

Compilation of rule based interpretation/clarifications/advice given by Department of Pension & Pensioners' Welfare to Ministries/Departments during April, 2024

1. Timely grant of pension (verification of certificate related issues) :

S. No.	Relevant Rules/Orders	Case Description	Brief Advice of Policy Desk of DoPPW
1.	<p>OM No. 38/09(20)/2020-P&PW (A) (6721) dated 30.11.2021</p>	<p>Referring Ministry –Department of Personnel & Training</p> <p>Reference No. 41034/2/2023-Estt.(Res.I) dated 19.03.2024</p> <p>DoPT had informed that Parliamentary Committee on welfare of SC and ST has expressed concern over the deprivation of the pensionary benefits to retired government servants on the grounds of non-verification of caste certificate. DoPT has further stated that as per the work allocation of Department of Pension and Pensioners' Welfare, as per Allocation of Business Rules, formulation of a policy for timely disbursement of pension to the retired Government employees is the subject matter concerning DoPPW and has requested this Department to take necessary action for issue of instructions to ensure timely disbursement of the pensionary benefits to the retired employees.</p> <p>As per the 32nd report the Parliamentary Committee has examined the following 02 issues, as briefed:</p> <p>I. The background on verification of caste certificate- The Committee took suo-moto cognizance that many PSUs while offering VRS, insist for the verification of caste certificate at the time of exit of SC/ST employees. The onus of verification is placed on the retiring SC/ST employee and in case of denying the same the SC/ST employee is charge sheeted.</p>	<p>Desk A ID Note No.38/09(02)/2020-P&PW (A) (6721) dated 29.04.2024.</p> <p>As per the 32nd Report, the Parliamentary Committee has examined the issues relating to delay in verification of caste certificate and has recommended that (i) Maharashtra Act XXIII, 2001 may be suitably amended in tune with the Constitution of India as per DoPT's guidelines and that (ii) DoPT/Ministry of Social Justice should prepare a draft legislation to this effect so as to ensure timely verification of caste certificate thereby enabling meticulous streamlining of the process of verification of caste certificate speedily and in a time bound manner. The Committee has the opinion that legislation to this effect is essential to assess and analyze the strict implementation of the various directions/ instructions issued by the State Government & DoPT to avoid deprivation of pensionary benefits of the retired persons. The Committee has therefore, recommended the Government (i.e. DoPT/ Ministry of Social Justice) to introduce a Bill to make the use of false caste certificate a punishable offence and to fix a time limit for verification of caste certificate.</p>

		<p>It is seen that the Committee sought report from DoPT in the matter and as informed by DoPT, the responsibility for issue and verification of caste/community lies with the concerned State/UT Government and DoPT has issued various instructions from time to time to the States/UTs and the Central Government Ministries/Departments including their attached, subordinate offices, PSUs, Autonomous Bodies etc for timely and effective verification of caste certificates by the appointing authority through the State/UT within a reasonable time i.e. six months after the joining of the Government servant. The Committee was also informed that as per OM No. 38/09(20)/2020-P&PW (A) (6721) dated 30.11.2021, the instructions issued by Department of Pension and Pensioners' Welfare, do not provide for withholding of the retirement benefits under any other circumstances, including on account of pending verification of caste status of the employee</p> <p>II. Delay in verification of caste certificate - The Committee observed that the pensions and terminal benefits of retired employees have been withheld by the managements of various PSUs/Bodies due to pendency of caste verification with the States/UT/State Scrutiny Committees. The Committee also observed pendency of caste verification of retired/VRS BSNL employees with Maharashtra Govt.</p> <p>Recommendations of the Committee, in brief, are as under:</p> <p>i. The responsibility for issue and verification of caste/community lies with the State/UT Government concerned. However, some of the States have inordinately delayed the process of verification of caste certificates thereby adversely affecting the interests of SC/ST employees in services. The Committee, in view of the position, recommended that Maharashtra Act XXIII, 2001 may be suitably amended in tune with the Constitution of India as per DoPT's guidelines.</p> <p>ii. The Committee further recommended that DoPT/Ministry of</p>	<p>In so far as pensionary benefits are concerned, DoPPW has already issued instructions on the subject vide OM dated 30.11.2021 to all Ministries/Departments reiterating that unless departmental or judicial proceedings are pending against a retiring employee, the pensionary/retirement benefits of the retiring employee should not be withheld or delayed on the ground of pendency of verification of caste certificate. This was also informed to DoP&T vides this Department's OM of even number dated 09.03.2022 and 28.06.2022 and also to Lok Sabha Secretariat vides OM of even number dated 22.07.2022.</p> <p>Further, it is stated that the Parliamentary Committee has also taken note of the above instructions issued by this Department vide said OM dated 30.11.2021, at para 1(e) in their 32nd Report.</p> <p>Thus the main issue in the 32nd Report is on verification of caste certificate and the above recommendation has been made to DoPT/Ministry of Social Justice. Accordingly, the recommendation of the Committee relates to DoPT/Ministry of Social Justice and does not pertain to this Department.</p>
