 4.2. and 4.5 above and arrears are paid in terms of para 10 above within two months from the date of issue of this O.M.

13. In their application to the persons belonging to Indian Audit and Accounts Department these orders issue in consultation with the Comptroller and Auditor General of India.

14. Ministry of Agriculture etc. are requested to bring the contents of these Orders to the notice of Controller of Accounts/Pay and Accounts Officers 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.

### STATEMENT

**E. Instructions issued vide D/o P&PW's O.M. No. 38/37/08-P&PW(A) dated the 2<sup>nd</sup> September, 2008**

**Subject : Implementation of Government's decision on the recommendations of the sixth Central Pay Commission – Revision of provisions regulating pension/gratuity/commutation of pension/family pension/disability pension/ ex-gratia lump-sum compensation.**

*The undersigned is directed to state that in pursuance of Government's decision on the recommendation of the Sixth Central Pay Commission, the President is pleased to introduce the following modifications in the rules regulating pension, Retirement /Death/Service Gratuity/Family Pension/disability pension and ex-gratia lump-sum compensation of Pension under CCS(Commutation of Pension) Rules, 1981, CCS(Extraordinary Pension) Rules, 1939 etc.*

1. *These orders apply to Central Government Employees governed by the CCS(Pension) Rules, 1972. Separate orders will be issued by the Ministry of Defence, Ministry of Railways and the AIS Division of the DOPT in respect of Armed Forces Personnel, Railway employees and the officers of All India Services respectively on the basis of these orders.*

### DATE OF EFFECT

3.1. *Save as otherwise mentioned in these orders, the revised provisions as per these orders shall apply to Government servants who retire/die in harness on or after 1/1/2006. Separate orders have been issued in respect of employees who retired/died before 1/1/2006.*

3.2. *Where pension/family pension/Gratuity/Commutation of pension, etc has already been sanctioned in cases occurring on or after 1/1/2006, the same shall be revised in terms of these orders. In cases where pension has been finally sanctioned on the pre-revised orders and if it happens to be more beneficial than the pension becoming due under these orders, the pension already sanctioned shall not be revised to the disadvantage of the pensioner in view of Rule 70 of the CCS(Pension) Rules, 1972.*

### EMOLUMENTS

4.1. *The term 'Emoluments' for purposes of calculating various pensionary benefits other than various kinds of Gratuity shall have the same meaning as in Rule 33 of the Central Civil Services (Pension) Rules, 1972.*

4.2. *Basic pay in the revised pay structure means the pay drawn in the prescribed pay band plus the applicable grade pay but does not include any other type of pay like special pay, etc.*

4.3. In the case of all kinds of Gratuity, DA admissible on the date of retirement/death shall continue to be treated as emoluments along with the emoluments as defined in paragraph 4.1. above.

### **PENSION**

5.1. A Government servant retiring in accordance with the provisions of the CCS(Pension) Rules, 1972 before completing qualifying service of ten years shall not be entitled to pension but he shall continue to be entitled to service gratuity in terms of Rule 49(1) of the CCS(Pension) rules, 1972.

5.2. Linkage of full pension with 33 years of qualifying service shall be dispensed with. Once a Government servant has rendered the minimum qualifying service of twenty years, pension shall be paid at 50% of the emoluments or average emoluments received during the last 10 months, whichever is more beneficial to him.

5.3. In cases where Government servant becomes entitled to pension on completion of 10 years of qualifying service in accordance with Rule 49(2) of the CCS(Pension) Rules, 1972, pension in those cases shall also be paid at 50% of the emoluments or average emoluments, whichever is more beneficial to the Government servant.

5.4. The revised provisions for calculation of pension in para 5.2. and para 5.3. above shall come into force with effect from the date of issue of this OM and shall be applicable to Government servants retiring on or after that date. The government servants who have retired on or after 1/1/2006 but before the date of issue of this OM will continue to be governed by the Rules/orders which were in force immediately before coming into effect of these orders.

5.5. The amount of pension shall be subject to a minimum of Rs.3500/- and maximum upto 50% of highest pay in the Government (The highest pay in the Government is Rs. 90,000 since 1/1/2006)

5.6. The provisions of clauses (a) to (c) of sub-rule (2) of Rule 49 of the Pension Rules shall stand modified to the extent mentioned in para 5.1. to para 5.5. above. The other provisions contained in Rule 49 shall continue to apply.

5.7. The quantum of pension available to the old pensioners shall be increased as follows:-

<b>Age of pensioner</b>	<b>Additional quantum of pension</b>
From 80 years to less than 85 years	20% of basic pension
From 85 years to less than 90 years	30% of basic pension
From 90 years to less than 95 year	40% of basic pension
From 95 years to less than 100 years	50% of basic pension
100 years or more	100% of basic pension

The Pension Sanctioning Authorities should ensure that the date of birth and the age of a pensioner is invariably indicated in the pension payment order to facilitate payment of additional pension by the Pension Disbursing Authority as soon as it becomes due. The amount of additional pension will be shown distinctly in the pension payment order. For example, in case where a pensioner is more than 80 years of age and his pension is Rs.10,000 pm, the pension will be shown as (i) Basic pension +Rs.10,000 and (ii) Additional pension =Rs.2000 pm. The pension on his attaining the age of 85 years will be shown as (i) Basic Pension = Rs.10,000 and (ii) additional pension + Rs.3,000 pm. and (ii) additional pension = Rs.3,000 p.m.

### **GRATUITY**

6.1. The maximum limit of all kinds of gratuity shall be Rs.10 lakh. Accordingly, first proviso under Rule 50(1)(b) of Pension Rules shall stand modified to the effect that the amount of retirement, gratuity or death gratuity payable under this Rule shall in no case exceed Rs.10 lakh.

### **ADDITION TO QUALIFYING SERVICE**

7.1. In view of revised provisions for computation of pension in para 5 above, the extant benefit of adding years of qualifying service for the purpose of computation of pension shall stand withdrawn with effect from the date of issue of this OM. Rule 29, 29-A, 30, 48-B and 48-C of the CCS(Pension) Rules, 1972 shall stand modified to this extent.

### **FAMILY PENSION 1964**

8.1. Family pension shall be calculated at a uniform rate of 30 % of basic pay in all cases and shall be subject to a minimum of Rs.3500/- p.m. and maximum of 30% of the highest pay in the Government. (The highest pay in the Government is Rs.90,000 since 1/1/2006). Rule 54(2) relating to Family Pension, 1964 under Pension Rules shall stand modified to this extent.

8.2. The enhanced family pension under Rule 54(3)(a) (i) shall be payable to the family of a Government servant **who dies in service** from the date of death of the Government servant for a period of ten years, without any upper age limit. Rule 54(3)(a)(i) shall stand modified to this extent. There will be no change in the period for payment of enhanced family pension to the family in the case of death of a pensioner.

8.3. The quantum of family pension available to the old family pensioners shall be increased as follows:-

<b>Age of family pensioner</b>	<b>Additional quantum of family pension</b>
From 80 years to less than 85 years	20% of basic family pension
From 85 years to less than 90 years	30% of basic family pension
From 90 years to less than 95 year	40% of basic family pension
From 95 years to less than 100 years	50% of basic family pension
100 years or more	100% of basic family pension

The Pension Sanctioning Authorities should ensure that the date of birth and the age of a family pensioner is invariably indicated in the Form 3 (regarding details of family) and the pension payment order to facilitate payment of additional family pension by the pension disbursing authority as soon as it becomes due. The amount of additional family pension will be shown distinctly in the pension payment order. For example, in case where a family pensioner is more than 80 years of age and his/her family pension Rs. 10,000 pm, the pension will be shown as (i) Basic family pension = Rs. 10,000 and (ii) Additional family pension = Rs. 2000 pm. The family pension on his/her attaining the age of 85 years will be shown as (i) Basic family pension = Rs. 10,000/- and (ii) additional pension = Rs. 3,000 p.m.

8.4. For the purpose grant of Family Pension, the 'Family' shall be categorized as under:-

**Category –I**

- (a) Widow or widower, upto the date of death or re-marriage, whichever is earlier;
- (b) Son/daughter (including widowed daughter), upto the date of his/her marriage/re-marriage or till the date he/she starts earning or till the age of 25 years, whichever is the earliest.

**Category-II**

- (c) Unmarried/Widowed/Divorced daughter, not covered by Category I above, upto the date of marriage/re-marriage or till the date she starts earning or upto the date of death, whichever is earliest.
- (d) Parents who were wholly dependent on the Government servant when he/she was alive provided the deceased employee had left behind neither a widow or a child. Family pension to dependent parents unmarried/divorced/widowed daughter will continue till the date of death.

8.5. The dependency criteria for the purpose of family pension shall be the minimum family pension along with dearness relief thereon.

8.6. The childless widow of a deceased Government employee shall continue to be paid family pension even after her remarriage subject to the condition that the family pension shall cease once her independent income from all other sources becomes equal to or higher than the minimum prescribed family pension in the central Government. The family pensioner in such cases would be required to give a declaration regarding her income from other sources to the pension disbursing authority every six months.

**COMUTATION OF PENSION**

9.1. A Government servant shall continue to be entitled to commute for a lumpsum payment up to 40% of his pension.

9.2. The existing Table of Commutation Value for Pension Annexed to the CCS (Commutation of Pension) Rules, 1981 shall be substituted by a new Table at Annex-I of this O.M.

9.3. The revised Table of Commutation Value for Pension will be used for all commutations of pension which become absolute after the date of issue of this O.M. In the case of those pensioners, in whose case commutation of pension became absolute on or after 1/1/2006 but before the issue of this O.M., the pre-revised Table of Commutation Value for pension will be used for payment of commutation of pension based on pre-revised pay/pension. Such pensioners shall have an option to commute the amount of pension that has become additionally commutable on account of retrospective revision of pay/pension on implementation of the recommendations of the Sixth Central Pay Commission. On exercising such an

option by the pensioner, the revised Table of Commutation Value for pension will be used for the commutation of the additional amount of pension that has become commutable on account of retrospective revision of pay/pension. In all cases where the date of retirement/commutation of the additional amount of pension that has become commutable on account of retrospective revision of pay/pension. In all cases where the date of retirement/commutation of pension is on or after the date of issue of this O.M., the revised Table of Commutation Value for pension will be used for commutation of entire pension.

- 9.3.1. Provisions of CCS(Commutation of Pension) Rules, 1981 shall stand modified in accordance with para 9.2. and 9.3 above.

#### **CONSTANT ATTENDANT ALLOWANCE**

- 10.1. In the case of pensioners who retired on disability pension under the CCS(Extraordinary) Pension Rules, 1939 for 100% disability (where the individual is completely dependent on somebody else for day to day functions), a Constant Attendant Allowance of Rs. 3000/- p.m. shall be allowed in addition to the disability pension, on the lines existing in Defence Forces. The CCS(Extraordinary) Pension Rules, 1939 shall stand modified to this extent.

#### **EX GRATIA LUMP SUM COMPENSATION**

11. In terms of Department of Pension & PW O.M. No. 45/55/97-P&PW(C) dated 11/9/1998, an ex gratia lump sum compensation is available to the families of Central Government Civilian employees, who die in the performance of their bona fide official duties under various circumstances. The amount of this ex-gratia lump sum compensation shall be revised as under:

(a) Death occurring due to accidents in the course of performance of duties	Rs.10.00 lakh
(b) Death occurring in the course of performance of duties attributable to acts of violence by terrorists, anti-social elements, etc	Rs.10.00 lakh
(c) Death occurring (a) enemy action in international war or border skirmishes and (b) action against militants, terrorists, extremists etc.	Rs.15.00 lakh
(d) Death occurring while on duty in the specified high altitude, inaccessible border posts, etc on account of natural disasters, extreme weather condition	Rs.15.00 lakh

The Department of Pension & PW O.M. No. 45/55/97-P&PW(C) dated 11/9/1998 shall stand modified to this extent.

12. For the purpose of computing average emoluments in the case of Government servants who have opted for fixation of pay in the revised pay structure and retire within 10 months from the date of coming over to the revised pay structure, basic pay for 10 months period preceding retirement shall be calculated by taking into account pay as follows:
- (i) For the period during which pay is drawn in revised pay structure-pay drawn in the prescribed pay band plus the applicable grade pay.
  - (ii) For the remaining period during which pay is drawn in pre-revised scale of pay- basic pay plus dearness pay and actual D.A. appropriate to the basic pay at the rates in force on 1/1/2006 drawn during the relevant period

#### **SPECIAL PROVISION FOR THOSE WHO RETAIN THE PRE-REVISED SCALE OF PAY.**

13. The pension and death-cum-retirement gratuity of those, who have elected to continue to draw pay in the pre-revised scale of pay in terms of Rule 5 of the Central Civil Services (Revised Pay) Rules, 2008 and have retired or will be retiring after 1/1/2006, shall be regulated as follows:
- (i) The term 'Emoluments' will mean 'Pay' as defined in FR 9(21)(a)(i) and will include Dearness Pay and DA upto average AICPI 536 (base year 1982=100).
  - (ii) Pension will be calculated at 50% of emoluments or average emoluments whichever is more beneficial to the employee.
  - (iii) Death-Cum-retirement gratuity shall be admissible with reference to emoluments at (i) above plus dearness allowance, under the order in force immediately before coming into effect of these orders.

*The maximum amount of gratuity shall not exceed Rs.3,50,000/- in terms of Department of Pension and Pensioners Welfare Office Memorandum No. 45/86/97-P&PW(A) (Part-I) dated 27/10/1997.*

- (iv) *Commutation of pension shall be admissible in accordance with the orders in force immediately before coming into effect of these orders.*
- (v) *Family pension shall be allowed in accordance with orders applicable prior to the issue of these orders and shall be calculated with reference to basic pay in the pre-revised scale. To the family pension so calculated dearness relief upto average AICPI 536 (Base year 1982=100) at the rate contained in this Department's Office Memorandum No. 42/2/2006-P&PW(G) dated 5/4/2006 shall be added. The amount so arrived at will be regarded as the family pension for regulating payment of dearness relief beyond average AICPI 536.*
- 14. *Formal amendments to CCS(Pension) Rules, 1972, CCS(Extraordinary) Pension Rules, 1939 and CCS(Commutation of Pension) Rules, 1981 in terms of the decisions contained in this order will issue in due course. Provisions of the CCS(Pension) Rules, 1972, CCS(Extraordinary) Pension Rules, 1939, and CCS(Commutation of Pension) Rules, 1981 which are not specifically modified by these orders, will remain unaffected.*
- 15. *The pension/family pension in terms of these orders will qualify for dearness relief beyond average AICPI 536 under the revised pattern being introduced on the recommendations of the Sixth Central Pay Commission.*
- 16. *These orders issue with the approval of the Ministry of Finance Department of Expenditure vide their U.O. No. 4871/SE/2008 dated 2/9/2008.*
- 17. *In their application to the employees of the Indian Audit and Accounts Department, these orders issue in consultation with Comptroller and Auditor General of India.*
- 18. *Ministry of Agriculture etc. are requested to bring the contents of these orders to the notice of controller of Accounts/Pay and Accounts Officers and Attached and Subordinate Offices under them on a top priority basis.*

## **2. Instructions issued vide letter no .14021/8/2008-AIS(II)Dated 22<sup>nd</sup> September, 2008**

**Sub: Recommendation of Sixth Central Pay Commission- Decision of Government relating to grant of relief to central Government pensioners/family pensioners-revised rates effective from 1.1.2006, 1.7.2006, 1.1.2007, 1.7.2007 1.1.2008 and 1.7.2008.**

I am directed to say that in pursuance of Government's decision on the recommendations of the Sixth Central Pay Commission, the Department of Pension & Pensioners' Welfare by its OM No. 42/2/2008 P&PW (G) dated 12<sup>th</sup> September 2008 (copy enclosed) has issued the order relating to grant of dearness relief admissible to all categories of Central Government pensioners/family pensioners.

- 2. The provisions contained in the aforesaid Office Memorandum of the Department of Pension & Pensioners' Welfare are equally applicable ***Mutatis-Mutandis*** to All India Service pensioners/family pensioners.

**Instructions issued under D/o P&PW's OM No. 42/2/2008 P&PW (G) dated 12<sup>th</sup> September 2008**

**Sub: Recommendation of 6<sup>th</sup> Central Pay Commission – Decision of Government relating to grant of Dearness Relief to Central Government pensioners/family pensioners – revised rates effective from 1/1/2006, 1/7/2006, 1/1/2007, 1/7/2007, 1/1/2008 and 1/7/2008**

The undersigned is directed to say that consequent upon the decision taken by the Government on the recommendation of 6<sup>th</sup> Central Pay Commission relating to Dearness Relief, the President is pleased to decide that the Dearness Relief admissible to all categories of Central Government pensioners/family pensioners shall be admissible from the dates mentioned below at the rates:-

<b>Date from which payable</b>	<b>Rate of Dearness Relief per mensem</b>
From 1/1/2006	No Dearness Relief
From 1/7/2006	2% of basic pension/family pension
From 1/1/2007	6% of basic pension/family pension
From 1/7/2007	9% of basic pension/family pension
From 1/1/2008	12% of basic pension/family pension
From 1/7/2008	16% of basic pension/family pension

Note : Dearness Relief at the rates indicated in above table will also be admissible on the additional basic pension/additional family pension available to older pensioners/family pensioners based on their age as indicated in this Department's O.M. No. 38/37/08-P&PW(A) dated 1/9/2008 and 2/9/2008.

2. The payment of Dearness Relief under these orders from the dates indicated above shall be made after adjusting the instalments of enhanced Dearness Relief already sanctioned and paid to Central Government pensioners/family pensioners w.e.f. 1/1/2006 vide O.M. No. 42/2/2006-P&PW(G) dated 5/4/2006, w.e.f. 1/7/2006 vide O.M. No. 42/2/2006 P&PW(G) dated 15/9/2006, w.e.f. 1/1/2007 vide O.M. No. 42/2/2007 P&PW (G) dated 29/3/2007, w.e.f. 1/7/2007 vide O.M. No. 42/2/2007 P&PW (G) dated 18/9/2007 and w.e.f. 1/1/2008 vide O.M. No. 42/2/2008 P&PW(G) dated 19/3/2008.



3. These orders apply to (i) All Civilian Central Government Pensioners/Family Pensioners (ii) The Armed Forces Pensioners/family pensioners, Civilian Pensioners/family pensioners paid out of the Defence Service Estimates, (iii) All India Service pensioners/family pensioners (iv) Railway pensioners/family pensioners and (v) The Burma Civilian pensioners/family pensioners and pensioners/family of displaced Government pensioners from Pakistan, who are Indian Nationals but receiving pension/family pension on behalf of Government of Pakistan, who are in receipt of ad-hoc ex-gratia allowance of Rs.1275/- p.m. in terms of this Department's O.M. No. 23/1/97-P&PW(B) dated 23/2/1998.

4. Central Government employees who had drawn lumpsum amount on absorption in a PSU/Autonomous Body and have become eligible for the restoration of 1/3<sup>rd</sup> commuted portion of pension as well as revision of the restored amount in terms of this Department's O.M. No. 4/59/97-P&PW(D) dated 14/7/1998 will also be entitled to the payment of revised rates as per the table given above of Dearness Relief w.e.f. 1/1/2006 on the full pension/family pension i.e. the revised pension/family pension which the absorbed employee would have received on the date of restoration had he not drawn lumpsum payment on absorption and Dearness pension subject to fulfillment of the conditions laid down in para 5 of the O.M. dated 14/7/1998. In this connection instructions contained in this Department's O.M. No. 4/29/99-P&PW (D) dated 12/7/2000, O.M. No. 4/31/2000-P&PW(D) dated 16/1/2001 and O.M. No. 4/79/2006-P&PW(D) dated 6/9/2007 and O.M. No. 4/38/2008 P&PW (D) dated 12/9/2008, refers.

5. The other categories of CPF beneficiaries, their widows and diseased children who are in receipt of ex-gratia payment in terms of this Department's O.M. No. 45/52/97-P&PW(E) dated 16/12/1997 will continue to be governed by the said O.M.

6. Payment of DR involving a fraction of a rupee shall be rounded off to the next higher rupee.

7. Other provisions governing grant of DR in respect of employed family pensioners and re-employed Central Government Pensioners will be regulated in accordance with the provisions contained in this Department's O.M. No. 45/73/97-P&PW (G) dated 2/7/1999. The provisions relating to regulation of DR where pensioner is in receipt of more than one pension will remain unchanged.

8. In the case of retired Supreme Court and High Court Judges necessary orders will be issued by the Department of Justice separately.

9. It will be the responsibility of the pension disbursing authority including the nationalized banks, etc. to calculate the quantum of DR payable in each individual case.

10. The offices of Accountant General and Authorized Public Sector Banks are requested to arrange payment of relief to pensioner etc. on the basis of above instructions without waiting for any further instructions from the Comptroller and Auditor General of India and the Reserve Bank of India in view of letter no. 528 – TA, II/34-80-II dated 23/4/1981 of the Comptroller and Auditor General of India addressed to all Accountant Generals and Reserve Bank of India Circular No. GANB No. 2958/GA-64 (ii) (CGL)/81 dated the 21<sup>st</sup> May, 1981 addressed to State Bank of India and its subsidiaries and all Nationalized Banks.

11. In their application to the pensioners/family pensioners belonging to Indian Audit and Accounts Department these orders issue in consultation with the C&AG.

12. The issues with the concurrence of Ministry of Finance, Department of Expenditure vide their U.O. No. 1(4) EV/2004 dated 9/9/2008

### 3. Instructions issued vide letter no.14021/7/2008-AIS(II) dated 26<sup>th</sup> September, 2008

**Sub: Implementation of Government's decision on the recommendation of the Sixth Central Pay Commission – Revision of provisions regulating pension/gratuity/commutation of pension/family pension/disability pension and ex-gratia lump-sum compensation.**

I am directed to say that in pursuance of Government's decision on the recommendations of the Sixth Central Pay Commission, the Department of Pension & Pensioners' Welfare by its OM No. 38/37/08- P&PW (A) dated 2<sup>nd</sup> September 2008 (copy enclosed) has issued the necessary detailed order introducing modifications in the rules regulating pension, retirement/death/service gratuity/family pension/disability pension and ex-gratia lump-sum compensation under the CCS (Pension) Rules, 1972 and Commutation of Pension under CCS (Commutation of Pension) Rules, 1981, CCS (Extraordinary Pension) Rules, 1939, etc.

