

(94)

GOVERNMENT OF JAMMU AND KASHMIR,
FINANCE DEPARTMENT.

Notification.

Dated Jammu, the 22nd December, 1995.

SRO-333.--In exercise of the powers conferred by proviso to section 124 of the Constitution of Jammu and Kashmir, the Governor is pleased to direct that the following amendments in the Jammu and Kashmir Civil Services, Regulations, Volume I, namely :-

In the said regulations ;

the following shall be inserted as 4th proviso below Art. 226(1) :-

Provided further that :-

- (1) subject to provisions of sub-clause (2) a member of the 'State' Judicial Service shall retire from service in the afternoon of the last day of the month in which he attains the age of 60 years ;
- (2) The High court shall assess and evaluate the record of the Judicial officers for his continued utility before he attains the age of 58 years by following the procedure for compulsory retirement under the service rules applicable to him and if he is not found fit and eligible he will compulsorily retire on his attaining the age of 58 years.

This shall be deemed to have come into effect from 31-12-1992.

By order of the Governor

(Sd.) SUSHMA CHOUDHARY,

Additional Chief Secretary (Finance).

No. FB-II-2/94/Jud./A/227(95).

Dated 22-12-1995.

Copy to the :-

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2. All Commissioners/Secretaries to Government _____.
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4. All Heads of Departments _____.
5. Private Secretary to Chief Justice High Court J&K Jammu.
6. Accountant General, A&E/Audit Srinagar/Jammu.
7. Advocate General, J&K Jammu/Srinagar.
8. Director/Deputy Director, Accounts and Treasuries, Srinagar/Jammu.

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9. Director/Deputy Director, Funds Organisation, Srinagar/Jammu.
 10. Director of Information, J&K, Jammu.
 11. Resident Commissioner, New Delhi.
 12. Principal Northern Zonal Accountancy Training Institute, Jammu.
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 16. Comptroller Agriculture University, Kashmir.
 17. Sadder Treasury Officer/District Treasury Officers/Treasury Officers _____.
 18. All Officers/Section Officers of the Finance Department.
 19. Annual Compendium 1995.Master file w.2.s.c.

(Sd.) M. J. NAJAR,

Director (Codes),
Finance Department.

GOVERNMENT OF JAMMU AND KASHMIR,
FINANCE DEPARTMENT.

O.M. No. A/85(95)-1151.

Dated 29-12-1995.

Subject :--Speedy disposal of the pension cases.

It has been brought to the notice of the Finance Department by the Accountant General that despite circular instructions issued by him in the past inordinate delay in receipt of pension cases in his office has been noticed in as much as about 90% of the cases continued to be received in his office after the retirement of the employees and that too incomplete in many respects. This position entails lot of correspondance with the concerned drawing and disbursing officers resulting in further delay in finalisation of pension cases.

2. In this connection attention is invited to Statutory rules/Government instructions of the relevant rules which *inter-alia* provides that payment of pension in all cases should commence on the 1st of the month in which it is due. For this purpose Heads of Departments and/or other authorities responsible for preparation of pension cases, including responsible for issuing of PPO's are required to observe the time schedule prescribed in the rules. The said time schedule has been prescribed in order to ensure that the work for preparing the pension case(s) is commenced sufficiently in advance taking adequate time at various stages and these should not be allowed to be prolonged. To obviate this, the following procedure with cut off dates have been prescribed under the relevant rules in the manner indicated below :--

- (i) Every Head of Officer is required to prepare a list every six months that is on 1st January and 1st July each year of all Gazetted and non-gazetted government servants who are due to retire within next 24 months of the date. The list is to be prepared in triplicate and should contain the following :--
- Name of Government servant.
 - Designation.
 - Date of birth.
 - Date of retirement.
 - No. and date of sanction and amount of loan and amount outstanding and interest thereon.

A copy of every list is required to be supplied to Accountant General not later than 31st January or the 31st July, as the case may be of that year.