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2. Payment of Gratuity:

2	Rule 51 of CCS (Pension) Rules, 1972	<p>Referring Ministry – Ministry of External Affairs</p> <p>Reference No. Q/Pen/585/103/1995 dated 14.02.2024</p> <p>Shri G joined Ministry of External Affairs on 04.01.1995. He expired on 12.11.1995. He had also rendered service from 06.07.1992 to 03.01.1995 in the office of Accountant General, Haryana, Chandigarh. In his service record, he had included name of his father Shri R. MEA has stated that his father also expired on 13.04.2019 and it was learnt that only his step mother is available in his family. It has been intimated that parents of deceased Government servant had filed CWP in Punjab and Haryana High Court for grant of family pension and other benefits. The matter is still sub-judice. MEA has declined the claim for grant of family pension to them.</p> <p>In view of the above, MEA has requested for clarification on the following points:</p> <p>(a) if the admissible balance on account of Gratuity and CGEGIS can be granted to the legal heirs of the deceased father (of the deceased Government official) on the production of a succession certificate; or</p> <p>(b) if this Ministry should wait for the final judgment on CWP which had been filed on behalf of father of deceased</p>	<p>Desk B ID Note No. 28/03/2024-P&PW(B) dated 01.04.2024.</p> <p>It is stated that the Central Government employees are governed under CCS (Pension), Rules, 1972 for grant of pensionary benefits. Rule 50(6) of these rules defines the family for the purpose of death gratuity which includes Father and Mother. Further, Rule 51 of CCS(Pension) rules provides the payment of gratuity. It states as under:</p> <p>Rule 51(1) (a) The gratuity payable under rule 50 shall be paid to the person or persons on whom the right to receive the gratuity is conferred by means of a nomination under rule 53.</p> <p>(b) If there is no such nomination or if the nomination made does not subsist, the gratuity shall be paid in the manner indicated below-</p> <p>(i) if there are one or more surviving members of the family as in [Clauses (i), (ii), (iii), (iv) and (v)] of sub-rule (6) of Rule 50, to all such members in equal shares;</p> <p>(ii) If there are no such surviving members of the family as in sub-clause (i) above, but there are one or more members as in [Clauses (vi), (vii), (viii), (ix), (x) and (xi)] of sub-rule (6) of Rule 50, to all such members in equal shares.</p> <p>Further, Rule 52 of the CCS(Pension) rules stipulates that</p>
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		Govt. servant and his stepmother.	<p>where a government servant dies while in service or after retirement without receiving the amount of gratuity and leaves behind no family and has made no nomination or the nomination made by him does not subsists amount of death gratuity / retirement gratuity shall be payable to the person in whose favour a succession certificate in respect of the gratuity in question has been granted by a court of law.</p> <p>Since, in the above matter, family member of the deceased Government servant was available, therefore, death gratuity would have been granted in accordance with rule 51 of CCS(Pension) Rules, 1972. MEA should not wait for the outcome of Court matters unless Hon'ble court has specifically directed for withholding of payment of gratuity.</p>
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3. Revision of pension after retirement:

<p>3.</p>	<p>Rule 65 of CCS (Pension) Rules, 2021</p> <p>And Rule 6 of the CCS (Commutation of Pension) Rules, 1981</p>	<p>Referring Ministry –Department of Posts</p> <p>Reference No. 27- 13/2023-Pension dated 27.02.2024.</p> <p>Shri S retired on 29.02.2020 and while reviewing his pension case, it was observed that stepping of pay granted to him with effect from 01.01.1996 was wrong. Subsequently, the official’s last pay was reduced and recovery of over payment was made from his pay and allowances.</p> <p>Shri S filed OA in Hon’ble CAT, Principal Bench Delhi for restoration of his pay and all consequential benefits. Hon’ble CAT directed to refund the recovered amount and re- fix the pension of the applicant wrt original pay as done in the case of similarly placed persons.</p> <p>D/o Posts examined the matter for waiver of recovery in terms of instructions dated 02.03.2016 issued by DoPT and referred the matter to Department of Expenditure for waiver of recovery. DoE accorded approval for waiver of recovery with directions to fix responsibility of erring officials and also advised D/o Posts that fixation of pension as per last pay drawn will lead to continuation of error of pay fixation that occurred in 1996 will lead to setting up of wrong precedence and loss to exchequer.