2. The applicability of the provisions of aforesaid Office Memorandum of the Department of Pension & Pensioners' Welfare to the members of All India Services has been considered. It has been decided that the provisions contained in the aforesaid Office Memorandum issued by the Department of Pension & Pensioners' shall be equally applicable ***Mutatis-Mutandis*** to members of All India Service governed by the AIS (DCRB) Rules, 1958.

**A. Instructions issued vide O.M. No 38/37/08-P&PW(A).pt.II Dated the 3<sup>rd</sup> October, 2008**

**Sub: Implementation of Government's decision on the recommendation of the Sixth Central Pay Commission - Revision of provisions regulating pension/gratuity/ commutation of pension/family pension/disability pension/ex-gratia lump-sum compensation.**

The undersigned is directed to state that in pursuance of Government's decision on the recommendation of the Sixth Central Pay Commission, orders were issued vide this Department's O.M. No. 38/37/08-P&PW(A) dated 2.9.2008 for introducing modifications in the rules regulating pension, Retirement/Death/Service Gratuity/Family Pension/disability pension and ex-gratia lump-sum compensation under the CCS (Pension) Rules, 1972 and Commutation of Pension under CCS (Commutation of Pension) Rules, 1981, CCS (Extraordinary Pension) Rules, 1939, etc. A number of references are being received in this Department seeking clarifications in regard to various provisions of the aforesaid O.M. The matter has been considered in consultation with the Ministry of Finance, Department of Expenditure and the following clarifications/modifications are made in regard to the aforesaid O.M. dated 2.9.2008:

S. No	Point raised in regard to the OM No.38/37/08-P&PW(A) dated 2.9.2008	Clarification/modification
1	<p>Para 5.2 to Para 5.4</p> <p>Whether the recommendation of the Sixth CPC for payment of pension at 50% of the average emoluments received during the last 10 months or the pay last drawn, whichever is more beneficial to the retiring employee, will also take effect from the date of issue of the orders i.e. 2.9.2008.</p>	<p>(i) Yes. The Pay Commission has recommended in para 5.1.33 of its Report that linkage of full pension with 33 years of qualifying service should be dispensed with. Once an employee renders the minimum pensionable service of 20 years, pension should be paid at 50% of the average emoluments received during the past 10 months or the pay last drawn, whichever is more beneficial to the retiring employee. In para 6.5.3, the Commission has recommended that the recommendation regarding payment of full pension on completion of 20 years of qualifying service will take effect only prospectively for all Government employees other than PBORs in Defence Forces from the date it is accepted by the Government. The recommendation in para 5.1.33 is to be taken as one package and in view of para 6.5.3 of the report of Sixth CPC, the whole recommendation in para 5.1.33 has been given prospective effect.</p> <p>(ii) It is, however, clarified that the pension of a post-1.1.2006 pensioner shall also not be lower than fifty percent of the sum of the minimum of the pay in the pay band and the grade pay (or 50% of the minimum of the scale in the case of HAG+ and above) from which the pensioner has retired. For example, if a pensioner has retired in the grade pay of Rs. 10,000/- p.m in the pay band of</p>

		Rs. 37400-67000, his minimum guaranteed pension would be 50% of Rs. 37,400+Rs. 10,000 (i.e. Rs. 23,700). For those who have retired between 1.1.2006 and 2.9.2008, the pension will be reduced pro-rata, where the pensioner had less than the maximum required service for full pension as per rule 49 of CCS(Pension) Rules 1972 as applicable during that period and in no case it will be less than Rs.3500 p.m. In case the pension calculated in accordance with Rule 49 of CCS(Pension) Rules1972, as applicable before 2.9.2008, is higher than the pension calculated in the manner indicated above, the same (higher pension) will be treated as Basic Pension.
2	<p>Para 5.7 and Para 8.3</p> <p>Whether the additional pension/family pension available to old pensioners would be payable from the date of attaining the age of 80 years or above or from the first day of the month in which the date of birth falls</p>	The additional quantum of pension/family pension, on attaining the age of 80 years and above, would be admissible from the 1st day of the month in which his date of birth falls. For example, if a pensioner/ family pensioner completes age of 80 years in the month of August, 2008, he will be entitled to additional pension/family pension w.e.f. 1.8.2008. Those pensioners/family pensioners whose date of birth is 1 <sup>st</sup> August, will also be entitled to additional pension/family pension w.e.f. 1.8.2008 on attaining the age of 80 years and above.
3	<p>Para 8.2</p> <p>Whether the period of 10 years for payment of enhanced family pension would also apply in the case of a Government servant who died before 1.1.2006 and in respect of whom the family was receiving enhanced family pension as on 1.1.2006.</p>	Yes. The period of 10 years for payment of enhanced family pension will count from the date of death of the Government servant. These orders will, however, not apply in a case where the period of seven years for payment of enhanced family pension has already been completed as on 1.1.2006 and the family was in receipt of normal family pension on that date.
4	<p>Para 10.1</p> <p>(a) Whether the Constant Attendant Allowance is payable from 1.1.2006 or from the date of issue of the orders i.e. 2.9.2008.</p> <p>(b) Whether the pensioners who retired on disability pension before 1.1.2006 would also be entitled to Constant Attendant Allowance.</p> <p>(c) Whether Dearness Relief will be admissible on Constant Attendant Allowance.</p>	<p>(a) Constant Attendant Allowance is payable from 1.1.2006.</p> <p>(b) Yes, the pensioners who retired on disability pension before 1.1.2006 and fulfilling the conditions mentioned in para 10.1 would also be entitled to Constant Attendant Allowance.</p> <p>(c) No.</p>
5	<p>Para 12</p> <p>The Government servants who retired within 10 months from 1.1.1996 were allowed the benefit of notional increase of 40% on the pre-1996 basic pay for the purpose of calculation of average emoluments. Whether similar benefit would be given in the case of Government servants who have retired within 10 months from the date of coming over to the</p>	For the purpose of computing average emoluments in the case of Government servants who have opted for fixation of pay in the revised Pay Band and retire within 10 months from the date of coming over to the

	revised pay structure after 1.1.2006.	<p>revised Pay Band, basic pay for 10 months period preceding retirement shall be calculated by taking into account pay as follows:</p> <p>(i) For the period during which pay is drawn in revised Pay Structure-Pay drawn in the prescribed pay band plus the applicable grade pay or the pay in the pay scale in the case of HAG+ and above</p> <p>(ii) For the remaining period during which pay is drawn in pre-revised scale of pay-</p> <p>(a) Basic pay plus dearness pay and actual D.A. appropriate to the basic pay at the rates in force on 1.1.2006 drawn during the relevant period.</p> <p>(b) Notional increase of the basic pay by applying the fitment benefit of 40% on the basic pay in the pre-revised pay scale.</p> <p>The clarification (ii) against S.No.1 above will also be applicable in such cases.</p> <p>Para 12 will stand modified to this extent.</p>
6	<p>Para 13 (ii)</p> <p><i>Whether the benefit of calculation of pension @ 50% of emoluments will be available to Government servants who retain the pre-revised scale of pay and also retire from the pre-revised scale of pay.</i></p>	<p>The provision para 13(ii) of the OM No. 38/37/08-P&amp;PW(A) dated 2.9.2008 will be applicable in the case of those who retire on or after 2.9.2008. Pension of Government servants who retain the pre-revised scale of pay and also retired from the pre-revised scale of pay between 1.1.2006 and 2.9.2008 will be calculated at 50% of average emoluments in accordance with the orders in force immediately before 2.9.2008.</p> <p>Para 13 (ii) will stand modified to this extent.</p>

2. It is impressed upon all the Ministries/Departments of the Government of India to keep in view the above clarifications while disposing of the cases of revision of pension/family

pension. They are also advised to dispose the representations received by them from pensioners on the above issues without referring them to this Department.

3. This issues with the concurrence of Ministry of Finance (Department of Expenditure) vide their I.C. U.O. No.4.2/22/2008-IC dated 30.09.2008.

**B. Instructions issued vide O.M. No..38/37/08-P&PW(A).pt.1 Dated the 3<sup>rd</sup> October, 2008.**

**Sub: Implementation of Government's decision on the recommendations of the Sixth Central Pay Commission Revision of pension of pre-2006 pensioners/family pensioners etc.**

The undersigned is directed to say that in pursuance of Government's decision on the recommendations of Sixth Central Pay Commission, sanction of the President was accorded to the regulation, with effect from 1.1.2006, of pension/ family pension of all the pre-2006 pensioners/ family pensioners in the manner indicated in this Department's O.M. No. 38/37/08-P&PW(A) dated 1.9.2008. A number of references are being received in this Department seeking clarifications in regard to various provisions of the aforesaid O.M. The matter has been considered in consultation with the Ministry of Finance, Department of Expenditure and the following clarifications/modifications are made in regard to the aforesaid O.M. dated 1.9.2008:

<b>Provision in the OM No. 38/37/08-P&amp;PW(A) dated 1.9.2008</b>	<b>Clarification/modification</b>
<p>3.1 In these orders :</p> <p>a. Existing pensioner or Existing Family pensioner means a pensioner who was drawing/entitled to pension/family pension on 31.12.2005.</p> <p>b. Existing pension means the basic pension inclusive of commuted portion, if any, due on 31.12.2005. It covers all classes of pension under the CCS (Pension) Rules, 1972 as also Disability Pension under the CCS (Extraordinary Pension) Rules and the corresponding rules applicable to Railway employees and Members of All India Services.</p> <p>c. Existing family pension means the basic family pension drawn on 31.12.2005 under the CCS (Pension) Rules and the corresponding rules applicable to Railway employees and Members of All India Services.</p>	<p><i>The 'existing pensioner or existing family pensioner' would include a pensioner/family pensioner who became entitled to pension/family pension w.e.f. 1.1.2006 consequent on retirement/death of Government servant on 31.12.2005.</i></p> <p><i>Similarly, 'existing pension or existing family pension' would include a pension/family pension which became due w.e.f. 1.1.2006 consequent on retirement/death of Government servant on 31.12.2005.</i></p>
4.2 The fixation of pension will be subject to the	The pension calculated at 50% of the minimum of pay

<p><i>provision that the revised pension, in no case, shall be lower than fifty percent of the sum of the minimum of the pay in the pay band and the grade pay thereon corresponding to the pre-revised pay scale from which the pensioner had retired.</i></p>	<p><i>in the pay band plus grade pay would be calculated (i) at the minimum of the pay in the pay band (irrespective of the pre-revised scale of pay) plus the grade pay corresponding to the pre-revised pay scale. For example, if a pensioner had retired in the pre-revised scale of pay of Rs. 18400-22400, the corresponding pay band being Rs. 37400-67000 and the corresponding grade pay being Rs. 10,000/- p.m. his minimum guaranteed pension would be 50% of Rs. 37,400+Rs. 10,000 (i.e. Rs. 23,700). A statement indicating the minimum pension corresponding to each of the pre-2006 scales of pay is enclosed at Annexure.</i></p> <p><i>The pension will be reduced pro-rata, where the pensioner had less than the maximum required service for full pension as per rule 49 of the CCS(Pension) Rules, 1972 as applicable on 01.01.2006 and in no case it will be less than Rs. 3500/- p.m.</i></p> <p><i>In case the pension consolidated as per para 4.1 of OM.No.38/37/08-P&amp;PW(A) dated 1.9.2008 is higher than the pension calculated in the manner indicated above, the same (higher consolidated pension) will be treated as Basic Pension.</i></p> <p><i>The fixation of family pension will be subject to the provision that the revised family pension, in no case, shall be lower than thirty percent of the sum of the minimum of the pay in the pay band and the grade pay thereon corresponding to the pre-revised pay scale in which the pensioner/deceased Government servant had last worked. In case the family pension consolidated as per para 4.1 of OM.No.38/37/08-P&amp;PW(A) dated 1.9.2008 is higher than the family pension calculated in the manner indicated above, the same (higher consolidated family pension) will be treated as Basic family Pension.</i></p>								
<p>4.5 The quantum of family pension available to the old pensioners/ family pensioners shall be increased as follows:-</p> <table> <tr> <th><u>Age of pensioner/ Family pensioner</u></th><th><u>Additional quantum of pension</u></th></tr> <tr> <td>From 80 years to less than 85 years</td><td>20% of revised basic pension/ family pension</td></tr> <tr> <td>From 85 years to less than 90 years</td><td>30% of revised basic pension/ family pension</td></tr> <tr> <td>From 90 years to</td><td>40% of revised</td></tr> </table>	<u>Age of pensioner/ Family pensioner</u>	<u>Additional quantum of pension</u>	From 80 years to less than 85 years	20% of revised basic pension/ family pension	From 85 years to less than 90 years	30% of revised basic pension/ family pension	From 90 years to	40% of revised	<p><i>(i) The additional quantum of pension/family pension, on attaining the age of 80 years and above, would be admissible from the 1st day of the month in which his date of birth falls. For example, if a pensioner/family pensioner completes age of 80 years on any date in the month of August, 2008, he will be entitled to additional pension/family pension w.e.f. 1.8.2008. Those pensioners/family pensioners whose date of birth is 1<sup>st</sup> August, will also be entitled to additional pension/family pension w.e.f. 1.8.2008 on attaining the age of 80 years and above.</i></p> <p><i>(ii) Dearness Relief will also be admissible on the additional quantum of pension available to the old pensioners, in accordance with the orders issued from time to time.</i></p>
<u>Age of pensioner/ Family pensioner</u>	<u>Additional quantum of pension</u>								
From 80 years to less than 85 years	20% of revised basic pension/ family pension								
From 85 years to less than 90 years	30% of revised basic pension/ family pension								
From 90 years to	40% of revised								

<p>less than 95years      basic pension/ family pension</p> <p>From 95 years to less than 100 years years      50% of revised basic pension/ family pension</p> <p>100 years or more      100% of the revised basic pension/family pension</p>	
<p>4.6 Some of the existing pensioners who retired between 31.3.1985 and 31.12.1985 are in receipt of personal pension. The said personal pension will continue to be granted as a separate element and will not be merged into the pension as consolidated above.</p>	<p><i>Personal pension was discontinued vide Department of Pension &amp; PW O.M.No. 45/86/97-P&amp;PW(A) (Pt. IV) dated 21.9.2000. Therefore, this para may be treated as deleted.</i></p>
<p>5.1 Where the consolidated pension/family pension in terms of paragraph 4 above works out to an amount less than Rs. 3500/- the same shall be stepped upto Rs. 3500/-. This will be regarded as pension/family pension with effect from 1.1.2006. In the case of pensioners who are in receipt of more than one pension, the floor ceiling of Rs. 3500/- will apply to the total of all pensions taken together.</p>	<p><i>It was clarified in Department of Pension &amp; PW O.M.No. 38/38/02-P&amp;PW(A) (Pt. IV) dated 23.4.2003 that in respect of civil and military pension, the floor ceiling taking the two pensions together will not apply and the individual pensions will be governed by respective pension rules. These instructions would continue to apply in the context of revised floor ceiling of Rs. 3500/-p.m. Accordingly, the floor ceiling of Rs.3500 will apply individually to the civil and military pension.</i></p> <p><i>In case, a person is in receipt of pension as well as family pension, the floor ceiling of Rs.3500 will apply individually to such pension and family pension. (Para 5.1 will stand modified to this extent.)</i></p>



<p>5.2 Where the disability pension under the CCS(EOP) Rules, is drawn in addition to invalid pension under the CCS (Pension) Rules, 1972, the minimum limit of Rs. 3500/- will apply to total of two pensions as indicated in paragraph 5.1. Where the disability pension is drawn in isolation, the minimum limit of Rs. 3500/- will apply for 100% disability. For lesser degree of disability the minimum limit will be proportionately less.</p>	<p><i>It was clarified in Department of Pension &amp; PW O.M.No. 45/86/87-P&amp;PW(A) dated 7.8.2001 that the element of disability pension and invalid pension may be treated as distinct pensions. The invalid pension may continue to be regulated as per the CCS (Pension) Rules subject to certain minimum amount* and the extraordinary disability pension may continue to be treated as a separate element and this should be fixed as per the degree of disability. This will be subject to the further condition that the amount of disability pension and invalid pension should in no case exceed the last pay drawn. These instructions would continue to apply in the context of revised minimum pension of Rs. 3500/-p.m. Para 5.2 will stand modified to this extent.</i></p> <p>(*certain minimum amount refers to the amount calculated as per the provisions of Rule 49(2)(c) of CCS(Pension) Rules 1972</p>
<p>The employed/ re-employed pensioners/family pensioners are not getting dearness relief on pension at present under the extant orders. In their case the notional dearness relief which would have been admissible to them but for their employment/re-employment will be taken into account for consolidation of their pension in terms of paragraph 4.1. above as if they were drawing the dearness relief. Their pay will be re-fixed w.e.f. 1.1.2006 with reference to consolidated pension becoming admissible to them. Dearness relief beyond 1.1.2006 will, however, not be admissible to them during the period of employment/re-employment.</p>	<p><i>Instructions were issued vide Department of Pension &amp; PW OM No. 45/73/97-P&amp;PW(G) dated 2.7.1999 for regulation of dearness relief when pay on re-employment is fixed at the minimum ignoring the full pension and also for regulation of dearness relief of employed family pensioners. These instructions would continue to apply in the context of revised pension on implementation of the recommendations of the Sixth Central Pay Commission. Para 6 will stand modified to this extent.</i></p>

2. It is impressed upon all the Ministries/Departments of the Government of India to keep in view the above clarifications while disposing of the cases of revision of pension/family pension. They are also advised to dispose the representations received by them from pensioners on the above issues without referring them to this Department.

3. This issues with the concurrence of Ministry of Finance (Department of Expenditure) vide their I.C. U.O. No.4.2/23/2008-IC dated 30.09.2008.

For Annexure

Please visit: <http://pensionersportal.gov.in>

**C. Instructions issued vide O.M. No.38/37/08-P&PW(A).pt.1 Dated the 14<sup>th</sup> October, 2008**

**Sub: Implementation of Government's decision on the recommendations of the Sixth Central Pay Commission Revision of pension of pre-2006 pensioners/family pensioners etc.**

The undersigned is directed to say that in pursuance of Government's decision on the recommendations of Sixth Central Pay Commission, sanction of the President was accorded to the regulation, with effect from 1.1.2006, of pension/ family pension of all the pre-2006 pensioners/ family pensioners in the manner indicated in this Department's O.M. No. 38/37/08-P&PW(A) dated 1.9.2008. Clarifications on certain provisions were also issued vide O.M.No. 38/37/08-P&PW(A) pt.I dated 3.10.2008.

2. A large number of representations are being received in this Department regarding delay in payment of pension/family pension and arrears to the pre-2006 pensioners/family pensioners. The matter has been reviewed in consultation with all concerned including the pension disbursing banks. In this connection, the following revised instructions are issued for implementation by all concerned.

3. Wherever, the pension is disbursed through Public Sector Banks, the Banks will pay and disburse the pension and arrears in accordance with the ready reckoner and also the additional pension to old pensioners/family pensioners (wherever the date of birth is available in the PPO) within a week from the date of issue of this OM.

4. A revised concordance table (Annexure-I) of the pre-1996, pre-2006 and post-2006 pay scales/pay bands is enclosed to facilitate payment of revised pension/family pension in terms of para 4.2 of the OM dated 1.9.2008 (as clarified vide OM dated 3.10.2008) in all cases where fixation of pension under that provision is more beneficial. Some illustrations for calculation of pension/family pension in terms of para 4.2 ibid have been given in Annexure-II. It will be the responsibility of the pension disbursing public sector banks to revise and disburse the enhanced pension and arrears in terms of para 4.2 of the OM dated 1.9.2008. Dearness relief at the rates notified from time to time will also be admissible on such revised pension. All the pension disbursing public sector banks are requested to revise and disburse the enhanced pension (with dearness relief) and arrears in terms of para 4.2 of the OM dated 1.9.2008 within one month from the date of issue of this O.M. A suitable entry regarding the revised pension shall be recorded by the pension Disbursing Authorities in both halves of the Pension Payment

Order. An intimation regarding disbursement of revised pension may be sent by the pension disbursing authorities to the Office of CPAO and Accounts Officer which had issued the PPO in the revised form given at [Annexure-II](#) so that they can verify the pension so revised and update the Pension Payment Order Register, etc. An acknowledgement shall be obtained by the Pension Disbursing Authorities from Office of CPAO and the respective Accounts Officers in this behalf.

5. In case any information regarding date of birth, scale of pay or the qualifying service, etc. is not available with the bank, the bank may obtain the requisite information from the concerned Pay and Accounts Officer/CPAO. It will be the responsibility of the concerned Pay and Accounts Officer/CPAO to provide the information from the available records **within two weeks** of the receipt of request from the bank.

6. Suitable guidelines on the methodology to be adopted for payment of additional pension to old pensioners in cases where the date of birth is not available in the PPO as well as in the office records of CPAO/Pay and Accounts Office will be issued separately.

7. CGA/CPAO will devise their own monitoring mechanism to ensure that enhanced pension and arrears are disbursed to all civil/pensioners/family pensioners **by 30.11.2008** positively. Similarly instructions may be issued by Ministry of Defence and Ministry of Railways to their concerned Accounts Department accordingly.

For Annexure

Please visit: <http://pensionersportal.gov.in>

**D. Instructions issued vide O.M. .No.38/37/08-P&PW(A) Dated the 11<sup>th</sup> December, 2008.**

**Sub: Implementation of Government's decision on the recommendation of the Sixth Central Pay**

**Commission.**

The undersigned is directed to say that in pursuance of Government's decision on the recommendations of Sixth Central Pay Commission, orders were issued vide this Department's O.M. No. 38/37/08-P&PW(A) dated 2.9.2008 for introducing modifications in the rules regulating pension, etc. Clarifications on certain provisions in this O.M. were also issued vide O.M.No. 38/37/08-P&PW(A) pt.II dated 3.10.2008. In accordance with the instructions contained in this OM, only the Government servants who retire on or after 2.9.2008 are eligible for calculation of pension at 50% of the emoluments (i.e last pay drawn) or average emoluments whichever is more beneficial to the Government servant.