- The head of Office or other authority responsible for preparing the pension cases 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 etc. This process has to be completed in good time and at any date not later than 8 months in advance of the date of retirement of the Government servant.
- The preparation of pension papers viz the reckoning of qualifying service and the calculation of average emoluments should be taken up, eight months before the retirement date. 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 two months before the date of retirement. That office will after necessary scrutiny of the papers issue the PPO not later than one month in advance of date of retirement.
- In order to ensure that the payment of pension should in all cases commence on the first of the month in which it is due the progress of pension cases should be watched by the Heads of Departments and Heads of Offices by means of monthly and quarterly statements so that various cut off dates prescribed in the rules are strictly followed.

3. Retirement of Government servant is automatic on attaining the age of compulsory retirement and in absence of specific orders to the contrary by the competent authority a Govt. servant must retire on due date. It is the responsibility of the administrative authorities to ensure that the Govt. servant under their control so retire as the date of retirement of Government servant is known in advance as per the list prepared by them on 1st January and 1st July each year.

Cases of disputed date of birth, if any, should not be left to be decided at the time of preparation of pension cases. Service Books are supposed to be seen/verified/signed by the Heads of Offices quite frequently viz. on the date of drawal of increment, or an official proceeding on leave, or his promotion/transfer etc. and invariably on account of verification of service for the preceding year. In case of any over-writing, erasure detected in the date of birth of the Government servant in his service book should be taken up immediately for investigation and decided expeditiously under rules.

Vide SRO-406 dated 10-10-1966 the classification of employees as superior/inferior has been dispensed with. After dispensing the said classification all Government servants regardless of the job they are assigned are treated as superior. Cases are received in Finance Department

for declaring some categories of employees as inferior on the plea that their counterparts in other Departments have been declared as an inferior in the past. This issue has been examined in the Finance Department and it has been clarified vide No. A/13(61).21 dated 8-1-1986 that declaring of any category of Government employees at this stage with retrospective effect, as inferior is violative of the basic principles in consideration whereof SRO-406 dated 10-10-1966 has been issued. Finance Department do not agree as policy to declare any post as inferior for retrospective benefit and the Departments were also advised not to initiate any case on the subject for concurrence of the Finance Department.

5. A Government servant can retire voluntarily from service any time after completing 20 years/40 completed six monthly period of qualifying service or 45 years of age provided that he shall give in this behalf a notice in writing to the appointing authority at least three months before the date on which he wants to retire. The rules provide that Government servant will not be allowed to retire until after the fact that Government servant has completed 20 years qualifying service has been got verified by the Accountant General. Rules also provide that a Government servant who has elected to retire under this Article and has given necessary intimation to that effect to the competent authority shall be precluded for withdrawing his election subsequently except with the specific approval of the authority competent to fill the appointment provided his request for withdrawal is made within the intended date of retirement and he is in a position to establish that there has been material change in the circumstances in consideration of which the notice was originally given.

It has been found that the Heads of Offices/Heads of Departments do not follow the rules strictly on the subject with the result that the voluntary retirement pension cases which are not covered under the rules are forwarded to Accountant General for authorising the pensionary benefits. Some time such cases are sent to Accountant General without verifying the title of voluntary retirement in consultation with the Accountant General as required under the rules and in some cases the officers not competent to do so permit the officials to withdraw their election for voluntary retirement subsequently.

6. It has also been noticed that cases where provisional pension under rules become available are also kept pending for long by the Departments. The rules on the the subject clearly lay down the procedure for payment of provisional pension where the Departmental or judicial proceeding is instituted against the officer who has retired on attaining the age of compulsory retirement or otherwise. The rules provide that the officer shall be paid during the period commencing from the date of retirement to the date on which upon conclusion of such proceedings, final orders are passed, a provisional pension not exceeding the maximum pension which would have

been admissible on the basis of qualifying service up to the date of his retirement but no gratuity or Death-cum-Retirement Gratuity be paid until the conclusion of such proceedings and issue of final orders thereon.

7. Rules also provide that events like spells of extraordinary leave, period spent on training, period of suspension, period of interruption between the date of dismissal, removal or compulsory retirement and re-instatement on appeal etc. etc. which have bearing on the total qualifying service of a Government servant shall be noted in the service book of the concerned with clear remarks by the concerned Head of Office or other competent authority whether these will or will not count for pension.