</p> <p>DoLA advised that it is the sole discretion of the DoP whether to abide by the directions of court or challenge the same before the higher authority in case the directions issued are against the policies of the Department. DoP implemented the Court order. Thereafter, DoP referred the</p>	<p>Desk A ID Note No.38/03(09)/2024-P&PW (A) (9545) dated 10.04.2024.</p> <p>The matter has been examined in this Department in view of the concerned Rules 30, 57(b)(v), 63(1)(c), and 66 of CCS Pension Rules 2021 (erstwhile Rules 32, 59(b)(v) of CCS Pension Rules 1972) and D/o Posts was advised as under:</p> <p>i. The matter relates to revision of pay and not revision of pension.</p> <p>ii. The error in pay fixation has been detected before retirement of the ex official. As such the case is not covered under Rule 66 of CCS (Pension) Rules 2021 (erstwhile Rule 70) regarding revision of pension after authorization. The provisions of this rule are applicable in those cases where revision of pension becomes necessary on account of detection of a clerical error subsequently after retirement. As such DoPPW has no comments in pay revision related matters.</p> <p>iii. The Rule 63(1) (c) of CCS (Pension) Rules 2021 also provides that the Accounts Officer shall verify correctness of the emoluments for the period of 24 months preceding the date of retirement.</p> <p>iv. Also, DoP should scrupulously follow the provisions of Rule 30 of CCS(Pension) Rules 2021 (erstwhile Rule 32) for periodic verification of qualifying service on each occasion after a government servant has completed 18 years of service</p>
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		<p>matter to this Department on the issue of fixation of pension by taking last pay as ordered by the Hon'ble CAT or at reduced pay after rectifying the error occurred in 1996.</p> <p>This Department in earlier cases had clarified that Rule 59(b)(v) of CCS(Pension) Rules 1972 is very clear and need no further clarification and similar provisions are also available in chapter 7 of the Civil Accounts Manual for the HoD and Pay & Accounts Officer. DoP was also asked to bring this to the notice of Accounts Officer in this regard. Instructions had been issued by DoP in this regard to all postal circles.</p>	<p>and on his being left with 5 years service before superannuation so that issues relating to wrong fixation of pay/recovery etc. are settled in time.</p> <p>As per rule 31 & 32 of CCS (Pension) Rules, 2021 [earlier rule 33 & 34 of CCS (Pension) Rules, 1972], on retirement of a Government servant, his pension is fixed on the basis of the last pay or average emoluments for the last 10 months, whichever is more beneficial to him.</p> <p>In view of the extant rules and views of DOE regarding fixation of pension as per the last pay drawn will lead to continuation of an error that occurred in 1996 by the administrative Department.</p> <p>Since, the matter involves compliance of Court Orders, D/o Posts was advised to take an administrative decision in the matter as per existing instructions in the interest of Government.</p>
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4. Interest on delayed payment of Gratuity and Commutation:

<p>4.</p>	<p>Rule 65 of CCS (Pension) Rules, 2021</p> <p>And Rule 6 of the CCS(Commutation of Pension) Rules, 1981</p>	<p>Referring Ministry –Department of Posts</p> <p>Reference- PE/2/2024-Pension-DOP</p> <p>Shri. T while in service was suspended after being detained by CBI on 27.04.2007 and the suspension continued until his retirement on 31.12.2008. Due to a pending criminal case, only provisional pension was granted, and DCRG was withheld as per Rule 69(1)(a) of CCS Pension Rules 1972. The retired officer was later acquitted by the Hon'ble Court on the grounds of doubts but the CBI filed an appeal against the said order which is still pending. As the DCRG was not released after the appeal filed by CBI, the applicant filed an OA, which was allowed by the Hon'ble Tribunal with the following observations:</p> <p>(a) Regularize the period of suspension from 27.04.2007 to 31.12.2008</p> <p>(b) Grant all consequential benefits arising thereon</p> <p>(c) Release all monetary benefits due to the applicant by way of retirement gratuity</p> <p>The Department's appeals against the orders were dismissed by the Hon'ble High Court and the Hon'ble Supreme Court, leading to the implementation of the order. Subsequently, another OA was filed by Shri. T seeking interest on delayed monetary benefits. The Hon'ble Tribunal, in its order, directed the respondents to pay interest at a rate of 9% per annum on delayed payments</p>	<p>Desk E ID Note No.1/1(22)/2024-P&PW(E) dated 03.04.2024.