2. A number of references are being received in this Department in this respect. The matter has been reviewed in consultation with the Ministry of Finance (Department of Expenditure). It has now been decided that the provision for payment of pension at 50% of the emoluments (pay last drawn) or 50% of average emoluments received during the last 10 months, whichever is more beneficial to the retiring employee, shall be applicable to all Government servants retiring on or after 1.1.2006. **However, only those Government servants, who retired during 1.1.2006 to 1.9.2008 after completion of 33 years of qualifying service, will be eligible for full pension and the pension of those Government servants, who retired during 1.1.2006 to 1.9.2008 with qualifying service of less than 33 years, will continue to be proportionate to the full pension based on their actual qualifying service.**

3. This issues with the concurrence of Ministry of Finance (Department of Expenditure) vide their I.C. U.O. No.4.2/22/2008-IC dated 8.12.2008.

4. **Instructions issued vide letter No. 25014/2/2002-AIS(II) Dated 16<sup>th</sup> January, 2009**

**Subj: Simplification of Procedure for payment of pension and other benefits to All India Service officers retiring from Government of India/State Governments.**

I am directed to refer to this Department's letter of even number dated 11<sup>th</sup> April, 2007 on the subject mentioned above. It may be stated that by paragraph 3 of this Department's letter under reference, it was conveyed that detailed operational procedure to be followed by various agencies for preparation of pension papers, issue of PPO and arranging payment and accounting of payments etc. would be issued by the Controller General of Accounts, Ministry of Finance, Department of Expenditure.

2. In this regard, Central Pension Accounting Office (CPAO), Department of Expenditure, Ministry of Finance by its letter no. CPAO/AIS/M.F/01/2008-09 dated 18/8/2008 has issued the detailed procedure to be followed by various agencies for preparation of pension papers. A copy of the said letter dated 18/8/2008 of CPAO is sent herewith for

information and guidance.

A. *Instructions issued vide letter no. CPAO/AIS/MF/01/2008-09 dated 18/8/2008*

**Sub: - Procedure for payment & Accounting of pension etc in respect of All India Services officers retiring from Government of India/State Government**

A reference is invited to DOPT OM No. 25014/2/2002-AIS(II) dated 11/4/2007 wherein it was decided that :-

1. Government of India would take over the entire pension liabilities of AIS officers who had already retired or would be retiring either from State Government or Central Government.
2. All retiring AIS officers & existing pensioners would uniformly have the option of drawing the pension through the Government of India or through State Government to whose cadre they are borne.

The detailed procedure to be followed by various agencies for preparation of pension papers as approved by C&AG and the CGA is enclosed.

The PAOs / Das are required to prepare the both halves of PPO in **White Colour** only in respect of AIS officers. The cadre / State / Batch to which the AIS officers belong should be clearly mentioned in SSA as well as both halves of the PPOs.

State Governments are requested to send the name of the Designated Authority at the earliest. Further the budget may send to this office by all Designated Authorities latest by 15<sup>th</sup> Sep.2008. enclosing prescribed forms duly filled.

Please ensure the guideline / procedure are followed strictly b PAOs / Das for smooth disbursement of pension to AIS officers and its proper budgeting and accounting.

**PROCEDURE FOR PAYMENT AND ACCOUNTING OF PENSIONS TO ALL INDIA SERVICE OFFICERS**

Earlier the payment of pension to All India Service Officers was being made by the respective State Governments on whose cadre those officers were borne. After considering the difficulties experienced by these officers in receiving payment of pension and with a view to simplifying the procedure it was decided by the Government of India that the AIS officers who were on deputation with the Central Government could opt for payment of pension and other retirement benefits through the Central Government. As a measure of further simplification of pension payments, Department of Personnel & Training vide their OM no. 25014/2/2002-AIS (II) dated 11<sup>th</sup> April 2007 took the following decisions:-

- 1) Government of India would take over the entire pension liability of AIS Officers, who had already retired or would be retiring, either from the State Governments or from the Central Government.
- 2) All retiring All India Service Officers and the existing pensioners would uniformly have the option of drawing pension through the Government of India or through the State Government on whose cadre they are borne.

## **Payment of pension to All India Service Officers**

With a view to implementing the above decisions of the Government and ensuring smooth disbursement of pensions and its prompt accounting, the following new system is prescribed which comes into effect from 1<sup>st</sup> April 2008.

### **A. Procedure to be followed in cases where payment is sought from the Central Government**

#### **1. ACTION IN STATE AsG/STATE GOVERNMENTS**

##### **a) Nomination of Designated Authority**

At present, Accountant General authorizes pension in 18 out of 28 states and in the rest, this function is discharged by the Director of Pensions or other similar authority (Mentioned in Annexure I). However, under the new scheme, all the States/AsG. will have to nominate / appoint a Designated Authority (D.A.) in their respective State who will be authorized to issue PPOs in respect of AIS Officers retiring from their States. Das will forward the same to Central Pension Accounting Office (CPAO), Department of Expenditure, Ministry of Finance, who is responsible for arranging payment of pension etc. in respect of AIS officers through Banks.

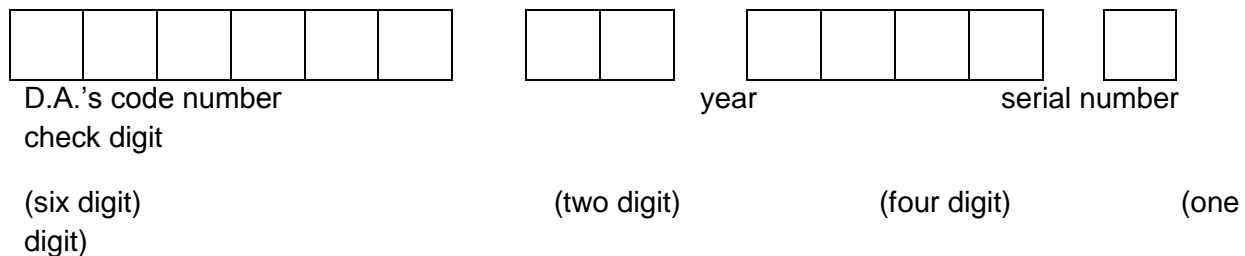
- b) Each State Govt will have to intimate the Designated Authority (DA) to CPAO.

- c) New Directory code No. has been allotted by the Office of Controller General of Accounts (CGA) to each Designated Authority and intimated to respective State Government.
- d) An impression of the Special Seal of the D.A. and the Specimen Signature(s) of the officer(s) authorized to issue Pension Payment Orders (PPOs), duly attested will be forwarded to the Central Pension Accounting Office by the authority who nominate the Designated Authority (DA). In the event of change in the incumbency of D.A. the specimen signature of the relieving officer will be sent to the CPAO by the relieved officer.

## 2. Allotment of PPO slots by Central Pension Accounting office

On the basis of allotment of Directory Code of the Designated Authorities, CPAO will allot a slot of 13 digit PPO numbers to each Designated Authority on the basis of their requirement to enable D.A. to depict the same in the PPOs.

The break up of the 13 digit PPO number will be as follows:-



## 3. Preparation and submission of Budget Estimates to CPAO

- a) State Governments have already been requested to send a statement in proforma (Annexure-II) in respect of All India Service Pensioners as on 31.03.2008 containing information on (1) Number of pensioners including Family Pensioners (cadre-wise) drawing pension / Family pension from treasuries and Banks & (2) Number of pensioners (cadre-wise) opting to draw pension through State Government or Central Government.
- b) Each D.A. will furnish in the prescribed proforma (Annexure-III) the details of the AIS officers retiring during the next financial year to CPAO for creating a data bank, budgeting and further processing.
- c) Each D.A. will also submit the expenditure estimates in respect of the AIS Pensioners towards Pension, Family pension, Commuted value of pension, Gratuity & Leave Encashment to be incurred during the next financial year. Then CPAO will prepare Budget estimates for onward transmission to Budget Division, Ministry of Finance for allotment of funds under the relevant heads.
- d) The information mentioned b) & c) above should reach CPAO by 30<sup>th</sup> September of every year.

## 4. Processing of Pension Cases:

- a) Designated Authority (DA) will process the pension cases as per the provisions of the relevant rules and assess the retirement benefits admissible to retiring officers.
- b) PPOs must reach this office before one month of the date of retirement of the official concerned.
- c) He will forward the signed Special Seal Authorities along with both the copies of the PPOs depicting therein the PPO Nos, to CPAO for necessary action, as laid down in Scheme for Payment of Pensions to Central Civil Pensioners By Authroised Banks. In case of e-PPOs the digitally signed Special Seal Authority may be sent to CPAO. Pensioner's copy (hard copy) will be handed over to the individual direct by the DA.
- d) Commuted Value of Pension (CVP), in case opted for, will be authorized by CPAO and paid through banks in case of Voluntary Retirement cases only. The date of reduced pension starts from the date of Commuted Value has been credited to the pensioner's account.  
However, once the payment of pension commenced, all further payments as per extant rules such as revised pension, commutation, differential DCRG will be payable by the paying branch on issue of revised authority by CPAO.

## 5. Role of CPAO:

### a) **Opening of new heads of account**

Separate heads of accounts for booking the various benefits payable to AIS Officers have been opened by CPAO in consultation of Budget Division, Min. of Finance. (DEA) and Office of CGA. vide Annexure – IV.

### b) **Preparation of Budget estimates and allocation of funds**

- I. On receipt of the relevant information from each DA, the entire budget requirement for the next financial year will be assessed by Central Pension Accounting Office and submitted to Budget Division, Department of Economic Affairs, Ministry of Finance for necessary allocation of funds under each relevant head of account.
- II. However, during the remaining period of the financial year 2008-2009 the same procedure will be followed and necessary Supplementary demand will be proposed for allocation of funds from the Budget Division received on requests by State Governments.

### c) **Processing of Pension Payment Authorities / Special Seal Authorities by CPAO:**

- I. On receipt of PPOs / e-PPOs and Special seal authorities from the Das a unique computerized diary number will be allotted to each case.
- II. After capturing the data in computer records, the PPOs will be sent to the concerned authorization section who will apply all necessary checks to ensure that the case is in order in all respects.



- III. After this scrutiny, a special seal authority / e-SSA will be issued by the Authorization section for making arrangement for payment of pension through Bank from where the pensioner has desired to draw pension.
- IV. SSA along with both the halves of the PPOs and other relevant papers will be forwarded to the Link Branch / Central Pension Processing Centre (CPPC) of the concerned bank for making arrangement for payment of pension from Paying Branch from where the pensioner desires to draw his pension. Once the system of e-PPO and e-SSA is introduced CPAO will transmit the same to CPPC. After the introduction of Extension Counter bank (EC Bank) at CPAO e-PPO/e-SSA will be transmitted to them.

## 6. **New system of directly crediting the pension in respect of AIS-officers**

With a view to making the process faster a new system of direct crediting of pension is to be done by a single bank into the pension accounts of the AIS pensioners in the Paying branches as proposed under:-

- a) On receipt of SSAs and e-PPOs from DAs, CPAO will capture the data on its system through special software and generate the requisite e-SSAs drawn on Extension Counter of a Bank (EC Bank) to be situated at CPAO office itself.
- b) This EC Bank will undertake the following action:-
  - I. EC Bank will receive from CPAO all the e-SSAs along with both portions of e-PPOs of the AIS pensioner.
  - II. On receipt of e-PPOs, the EC-bank will capture the data and send the pensioner's portion of the PPO's directly to the concerned paying branches.
  - III. The EC-Bank will make available the image of the disburser's portion of PPO on their website. They will transmit the pensioner's portion of the PPO to the Pension Paying Branch who will take a print out and hand over the same to the pensioner after proper identification with reference to the information on the pensioner's copy of the PPO. The disburser's portion of PPO will be available in the read only format so as to avoid tempering of data by any authority.
  - IV. The EC-bank will work out the amounts payable in respect of each pensioner and pass on credits on due dates directly to the paying branches through ECS (or any other mode i.e RTGS, EFT) for crediting the same to the account of respective pensioners. The paying branches will credit the amounts to the accounts of the pensioners and intimate the EC bank.
  - V. On receipt of information regarding crediting of the amount, the EC-bank will prepare bank-wise daily bank scrolls both physical as well as electronic And submit the same duly reconciled to CPAO for verification. The position relating to disbursement of the pension to the pensioners would also be updated by the EC Bank on the basis of the feedback received from the paying branches.
    - (i) CPAO would verify the scrolls on the same day and issue clearance on- line to enable the EC bank to claim reimbursement from Reserve Bank of India CAS-Nagpur.
    - (ii) Simultaneously CPAO will book the expenditure on the basis of the details in the scrolls against the budget allocation available under the relevant heads of accounts. Scrolls will invariably indicate the PPO numbers in respect of the AIS pensioners.

- (iii) The pensioners will have to deal with the paying branches alone in relation to their pension related matters. The pensions paying branches will also be responsible for obtaining the required certificates. " Life certification" of pensioners at paying branches every year in the month of November will be communicated by paying branches to EC-bank at CPAO preferable electronically or by fax or post. Any change relating to payment of pension namely death of pensioner, change in marital status , remarriage, reemployment, change in address etc. should be also be intimated to EC-Bank.
- (iv) Pension for the month of November will be credited by EC-bank only on receipt of Life certificate as in present system.

## 7. Role of Banks

- (a) ( In the existing system)

Till the system stated in para no.6 is put in place, the existing system detailed below will continue:-

- i) CPAO will send the PPOs/SSAs to link Branches for onward transmission to paying branches.
- ii) The banks will follow a procedure similar to that followed in respect of Central Civil Pensioners for payment of pensions at paying branch level vide Scheme For Payment of Pension to Central Pensioners through Authorised Banks.
- iii) The banks will prepare separate scrolls depicting therein the disbursement of pensions to AIS pensioners( it is chargeable to Central Government irrespective of the fact that whether the officer has retired from State Government or Central Government) to the CPAO.
- iv) AIS pensioners will have to opt for any of the banks authorized for Central Civil Pensioners.(Annexure V).
- v) Those banks which have already switched over to Centralised Pension Processing system (CPPC) may send e-scrolls in addition to physical scrolls.
- vi) In cases where PPOs have been routed through CPAO procedure for transfer of payment of pensions from one bank to another will remain the same as laid down in Scheme for Payment of Pension to Central Government Civil Pensioners by Authorised Banks.
- vii) Dearness relief is payable by the bank directly in addition to pension/family pension as per rates notified from time to time subject to the production of non-employment certificate by the pensioner.

(b) Procedure to be followed in cases where AIS officers retire from Central Government

In cases where AIS officers who retire while on deputation to Central Government, the Pay & Accounts Officer of the Ministry/Department concerned will process the pension papers and issue PPO. The existing procedure for routing of PPOs and payment ( as mentioned in CGA's letter no. 1(7)/AIS/2004/Ta/463 dated 13.08.2004 – Annexure-V will continue. However , since the Government of India have taken a decision to accept the liability on account of these pensions etc.. payment scrolls will be sent by banks to CPAO, instead of State A.G.s.

(c) Procedure to be followed in cases where AIS officers retire from State Government and seek payment through State Government:

Prior to 1-4-2008, the pension liability in respect of All India Service Officers was borne by the State Government concerned . With effect from 1-4-2008 these payments will be initially paid by State Governments and booked under the suspense heads. Reimbursement will be obtained by the State AGs by raising claims against Central Pension Accounting Office, New Delhi.

(d) Procedure for transfer of pension payments

(i) AIS officers drawing pension from Treasury

In case of those AIS officers who are now drawing pension from State Treasury and opt for switchover to draw pension from the Banks, the Designated Authority of the State will arrange to get PPOs from the treasuries. They will then prepare a new PPO (assigning new PPO numbers allotted by the CPAO) after canceling the old one and forward the same to CPAO for further transmission to the Banks for payment of pension. A certificate indicating the period up to which pension was paid will be recorded therein and the future date of payment indicated. These instructions are also applicable to the Family Pension cases in respect of deceased All India Service Officers.

(ii) AIS Officers drawing Pension from Banks

Many of the All India Service Officers are drawing their pension from the banks arranged by the respective State Government and these payment are now charged to the account of the respective State Governments. Since the Government of India has decided to take over the entire liability of AIS officers the Designated Authorities (DA) will call for the PPOs and prepare fresh PPOs after canceling the old one and forward the same to CPAO for onward transmission to the Banks for making arrangement for payment of pension/family pension to the pensioner/family pensioner. A certificate indicating the period up to which pension/family pension was paid will be recorded therein and the future date of payment indicated.

**Annexure-I**

S.No.	State where AG Authorizes pension	S.No.	The State where pension work has been taken over by States and the date from which the State Government has over the work, has been indicated in brackets.
1.	Andhra Pradesh	1	Arunachal Pradesh (1-4-1989)
2.	Assam	2.	Gujrat (01.01.1988)
3.	Bihar	3.	Goa ( ab-initio)
4.	Haryana	4.	Madhya Pradesh (01.01.1996)
5.	Himachal Pradesh	5.	Mizoram ( 01.03.1983)
6.	Jammu & Kashmir	6.	Rajasthan (01.12.1979)
7.	Kerala	7.	Sikkim (ab-initio)
8.	Karnataka	8.	Uttar Pradesh (01.04.1989)
9.	Maharashtra	9.	Chhatisgarh ( ab-initio)
10.	Manipur	10.	Uttrakhand ( ab-initio)
11.	Meghalaya		
12.	Nagaland		

13.	Orissa		
14.	Punjab		
15.	Tripura		
16.	Tamilnadu		
17.	West Bengal		
18.	Jhakhand		

## Annexure-II

### Proforma –I

#### Existing Pensioners

Total Number of pensioners as on 31/3/2008

Sl. NO.	Category	No.	Option to draw	
			State Govt	Centre Govt
1	IAS			
2	Indian Forest Service			
3	IPS			
	TOTAL			

#### Pensions from States

Sl. No.	Category	Drawing from Treasury	Drawing from banks
1	IAS		
2	Indian Forest Service		
3	IPS		
	TOTAL		

Note :- A list of AIS officers going to retire within next 24 months to assess the budget estimates and allocation of funds may also be furnished.

## Annexure III

### Proforma – II

Name and address of the Designated Authority:

Details in respect of Retired/Retiring officer:

1. Name of the Officer/Pensioner:
2. Designation:
3. PPO No.
4. Service to which belongs: a)IAS (b)IPS (C) IFS
5. Date of Retirement:
6. Class of Pensioner:
7. Rules under which the pension finalized:
8. Office Name/Address with telephone NO, E-mail address:
9. Scale of Pay/last pay drawn:
10. Average Emoluments of last 10 months:
11. Basic Pension:
  - (a) Before Commutation
  - (b) After Commutation
12. Name of Spouse:
13. Family Pension:
  - (a) Enhanced Rate: from to
  - (b) Normal Rate : from to
14. Commutation Value of Pension (in case of retiring officer)
15. Death Cum Retirement Gratuity (in case of retiring officer)
16. Leave encashment (in case of retiring officer)
17. Name, address and BSR code of the paying branch of Bank:
18. Bank Account No. where pension is to be credited
19. Option for drawal of pension
  - (a) Central Government
  - (b) State Government

## Annexure-IV

The following heads of accounts have been opened to account for this new expenditure:

2071		
2071		Pension and other retirement benefits (Major Head)
01		Civil (Sub-major Head)
	101	Superannuation and Retirement allowances
I	04	Ordinary Pensions (AIS)
		Pensionary charges
	102	Commutated Value of Pension
II	04	Ordinary Pensions (AIS)
	04.00.04	Pensionary charges
	104	Gratuity
III	04	Ordinary Pensions (AIS)
	04.00.04	Pensionary charges
	105	Family Pension
IV	04	Ordinary Pensions(AIS)
	04.00.04	Pensionary charges
	115	Leave Encashment
V	04	Ordinary Pension (AIS)
	04.00.04	Pensionary Charges

## Annexure V

### STATE-WISE LIST OF AUTHORISED BANKS FOR DISBURSEMENT OF CIVIL PENSIONS

Sl. No.	STATE	Name of Authorised Banks
1.	Andaman & Nicobar	(i) State Bank of India (ii) Syndicate Bank (iii) UTI Bank
2.	Andhra Pradesh	(i) State Bank of India (ii) State Bank of Hyderabad (iii) Syndicate Bank (iv) Indian Bank (v) Union Bank of India (vi) Central Bank of India (vii) Andhra Pradesh (viii) Corporation Bank (ix) Vijaya Bank (x) Canara Bank (xi) HDFC Bank Ltd-1

		(xii) ICICI Bank Ltd-2 (xiii) IDBI Bank Ltd-2 (xiv) UTI Bank Ltd.2
3.	Arunachal Pradesh	(i) State Bank of India
4.	Assam	(i) State Bank of India (ii) United Bank of India (iii) UCO Bank (iv) Punjab National Bank (v) Central Bank of India (vi) Allahabad Bank (vii) UTI Bank Ltd
5.	Bihar	(i) State Bank of India (ii) Central Bank of India (iii) Punjab National Bank (iv) Bank of India (v) UCO Bank (vi) Allahabad Bank (vii) Union Bank of India (viii) United Bank of India (ix) Bank of Baroda (x) HDFC Bank Ltd. (xi) IDBI Bank Ltd (xii) UTI Bank Ltd
6	Chandigarh	(i) State Bank of India (ii) Punjab National bank (iii) Central Bank of India (iv) UCO Bank (v) State Bank of Patiala (vi) Bank of India (vii) HDFC Bank Ltd. (viii) ICICI Bank Ltd (ix) UTI Bank Ltd
7	Chattisgarh	(i) State Bank of India (ii) State Bank of Indore (iii) Punjab National bank (iv) Allahabad Bank (v) Central Bank of India (vi) Union Bank of India (vii) Dena Bank (viii) Bank of India (ix) UCO Bank (x) Bank of Maharashtra (xi) HDFC Bank Ltd (xii) IDBI Bank Ltd. (xiii) UTI Bank Ltd.
8	Dadra & Nagar Haveli	(i) Dena Bank
9	Daman & Diu	(i) State Bank of India (ii) Bank of India