8. The rules also provide that the Head of Office shall write to the concerned departments at least two years before the anticipated date of retirement of a Government servant for issue of NDCs in respect of a particular Government servant. It has generally been found that the NDCs remain outstanding against a retiree even on the date of his retirement and consequently he suffers for non-authorisation of pensionary benefits. The pension processing authorities should strictly follow the rules on the subject and in cases where any department does not furnish NDCs in a reasonable time the same should be brought to the notice of higher authorities and the retiring government servant should not be made to suffer for non-action of any particular department or officer. It may be pointed out here that a consolidated form viz Form 8 has been prescribed for issue of NDC by the pension processing authority on the basis of various NDCs received from different quarters and therefore individual NDC have not to be furnished to the Accountant General unless these have remained outstanding in the said Form.

In any case where the NDCs remain outstanding the rules provide for the remedy. In this connection the attention is invited to ART. 168-AA, Art-168-B, 168-C and Government Instruction thereunder.

9. In a meeting chaired by Chief Secretary on 9-8-1995 in his office chambers, it was decided that Administrative Department will be held responsible for settling the pension cases and reporting the progress thereof.

10. All the Additional Chief Secretaries/Commissioners/Secretaries to Government and Heads of Departments are therefore requested to kindly impress upon all the offices/organisations/units subordinate to them to observe the rules strictly and ensure that the pension cases of the Government servants are processed according to cut off dates and also ensure that the pension papers are sent to Accountant General within the prescribed dates in

complete form to avoid inordinate delay. Any deviation in this behalf would be viewed seriously and disciplinary action shall be taken against the officers responsible for it.

Receipt of this circular may kindly be acknowledged.

(Sd.) M. J. NAJAR.

Director (Codes),
Finance Department.

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GOVERNMENT OF JAMMU AND KASHMIR.
FINANCE DEPARTMENT.

O.M. No. A/36(94)-1152.

Dated 29-12-1995.

CIRCULAR

Attention is invited to Rule 17 and Rule 31 of Jammu and Kashmir Work Charged Employees Service Rules, 1972 which are reproduced below :-

"17 : For counting of Work Charge Service with regular service for retirement benefits, half of the workcharged service will be allowed to count towards pension at the time of absorption in regular employment, subject to the following conditions :-

- (a) Service in the Work Charged Establishment should have been in a job involving whole time employment and not part time or a portion of the day ;
- (b) Service on the Work Charged Establishment should be in a type of work or job for which regular posts could not have been sanctioned Malics, Chowkidars, Khalasis etc.
- (c) The service on the Work Charged Establishment should have been one for which the payment is made either on monthly basis or daily rates computed and paid on monthly basis and which though not analogous to the regular scale of pay should bear some relation in the matters of pay to those being paid for similar jobs being performed by the employees in the regular establishment ;
- (d) The service on Work Charged Establishment should have been continuous and followed by absorption in regular employment without a break ;
- (e) Subject to the above conditions being fulfilled the past service on work Charged Establishment shall be established from authentic record of service available."

"31 : These rules shall apply *mutatis mutandis* to the whole time contingent paid staff in all Departments.

2. A doubt has been expressed as to whether Rule 17 of the Rules *ibid* apply to Daily Wage Workers on their conversion to regular temporary establishment.

3. The issue has been examined a number of times in the Finance Department As will be seen from the above, the Jammu and Kashmir Work

Charged Employees Service Rules, 1972 as amended from time to time read with Art. 177-A of Jammu and Kashmir Civil Service Regulations apply *mutatis mutandis*, as to whole time contingent paid staff as well. There is no restriction as to whether the salaries are paid monthly or at daily rates computed and paid on monthly basis.

4. It is accordingly clarified that whole time contingent paid staff includes Daily Rated Workers (excluding casual/seasonal workers) and they shall be entitled to the same benefits on their regularisation as are provided in the Jammu and Kashmir Work Charged Employees Service Rules, 1972.

(Sd.) M. J. NAJAR.

Director (Codes),
Finance Department.

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