</p> <p>The matter has been examined and the comments of this Department are as under:</p> <p>(i) Regarding interest on commutation of pension, as per Rule 6 of the CCS(Commutation of Pension) Rules, 1981, in cases where the commuted value of pension is paid after retirement, the reduction of the amount of commuted pension from the monthly pension becomes operative from the date on which the Commuted value of pension is paid. As per Rule 10A of CCS(Commutation of Pension) Rules, 1981, the commuted amount of the pension is restored on completion of fifteen years from the date, the reduction of pension on account of commutation becomes operative in accordance with Rule 6. Since the pensioner continues to receive full pension till the date of payment of commuted value of pension, the question of payment of any interest on delayed payment of commutation of pension does not arise.</p> <p>(ii) As regards interest on delayed payment of gratuity, Rule 65 of CCS (Pension) Rules, 2021 states as under:-</p> <p>“(1) In all cases where provisional pension or provisional family pension or provisional gratuity has not been sanctioned in accordance with these rules or where the payment of pension or family pension or gratuity has been authorised later than the date when its payment</p>
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	<p>from 22.02.2018 to the date of respective payments. The said order was challenged by the Department of Post before the Hon'ble High Court, which was dismissed.</p> <p>The commuted value of pension was paid to Shri T on 21.10.2021 and he received full pension till September, 2021. As per existing guidelines, it was subsequently reduced to 60% for the next 15 years. The payment of interest on DCRG with the rate of GPF applicable from time to time has been made to Shri T .</p> <p>Now, Department of Post has sought advice of this Department for making the payment of interest on DCRG/CVP, since the Court has directed to pay the interest @9% which is different from GPF rate.</p>	<p>becomes due, including in the cases of retirement otherwise than on superannuation, and it is clearly established that the delay in payment was <u>attributable to administrative reasons or lapses, interest shall be paid on arrears of pension or family pension or gratuity at the rate and in the manner as applicable to General Provident Fund</u> amount in accordance with the instructions issued from time to time.</p> <p>Provided that no interest under this sub-rule shall be payable if the delay in payment was caused on account of failure on the part of the Government servant or the pensioner or the member of the family of the Government servant to comply with the procedure laid down by the Government for processing the pension or family pension case.”</p> <p>(iii) As the subject regarding delayed payment of leave encashment and pay arrears is dealt by the Department of Personnel & Training, therefore, Department of Posts may take up the matter with them.</p>
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5. Counting of past service:

<p>5.</p>	<p>Rule 26 of CCS(Pension) Rules, and OMs dated 28.10.2009 and 11.06.2020</p>	<p>Referring Ministry –Department of Agricultural Research and Education (DARE)</p> <p>Reference No. CA-5/11/2024- CAU and ASRB (e-6011) dated 28.03.2024</p> <p>Shri S has joined the Central Agricultural University, Imphal on 18.05.2016 after tendering technical resignation from a state university in Jammu. He had joined previous State university on 18.06.2007 and was covered under OPS as the State had OPS till 31.12.2009. He has represented for counting of his past service and continuation under OPS in the new organization.</p> <p>Department had requested to provide clarification on whether Shri S who was covered under OPS in the State university would be covered under OPS on joining Central Autonomous body after 01.01.2004.</p>	<p>Desk B ID Note No. 28/03/2024-P&PW(B) dated 09.04.2024.</p> <p>Instructions have been issued by this Department on counting of past service rendered in one autonomous body on mobility to another autonomous body on or after 01.01.2004 vide OMs dated 26.07.2005, 28.10.2009 and 11.06.2020.</p> <p>For counting of past service on mobility from one autonomous body service to another, in terms of DoPPW OMs dated 26.07.2005, 28.10.2009 or 11.06.2020, following conditions are required to be fulfilled:</p> <p>(i) In the cases where mobility from the autonomous body to another has taken place on or after 01.01.2004, the employees should have joined in the autonomous body prior to 01.01.2004. The autonomous body was having pension scheme similar to CCS(Pension) Rules, 1972 and the employee was covered under the provision of the pension scheme similar to CCS (Pension) Rules, 1972 in his previous service.</p> <p>(ii) The employee has moved from autonomous body to another after submitting technical resignation from the previous organization.</p> <p>(iii) The pro-rata pension liability for the period of service rendered by the employee in previous organization is transferred by the autonomous body to another.</p> <p>In the case referred by the Department, applicant has joined previous autonomous body after 01.01.2004, therefore, he is not</p>
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			fulfilling above conditions of counting of past service on mobility to another autonomous body on or after 01.01.2004.