		(iii)	Bank of Baroda
		(iv)	Central Bank of India
		(v)	Canara Bank
		(vi)	Syndicate Bank
10	Goa	(i)	State Bank of India
		(ii)	Bank of India
		(iii)	Bank of Baroda
		(iv)	Central Bank of India
		(v)	Canara Bank
		(vi)	Syndicate Bank
		(vii)	HDFC Bank Ltd
		(viii)	IDBI Bank Ltd.
		(ix)	UTI Bank Ltd.
11	Gujrat	(i)	State Bank of India
		(ii)	Dena Bank
		(iii)	Bank of Baroda
		(iv)	Central Bank of India
		(v)	Bank of India
		(vi)	Union Bank of India
		(vii)	State Bank of Saurashtra
		(viii)	UCO Bank
		(ix)	HDFC Bank Ltd.
		(x)	IDBI Bank Ltd.
		(xi)	UTI Bank Ltd.
12	Haryana	(i)	State Bank of India
		(ii)	Punjab National Bank
		(iii)	Central Bank of India
		(iv)	Syndicate Bank
		(v)	Bank of India
		(vi)	Union Bank of India
		(vii)	State Bank of Patiala
		(viii)	Oriental Bank of Commerce
		(ix)	Sikandarpur Branch
		(x)	UCO Bank
		(xi)	Union Bank of India
13	Himnachel Pradesh	(i)	State Bank of India
		(ii)	Punjab National bank
		(iii)	UCO Bank
		(iv)	State Bank of Patiala
		(v)	Central Bank of India
		(vi)	Union Bank of India
		(vii)	HDFC Bank Ltd.
		(viii)	UTI bank Ltd.
14	Jammu & Kashmir	(i)	State Bank of India
		(ii)	Punjab National Bank
		(iii)	Central bank of India
		(iv)	UCO Bank
		(v)	UTI Bank Ltd.
15	Jharkhand	(i)	State Bank of India
		(ii)	Punjab National bank
		(iii)	Allahabad Bank

		(iv)	Central Bank of India
		(v)	Union Bank of India
		(vi)	Bank of Baroda
		(vii)	Bank of India
		(viii)	UCO bank
		(ix)	United Bank of India
		(x)	HDFC Bank Ltd.
		(xi)	IDBI Bank Ltd.
		(xii)	UTI Bank Ltd.
16	Karnataka	(i)	State Bank of India
		(ii)	State Bank of Mysore
		(iii)	Canara Bank
		(iv)	Syndicate Bank
		(v)	Union Bank of India
		(vi)	Indian Bank
		(vii)	State Bank of Hyderabad
		(viii)	Corporation Bank
		(ix)	Vijaya Bank
		(x)	HDFC Bank Ltd.
		(xi)	IDBI Bank Ltd.
		(xii)	UTI Bank Ltd.
17	Kerala	(i)	State Bank of India
		(ii)	State Bank of Travancore
		(iii)	Canara Bank
		(iv)	Syndicate Bank
		(v)	Union Bank of India
		(vi)	Central Bank of India
		(vii)	Indian Bank
		(viii)	Indian Overseas Bank
		(ix)	Vijaya Bank Ltd.,
		(x)	HDFC Bank Ltd.
		(xi)	IDBI bank Ltd.
		(xii)	UTI Bank Ltd.
18	Lakshadweep	(i)	Syndicate Bank
19	Madhya Pradesh	(i)	State Bank of India
		(ii)	State Bank of Indore
		(iii)	Central Bank of India
		(iv)	Bank of India
		(v)	Punjab national bank
		(vi)	Allahabad Bank
		(vii)	Bank of Maharashtra
		(viii)	Union Bank of India
		(ix)	UCO Bank
		(x)	Dena Bank
		(xi)	HDFC Bank Ltd.
		(xii)	IDBI Bank Ltd.
		(xiii)	UTI Bank Ltd.
20	Maharahstra	(i)	State Bank of India
		(ii)	Bank of Maharashtra
		(iii)	Bank of India

		(iv)	Central Bank of India
		(v)	Dena Bank
		(vi)	Union Bank
		(vii)	Bank of Baroda
		(viii)	Canara Bank
		(ix)	Syndicate bank
		(x)	UCO Bank
		(xi)	State Bank of Hyderabad
		(xii)	Punjab National Bank
		(xiii)	HDFC Bank Ltd.
		(xiv)	ICICI Bank Ltd.
		(xv)	IDBI Bank Ltd.
		(xvi)	UTI Bank Ltd.
21	Manipur	(i)	State Bank of India
		(ii)	United Bank of India
		(iii)	UCO Bank
22	Meghalaya	(i)	State Bank of India
		(ii)	United Bank of India
		(iii)	UCO Bank
		(iv)	Bank of Baroda
23	Mizoram	(i)	State Bank of India
24	Nagaland	(i)	State Bank of India
		(ii)	United Bank of India
		(iii)	UCO Bank
25	Orissa	(i)	State Bank of India
		(ii)	UCO Bank
		(iii)	Bank of India
		(iv)	United Bank of India
		(v)	Indian Overseas Bank
		(vi)	Indian Bank
		(vii)	Andhra Bank
		(viii)	Central bank of India
		(ix)	HDFC Bank Ltd.
		(x)	IDBI Bank Ltd.
		(xi)	UTI Bank Ltd.
26	Pondicherry	(i)	State Bank of India
		(ii)	Indian bank
		(iii)	UCFO bank
		(iv)	Indian Overseas Bank
27	Punjab	(i)	State Bank of India
		(ii)	Punjab National bank
		(iii)	Central Bank of India
		(iv)	UCO Bank
		(v)	Bank of India
		(vi)	Indian Overseas Bank
		(vii)	State Bank of Patiala
		(viii)	Oriental Bank of Commerce
		(ix)	Punjab & Sind Bank
		(x)	HDFC Bank Ltd.
		(xi)	IDBI Bank Ltd.
		(xii)	UTI Bank Ltd.

28	Rajasthan	(i) State Bank of India (ii) State Bank of Bikaner & Jaipur (iii) Punjab National Bank (iv) Bank of Baroda (v) UVCO bank (vi) Central bank of India (vii) Union Bank of India (viii) HDFC Bank Ltd. (ix) IDBI Bank Ltd. (x) UTI Bank Ltd.
29	Sikkim	(i) State Bank of India (ii) UTI Bank Ltd.
30	Tamilnadu	(i) State Bank of India (ii) Indian Bank (iii) Canara Bank (iv) Indian Overseas Bank (v) Union Bank of India (vi) Syndicate Bank (vii) Bank of Baroda (viii) Bank of India (ix) Central Bank of India (x) Corporation Bank (xi) UCO Bank (xii) HDFC Bank Ltd. (xiii) IDBI Bank Ltd. (xiv) UTI Bank Ltd. (xv) ICICI Bank Ltd.
31	Tripura	(i) State Bank of India (ii) United Bank of India (iii) UCO Bank
32	Uttaranchal	(i) State Bank of India (ii) Punjab National Bank (iii) Allahabad Bank (iv) Central Bank of India (v) Union Bank of India (vi) Bank of Baroda (vii) Bank of India (viii) Canara Bank (ix) Oriental bank of Commerce (x) Syndicate Bank (xi) Punjab & Sind Bank (xii) IDBI Bank
33	Uttar Pradesh	(i) State Bank of India (ii) Punjab National bank (iii) Allahabad Bank (iv) Central Bank of India (v) Union bank of India (vi) Bank of Baroda (vii) Bank of India (viii) Canara Bank (ix) Oriental bank of Commerce

		(x)	Syndicate Bank
		(xi)	Punjab & Sind Bank
		(xii)	HDFC Bank Ltd.
		(xiii)	ICICI Bank Ltd (NOida only)
		(xiv)	UTI Bank Ltd.
34	West Bengal	(i)	State Bank of India
		(ii)	United Bank of India
		(iii)	UCO Bank
		(iv)	Central Bank of India
		(v)	Allahabad Bank
		(vi)	Bank of Baroda
		(vii)	Bank of India
		(viii)	Punjab National Bank
		(ix)	Union Bank of India
		(x)	HDFC Bank Ltd
		(xi)	ICICI Bank Ltd
		(xii)	IDBI Bank Ltd
		(xiii)	UTI Bank Ltd.
35	NCT of Delhi and for Metropolitan cities of Delhi/New Delhi, Bombay Calcutta, Bangalore, Lucknow, Madras and Hyderabad	(i)	State Bank of India, its subsidiaries and all authorized banks listed above.

**B. Instructions issued vide D/o P&PW's OM No. 38/79/2008-P&PW(G) dated 16<sup>th</sup> February, 2009**

**Sub:Clarification regarding commutation of pension after the implementation of recommendations of 6<sup>th</sup> CPC.**

The undersigned is directed to say that in accordance with the instructions contained in this Department's OM No. 38/37/2008-P&PW(A) dated 2/9/2008 in case of those pensioners, in whose case commutation of pension became absolute on or after 1/1/2006 but before the issue of that OM, the pre-revised Table of Commutation Value for Pension will be used for payment of commutation of pension based on pre-revised pay/pension. Such pensioners shall have an option to commute the amount of pension that has become additionally commutable on account of retrospective revision of pay/pension on implementation of the recommendations of the Sixth Central Pay Commission. On exercising such an option by the pensioner, the revised Table of Commutation Value for Pension will be used for the commutation of the additional amount of pension that has become commutable on account of retrospective revision of pay/pension.

2. A number of references have been received in this Department seeking clarifications in regard to various issues relating to commutation of pension in case a pensioner opts for commutation of pension that has become additionally commutable on account of retrospective revision of pay/pension. The matter has been examined in consultation with the Ministry of Finance (Department of Expenditure) and the following clarifications are issued in this regard:

S.No.	Points raised	Clarifications
1.	What would be the age to be used for commutation of additional commutable pension and which factor would be used for such additional commuted value of pension	The age reckoned for calculation of commuted value of pension at the time of original application for commutation of pension will apply for calculation of commutation value of additional commutable pension. However, as mentioned in the O.M. dated 2/9/2008, the commutation factor in the revised Table of Commutation Value for the commutation of the additional amount of pension that has become commutable on account of retrospective revision of pay/pension.
2.	From which date the reduction in pension on account of additional commutation of pension will take effect?	Reduction in pension on account of additional commutation of pension will be in two stages as per the provisions contained in Rule 6 of the CCS(Commutation of Pension) Rules, 1981.
3.	What will be the date of restoration of additional commutation of pension?	The commuted portion of pension shall be restored after 15 years from the respective dates of commutation as provided in Government of India decision No.1 under Rule 10 of CCS(Commutation of Pension) Rules, 1981. Necessary endorsement should be made in the PPO.

4. It is impressed upon all the Ministries/Departments of the Government of India to keep in view the above clarification while disposing of the cases of commutation of additional pension. They are also advised to dispose the representations received by them from pensioners on the above issues without referring them to this Department.

5. This issue with the concurrence of Ministry of Finance (Department of Expenditure) vide their UO No. 43/EV/2009 dated 13/2/2009

**C. Instructions issued vide O.M.No.38/37/08-P&PW(A) Dated the 18<sup>th</sup> May, 2009.**

**Sub: Implementation of Government's decision on the recommendations of the Sixth Central Pay Commission Revision of pension of pensioners/family pensioners etc.**

The undersigned is directed to say that in pursuance of Government's decision on the recommendations of Sixth Central Pay Commission, orders for revision of pension/ family pension of all the pre-2006 pensioners/ family pensioners were issued vide this Department's O.M. No. 38/37/08-P&PW(A) dated 1.9.2008. Similarly, orders were issued vide this Department's O.M. No. 38/37/08-P&PW(A) dated 2.9.2008 for introducing modifications in the rules regulating pension, Retirement/Death/Service Gratuity/Family Pension/ disability pension and ex-gratia lump-sum compensation

2. *References have been received in this Department seeking clarifications on some provisions of the aforesaid O.Ms. The matter has been considered in consultation with the Ministry of Finance, Department of Expenditure and the following clarifications are issued in this regard:*

S. N o.	Point raised	Clarification
1	<b>OM dated 1.9.2008</b> Whether the family pension in respect of existing pensioners in whose case the family pension has not come into operation as on 1.1.2006 will also be revised?	In respect of existing pensioners in whose case the family pension has not come into operation as on 1.1.2006 as pensioners are/were alive on that date, the family pension (including enhanced family pension wherever applicable) will also be updated in terms of the instructions contained in this Department's OM of even number dt 1.9.08, as clarified from time to time. The updated rates of family pension will apply as and when family pension becomes payable in such cases. Accordingly, where a pensioner has died on or after 1.1.2006, the updated pension (including enhanced family pension wherever applicable) shall become payable to the family pensioner from the date of death of the pensioner.
2	<b>OM dated 2.9.2008</b> Whether the arrears of pension of those Government servants who have retired during the period	Yes

	1.1.06 to 31.8.08 shall also be paid during the years 2008-09 and 2009-10 in the ratio of 40 : 60?	
--	--	--

2. It is impressed upon all the Ministries/Departments of the Government of India to keep in view the above clarifications while disposing of the cases of revision of pension/family pension. They are also advised to dispose the representations received by them from pensioners on the above issues without referring them to this Department.

3. This issues with the concurrence of Ministry of Finance (Department of Expenditure) vide their I.C. U.O. No. 191/EV/2009 dated 14.5.2009.

Please visit: <http://pensionersportal.gov.in>

**D. Instructions issued vide O.M.No.38/37/08-P&PW(A) Dated the 21<sup>st</sup> May, 2009**

**Sub: Implementation of Government's decision on the recommendations of the Sixth Central Pay Commission - Revision of pension of pre-2006 pensioners/family pensioners etc**

The undersigned is directed to say that in this Department's OM of even number dated 14.10.2008, all the pension disbursing public sector banks were requested to revise and disburse the enhanced pension (with dearness relief) and arrears within one month from the date of issue of that O.M. It was mentioned that a suitable entry regarding the revised pension would be recorded by the pension Disbursing Authorities in both halves of the Pension Payment Order and an intimation regarding disbursement of revised pension would be sent by the pension disbursing authorities to the Office of CPAO and Accounts Officer which had issued the PPO in the revised form given at [Annexure-III](#) of the said OM so that they could verify the pension so revised and update the Pension Payment Order Register, etc. In Annexure-III, it was mentioned that the verification/final revision of pension/family pension in respect of pensioners would be done by the Pay and Accounts Officer concerned.

2. Accordingly, in cases where the information in Annexure-III has been received by the Pay and Accounts Officer from the Pension Disbursing Banks etc., he should verify the same and issue a revised authority for payment of pension. In case there is any discrepancy in the revision of pension by the Bank, the bank should be informed by the Pay and Accounts Officer



immediately for making necessary adjustment. In cases where the information in Annexure-III has not been received by the Pay and Accounts Officer from the Bank, the Pay and Accounts Officer should issue revised authority for payment of pension based on the PPO/available records and send it to Bank for making the payment of revised pension accordingly.

3. In the aforesaid OM dated 14.10.2008, it was provided that in case any information regarding date of birth, scale of pay or the qualifying service, etc. was not available with the bank, the bank may obtain the requisite information from the concerned Pay and Accounts Officer/CPAO. It would be the responsibility of the concerned Pay and Accounts Officer/CPAO to provide the information from the available records within two weeks of the receipt of request from the bank.

4. The matter regarding the methodology to be adopted for payment of additional pension to old pensioners/family pensioners in cases where the date of birth is not available in the PPO as well as in the office records of CPAO/Pay and Accounts Office had been under consideration in consultation with the Controller General of Accounts and the Ministry of Finance. It has now been decided that in case the exact date of birth is not available either in the PPO or in the office records but an indication regarding the age of pensioner/family pensioner is available in the office record, the additional pension/family pension shall be paid from the 1<sup>st</sup> January of the year following the year in which the pensioner/family pensioner has completed the age of 80 years, 85 years, etc. based on PPO/office records. For example, if the records show that the pensioner/family pensioner has already completed the age of 80 years/85 years as on 1<sup>st</sup> January, 2008, he shall be allowed additional pension/family pension from 1<sup>st</sup> January, 2008.

5. In case neither the exact date of birth nor the age is available either in the PPO or in the office records, the Pension Disbursing Authority/Bank will send an intimation to the pensioner/family pensioner about the non-availability of the information regarding date of birth/age and request him to submit four copies of any of the following documents, duly attested by a Gazetted officer/MLA to the Pension Disbursing Authority:

(i) Pan Card

(ii) Matriculation certificate (containing the information regarding date of birth)

(iii) Passport

- (iv) CGHS Card
- (v) Driving licence (if it contains date of birth)

If the pensioner/family pensioner submits a document which contains the information regarding exact date of birth, the additional pension/ family pension will be payable from the 1st day of the month in which his date of birth falls, in the manner indicated in this Department's O.M. of even number dated 3.10.2008. In case the exact date of birth is not available on the document submitted by the pensioner/family pensioner but an indication regarding the age of pensioner/family pensioner is available therein, the additional pension/family pension shall be paid from the 1st January of the year following the year in which the pensioner/family pensioner has completed the age of 80 years, 85 years, etc. based on the document submitted by the pensioner/family pensioner. For example, if the copy of the Election ID Card submitted by the pensioner/family pensioner indicates that his/her age on 1<sup>st</sup> January, 2007 is 80 years, he/she shall be allowed additional pension/family pension from 1<sup>st</sup> January, 2007.

6. The Pension Disbursing Authority/Bank will make payment of additional pension/family pension in the above manner, on provisional basis, up to a period of three months from the month in which the proof of age/date of birth is submitted by the pensioner/family pensioner. In such cases, the Pension Disbursing Authority/Bank will immediately send one copy each of the document submitted by the pensioner/family pensioner to the Pay and Account Officer/CPAO for formal authorisation of the additional pension/family pension. The Pension Disbursing Authority/Bank will make payment of additional pension/family pension beyond a period of three months only on receipt of such an authorisation from the Pay and Account Officer.

7. In case the pensioner/family pensioner is unable to submit any of the documents mentioned in para 5 above but claims additional pension based on some other documentary evidence, such cases will be submitted to the administrative Ministry. If the administrative Ministry is satisfied about the claim of the pensioner/family pensioner, it will authorise additional pension/family pension accordingly. The decision of the Administrative Ministry in this regard will be final.

8. It is impressed upon all the Ministries/Departments of the Government of India and the pension disbursing authorities to keep in view the above decisions while disposing of the cases of payment of additional pension/family pension. CGA/CPAO are requested to advise all Pension disbursing/sanctioning authorities to take suitable action in accordance with the above instructions/guidelines. Similarly instructions may be issued by Ministry of Defence and Ministry of Railways to their concerned Accounts Department accordingly.

9. This issues with the concurrence of Ministry of Finance (Department of Expenditure) vide their I.C. U.O. No. 185/EV/2009 dated 4.5.2009.

**E. Instructions issued vide O.M.No.4/38/2008-P&PW (D) Dated 27<sup>th</sup> May 2009**

**Sub: - Revision of 1/3<sup>rd</sup> commuted portion of pension in respect of Government servants who had drawn lumpsum payment on absorption in Central Public Sector Undertakings/Central Autonomous Bodies –amount of the revised 1/3<sup>rd</sup> restored pension plus Dearness Pay (DP) & Dearness Relief (DR) on implementation of Government's decision on the recommendations of the Sixth Central Pay Commission to be not less than 1/3<sup>rd</sup> pre revised restored pension plus admissible DP & DR as already drawn up to 01.09.2008- Regarding.**

The undersigned is directed to say that the restorable 1/3<sup>rd</sup> pension of the Government servants who had drawn lump sum payment in respect of pro-rata pension (1/3<sup>rd</sup> as well as 2/3<sup>rd</sup>) on absorption in a PSUs/Autonomous Bodies and have become entitled to restoration of 1/3<sup>rd</sup> commuted portion of pension as per the provisions of this Department's O.M. No. 34/2/86-P&PW dated 5<sup>th</sup> March 1987 after 15 years from the date of commutation or 1.4.85, whichever is later, is regulated vide this Department's O.M. Nos. 4/59/97-P&PW(D) dated 14<sup>th</sup> July 1998, OM No.4/79/2006-P&PW (D) dated 6.9.07 and dated 13.5.08. In pursuance of Government's decision on the recommendations of Sixth Central Pay Commission, instructions have been issued for revision of 1/3<sup>rd</sup> restorable pension of such absorbess vide Deptt. of Pension & Pensioners Welfare's OM of even No. dated 15<sup>th</sup> September 2008.

2. The Deptt. of Pension and PW has received representations that implementation of instructions contained in OM dated 15.9.2008 is resulting in drop in the total amount of 1/3<sup>rd</sup> restored pension plus DR in comparison to total amount of the 1/3<sup>rd</sup> restored pension plus admissible DP & DR as drawn by pensioners.

3. The President is pleased to decide that such absorbess, whose pre-revised 1/3 restored pension plus admissible DP and DR as on 1.9.2008 works out to be more than the amount of the revised 1/3<sup>rd</sup> restorable pension plus DR on the implementation of the Government's decision on the recommendations of the Sixth Central Pay Commission in terms of instructions contained in OM dated 15.9.2008, shall continue to draw the pre-revised pension plus DP plus DR admissible in terms of orders existed prior to issue of the OM dated 15.9.2008 till such time the restored amount of revised pension in terms of instruction contained in OM

dated 15.9.2008 plus admissible DR works out to be more than the pre revised 1/3<sup>rd</sup> restored pension.

4. The Administrative Ministries/ Departments are therefore directed to ensure that wherever the restored amount of the revised pension plus DR of such absorbtees, in terms of instructions contained in OM dated 15.9.2008, becomes less than 1/3<sup>rd</sup> pre revised restored pension plus admissible DP & DR as already drawn, the absorbed employees should be allowed to draw the pensionary benefits admissible to them till such time restored amount of the revised pension in terms of instructions contained in OM dated 15.09.2008 plus admissible DR works out to be more than pre revised 1/3<sup>rd</sup> restored pension plus admissible DP & DR as on 01.09.2008. Necessary entries in the PPOs to this effect shall be made accordingly.

5. This issues with the concurrence of Ministry of Finance (Department of Expenditure) vide their UO No.106/EV/2009 dated 18.05.2009 and C&AG's U.O.No.30 Audit (Rules)/12-2009 dated 5.5.2009.

**F. Instructions issued vide D/o P&PW's O.M.no..38/37/08-P&PW(A) Dated the 11<sup>th</sup> August, 2009.**

**Sub: Implementation of Government's decision on the recommendations of the Sixth Central Pay Commission - Revision of pension of pre-2006 pensioners/family pensioners etc**

The undersigned is directed say that in this Department's OM of even number dated 21.5.2009, it was provided that the following documents would be accepted as proof of date of birth/age for payment of additional pension/family pension on completion of 80 years and above:

- (i) Pan Card
- (ii) Matriculation certificate (containing the information regarding date of birth)
- (iii) Passport
- (iv) CGHS Card
- (v) Driving licence (if it contains date of birth)

2. The matter has been examined further. Considering the difficulty in producing any of the above mentioned documents as proof of age by the old pensioners, particularly those in the rural areas, it has been decided that the Voters' ID Card may also be accepted as proof of date of birth/age for payment of additional pension/family pension on completion of 80 years and above subject to the following conditions:

- (i) The pensioner/family pensioner certifies that he is not a matriculate. (The matriculation certificate should be insisted in the case of matriculate pensioners/family pensioners)
- (ii) The pensioner certifies that he does not have any of the documents mentioned in para 1 above.

3. The other conditions for acceptance of the documents, as mentioned in the OM dated 21.5.2009, will remain the same.

4. Some doubts have been expressed regarding the date from which the additional pension is to be made effective. In this connection, attention is invited to the clarifications issued vide this Department's O.M. of even number dated 3.10.2008. It is re-iterated that the additional quantum of pension/family pension, would be admissible from the 1st day of the month in which the date of birth falls, only on completion of the age of 80 years, 85 years, etc. (and not in the beginning of the 80th year, 85th year, etc.). All references/representations received in this respect stand disposed off accordingly.

Illustration: If a pensioner/family pensioner's date of birth is 26.1.1930, then he/she will be entitled to the additional quantum of pension on completion of 80 years of age w.e.f. 1.1.2010.

5. It is impressed upon all the Ministries/Departments of the Government of India and the pension disbursing authorities to keep in view the above instructions while disposing of the cases of payment of additional pension/family pension. CGA/CPAO are requested to advise all Pension disbursing/sanctioning authorities to take suitable action in accordance with the above instructions/guidelines and to make suitable entry regarding date of birth in the PPO . Similarly instructions may be issued by Ministry of Defence and Ministry of Railways to their concerned Accounts Department accordingly.

6. This issues with the concurrence of Ministry of Finance (Department of Expenditure) vide their I.C. U.O. No. 261/EV/2009 dated 9.7.2009.

Please visit: <http://pensionersportal.gov.in>

**G. Instructions issued vide No.38/37/08-P&PW(A).pt.1 Dated the 20<sup>th</sup> August, 2009**

**Sub: Implementation of Government's decision on the recommendations of the Sixth Central Pay Commission Revision of pension of pre-2006 pensioners/family pensioners etc.**

The undersigned is directed to say that in pursuance of Government's decision on the recommendations of Sixth Central Pay Commission, sanction of the President was accorded to the regulation, with effect from 1.1.2006, of pension/ family pension of all the pre-2006 pensioners/ family pensioners in the manner indicated in this Department's O.M. No. 38/37/08-P&PW(A) dated 1.9.2008. Clarifications on certain provisions were also issued vide O.M.No. 38/37/08-P&PW(A) Pt.I dated 3.10.2008 and 14.10.2008.

2. A concordance table of the pre-1996, pre-2006 and post-2006 pay scales/pay bands was enclosed as Annexure-I of the OM dated 14.10.2008 to facilitate payment of revised pension/family pension in terms of para 4.2 of the OM dated 1.9.2008 (as clarified vide OM dated 3.10.2008) in all cases where fixation of pension under that provision is more beneficial. Ministry of Finance (Department of Expenditure), vide Notification No. 01/01/2008-IC (GSR 527 E) dated 16.7.2009 has notified revised pay scale for pre-revised S-30 scale of pay. Consequently, the entries at Sl. No. 32 in the Table at Annexure-I of this Department's O.M. of even number dated 14.10.2008 shall be substituted by the following:

Sl. No.	Pay scale w.e.f. 1/1/86	Post/Grade and pay scale w.e.f. 1/1/1996 Grade Scale		Name of Pay Band/ Scale	Corresponding 6 <sup>th</sup> CPC Pay Bands/Scales	Corresponding Grade Pay	Pension*= 50% of sum of min. of PB+GP/Scales	Family Pension* *=30% of sum of min. of PB+GP/Scales
1	2	3	4	5	6	7	8	9
32	7300-100-7600	S-30	22400-525-24500	HAG	67000-79000	Nil	33500	20100

3 This issues with the concurrence of Ministry of Finance (Department of Expenditure) vide their. U.O. No. 284/ EV/2009 dated 10.8.2009.

4. In their application to the employees of the Indian Audit and Accounts Departments, these orders issue in consultation with the Comptroller & Auditor General.

**H. Instructions issued vide D/o P&PW's O.M.No.38/37/08-P&PW(A) Dated the 10<sup>th</sup> December, 2009.**

**Sub: Implementation of Government's decision on the recommendations of the Sixth Central Pay Commission regarding revision of pension of pensioners/family pensioners etc. – Grant of full pension to Government servants who retired on or after 1.1.2006**

The undersigned is directed to say that in pursuance of Government's decision on the recommendations of Sixth Central Pay Commission, orders were issued vide this Department's O.M. No. 38/37/08-P&PW(A) dated 2.9.2008 for introducing modifications in the rules regulating pension, Retirement/Death/Service Gratuity/Family Pension/ disability pension and ex-gratia lump-sum compensation. In accordance with para 5.2 and para 5.3 of that OM, once a Government servant becomes entitled to pension on completion of 20 years/10 years of qualifying service, he shall be paid pension at 50% of the emoluments or average emoluments received during the last 10 months, whichever is more beneficial to him. In terms of para 5.4 of the OM, these revised provisions have come into force w.e.f. 2.9.2008 and shall be applicable to Government servants retiring on or after that date. Subsequently, it was clarified vide O.M. No. 38/37/08-P&PW(A) dated 11.12.2008 that pension of Government servant retiring on or after 1.1.2006 will also be calculated based on the emoluments or average emoluments received during the last 10 months, whichever is more beneficial to him but his pension would continue to be proportionate to the pension on completion of 33 years of qualifying service. Para 5.4 of this Department's O.M. No. 38/37/08-P&PW(A) dated 2.9.2008 was modified to that extent.

2. This matter has been reconsidered by the Government. In partial modification of the instructions/order issued in this respect, it has now been decided that linkage of full pension with 33 years of qualifying service shall be dispensed with, with effect from 1.1.2006 instead of 2.9.2008. The revised provisions for calculation of pension in para 5.2 and 5.3 of the OM No.38/37/08-P&PW(A) dated 2.9.2008 shall come into force with effect from 1.1.2006 and shall be applicable to the Government servants retired/retiring after that date. Para 5.4 will further stand modified to that extent.

3. Consequent upon the above revised provisions, in partial modification of para 7.1 of the OM No.38/37/01-P&PW(A) dated 2.9.08, the extant benefit of adding years of qualifying service for the purpose of computation of pension and gratuity shall stand withdrawn with effect from 1.1.2006.
4. The overall calculation may take into account revised gratuity and revised pension, including arrears up to date of revision based on these instructions. However, no recoveries would be made in the cases already settled.
5. It is impressed upon all the Ministries/Departments of the Government of India to keep in view the above modifications/clarifications while disposing of the cases of revision of pension. They are also advised to dispose of the representations received by them from pensioners on the above issues without referring the same to this Department.
6. This issues with the concurrence of Ministry of Finance (Department of Expenditure) vide their U.O. No.375/EV/2009 dated 19.11.2009.
7. In their application to the employees of the Indian Audit and Accounts Departments, these orders issue in consultation with the Comptroller & Auditor General of India.

Please visit: <http://pensionersportal.gov.in>

5. **Instructions issued vide DOPT's letter no.25014/14/2001-AIS (II) dated 8<sup>th</sup> September, 2009**

**Sub: - Introduction of New Pension Scheme for Members of the All India Service joining the All India Service on or after 1/1/2004.**

The undersigned is directed to say that the pension of the members of the All India Services appointed on or after 1.1.2004 is regulated by the new Defined Contribution Pension Scheme (known as the New Pension Scheme) notified by the Ministry of Finance (Department of Economic Affairs) vide their O.M. No. 5/7/2003- ECB 2 PR dated 22.12.2003. On introduction of the New Pension Scheme, the All India Service (Death Cum retirement Benefit) Rules, 1958 and the All India Service (Provident Fund) Rules, 1955 were amended on 7.02.2004 & 17<sup>th</sup> May 2004 respectively. Under the amended Rules, benefits of the old Defined Benefit Pension Scheme and of GPF are not available to the members of the service appointed on or after 1.1.2004.

2. The New Pension Scheme will work on a defined contribution basis and will have two tiers – Tier I and II. Contribution to Tier I will be mandatory for all members of All India Services joining the All India Service on or after 1/1/2004, whereas Tier II will be optional and at the discretion of members of All India Service.



3. In Tier I, members of All India Service will make a contribution of 10% of his/her basic pay plus DA, which will be deducted from his/her salary bill every month by the DTO/TO concerned. The Government will also make an equal matching contribution..
4. Tier I contributions (and the investment returns) will be kept in a non-withdrawable pension Tier I account. Tier II contributions will be kept in a separate account that will be available for withdrawal at the option of the member of the Service. Government will not make any contribution to Tier II account.
5. A member of the service can exit at or after the age of 60 years from the Tier I of the scheme. At exit, it would be mandatory for him/her to invest 40 percent of pension wealth to purchase an annuity (from an IRDA regulated Life Insurance Company), which will provide for pension for the lifetime of the employee and his dependent parents/spouse. In the case of members of the All India Service who leave the Scheme before attaining the age of 60, the mandatory annuitisation would be 80% of the pension wealth.
6. Recoveries towards Tier I contribution will start from the salary of the month following the month in which the member of the service has joined service. No recovery will be made for the month of joining.
7. As the existing provisions of Defined Benefit Pension and GPF would not be available to new members of All India Service joining All India Service on or after 1/1/2004, in case any GPF deduction has been made then it would have to be refunded to the concerned All India Service Officers.
8. Deduction towards Group Insurance will, however, continue to be made from the salary of new members of the All India Service joining the service on or after 1/1/2004.
9. The State Service officers appointed to the IAS/IPS/IFS by way of promotion/selection, who are already covered under the old pension scheme will continue to be governed by the old pension scheme.
10. The pension funds of members of the All India Service would be managed by pension fund managers nominated by the Pension Fund Regulatory Development Authority (PFRDA) and the records would be maintained by a Central Record Keeping Agency, the National Security Depository Limited (NSDL).
11. All State governments would be required to designate a State Nodal Officer (SNO) at the State capital for all NPS related activities. District Treasury Officer (DTO)/Treasury Officer (TO) would be entrusted the responsibility of deducting the amount of employee's subscription from the salary of the AIS subscriber and would forward the same to the State Nodal Officer.

12. The amount and contribution details from each of the TO would be consolidated for all subscribers by the designated State Nodal Officer at the State capital. The SNO would also compile and consolidate Employers contribution.

13. The designated officer in the State Nodal Office would prepare and upload the Subscriber Contribution file (SCF) on CRA system; transfer funds to the Trustee Bank and send information to Department of Personnel & Training for control purposes.

14. Immediately on joining the All India Service, each member of the service will be required to provide particulars such as his/her name, designation, scale of pay, date of birth, nominees (s) for the fund, relationship with the nominee etc. in the prescribed form (Annexure-I). The same procedure should be followed for all AIS officers appointed on or after 1.1.2004. Accordingly all AIS officers recruited on or after 1.1.2004 are advised to fill up the registration form at Annexure-I immediately.

15. The DTO would be responsible for getting the physical registration form filled by all AIS officers and would also fill up their own registration form (DDO registration form) and send it to the State Nodal Officer (SNO). The State Nodal Officer would act as the PAO in the NPSCAN. He would collate the physical registration forms and also fill up the registration form for the PAO and send all these filled forms to NDSL preferably within a month of issuance of these orders. NDSL would process the details and send all the kits to the SNO by the end of October 2009.

16. On receipt of the Permanent Registration Allotment Number (PRAN), the SNO would start the regular uploads and funds transfers. After this is done the legacy data would be send in one or maximum two tranche.

17. For the legacy data, the DDOs would then prepare the arrears-SCF for month wise contribution details and send the same to SNO who will upload the same to NPSCAN and transfer the funds. Accounting procedure for the above would be devised by the State Government in consultation with Accountant General.

18. Payment to Trustee bank: The salary bills and the bills for Government contribution will be passed by TOs after exercising the checks prescribed under financial rules and Treasury Manual. The amount of NPS subscriptions (member' contribution) recovered from the salary bills will be shown under the "Recoveries" column of the salary bill and will be classified under the Head **"8342-Other Deposits-00-117-Defined Contribution Pension Scheme"** in the State Section of Accounts by opening suitable separate sub-heads thereunder for "01-Government Servants Contributions under Tier-1" and "02-Government's Contribution under Tier-II". The amount of Government's Contribution shall be debited to **"2071-Pension Scheme -01-Civil-117-Contribution for Defined Contribution Pension Scheme-01 –Government Contribution– 00.04-Pensionary Charges"** in the Consolidated Fund of the State Government.

19. After the bills are passed, the SNOs will upload the data relating to contributions (both of members of service's and Government's contributions) into NPSCAN of NDSL and also tally

the figures uploaded with that booked. Further, all the accumulated balances under the DCPS would be transferred to the Trustee bank i.e. the Bank of India.

20. After uploading is completed, SNO will get Transaction ID and draw the total amount by minus crediting the head mentioned above either by cheque in favour of the Trustee Bank or remit the amount through RTGS/NEFT. SNO will also ensure the amount of contributions booked is duly tallied with the Subscriber's Contribution File (SCF) being uploaded in the NPSCAN and the same amount is drawn in the Cheque and passed on to the Trustee Bank.

21. The SNO/TO would have to maintain the Alphabetical Index Register in Annexure V wherein they would have to indicate the PRAN numbers allotted to each of the subscriber; the particulars of remittances of contributions to the Trustee bank in the Proforma prescribed vide Annexure VI; and the individual-wise account indicating the amounts of contributions paid to the Trustee Bank and the details of remittance.(vide Annexure VII).

22. In order to enable NSDL to carry out reconciliation and credit the amounts against the individuals' accounts, Treasury Officers/ SNOs will have to ensure that their TO Registration numbers / SNO Registration numbers respectively and the month to which the contributions pertain /Transaction ID in NPSCAN are mentioned in the NEFT / RTGS application form (in the 'Remarks' column) to be submitted to their banker. Where payments are made through cheques in favour of the Trustee Bank, these particulars would have to be furnished on the reverse of the cheque as well as in the forwarding letter. The time schedule prescribed will have to be strictly adhered to by SNOs, TOs and DDOs.

23. The SNO along with the State Government would have to ensure that arrears of contributions both of Government and Subscribers, are recovered and transferred to the trustee bank within a definite time span. If the contributions have been recovered but kept elsewhere, then also they must be transferred immediately to the Trustee Bank.

24. If the State Governments decide to recover the contributions in instalments, it may be ensured that the instalments of Government contributions drawn and transferred to the fund do not exceed the individual's contributions.

25. In the case of post 01.01.2004 entrants into the service, whose contributions to NPS are yet to be deducted, the State Government may consider deducting their contribution (arrears from 01.01.2004 or from their date of entry into service) from the second instalment of arrears of revision of pay due on account of the 6<sup>th</sup> Pay Commission recommendations. Further the pay arrears may be released only after individual application forms for registration to the New Pension Scheme have been obtained by the DDO/SNO from the concerned member of the service.

26. Whenever any member of the service is transferred from one office to another or goes on Central deputation etc, the TO will indicate in the Last Pay Certificate of the member of the service, the PRAN in respect of that individual and the month up to which his contributions have been recovered/ drawn.

27. Accountant Generals/Finance Departments of all State Governments are requested to bring these instructions to the notice of their TOs\DDOs\ SNOs for strict compliance.

# ANNEXURE- I

## (Details to be furnished by Member of the Service)

1. Name of the Member of Service:
2. Designation:
3. Name of Min/Dept./Orgn:
4. Scale of Pay:
5. Date of Birth:
6. Date of joining Govt. Service:
7. Basic Pay:
8. Nominee for accumulations  
Under the Pension Account:

Sr.No.	Name of Nominee(s)	Age	Percentage of share payable	Relationship with Member of Service

**Signature of the Member of the Service.**

TO/SNO

*ANNEXURE – II*

Name of SNO\_\_\_\_\_

Name of Office and address\_\_\_\_\_

S l.	Name of the Member of Service	Desi gnati on	Basic Pay	Date of Birth	Unique Pension a/c no. in 15 digits ( to be allotted by CAO(P)	Date of joining service	Details of nominee(s)for accumulations under Pension Account			
							Name of Nominee(s)	Age	Relatio nship with MoS	% age of share

Name of the SNO\_\_\_\_\_

OFFICE SEAL\_\_\_\_\_

## ANNEXURE-III

### INDEX REGISTER

Unique Pension Account No.	Name of the Member of Service	Designat ion	Name of the Office in which joined servic e	Date of Birth	Date of joining Servic e	Signature of JAO/AAO

## ANNEXURE – IVA

Six digit code\_\_\_\_\_

S l.	Name of the Member	Desi gnati on	Basic Pay	Date of Birth	Unique Pension a/c no. in	Date of joining service	Details of nominee(s)for accumulations under Pension Account	Rem arks
---------	--------------------------	---------------------	--------------	---------------------	---------------------------------	-------------------------------	--	-------------

	of Service				15 digits( to be allotted by CAO(P)		Name of Nominee (s)	Age	Relatio nship with Membe r of Service	% age of share	

Signature of SNO with seal\_\_\_\_\_

*ANNEXURE – IV*

(See Para 9)

Format of schedule of Member of Service's contributions towards Tier – I and Tier – II of the New Pension Scheme (to be attached with the pay bill.)

Name of TO

Unique Pension a/c no. in 15 digits( to be allotted by CAO(P)	Name of the Memb er of Servic e	Designati on	Basi c Pay	D P R s.	D A Rs .	Contributi on under Tier – I (Rs.)	Contributi on under Tier – II (Rs.)	Tot al Rs.	Remarks

(Rupees.....)

\* This column is not to be used during the interim period.

Date and signature of TO.

## ANNEXURE – V

(See Para 10)

Format of schedule of Member of Service's contributions towards Tier – I of the New Pension Scheme (to be attached with the bill for drawl of Government's contribution.)

Name of SNO

Unique Pension a/c no. in 15 digits( to be allotted by CAO(P)	Name of the Member of Service	Designation	Basic Pay	DP Rs.	DA Rs.	Government's contribution Rs.	Remark

(Rupees.....)

Date and signature of SNO.

(ANNEXURE – VI)

PRAN No.	Name of the Member of Service	Designation	Date of Birth	Date of joining the All India Services	Date of joining Deptt/office under the payment control of TO/SNO	Signature of TO/SNO



--	--	--	--	--	--	--

(ANNEXURE – VII)

SEE PARA 11

## NEW PENSION SCHEME LEDGER FOLIO

Name: \_\_\_\_\_

Designation \_\_\_\_\_ Department \_\_\_\_\_

Date of joining All India Service \_\_\_\_\_

Date of Superannuation \_\_\_\_\_

Unique Pension Account no. allotted by SNO

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

month	Basic Pay	DA	Member's contribution under Tier – I Rs.	Govt.'s contribution under Tier – I Rs.	Total Tier – I Rs.	Member's contribution under Tier – II Rs.	Remark	
April								

May									
June									Tier - I Tier - II
July								OB as on	
Aug.					<span s				

**6. Instructions issued vide DOPT's letter no. 25014/2/2002-AIS(II) Dated 12th January, 2010**

**Sub: Simplification of procedure for payment of pension and other benefits to All India Service officers retiring from Government of India/State Governments – bearing the liability of arrears related to Sixth Pay Commission.**

I am directed to refer to the above subject and to say that the issue of bearing the liability of arrears of All India Service officers related to Sixth Pay Commission by the Government of India has been considered in consultation with the Ministry of Finance. It has been decided that the arrears will be paid in two installments of 40% & 60% in 2008-2009 and 2009-2010 respectively for All India Service officers. Arrears paid up to 31.3.2008 are debit to State Governments and arrears from 1.4.2008 are debit to the Central Government.

2. All the State Governments are requested take necessary action in accordance with the above.

**Instructions issued vide D/o P&PW's O.M.No.38/37/08-P&PW(A) dated the 25<sup>th</sup> June, 2010**

**Sub: Implementation of Government's decision on the recommendations of the Sixth Central Pay Commission - Revision of pension of pre-2006 pensioners/family pensioners etc**

The undersigned is directed to say that in this Department's O.M. of even number dated 21.5.2009 and 11.8.2009 it was provided that in case the information regarding date of birth/age is not available in the PPO or the office records, certain documents would be accepted as proof of date of birth/age for payment of additional pension/family pension on completion of age of 80 years and above. It was also provided that the Pension Disbursing Authority/Bank will make payment of additional pension/family pension in the above manner, on provisional basis, up to a period of three months from the month in which the proof of age/date of birth is submitted by the pensioner/family pensioner. In such cases, the Pension Disbursing Authority/Bank will immediately send one copy each of the document submitted by the pensioner/family pensioner to the Pay and Account Officer/CPAO for formal authorisation of the additional pension/family pension. The Pension Disbursing Authority/Bank will make payment of additional pension/family pension beyond a period of three months only on receipt of such an authorisation from the Pay and Account Officer.