6.	Rule 26 of CCS(Pension) Rules, and OMs dated 28.10.2009 and 11.06.2020	<p>Referring Ministry – Jamia Millia Islamia University</p> <p>Reference No.- Gen537/Pen.& S.B./R.O. dated 19.03.2024</p> <p>University has referred Para 2 (iii) of the OM No. 7/5/2012-P&PW(F)/B dated 12.02.2020 which states that</p> <p>"On mobility from Central Government service to a Central or State Autonomous Body service having National Pension System with provision of retirement/death gratuity for its employees similar to that in the Central Government, the service rendered in the Central Government would be counted from grant of gratuity. The Government will discharge its gratuity liability by paying the amount of retirement gratuity for the service rendered in the Government to the Central or State Autonomous body. This procedure shall be followed mutatis mutandis in respect of NPS employees going over from one autonomous body to another autonomous body or from an autonomous body to Central Government/Department / organisation both having National Pension System with provision of retirement / death gratuity for its employees similar to that in the Central Government".</p> <p>University has requested to clarify as to whether the provisions of the aforementioned O.M. are applicable in Jamia Millia Islamia (A Central Autonomous</p>	<p>Desk B ID Note No. 28/03/2024-P&PW(B) dated 09.04.2024.</p> <p>The Department of Pension and Pensioners' Welfare had notified the CCS (Payment of Gratuity under NPS) Rules, 2021 for grant of gratuity to Central Government employees covered under NPS. Prior to notification of these rules, benefit of retirement gratuity and death gratuity were extended vide OM dated 26.08.2016 to Government employees cover under the NPS on the same terms and conditions as are applicable under the CCS(Pension) Rules, 1972.</p> <p>Instruction were issued by this Department vide OM No. 7/5/2012-P&PW(F)/B dated 12.02.2020 for grant of retirement gratuity or transfer of gratuity liability for counting of past service for the purpose of grant of gratuity of combined service on mobility of employee covered under NPS from one organization to another, after tendering technical resignation from previous organization. Counting of service on mobility from Central Government service to autonomous body or vice-versa or between to autonomous bodies in accordance with OM dated 12.02.2020 would be possible only when both the organizations have similar gratuity schemes.</p> <p>Since, the calculation of gratuity under CCS (Pension) Rules, 1972 or CCS (Payment of Gratuity under National Pension System) Rules, 2021 and the Payment of Gratuity Act, 1972 are different, therefore, the counting of past service in accordance with instructions dated 12.02.2020 for the purpose of grant of gratuity is not available in the organization having gratuity under the Payment of Gratuity Act, 1972 for their employees.</p>

		Body) having Payment of Gratuity Act, 1972 Scheme for its employees covered under NPS.	