2. Certain Pension Disbursing Banks to whom the documentary proof of age was submitted by the pensioners/family pensioners have informed that many Pay & Accounts Offices, to whom the same is forwarded as per OM of even number dated 21/5/2009, have not communicated to them their final authorization in accordance with the above instructions. These Banks are, therefore, finding it difficult to continue the payment of additional pension beyond three months in the absence of the formal authorization. The PAOs who are receiving the proof of age may get it sanctioned from HOO/HOD as per procedure invariably. In case the pensioner/family pensioner is unable to submit any of the documents mentioned in OMs dated 21/5/2009 and 11/8/2009 but claims additional pension based on some other documentary evidence, such cases will be submitted to the administrative Ministry. If the administrative Ministry is satisfied about the claim of the pensioner/family pensioner, it will authorize additional pension/family pension accordingly. The decision of the Administrative Ministry in this regard will be final.

3. CGA is requested to advise all Pay & Accounts Officers to take immediate action for getting the additional pension sanctioned from Head of Office/HODs so that the final authorisation of the additional pension may be done by PAOs.

**7. Instructions issued vide DOPT's letter.No. 25014/14/2001-AIS(II)Dated 10<sup>th</sup> February, 2010**

**Sub: Clarification regarding applicability of pension scheme.**

I am directed to say that this Department has been receiving references from some State Governments and individual officers seeking clarification on the above subject. In this regard it is clarified that incumbent joining All India Services on or after 1/1/2004 and who were working in Central Government in some other post which was governed by the GPF-cum-Pension Scheme would continue to be governed by the GPF-cum-Pension Scheme. This may, however, be subject to verification of service prior to 1.1.2004. As regards the issues i.e. giving benefit of the old pension scheme and GPF accounts to such officers, it is informed the concerned State Governments may examine and decide such issues in accordance with the extant rules.

**8. Instructions issued vide DOPT's letter no. 25014/2/2002-AIS(II) Dated 5<sup>th</sup> April, 2010**

**Sub: Simplification of procedure for payment of pension and other benefits to All India Service officers retiring from Government of India/State Governments – procedure to be followed in processing pension cases of AIS Pensioners.**

I am directed to refer to the above subject and to say that it has been observed that difficulty is being faced in processing pension cases of AIS Pensioners. This issue has been consulted with the Central Pension Accounting Office (CPAO). In order to streamline the issue, the State Governments are required to adhere to the following procedures/provisions:-

- (a) It is seen that different State Governments are making arrear payments of All India Service officers related to Sixth Pay Commission in different proportions.

This would create enormous accounting and reconciliation problems in the long term. The Central Government has taken over the liability for AIS pensioners only w.e.f. 1<sup>st</sup> April, 2008. As such, while sending the PPOs to CPAO, State Governments must clearly state "all arrears due to the pensioner up to 31<sup>st</sup> March, 2008 have been accounted and paid for by the State Government".

- (b) Option forms of drawing Central Pension through the CPAO may be circulated to their AIS officers.
  - (c) The Authorisation/PPOs in respect of AIS officers has to be uniform (i.e. at Central rate) in terms of admissibility of Dearness Relief, Medical Allowance etc.
  - (d) All State Governments may appoint nodal officers for coordinating with CPAO in respect of AIS officers.
  - (e) Basic information such as the cadre/year of joining etc. of the AIS officers must be mentioned in PPO's to be sent to CPAO. All State Governments must ensure that claims of reimbursement in respect of AIS pension are received by CPAO from the concerned State AGs.
  - (f) The format of PPO used by Designated Authority must be as per prescribed format.
  - (g) Only the quantum of differential DCRG may be paid through banks.
2. All the State Governments are requested to take necessary action in accordance with the above.

## 9. Instructions issued vide DOPT's letter no. 25014/7/2010-AIS(II) dated 7<sup>th</sup> April, 2010

### **Sub: Additional Relief on death/disability of Central Civil Government servants covered by the new Defined Contribution Pension System (NPS)-regarding.**

I am directed to say that the Department of Pension & Pensioners' Welfare by its OM No. 38/41/06/P&PW (A) dated 5<sup>th</sup> May, 2009 (copy enclosed) has issued order regarding additional relief on death/disability of Central Civil Government servants covered by the new Defined Contribution Pension System (NPS)

2. The provisions contained in the aforesaid Office Memorandum of the Department of Pension & Pensioners' Welfare are equally applicable ***Mutatis-Mutandis*** to members of All India Services.

*A. Instructions issued vide D/oP&PW's O.M.38/41/06/P&PW(A) dated 5th May, 2009*

### **Sub: Additional Relief on death/disability of Government servants covered by the new Defined Contribution Pension System (NPS)**

The undersigned is directed to say that the pension of the Government servants appointed on or after 1/1/2004 is regulated by the new Defined Contribution Pension System (known as New Pension Scheme), notified by the Ministry of Finance (Department of Economic Affairs) vide their OM No. 5/7/2003-ECB 2 PR dated 22/12/2003.

2. On introduction of the New Pension Scheme, among others, the Central Civil Services (Pension) Rules, 1972 and the Central Civil Services (Extraordinary Pension) Rules were amended on 30/12/2003. Under the amended Rules, the benefits of Invalid Pension/Disability Pension and family Pension/Extraordinary Family Pension/Liberalised Pensionary Award relief are not available to the Government servants appointed on or after 1/1/2004.

3. Ministry of Finance (Department of Economic Affairs) has subsequently clarified that the New Pension Scheme is a replacement for only pension under normal circumstances and family pension in case of death of employees after retirement.

4. A high Level Task Force (HLTF) constituted by the Government has recommended certain additional benefits that can be provided on death or discharge on invalidation/disability of a Government servant covered by the New Pension Scheme. It is likely to take some time before the rules regulating these benefits under the New Pension System are put in place.

5. Meanwhile, considering the hardships being faced by the employees appointed on or after 1/1/2004 who are discharged on invalidation/disablement and by the families of such employees who have died during service since 1/1/2004, the President is pleased to extend the following benefits to Central Civil Government Servants covered by the New Pension Scheme, on provisional basis till further orders:

- (I) Retirement from Government service on invalidation not attributable to Government duty:
  - i. Invalid Pension calculated in terms of Rule 38 and Rule 49 of the Central Civil Services (Pension) Rules, 1972.
  - ii. Retirement gratuity calculated in terms of Rule 50 of the Central Civil Services (Pension) Rules, 1972.
- (II) Death in service not attributable to Government duty:
  - i. Family Pension (Including enhanced family pension) computed in terms of Rule 54 of the Central Civil Services (Pension) Rules, 1972.
  - ii. Death gratuity computed in terms of Rule 50 of the Central Civil Services (Pension) Rules, 1972.
- (III) Discharge from Government service due to disease/injury attributable to Government duty.
  - i. Disability Pension computed in terms of the Central Civil Services (Extraordinary Pension) Rules.
  - ii. Retirement gratuity computed in terms of the Central Civil Services (Extraordinary Pension) Rules read with Rule 50 of the Central Civil Services (Pension) Rules, 1972.
- (IV) Death in service attributable to Government duty:

- i. Extraordinary Family Pension computed in terms of Central Civil Services (Extraordinary Pension) Rules and Scheme for Liberalized Pensionary Awards.
- ii. Death gratuity computed in terms of Rule 50 of the Central Civil Services (Pension) Rules, 1972.

The employee/his family will also be paid Dearness Pension/Dearness Relief admissible from time to time in addition to the above benefits, on provisional basis.

6. The above provisional payments will be adjusted against the payments to be made in accordance with the rules framed on the recommendations of the HLTF and recoveries, if any, will be made from the future payments to be made on the basis of those rules.

7. The recommendations of the HLTF envisage payment of various benefits on death/discharge of a Government employee after adjustment of the monthly-annuitised pension from the accumulated funds in the NPS Account of the employee. Therefore, no payment of monthly annuitized pension will be made to the employee/family of the employee during the period he/she is in receipt of the provisional benefits mentioned in para 5 above.

8. IN cases where, on discharge/death of the employee, the amount of accumulated funds in the NPS Account have been paid to the employee/family of the employee, the amount of monthly-annuitised pension from the date of discharge/death will be worked out in accordance with the rules/regulations to be notified by the Department of Financial Services/PFRDA and the same will be adjusted against the payment of benefits/relief after the notified rules in this respect are in place.

9. These instructions will be applicable to those Government servants who joined Government service on or after 1/1/2004 and will take effect from the same date i.e. 1/1/2004.

10. This order issues with the concurrence of Ministry of Finance (Department of Expenditure) vide their UO No. 127/EV/2009 dated 13/4/2009.

**B. Instructions issued vide D/o P&PW's O.M. No.45/7/2008-P&PW (F) Dated 12<sup>th</sup> July, 2010**

**Sub:- Implementation of the Government's decision on the recommendation of the Sixth CPC- Revision of provisions regulating special benefits in the cases of Death and Disability in service – payment of ex-gratia lump sum compensation to families of central Govt. employees – modification - regarding -**

The undersigned is directed to say that in this Department's Office Memorandum of even number dated 16<sup>th</sup> March, 2009, it was provided that ex-gratia lump sum compensation to the families of deceased Government servants including from sundry Government sources, such as the Prime Minister's Relief Fund, Chief Minister's Relief Fund, etc. should not exceed the aggregate of Rs. 20

lakhs in each individual case. Para 12 of Annexe to this Department's OM 45/55/97-P&PW(C) dated 11<sup>th</sup> September, 1998 was modified to that extent.

2. The matter has been further reviewed and it has now been decided that there will be **no** ceiling for grant of ex-gratia lump sum compensation in terms of Department of Pension & Pensioners' Welfare's OM No. OM 45/55/97-P&PW(C) dated 11<sup>th</sup> September, 1998 read with OM No.38/37/08-P&PW(A) dated 2<sup>nd</sup> September, 2008 and OM No.45/7/2008-P&PW (F) dated 16<sup>th</sup> March, 2009.

3. The above revised provision will be effective from 1.1.2006.

4. All other terms and conditions in the O.M. dated 11<sup>th</sup> September, 1998 shall remain unchanged.

5. This issues with the concurrence of the Ministry of Finance, Department of Expenditure U.O. No. 361/EV/2010 dated 4<sup>th</sup> June, 2010.

6. In so far as persons serving in the Indian Audit & Accounts Department, these orders issue after consultation with the Comptroller & Auditor General of India.

## **C. Instructions issued vide D/o P&PW's O.M.No.4/38/2008-P&PW (D) Dated 27<sup>th</sup> May 2009**

**Sub:- Revision of 1/3<sup>rd</sup> commuted portion of pension in respect of Government servants who had drawn lumpsum payment on absorption in Central Public Sector Undertakings/Central Autonomous Bodies –amount of the revised 1/3<sup>rd</sup> restored pension plus Dearness Pay (DP) & Dearness Relief (DR) on implementation of Government's decision on the recommendations of the Sixth Central Pay Commission to be not less than 1/3<sup>rd</sup> pre revised restored pension plus admissible DP & DR as already drawn up to 01.09.2008- Regarding.**

The undersigned is directed to say that the restorable 1/3<sup>rd</sup> pension of the Government servants who had drawn lump sum payment in respect of pro-rata pension (1/3<sup>rd</sup> as well as 2/3<sup>rd</sup>) on absorption in a PSUs/Autonomous Bodies and have become entitled to restoration of 1/3<sup>rd</sup> commuted portion of pension as per the provisions of this Department's O.M. No. 34/2/86-P&PW dated 5<sup>th</sup> March 1987 after 15 years from the date of commutation or 1.4.85, whichever is later, is regulated vide this Department's O.M. Nos. 4/59/97-P&PW(D) dated 14<sup>th</sup> July 1998, OM No.4/79/2006-P&PW (D) dated 6.9.07 and dated 13.5.08. In pursuance of Government's decision on the recommendations of Sixth Central Pay Commission, instructions have been issued for revision of 1/3<sup>rd</sup> restorable pension of such absorbees vide Deptt. of Pension & Pensioners Welfare's OM of even No. dated 15<sup>th</sup> September 2008.

2. The Deptt. of Pension and PW has received representations that implementation of instructions contained in OM dated 15.9.2008 is resulting in drop in the total amount of 1/3<sup>rd</sup> restored pension plus DR in comparison to total amount of the 1/3<sup>rd</sup> restored pension plus admissible DP & DR as drawn by pensioners.

3. The President is pleased to decide that such absorbtees, whose pre-revised 1/3 restored pension plus admissible DP and DR as on 1.9.2008 works out to be more than the amount of the revised 1/3<sup>rd</sup> restorable pension plus DR on the implementation of the Government's decision on the recommendations of the Sixth Central Pay Commission in terms of instructions contained in OM dated 15.9.2008, shall continue to draw the pre-revised pension plus DP plus DR admissible in terms of orders existed prior to issue of the OM dated 15.9.2008 till such time the restored amount of revised pension in terms of instruction contained in OM dated 15.9.2008 plus admissible DR works out to be more than the pre revised 1/3<sup>rd</sup> restored pension.

4. The Administrative Ministries/ Departments are therefore directed to ensure that wherever the restored amount of the revised pension plus DR of such absorbtees, in terms of instructions contained in OM dated 15.9.2008, becomes less than 1/3<sup>rd</sup> pre revised restored pension plus admissible DP & DR as already drawn, the absorbed employees should be allowed to draw the pensionary benefits admissible to them till such time restored amount of the revised pension in terms of instructions contained in OM dated 15.09.2008 plus admissible DR works out to be more than pre revised 1/3<sup>rd</sup> restored pension plus admissible DP & DR as on 01.09.2008. Necessary entries in the PPOs to this effect shall be made accordingly.

6. This issues with the concurrence of Ministry of Finance (Department of Expenditure) vide their UO No.106/EV/2009 dated 18.05.2009 and C&AG's U.O.No.30 Audit (Rules)/12-2009 dated 5.5.2009.

## **D. Instructions issued vide D/o P&PW's O.M. No 38/37/08-P&PW(A) Dated the,2008)**

***Sub: Implementation of Government's decision on the recommendation of the Sixth Central Pay Commission - Revision of provisions regulating pension/gratuity/ commutation of pension/ family pension/disability pension/ex-gratia lump-sum compensation.***

The undersigned is directed to state that in pursuance of Government's decision on the recommendation of the Sixth Central Pay Commission, the President is pleased to introduce the following modifications in the rules regulating pension, Retirement/Death/Service Gratuity/Family Pension/disability pension and ex-gratia lump-sum compensation under the CCS (Pension) Rules, 1972 (hereafter referred to as Pension Rules) and Commutation of Pension under CCS (Commutation of Pension) Rules, 1981, CCS (Extraordinary Pension) Rules, 1939, etc.

2. These orders apply to Central Government Employees governed by the CCS (Pension) Rules, 1972. Separate orders will be issued by the Ministry of Defence, Ministry of Railways and the AIS Division of the DOPT in respect of Armed Forces personnel, Railway employees and the officers of All India services respectively on the basis of these orders.



## DATE OF EFFECT

3.1 Save as otherwise mentioned in these orders, the revised provisions as per these orders shall apply to Government servants who retire/die in harness on or after 1.1.2006. Separate order have been issued in respect of employees who retired/died before 1.1.2006.

3.2 Where pension/family pension/Gratuity/Commutation of pension, etc has already been sanctioned in cases occurring on or after 1.1.2006, the same shall be revised in terms of these orders. In cases where pension has been finally sanctioned on the pre-revised orders and if it happens to be more beneficial than the pension becoming due under these order, the pension already sanctioned shall not be revised to the disadvantage of the pensioner in view of Rule 70 of the CCS (Pension) Rules, 1972.

## EMOLUMENTS

4.1 The term 'Emoluments' for purposes of calculating various pensionary benefits other than various kinds of Gratuity shall have the same meaning as in Rule 33 of the Central Civil Services (Pension) Rules, 1972.

4.2 Basic pay in the revised pay structure means the pay drawn in the prescribed pay band plus the applicable grade pay but does not include any other type of pay like special pay, etc.

4.3 In the case of all kinds of Gratuity, DA admissible on the date of retirement/death shall continue to be treated as emoluments along with the emoluments as defined in Paragraph 4.1 above.

## PENSION

5.1 A Government servant retiring in accordance with the provisions of the CCS(Pension) Rules, 1972 before completing qualifying service of ten years shall not be entitled to pension but he shall continue to be entitled to service gratuity in terms of Rule 49(1) of the CCS(Pension) Rules, 1972.

5.2 A Government servant retiring in accordance with the provisions of the CCS(Pension) Rules, 1972 after completing qualifying service of not less than twenty years shall be entitled to pension calculated at fifty percent of emoluments or average emoluments whichever is more beneficial to him.

5.3 A Government servant who, -

- (a) on being declared surplus to the establishment in which he was serving, opts for voluntary retirement in accordance with the scheme of Department of Personnel & Training within a period of two months from the date of being declared surplus, or
- (b) on being selected for discharge owing to the abolition of his permanent post, opts for compensation pension in terms of Rule 39 of the CCS(Pension) Rules, 1972 within a period of two months from the date of the communication regarding his selection for discharge

shall be entitled to pension calculated at fifty percent of emoluments or average emoluments whichever is more beneficial to him. The entitlement for pension at this rate will, however, be subject to the following conditions:

- (i) The qualifying service rendered by such Government servant is not less than fifteen years on the date of option for voluntary retirement/compensation pension; and
- (ii) The Government servant would have rendered qualifying service of not less than twenty years had he retired on the date of his superannuation.

5.4 A Government servant who retires on attaining the age of superannuation from a service or post:

- (a) for which postgraduate 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

shall be entitled to pension calculated at fifty percent of emoluments or average emoluments whichever is more beneficial to him. The entitlement for pension at this rate will, however, be subject to the following conditions:

- (i) The actual qualifying service rendered by the Government servant **on the said service or post** is not less than 10 years, and
- (ii) The recruitment rules in respect of the said service or post contain a provision that the service or post is one which carries the benefit of Rule 30 of the CCS(Pension) Rules, 1972.

5.5 The amount of pension in the case of a Government servant who has completed qualifying service of not less than ten years and is allowed to retire on Invalid Pension in terms of Rule 38 of the CCS(Pension) Rules shall be fifty percent of emoluments or average emoluments whichever is more beneficial to the Government servant

5.6 In any other case not covered by the provisions in para 5.3 to 5.5 above, where a Government servant retires in accordance with the provisions of the CCS(Pension) Rules, 1972 before completing qualifying service of twenty years but after completing qualifying service of ten years, the amount of pension shall be proportionate to the amount of pension admissible on completion of qualifying service of twenty years, in terms of para 5.2 above.

5.7 The revised provisions for calculation of pension in para 5.2 to para 5.6 above shall come into force with effect from the date of issue of this O.M. and shall be applicable to Government servants retiring on or after that date.

5.8 The amount of pension shall be subject to a minimum of Rs.3500/- and maximum upto 50% of highest pay in the Government (The highest pay in the Govt. is Rs 90,000 since 1.1.2006).

5.9 The provisions of clauses (a) to (c) of sub-rule (2) of Rule 49 of the Pension Rules shall stand modified to the extent mentioned in para 5.1 to para 5.8 above. The other provisions contained in Rule 49 shall continue to apply.

5.10 The quantum of pension available to the old pensioners shall be increased as follows:-

<b><u>Age of Pensioner</u></b>	<b><u>Additional quantum of pension</u></b>
From 80 years to less than 85 years	20% of basic pension
From 85 years to less than 90 years	30% of basic pension
From 90 years to less than 95 years	40% of basic pension
From 95 years to less than 100 years	50% of basic pension
100 years or more	100% of basic pension

The Pension Sanctioning Authorities should ensure that the date of birth and the age of a pensioner is invariably indicated in the pension payment order to facilitate payment of additional pension by the Pension Disbursing Authority as soon as it becomes due. The amount of additional pension will be shown distinctly in the pension payment order. For example, in case where a pensioner is more than 80 years of age and his pension is Rs.10,000 pm, the pension will be shown as (i) Basic pension=Rs.10,000 and (ii) Additional pension = Rs.2,000 pm. The pension on his attaining the age of 85 years will be shown as (i).Basic Pension = Rs.10,000 and (ii) additional pension = Rs.3,000 pm.

## **GRATUITY**

6.1 The maximum limit of all kinds of gratuity shall be Rs. 10 lakh. Accordingly, first proviso under Rule 50(1)(b) of Pension Rules shall stand modified to the effect that the amount of retirement gratuity or death gratuity payable under this Rule shall in no case exceed Rs. 10 lakh.

## **ADDITION TO QUALIFYING SERVICE**

7.1 In view of revised provisions for computation of pension in para 5 above, the extant benefit of adding years of qualifying service for the purpose of computation of pension shall stand withdrawn with effect from the date of issue of this O.M. Rules 29, 29-A, 30, 48-B and 48-C of the CCS(Pension) Rules, 1972 shall stand modified to this extent.

## **FAMILY PENSION 1964**

8.1 Family pension shall be calculated at a uniform rate of 30% of basic pay in the appropriate pay band plus grade pay in all cases and shall be subject to a minimum of Rs.3500/-p.m. and maximum of 30% of the highest pay in the Government. (The highest pay in the Govt. is Rs.90,000 since 1.1.2006). Rule 54(2) relating to Family Pension, 1964 under Pension Rules shall stand modified to this extent.

8.2 The enhanced family pension under Rule 54(3)(a)(i) shall be payable to the family of a

Government servant **who dies in service** from the date of death of the Government servant for a period of ten years, without any upper age limit. Rule 54(3)(a)(i) shall stand modified to this extent. There will be no change in the period for payment of enhanced family pension to the family in the case of death of a pensioner.

8.3 The quantum of family pension available to the old family pensioners shall be increased as follows:-

<u>Age of family pensioner</u>	<u>Additional quantum of family pension</u>
From 80 years to less than 85 years	20% of basic family pension
From 85 years to less than 90 years	30% of basic family pension
From 90 years to less than 95 years	40% of basic family pension
From 95 years to less than 100 years	50% of basic family pension
100 years or more	100% of basic family pension

The Pension Sanctioning Authorities should ensure that the date of birth and the age of a family pensioner is invariably indicated in the Form 3 (regarding details of family) and the pension payment order to facilitate payment of additional family pension by the pension disbursing authority as soon as it becomes due. The amount of additional family pension will be shown distinctly in the pension payment order. For example, in case where a family pensioner is more than 80 years of age and his/her family pension Rs.10,000 pm, the pension will be shown as (i).Basic family pension=Rs.10,000 and (ii) Additional family pension = Rs.2,000 pm. The family pension on his/her attaining the age of 85 years will be shown as (i).Basic family Pension = Rs.10,000 and (ii) additional pension = Rs.3,000 pm.

8.4 For the purpose grant of Family Pension, the 'Family' shall be categorised as under:

Category-I

- (a) Widow or widower, upto the date of death or re-marriage, whichever is earlier;
- (b) Son/daughter(including widowed daughter), upto the date of his/her marriage/re-marriage or till the date he/she starts earning or till the age of 25 years, whichever is the earliest .

Category-II

- (c) Unmarried/Widowed/Divorced daughter, not covered by Category I above, upto the date of marriage/re-marriage or till the date she starts earning or upto the date of death, whichever is earliest
- (d) 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.  
Family pension to dependent parents unmarried/divorced/widowed daughter will continue till the date of death.

Family pension to Unmarried/ widowed/ divorced daughters in Category II and

dependent parents shall be payable only after the other eligible family members in Category I have ceased to be eligible to receive family pension and there is no disabled child to receive the family pension. Grant of family pension to children in respective categories shall be payable in order of their date of birth and younger of them will not be eligible for family pension unless the next above him/her has become ineligible for grant of family pension in that category.

8.5 The dependency criteria for the purpose of family pension shall be the minimum family pension along with dearness relief thereon.

8.6 The childless widow of a deceased Government employee shall continue to be paid family pension even after her remarriage subject to the condition that the family pension shall cease once her independent income from all other sources becomes equal to or higher than the minimum prescribed family pension in the Central Government. The family pensioner in such cases would be required to give a declaration regarding her income from other sources to the pension disbursing authority every six months.

## **COMMUTATION OF PENSION**

9.1 A Government servant shall continue to be entitled to commute for a lumpsum payment up to 40% of his pension.

9.2 The existing Table of Commutation Value for Pension Annexed to the CCS (Commutation of Pension) Rules, 1981 shall be substituted by a new Table at Annex. I of this O.M.

9.3 The revised Table of Commutation Value for Pension will be used for all commutations of pension which become absolute after the date of issue of this O.M. In the case of those pensioners, in whose case commutation of pension became absolute on or after 1.1.2006 but before the issue of this OM, the pre-revised Table of Commutation Value for Pension will be used for payment of commutation of pension based on pre-revised pay/pension. Such pensioners shall have an option to commute the amount of pension that has become additionally commutable on account of retrospective revision of pay/pension on implementation of the recommendations of the Sixth Central Pay Commission. On exercising such an option by the pensioner, the revised Table of Commutation Value for Pension will be used for the commutation of the additional amount of pension that has become commutable on account of retrospective revision of pay/pension. In all cases where the date of retirement/commutation of pension is on or after the date of issue of this OM, the revised Table of Commutation Value for Pension will be used for commutation of entire pension.

9.4 Provisions of CCS (Commutation of Pension) Rules, 1981 shall stand modified in accordance with para 9.2 and 9.3 above.

## **CONSTANT ATTENDANT ALLOWANCE**

10.1 In the case of pensioners who retired on disability pension under the CCS (Extraordinary) Pension Rules, 1939, for 100% disability (where the individual is completely dependent on somebody else for day to day functions), a Constant Attendant Allowance of Rs. 3000/- p.m. shall be allowed in addition to the disability pension, on the lines existing in Defence Forces. The CCS (Extraordinary) Pension Rules, 1939 shall stand modified to this extent.

## **EX GRATIA LUMP SUM COMPENSATION**

11.1 In terms of Department of Pension & PW O.M.No.45/55/97-P&PW(C) dated 11.9.1998, an ex gratia lump sum compensation is available to the families of Central Government Civilian employees, who die in the performance of their *bona fide* official duties under various circumstances. The amount of this ex-gratia lump sum compensation shall be revised as under:

- |     |   |                |
|-----|---|----------------|
| (a) | Death occurring due to accidents in the course of performance of duties   | Rs. 10.00 lakh |
| (b) | Death occurring in the course of performance of duties attributable to acts of violence by terrorists, anti-social elements, etc.                         | Rs. 10.00 lakh |
| (c) | Death occurring (a) enemy action in international war or border skirmishes and (b) action against militants, terrorists, extremists etc.                  | Rs. 15.00 lakh |
| (d) | Death occurring while on duty in the specified high altitude, inaccessible border posts, etc on account of natural disasters, extreme weather conditions. | Rs. 15.00 lakh |

The Department of Pension & PW O.M.No.45/55/97-P&PW(C) dated 11.9.1998 shall stand modified to this extent.

12. For the purpose of computing average emoluments in the case of Government servants who have opted for fixation of pay in the revised Pay Band and retire within 10 months from the date of coming over to the revised Pay Band, basic pay for 10 months period preceding retirement shall be calculated by taking into account pay as follows:

- (i) For the period during which pay is drawn in revised Pay Structure- Pay drawn in the prescribed pay band plus the applicable grade pay
- (ii) For the remaining period during which pay is drawn in pre-revised scale of pay- Basic pay plus dearness pay and actual D.A. appropriate to the basic pay at the rates in force on 1.1.2006 drawn during the relevant period.

## **SPECIAL PROVISION FOR THOSE WHO RETAIN THE PRE-REVISED SCALE OF PAY.**

13. The pension and death-cum-retirement gratuity of those, who have elected to continue to draw pay in the pre-revised scale of pay in terms of Rule 5 of the Central Civil Services (Revised Pay) Rules, 2008 and have retired or will be retiring after 01.01.2006, shall be regulated as follows:

- (i) The term 'Emoluments' will mean 'Pay' as defined in FR 9(21)(a)(i) and will include Dearness pay and DA upto average AICPI 536 (Base year 1982=100).
- (ii) Pension will be calculated at 50% of emoluments or average emoluments whichever is more beneficial to the employee.
- (iii) Death-cum-retirement gratuity shall be admissible with reference to emoluments at (i) above plus dearness allowance, under the order in force immediately before coming into effect of these orders. The maximum amount of gratuity shall not exceed Rs. 3,50,000/- in terms of Department of Pension and Pensioners Welfare Office Memorandum No. 45/86/97-P&PW(A) (Part-I) dated 27.10.1997.

- (iv) Commutation of pension shall be admissible in accordance with the orders in force immediately before coming into effect of these orders.
- (v) Family pension shall be allowed in accordance with orders applicable prior to the issue of these orders and shall be calculated with reference to basic pay in the pre-revised scale. To the family pension so calculated dearness relief upto average AICPI 536 (Base year 1982=100) at the rate contained in this Department's Office Memorandum No. 42/2/2006-P&PW(G) dated 5.4.2006 shall be added. The amount so arrived at will be regarded as the family pension for regulating payment of dearness relief beyond average AICPI 536.

14. Formal amendments to CCS (Pension) Rules, 1972, CCS (Extraordinary) Pension Rules, 1939 and CCS (Commutation of Pension) Rules, 1981 in terms of the decisions contained in this order will issue in due course. Provisions of the CCS (Pension) Rules 1972, CCS (Extraordinary) Pension Rules, 1939, and CCS(Commutation of Pension) Rules, 1981 which are not specifically modified by these orders, will remain unaffected.

15. The pension/family pension in terms of these orders will qualify for dearness relief beyond average AICPI 536 under the revised pattern being introduced on the recommendations of the Sixth Central Pay Commission.

16. These orders issue with approval of the Ministry of finance Department of Expenditure vide their U.O. No..... dated .....

17. In their application to the employees of the Indian Audit and Accounts Department, these orders issue in consultation with Comptroller and Auditor General of India.

18. Ministry of Agriculture etc. are requested to bring the contents of these orders to the notice of Controller of Accounts/Pay and Accounts Officers and Attached and Subordinate Offices under them on a top priority basis.

## **E. Instructions issued vide D/o P&PW's O.M. No.45/7/2008-P&PW (F) Dated 12<sup>th</sup> July, 2010**

### **Sub:- Implementation of the Government's decision on the recommendation of the Sixth CPC- Revision of provisions regulating special benefits in the cases of Death and Disability in service – payment of ex-gratia lump sum compensation to families of central Govt. employees – modification - regarding -**

The undersigned is directed to say that in this Department's Office Memorandum of even number dated 16<sup>th</sup> March, 2009, it was provided that ex-gratia lump sum compensation to the families of deceased Government servants including from sundry Government sources, such as the Prime Minister's Relief Fund, Chief Minister's Relief Fund, etc. should not exceed the aggregate of Rs. 20 lakhs in each individual case. Para 12 of Annexe to this Department's OM 45/55/97-P&PW(C) dated 11<sup>th</sup> September, 1998 was modified to that extent.

- 2. The matter has been further reviewed and it has now been decided that there

will be **no** ceiling for grant of ex-gratia lump sum compensation in terms of Department of Pension & Pensioners' Welfare's OM No. OM 45/55/97-P&PW(C) dated 11<sup>th</sup> September, 1998 read with OM No.38/37/08-P&PW(A) dated 2<sup>nd</sup> September, 2008 and OM No.45/7/2008-P&PW (F) dated 16<sup>th</sup> March, 2009.

3. The above revised provision will be effective from 1.1.2006.

4. All other terms and conditions in the O.M. dated 11<sup>th</sup> September, 1998 shall remain unchanged.

5. This issues with the concurrence of the Ministry of Finance, Department of Expenditure U.O. No. 361/EV/2010 dated 4<sup>th</sup> June, 2010 .

6. In so far as persons serving in the Indian Audit & Accounts Department, these orders issue after consultation with the Comptroller & Auditor General of India.



## **15. THE ALL INDIA SERVICES (CONDITIONS OF SERVICE-RESIDUARY MATTERS) RULES, 1960.**

In exercise of the powers conferred by sub-section (1) of section 3 of the All India Services Act, 1951 (61 of 1951), the Central Government, after consultation with the Governments of the States concerned, hereby makes the following rules, namely:—

1. **Short title.**—These rules may be called the All India Services (Conditions of Service- Residuary Matters) Rules, 1960.

2. **Power of Central Government to provide for residuary matters.**—The Central Government may, after consultation with the Governments of the States concerned, make regulations to regulate any matters relating to conditions of service of persons appointed to an All India Service, for which there is no provision in the rules made or deemed to have been made under the All India Services Act, 1951 (61 of 1951); and until such regulations are made, such matters shall be regulated:-

- (a) in the case of persons serving in connection with the affairs of the Union, by the rules, regulations and orders applicable to officers of the Central Services, Class I;
- (b) in the case of persons serving in connection with the affairs of a State, by the rules, regulations and orders applicable to officers of the State Civil Services, Class I, subject to such exceptions and modifications as the Central Government may, after consultation with the State Government concerned, by order in writing, make:

<sup>1</sup>Provided that no order granting gratuity and pension to a member of an All India Service or his family members, under the relevant extraordinary pension Rules, applicable to officers of the State Civil Services, Class I, shall be passed by the State Government except after consultation with the Union Public Service Commission:

<sup>2</sup>Provided further that:—

- (i) no order granting any costs incurred by a member of an All India Service in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty, under relevant rules, regulations or orders applicable to officers of State Civil Service, Class I, shall be passed by a State Government except after consultation with the Union Public Service Commission and in cases where there is a difference of opinion between the State Government and the Union Public Service Commission, the matter shall be referred to the Central Government for decision, and
- (ii) an order granting any costs incurred by a member of an All India Service in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty while serving in connection with the affairs of the Union, under relevant rules, regulations or orders applicable to officers of the Central Civil Services, Class I, shall be

<sup>1</sup> Added vide MHA Not. No. 9/2/60-AIS(IIIa) dated 16.05.1961

<sup>2</sup> Added vide MHA Not. No. 9/1/65-AIS(III) dated 02.05.1968 (GSR No.836 dt. 11.05.1968)

passed only by the Central Government after consultation with the Union Public Service Commission.

**3. Power to relax rules and regulations in certain cases.**—Where the Central Government is satisfied that the operation of—

- (i) any rules made or deemed to have been made under the All India Services Act, 1951 (61 of 1951), or
- (ii) any regulation made under any such rule, regulating the conditions of service of persons appointed to an All India Service causes undue hardship in any particular case, it may, by order, dispense with or relax the requirements of that rule or regulations, as the case may be, 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.

<sup>3</sup>**4. Interpretation.**—If any question arises as to the interpretation of these rules, or relating to the application or interpretation of rules, regulations or orders referred to in clauses (a) and (b) of rules 2, the Central Government shall decide the same.

## GOVERNMENT OF INDIA'S DECISIONS

### GOVERNMENT OF INDIA DECISION UNDER RULE 3

**1. Recruitment rules cannot be relaxed under these rules:** - A doubt was raised whether the power of relaxing rules was intended to be applicable to 'recruitment rules' also.

The Government of India have held that the 'recruitment rules' cannot be relaxed under rule 3 of the A.I.S. (Conditions of Service- Residuary Matters) Rules, 1960.

[M.H.A. F.No. 14/2/55-AIS(III).]

**2. Circumstances under which rules and regulations can be relaxed:** - A question arose regarding the extent of the powers vested in the Government under rule 3 of the A.I.S. (Conditions of Service-Residuary Matters) Rules, 1960, to deal with cases involving relaxation of rules and regulations.

The Government of India have held that:—

- (a) undue hardship signifies unforeseen or unmerited hardship to an extent not contemplated when the rule was framed and does not cover any ordinary hardship or inconvenience which normally arises;
- (b) the relaxation should enable the case to be dealt with in a just and equitable manner and not on grounds of compassion however justified: and
- (c) the benefit to be conferred in relaxation of any rule or rules must be of a nature already provided for in the rules; Government are not empowered by this rule to confer benefits which are not contemplated in the rules.

[G.I. MHA letter No. 30/1/63-AIS(II). dated the 1st January, 1966.]

---

<sup>3</sup> Substituted vide DP&AR Notification No. 7/1/73-AIS(III)-H dated 02.01.1975

**IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION**

**Writ Petition (Civil) No. 1374 of 2020**

**Common Cause (A Registered Society)**

**.... Petitioner**

***Versus***

**Union of India & Ors.**

**.... Respondents**

**J U D G M E N T**

**L. NAGESWARA RAO, J.**

**1.** This Writ Petition has been filed in public interest under Article 32 of the Constitution of India for quashing the order dated 13.11.2020 issued by Respondent No.1, which extended the tenure of the Respondent No.2 as Director of Enforcement in the Directorate of Enforcement and for consequential direction to Respondent No.1 to appoint the Director of Enforcement in accordance with the procedure prescribed under Section 25 of the Central Vigilance Commission Act, 2003 (for short, '*CVC Act*').

2. On 19.11.2018, the second Respondent who was working as Principal Special Director in the Directorate of Enforcement was appointed as Director of Enforcement for a period of two years from the date of his assumption of charge of the post or until further orders, whichever is earlier. By an office order dated 13.11.2020, the President of India approved the modification of the order dated 19.11.2018, by amending the period of appointment from two years to three years. The grievance of the Petitioner is that the extension of tenure of the second Respondent to three years is contrary to Section 25 of the CVC Act. It has been averred in the Writ Petition that Respondent No.2 attained the age of superannuation in May, 2020. The initial tenure of two years came to an end on 19.11.2020. In the meanwhile, on 13.11.2020, the tenure of the second Respondent was extended from two years to three years. As the second Respondent attained the age of superannuation in May, 2020, the second Respondent was not holding any post equivalent or above the rank of Additional Secretary to the Government of India on 13.11.2020 when his tenure was extended. Therefore, he was not eligible to be considered for extension of service as Director of Enforcement. It was further stated in the Writ Petition that the modification of the

order of appointment could not have been retrospectively made. It was also alleged that when a procedure is prescribed by the Statute, it has to be strictly followed and whatever could not be done directly cannot be achieved by indirect methods.

**3.** The contentions raised in the Writ Petition were refuted by the Union of India in its counter affidavit by stating that Section 25 of the CVC Act prescribes the minimum tenure of a Director of Enforcement. The extension of tenure of the second Respondent was on the basis of a recommendation made by the Committee headed by the Chief Vigilance Commissioner on 11.11.2020 in view of administrative exigencies. The initial order of appointment of the second Respondent was for a period of two years, strictly in accordance with Section 25 of the CVC Act. For all purposes, the second Respondent is deemed to be in service till 19.11.2020. The second Respondent who was working as Director of Enforcement was holding the office and post not below to that of the post of Additional Secretary to the Government of India and it cannot be said that he was ineligible for extension of his tenure on 13.11.2020. Though there is no provision in the CVC Act for extension or reappointment of Director of Enforcement, section 21 of the

General Clauses Act, 1897 enables the Government to extend the tenure of the second Respondent.

**4.** We have heard Mr. Dushyant Dave, learned Senior Counsel for the Petitioner, Mr. Tushar Mehta, learned Solicitor General of India and Mr. P.S. Narasimha, learned Senior Counsel for the third Respondent, the Central Vigilance Commission. Mr. Dave argued that Section 25 (d) of the CVC Act provides for continuance of the Director of Enforcement for a period of not less than two years from the date of his assumption of the office. The said provision has to be interpreted on the basis of the law declared by this Court in ***Vineet Narain and Ors. v. Union of India & Anr.*<sup>1</sup>**.

According to Mr. Dave, the Central Government has the power to appoint Director of Enforcement on the basis of recommendations of the committee provided an officer is not below the rank of Additional Secretary to the Government of India. The tenure of the office of the Director of Enforcement is for a minimum period of two years from the date of assumption of office and the Director cannot be transferred, except with the consent of the Committee. The extension or curtailment of service dealt with in Section 25 (f) is applicable to officers other than the Director of

---

<sup>1</sup> (1998) 1 SCC 226

Enforcement. Emphasis was laid by Mr. Dave on Fundamental Rule 56, according to which there cannot be any extension of the service of Director of Enforcement. There is no exception carved out in Fundamental Rule 56 for appointment, reappointment/extension of officers other than those who are mentioned in the Rule. Mr. Dave asserted that the order impugned in the Writ Petition suffers from the vice of malice in law as it was passed for extraneous considerations. In support of the said submission, Mr. Dave relied upon a judgment of this Court in ***Smt S.R. Venkataraman v. Union of India and Anr***<sup>2</sup>. He further stated that Section 21 of the General Clauses Act has no application to Section 25 of the CVC Act by relying upon the judgments of this Court in ***Strawboard Manufacturing Co., Ltd. v. Gutta Mill Workers' Union***<sup>3</sup>, ***State of Madhya Pradesh v. Ajay Singh & Ors.***<sup>4</sup>, ***Kazi Lhendup Dorji v. Central Bureau of Investigation & Ors.***<sup>5</sup> and ***State of Bihar v. D.N. Ganguly & Ors.***<sup>6</sup>. Mr. Dave also placed reliance upon a judgment of this Court in ***Prakash Singh & Ors. v. Union of India & Ors.***<sup>7</sup> and the later

---

2 (1979) 2 SCC 491

3 (1953) 4 SCR 439

4 (1993) 1 SCC 302

5 1994 Suppl. (2) SCC 116

6 1959 SCR 1191

7 (2006) 8 SCC 1

orders passed in ***Prakash Singh & Ors. v. Union of India & Ors.*** reported in (2019) 4 SCC 1 and (2019) 4 SCC 13. Mr. Dave emphatically argued that there is no power conferred on the Union of India to extend the tenure of Director of Enforcement and the Union of India cannot take refuge under the plea that important investigations are pending for which reason the tenure of the Director of Enforcement can be extended. There are several competent officers who are eligible for consideration of appointment to the post of Director of Enforcement and they should not be deprived of the opportunity to be appointed in accordance with the procedure prescribed under the CVC Act. Even assuming without conceding that the tenure of Respondent No.2 can be extended, it cannot be for a period of one year when the original appointment was made for a period of two years. He submitted that the nature of duties exercised by the Director of Enforcement would involve supervision of very important investigations. Under the guise of pendency of investigations into matters which have cross-border ramifications, the tenure of the Director of Enforcement cannot be extended periodically.

**5.** The learned Solicitor General of India raised a preliminary objection on the maintainability of the Writ Petition in public



interest filed by the Petitioner. He submitted that the issue essentially relates to a service matter and it is settled law that Writ Petitions in public interest are not maintainable in regard to disputes relating to service. He countered the submissions of Mr. Dave by submitting that the CVC Act was enacted in the year 2003 to give effect to the recommendations of the Independent Review Committee and judgment of this Court in ***Vineet Narain*** (supra). The minimum tenure of at least two years provided in Section 25(d) of the CVC Act is to ensure uninterrupted term of service so that the incumbent acts independently without interference from the executive. It is to insulate the office of Director of Enforcement from extraneous pressures. It was contended by the learned Solicitor General that the words 'not less than two years' have to be read as 'not more than two years', if the argument of the Petitioner is to be accepted. He submitted that the rule of literal construction of a statute has to be followed when there is no ambiguity in the language of the provisions of the Act. Reliance was placed on ***Pakala Narayanaswami v. King-Emperor***<sup>8</sup>, ***Rananjaya Singh v Baijnath Singh & Ors.***<sup>9</sup> and ***Nathi Devi v Radha Devi Gupta***<sup>10</sup>.

---

8 AIR 1939 PC 47

9 (1955) 1 SCR 671

10 (2005) 2 SCC 271

6. Any interpretation contrary to the plain words of a statute would result in rewriting the statute which is not permissible. While accepting that there is no specific provision for extension of the tenure of the Director of Enforcement in Section 25, it was contended that the Union of India has the power to extend the tenure of Director of Enforcement by resorting to Section 21 of the General Clauses Act. The learned Solicitor General referred to the judgment of this Court in ***State of Punjab v Harnek Singh***<sup>11</sup> to submit that it is settled law that the General Clauses Act is a part of every Central Act and has to be read in such Act unless specifically excluded. He placed strong reliance on the judgment in ***Kamla Prasad Khetan & Anr. v Union of India***<sup>12</sup> to contend that modification of an order passed earlier extending the tenure of a Director of Enforcement is permissible subject to the procedure prescribed under the Act for the original appointment being followed. The learned Solicitor General defended the order dated 13.11.2020 as being the result of valid exercise of power on the basis of a recommendation made by the Committee which was constituted for appointment to the post of Director of Enforcement in accordance with the

---

<sup>11</sup> (2002) 3 SCC 481

<sup>12</sup> 1957 SCR 1052

provisions of Section 25 of the CVC Act. The second Respondent has been supervising very important investigations which are at a crucial stage and the Committee was of the opinion that his continuance for a period of one more year was crucial. The learned Solicitor General further submitted that there are no allegations made against the discharge of duties by Respondent No.2. He contended that the question of malice in law does not arise for consideration in this case. The extension of the tenure of the second Respondent is the result of *bona fide* exercise of power for germane considerations. Mr. P. S. Narasimha, learned Senior Counsel appearing for the Central Vigilance Commission adopted the arguments of the learned Solicitor General of India and argued that extension of the tenure of the second Respondent was not made on the whims and fancies of an individual but on the recommendations made by a High Level Committee constituted under the statute. No motives have been imputed against the members of the Committee who have taken into account all relevant material to conclude that the extension of the tenure of the second Respondent is in public interest.

**7.** As we propose to deal with the contentions raised by the Petitioner on their merits, we are not inclined to

adjudicate the preliminary objection taken by the learned Solicitor General regarding maintainability of the Writ Petition at the behest of the Petitioner.

**8.** The statement of objects and reasons of the CVC Act refers to an independent Committee constituted by the Government in September, 1997 comprising Sh. B. G. Deshmukh, Sh. S.V. Giri and Sh. N. N. Vohra to suggest measures for strengthening the agencies involved in anti-corruption activities, inter alia, as part of its efforts against corruption. The report of the Committee was circulated by the Union of India, according to which the Director of Enforcement shall have a minimum tenure of two years. In case of pre-mature transfer of the Director of Enforcement, the Selection Committee headed by the Central Vigilance Commissioner shall make suitable recommendations to Appointments Committee of the Cabinet. The statement of objects and reasons further refers to a judgment of this Court in ***Vineet Narain*** (supra) by which a recommendation of the Independent Review Committee relating to the minimum tenure of two years for Director of Enforcement was approved. It was held in ***Vineet Narain*** that the Director of Enforcement shall have a minimum tenure of two years and that premature transfer for any extraneous reason shall be

approved by the Selection Committee headed by the Central Vigilance Commissioner. Section 25 of the CVC Act pertaining to the appointments of the officers of Directorate of Enforcement reads as thereunder: -

*“25. Notwithstanding anything contained in the Foreign Exchange Management Act, 1999 or any other law for the time being in force,—*

*(a) the Central Government shall appoint a Director of Enforcement in the Directorate of Enforcement in the Ministry of Finance on the recommendation of the Committee consisting of—*

*(i) the Central Vigilance Commissioner — Chairperson;*

*(ii) Vigilance Commissioners — Members;*

*(iii) Secretary to the Government of India in-charge of the Ministry of Home Affairs in the Central Government — Member;*

*(iv) Secretary to the Government of India in-charge of the Ministry of Personnel in the Central Government — Member;*

*(v) Secretary to the Government of India in-charge of the Department of Revenue, Ministry of Finance in the Central Government — Member;*

*(b) while making a recommendation, the Committee shall take into consideration the integrity and experience of the officers eligible for appointment;*

*(c) no person below the rank of Additional Secretary to the Government of India shall be eligible for appointment as a Director of Enforcement;*

*(d) a Director of Enforcement shall continue to hold office for a period of not less than two years from the date on which he assumes office;*

*(e) a Director of Enforcement shall not be transferred except with the previous consent of the Committee referred to in clause (a);*

*(f) the Committee referred to in clause (a) shall, in consultation with the Director of Enforcement, recommend officers for appointment to the posts above the level of the Deputy Director of Enforcement and also recommend the extension or curtailment of the tenure of such officers in the Directorate of Enforcement;*

*(g) on receipt of the recommendation under clause (f), the Central Government shall pass such orders as it thinks fit to give effect to the said recommendation."*

**9.** In so far as the Director of Enforcement is concerned, the appointment is on the recommendation of the Committee constituted by the Central Government. The eligibility for appointment of Director of Enforcement is that a person shall be holding at least the rank of Additional Secretary to the Government of India. Section 25 (d) provides that a Director

of Enforcement shall continue to hold office for a period of not less than two years from the date on which he assumes the office. According to Section 25 (e), the Director of Enforcement shall not be transferred except with the previous consent of the Committee. It is no doubt true, as contended on behalf of the Petitioner, that extension or curtailment of tenure is provided in Section 25 (f) in respect of officers other than that of the Director of Enforcement. The procedure and other conditions of service mentioned in Section 25 are notwithstanding anything contained in the Foreign Exchange Management Act, 1999 or any other law for the time being in force.

**10.** At this stage, it is relevant to refer to the Fundamental Rule 56 which has been relied upon by the Petitioner to buttress the submission that there cannot be any extension of service after a person holding a civil post under the Union of India has attained the age of superannuation. Fundamental Rule 56 reads as follows:-

***“Extracts of provisions in Fundamental Rule 56***

*F.R. 56(a) Except as otherwise provided in this rule, every Government servant shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years:*

*Provided that 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 sixty years.*

*Provided further that a Government servant who has attained the age of fifty-eight years on or before the first day of May, 1998 and is on extension in service, shall retire from the service on expiry of his extended period of service.*

*Or on the expiry of any further extension in service granted by the Central Government in public interest, provided that no such extension in service shall be granted beyond the age of 60 years.*

*(b) A workman who is governed by these rules shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years.*

*(bb) The age of superannuation in respect of specialists included in the Teaching, Non-Teaching and Public Health Subcadres of Central Health Service shall be 62 years.*

*" Provided that for the specialists included in the Teaching sub-cadres of the Central Health Service who are engaged only in teaching activities and not occupying administrative positions, the age of superannuation shall be sixty-five years:*

*Provided further that such specialists of the Teaching sub-cadres of Central Health Service who are occupying*



*administrative positions shall have the option of seeking appointment to the teaching positions in case they wish to continue in service up to sixty-five years."*

*(bbb) The age of superannuation in respect of nursing teaching faculty with M.Sc in Nursing in the Central Government Nursing Institutions shall be 65 years subject to the condition that they continue to function as faculty members after the age of 60 years.*

*(d) No Government servant shall be granted extension in service beyond the age of retirement of sixty years:*

*Provided that a Government servant dealing with budget work or working as a full-time member of a Committee which is to be wound up within a short period of time may be granted extension of service for a period not exceeding three months in public interest;*

*Provided further that a specialist in medical or scientific fields may be granted extension of service up to the age of sixty-two years, if such extension is in public interest and the grounds for such extension are recorded in writing:*

*Provided also that an eminent scientist of international stature may be granted extension of service up to the age of 64 years, if such extension is in public interest and the grounds for such extension are recorded in writing.*

*Provided also that notwithstanding anything contained in any rule, the Central Government may, if considered necessary in public interest so to do, give extension in service to a Cabinet Secretary in the Central Government for such period or periods as it may deem proper subject to the condition that his total term as such Cabinet Secretary does not exceed four years.*

*Provided also that the Central Government may, if it considers necessary in public interest so to do, give extension in service to the Defence Secretary, Home Secretary, Director, Intelligence Bureau, Secretary, Research and Analysis Wing and Director, Central Bureau of Investigation in the Central Government for such period or periods as it may deem proper on a case-to-case basis, subject to the condition the total term of such Secretaries or Directors, as the case may be, who are given such extension in service under this rule, does not exceed two years.*

*Provided also that notwithstanding anything contained in the fifth proviso, the Central Government may, if considers it necessary, in public interest, so to do, give an extension in service for a further period not exceeding three months beyond the said period of two years to the Home Secretary and the Defence Secretary.*

*Provided also that, the Central Government may, if considered necessary in public interest so to do, give extension of service to the Secretary, Department of Space and the Secretary, Department of Atomic Energy, for such period or periods as it may deem proper subject to a maximum age of 66 years.*

*Provided also that the Appropriate Authority shall have the right to terminate the extension of service before the expiry of such extension by giving a notice in writing of not less than three months in the case of a permanent or a quasi-permanent Government servant, or, of one month in the case of a temporary Government servant, or pay and allowances in lieu of such notice."*

**11.** A perusal of the above Rule makes it clear that every Government servant shall retire on attaining the age of 60 years. Posts for which there can be extension beyond 60 years have been specifically mentioned in the Rule and there is no dispute that the post of Director of Enforcement is not mentioned in the Rule for which extension of service can be given. The contention of the Petitioner is that all Government servants are governed by Fundamental Rule 56 and except those holding posts for which an extension beyond 60 years is permissible, other Government servants cannot continue beyond the age of 60 years. The reason

behind the recommendation of the Independent Review Committee that the Director of Enforcement should be permitted to continue in the post for a minimum period of two years without any external influence, which was accepted in the judgment of ***Vineet Narain*** (*supra*) is because of the important duties he performs. A minimum period of service ensures security of tenure and would reduce chances of external influences and extraneous pressures.

**12.** Prescription of a minimum period of two years is pursuant to the directions issued by this Court in ***Vineet Narain*** (*supra*). The non-obstante clause in Section 25 gives overriding power to the said provision, notwithstanding anything contained in any other law for the time being in force. The minimum period of two years which is provided in Section 25 would operate notwithstanding the provisions contained in Fundamental Rule 56(a). In ***Uday Babu Khilwadekar v. Union of India & Ors.***<sup>13</sup>, this Court dealt with the appointment of Shri Karnail Singh to the post of Director of Enforcement in conformity with Fundamental Rule 56 by not fixing his tenure for two years. He was directed to be continued only till the date of his superannuation. A Writ

---

<sup>13</sup> WP (C) of 757 of 2016

Petition was filed contending that he has a right to continue for a period of not less than two years from the date on which he assumes office. This Court by a judgement dated 30.01.2017 held that Section 25 has overriding effect over any other law for the time being in force. In any event, a statutory rule i.e. Fundamental Rule 56(a) cannot override a legislative enactment. In view thereof, this Court directed the Union of India to issue a fresh order of appointment in compliance of Section 25 (d) of the Act permitting Shri Karnail Singh to continue in office for a period of two years from the date on which he assumes office. We, therefore, hold that the initial appointment of second Respondent for a period of two years from 19.11.2018 which extends beyond the date of his superannuation in May, 2020 is in accordance with Section 25 of the CVC Act and cannot be said to be illegal.

**13.** The Petitioner contended that Section 25 (d) which postulates a tenure of two years for a Director of Enforcement cannot be interpreted to confer power on the Government to extend the tenure beyond two years. The Petitioner laid stress on Section 25 (f) which provides for extension or curtailment of the period of tenure of officers other than the Director of Enforcement and submitted that

the legislature did not intend the extension of the tenure of Director of Enforcement beyond a period of two years.

**14.** According to the Union of India, the object of Section 25 (d) is to ensure that the Director of Enforcement shall have a minimum period of two years as recommended by the Independent Review Committee and as directed by the judgement of this Court in ***Vineet Narain's*** case. Reliance was also placed on the word 'minimum' which was used in the report of the Committee and the judgement in ***Vineet Narain***. The words 'not less than two years' cannot be read to mean 'not more than two years' and there is no fetter on the power of the Central Government in appointing the Director of Enforcement beyond a period of two years. Having examined the report of the independent review committee and the judgement of this Court in ***Vineet Narain's*** case, it is clear that the minimum period of two years provided in Section 25 (d) is to prevent extraneous pressure. Prescription of a minimum period of two years is to ensure that the Director of Enforcement is not transferred or shifted from the said post during the course of investigation of serious offences. There is no ambiguity in Section 25 (d) of CVC Act and the words 'not less than two years' simply mean a minimum of two years. There is no scope for reading

the words to mean not more than two years. Reading such a restriction would be contrary to the recommendations of the Independent Review Committee and the judgment of this Court in Vineet Narain. Curtailment of the tenure of a Director Enforcement would be detrimental to the interests of officers who are appointed to the post and have service of more than two years before they attain the age of superannuation. Therefore, we hold that a Director of Enforcement can be appointed for a period of more than two years by following the procedure prescribed under Section 25 of the CVC Act.

**15.** The question that remains to be answered is whether there can be extension of tenure of a person who has been appointed as a Director of Enforcement for a period of two years and who has attained the age of superannuation in the interregnum i.e. before the expiry of two years. We have already held that the initial appointment of the second Respondent cannot be termed to be illegal and that he had a right to continue till 18.11.2020 by virtue of his appointment for a period of two years. For all practical purposes, he should be treated as the Director of Enforcement till that particular date he was holding an office which is not below

the rank of an Additional Secretary to the Government of India. Therefore, he was eligible for extension of tenure.

**16.** We proceed to deal with the pivotal point which is the source of power for extension of the tenure of Respondent No.2. According to the Union of India, extension can be ordered by resorting to Section 21 of the General Clauses Act in the absence of specific provision in the CVC Act. On the other hand, the contention of the Petitioner is that Section 21 of the General Clauses Act has no application to Section 25 of the CVC Act.

**17.** Section 21 of the General Clauses Act reads as follows:-

*“21. Power to issue, to include power to add to, amend, vary or rescind notifications, orders, rules or bye-laws.— Where, by any [Central Act] or Regulations a power to [issue notifications,] orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any [notifications,] orders, rules or bye-laws so [issued].”*

**18.** The object of the General Clauses Act is to shorten the language of Central Acts, to provide as far as possible for uniformity of expression in Central Acts by giving definitions



of a series of terms in common use, to state explicitly certain convenient rules for the construction and interpretation of Central Acts and to guard against slips and oversights by importing into every Act certain common forms and clauses, which otherwise ought to be inserted expressly in every Central Act. In other words, the General Clauses Act is a part of every Central Act and has to be read in such Act unless specifically excluded<sup>14</sup>.

**19.** In ***Kamla Prasad Khetan*** (supra), this Court was concerned with a notification that amended the period of authorization to take over the management of a sugar mill from a period of one year to two years. It was held that the power to issue an order under the Central Act includes the power to amend an order, as provided by Section 21 of the General Clauses Act. However, the power is subject to the verification of a very important qualification that it is exercisable in the like manner and subject to the like sanction and conditions, if any. This Court observed that Section 21 of the General Clauses Act embodies a rule of construction and that rule must have reference to the context and subject-matter of the particular statute to which it is being applied. An earlier judgment in ***Strawboard***

---

<sup>14</sup> State Of Punjab v. Harnek Singh (supra)

***Manufacturing Co. v. Gutta Mill Workers' Union*** (supra) which was relied upon by the Petitioners was distinguished by the Constitution Bench in ***Kamla Prasad Khetan's*** case as not being applicable to the facts of the case. It is necessary at this stage, to examine the judgement of this Court in ***Strawboard Manufacturing Co. v. Gutta Mill Workers' Union*** (supra). An industrial dispute was referred by the State Government to the Labour Commissioner on 18.02.1950 directing that the award should be submitted before 05.04.1950. The award was made on 13.04.1950. The Government by a notification dated 26.04.1950 extended the time for making the award till 30.04.1950. This Court in ***Strawboard Manufacturing Co.*** (supra) held that the State Government did not have authority to extend the time as the adjudicator became functus officio on the expiry of the time fixed in the original order of reference and, therefore, the award passed was without jurisdiction and a nullity. It was observed in the said judgement that Section 21 of the UP General Clauses Act cannot have retrospective operation. The learned Senior Counsel for the Petitioner relied upon the judgement in ***State of Madhya Pradesh v. Ajay Singh & Ors.*** (supra). The question that arose for consideration in the said case is regarding replacement or substitution of the

existing Member for the purpose of reconstitution of a Commission under the Commissions of Inquiry Act, 1952 by invoking power under Section 21 of the General Clauses Act. Section 3 of the Commissions of Inquiry Act gives power to fill a vacancy in the office of a Member of the Commission. As the manner of filling up the office of a Member of the Commission is expressly provided by Section 3, power under Section 21 of the General Clauses Act cannot be invoked to enlarge the government's power to reconstitute the commission in a manner other than that provided in the Commissions of Inquiry Act. In the said background, this Court held that the rule of construction embodied in Section 21 of the General Clauses Act cannot apply to the provisions of the Commissions of Inquiry Act relating to reconstitution of a Commission constituted thereunder since the subject-matter, context and effect of such provisions are inconsistent with such application. This Court examined the applicability of Section 21 of the General Clauses Act to Section 10 (1) of the Industrial Disputes Act, 1947 in ***State of Bihar v. D. N. Ganguly & Ors.*** (supra). It was held therein that there is no power conferred on the appropriate Government by Section 10 (1) of the Industrial Disputes Act to cancel or supersede a reference in relation to an Industrial Dispute pending

adjudication by the Tribunal. It was held that Section 21 of the General Clauses Act cannot vest such power by necessary implication. This Court was of the view that the rule of construction embodied in Section 21 of the General Clauses Act can apply to the provision of a statute only where the subject matter, context and effect of such provisions are in no way inconsistent with such application. The learned Senior Counsel for the Petitioner relied upon the judgment in ***Kazi Lhendup Dorji v. Central Bureau of Investigation & Ors.*** (supra) in support of his submission that Section 21 of the General Clauses Act is not applicable to Section 25 of the CVC Act. The permissibility of withdrawal of the consent given by the State Government under Section 6 of the Delhi Special Police Establishment Act, 1946 was the subject matter of dispute in the said case. This Court was of the opinion that Section 21 of the General Clauses Act does not give the power to issue an order having retrospective operation. It was observed therein that an order revoking an earlier order giving consent under the Delhi Police Special Establishment Act can only have prospective operation and would not affect matters in which action has been initiated prior to the issuance of the order of revocation. It is relevant to point out that this Court was of

the view that it was not necessary to decide the question whether Section 21 of the General Clauses Act can be invoked in relation to consent given under Section 6 of the Delhi Police Special Establishment Act.

**20.** We have already held that Section 25 (f) of the CVC Act has to be read as the tenure of office of the Director of Enforcement is for a minimum period of two years. There is no proscription on the Government to appoint a Director of Enforcement beyond a period of two years. The reasons for fixing the tenure for a minimum period of two years have been discussed in the earlier paragraphs. We are not in agreement with the submissions made by the learned Senior Counsel for the Petitioner that extension of tenure for officers above the rank of Deputy Director of Enforcement provided in sub-Section (f) of Section 25 has to be read as a bar on the power of the Government to extend tenure of the Director of Enforcement. As the tenure of appointment of Director of Enforcement is not a maximum period of two years, a person can be appointed as Director of Enforcement for a period of more than two years. If the Government has the power to appoint a person as Director of Enforcement for a period of more than two years, Section 25 of the CVC Act cannot be said to be inconsistent with Section 21 of the General

Clauses Act. Following the dictum of this Court in ***State of Punjab v. Harnek Singh*** (supra) in which it was held that General Clauses Act has to be read into all Central Acts unless specifically excluded, we are of the considered view that the rule of construction embodied in Section 21 of the General Clauses Act has reference to the context and subject matter of Section 25 of the CVC Act. The judgement of the Constitution Bench of this Court in ***Kamla Prasad Khetan*** (supra) is applicable to the facts of this case and the judgements relied upon by the Petitioner which are referred to above do not have any application to the facts of this case.

**21.** The Petitioner contended that the impugned order of extension of the tenure of the second Respondent is vitiated by malice in law by relying upon a judgement of this Court in ***Smt. S.R. Venkataraman v. Union of India & Anr.*** (supra). In the said judgement, it was held by this Court that any exercise of discretionary power for an unauthorised purpose would be an abuse of power. It is relevant to note that there is no allegation that the power of extension of tenure was exercised for any unauthorised purpose. We are not in agreement with the learned Senior Counsel for the Petitioner that there is malice in law.

**22.** The material on record indicates that the extension of service of the second Respondent was pursuant to the recommendations made by the Committee constituted under Section 25 (a) of the CVC Act. One of the conditions of Section 21 is that the power has to be exercised in the like manner and subject to like sanction. Amendment was made to the earlier order of appointment by the Committee after complying with the conditions in Section 21 of the General Clauses Act.

**23.** The justification given by the Union of India for extension of the tenure of second Respondent is that important investigations are at a crucial stage in trans-border crimes. The decision to extend the tenure of the second Respondent is pursuant to the recommendation made by the high-powered committee. Though we have upheld the power of the Union of India to extend the tenure of Director of Enforcement beyond the period of two years, we should make it clear that extension of tenure granted to officers who have attained the age of superannuation should be done only in rare and exceptional cases. Reasonable period of extension can be granted to facilitate the completion of ongoing investigations only after reasons are recorded by the Committee constituted under Section 25 (a) of the CVC

Act. Any extension of tenure granted to persons holding the post of Director of Enforcement after attaining the age of superannuation should be for a short period. We do not intend to interfere with the extension of tenure of the second Respondent in the instant case for the reason that his tenure is coming to an end in November, 2021. We make it clear that no further extension shall be granted to the second Respondent.

**24.** Subject to the observations made above, the Writ Petition is dismissed.

.....J.  
[ L. NAGESWARA RAO ]

.....J.  
[ B. R. GAVAI ]

**New Delhi,  
September 08, 2021.**