7.	<p>Rule 26 of CCS(Pension) Rules, 1972</p> <p>OMs dated 26.07.2005 and 28.10.2009</p>	<p>Referring Ministry – Department of Fisheries</p> <p>Reference : ID note dated 28.03.2024</p> <p>Smt. A joined NFDB w.e.f. 04-07-2008 on Direct Recruitment. Before joining NFDB, she was working at a Central autonomous organization under D/o Commerce wef 23-05-2001. Her service at previous body was pensionable under Old Pension Scheme. NFDB was however established by the Government in year 2006 and it follows NPS.</p> <p>After joining, she requested NFDB to count her previous service under Old Pension Scheme. Her request was turned down on the plea that NFDB was established in 2006 and only NPS was applicable in NFDB. Aggrieved, she filed WP before the Hon'ble High Court and obtained a stay from the Court against subscription under NPS.</p> <p>The High Court has decided the case in favour of Smt. A. The High Court has held that Smt. A was initially appointed as Field Supervisor on 02.03.2001 in previous body and covered under OPS and thereafter she applied for the post of Executive Assistant(Tech.), through proper channel. After receiving intimation from NFDB, she attended the interview after obtaining due permission from the Head Office through proper channel. Thus, it is evident that she has not concealed her employment particulars either before NFDB or previous body. Therefore, NFDB was well aware of the</p>	<p>Desk B ID Note No. 28/03/2024-P&PW(B) dated 19.04.2024.</p> <p>It is submitted that the Department of Pension and Pensioners' Welfare administers pension related policy matters in respect to Central Government civil employees under CCS(Pension) Rules. The service matters of employees of autonomous bodies do not come under the jurisdiction of this Department. The NPS was introduced for Central Government employees w.e.f. 01.01.2004 vide Ministry of Finance (Department of Economic Affairs) Notification dated 22.12.2003. NPS is mandatory for all new recruits to the Central Government service (except armed forces) from 01.01.2004. On introduction of NPS, the CCS(Pension) Rules, 1972 were amended. Accordingly, CCS(Pension) Rules, 1972 are not applicable to Central Government employees joined on or after 01.01.2004.</p> <p>However, this Department had issued instructions vide OMs dated 26.07.2005 and 28.10.2009 on counting of past service on mobility from government service / autonomous body to another Government /autonomous body service on or after 01.01.2004 after submitting technical resignation from previous service.</p> <p>The OM dated 28.10.2009 provides the benefit of counting of past service under the CCS(Pension) Rules, 1972 was extended to those employees who were initially appointed before 1.1.2004 in Central Autonomous Body covered by the Old Pension scheme and who resigned to join a Central Government Department / Office or a Central Autonomous Body having pensionable establishment on or after 01.01.2004.</p>

		<p>fact that she was the regular employee of previous body.</p>	<p>Subsequently, this Department had issued instructions dated 11.06.2020 giving one time for counting of past service for those employees who joined Central Government / Central Autonomous body under NPS during 1.1.2004 to 28.10.2009 after submitting technical resignation from service of Central Govt. / Central Autonomous Body or a State Government / State Autonomous Body and who fulfill the conditions for counting of past service in terms of this Department's O.M. dated 28.10.2009, for induction in old pension scheme and to get their past service rendered in the Central / State Government or Central / State Autonomous Body counted for the purpose of pensionary benefits on their final retirement from the Central Government / Central Autonomous Body, subject to fulfillment of all other conditions of counting of such past service in terms of DPAR's O.M. dated 29.8.1984 read with this Department's O.M. dated 7.2.1986 as amended from time to time. This OM was issued only to give option to those who could not avail the benefit of OM dated 28.10.2009 because of their joining prior to issue of these instructions which are applicable w.e.f. 01.01.2004 itself.</p> <p>Hence, case of Smt. A is not covered as per the OM dated 28.10.2009 and 11.06.2020 as she was joined an Autonomous Body after 01.01.2024 which was not having pensionable establishment as mandated by these OMs.</p> <p>However, Department may examine the feasibility of implementation of court order on the basis of above facts and accordingly decide implementation or challenge of the above court order.</p>
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6. Family pension:

8.	Rule 50 of CCS(Pension) Rules, 2021	<p>Referring Organization: – Government of Puducherry</p> <p>Reference : letter dated 09.012024</p> <p>Late Shri N worked as Peon in Govt. of Puducherry who expired on 8.3.2010 while in service and survived with two wives namely Smt. M (1st Wife) and Smt. A (2nd Wife).</p> <p>During the process of payment of terminal benefits it was found that both the wives approached the court for obtaining legal heirship. In the case filed, 2nd wife, her two children and mother of the Govt. servant were plaintiff and Govt. of Puducherry and first wife were Defendants.</p> <p>(iii) Hon'ble Court decreed the suit as per terms and conditions entered into between the plaintiffs and the third respondent and the terms of compromise shall form part of the decree. The terms of compromise memo by the Hon'ble Court were as follows:</p> <ul style="list-style-type: none">(a) The plaintiffs and defendant No. 3 agreed that Smt. A and Smt. M are the wives of the deceased Shri N. Smt. M is first wife of the deceased and Smt. A is 2nd wife and two children of 2nd wife are legitimate children of the deceased.(b) Smt. M has no objection to pay the future family pension from the date of decree to Smt. A(c) First wife would get the other terminal benefits and one fifth of arrear of family pension till the date of decree. Remaining family pension arrear would be paid to 2nd wife and further family pension also.	<p>Desk E ID Note No. 1/1 (20)/2024-P&PW(E) dated 02.04.2024.</p> <p>The matter has been examined and the comments of this Department are as under:</p> <p>(a) Sub-rule 6 of Rule 50 of CCS (Pension) Rules, 2021, clearly mentions that the family pension shall be payable to the members of the family of the deceased Government servant or pensioner in the following order, namely:-</p> <ul style="list-style-type: none">(i) subject to provisions of sub- rule (8), widow or widower, (including a post-retrial spouse and judicially separated wife or husband),(ii) subject to provisions of sub-rule (9), children (including adopted children, step children and children born after retirement of the pensioner),(iii) subject to provisions of sub-rule (10), dependent parents (including adoptive parents) of the deceased Government servant or pensioner,(iv) subject to provisions of sub-rule (11), dependent siblings (i.e. brother or sister) of the deceased Government servant or pensioner, suffering from a mental or physical disability,
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		<p>Govt. of Puducherry mentioned that in order to comply with the order of Hon'ble Court, the following clarification required:</p> <ol style="list-style-type: none"> a. As per Government of India's decision under Rule 54 (15) of CCS (Pension) Rule, 1972, the second wife is not entitled to family pension. b. As per Government of India's decision (2) under Rule 54 of CCS (Pension) Rules, an entitled member of the family cannot forgo his/her claim. Hence gratuity shall be payable to all the eligible members in equal share as per Rules 51 of CCS (Pension) Rules, 1972. <p>It was informed that Smt. M deserted the deceased after a week time from date of her alleged marriage. She did not take care of the deceased. Furthermore, no issue were born to her from the deceased. There has been no mention about divorce between 1st wife and the deceased. Accordingly, the 2nd marriage of the deceased with Smt. A without taking divorce from the 1st wife can be considered illegal.</p>	<p>Explanation. For the purposes of this rule 'widow' and 'widower' shall mean, a spouse legally wedded to the deceased Government servant or the pensioner</p> <p>(b) Sub Rule 8 (g) of Rule 50 CCS (Pension) Rules 2021 states that where the deceased Government servant or pensioner is survived by a widow without any child eligible for family pension but has left behind eligible child or children from a void or voidable marriage, the child or children from the void or voidable marriage who fulfil the eligibility conditions mentioned in sub-rule (9) shall be entitled to the share of family pension which the mother would have received at the time of the death of the Government servant or pensioner had the marriage not been void or voidable and on the share or shares of family pension payable to such a child or children or to a widow ceasing to be payable, such share or shares, shall not lapse, but shall be payable to the widow or to the child or children otherwise eligible, in equal shares, or if there is only one widow or child, in full, to such widow or child.</p> <p>Provided that if the deceased Government servant or pensioner is survived by the widow with child or children eligible for family pension, on the share of family pension payable to the widow ceasing to be payable, such share shall be payable to her eligible child or children in accordance with clause (c) sub-rule (9).</p> <p>(c) As per Rule 47(1)(a) and (b) of CCS (Pension) Rules 2021, the Gratuity payable under Rule 45 shall be paid to the person or persons on whom the right to receive the gratuity is conferred by means of a nomination under Rule 46. In case, there is no such nomination or if the nomination made does not subsist,</p>
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			<p>then to the family as explained under Sub-rule (6) of Rule 45 below:</p> <p>wife or wives including judicially separated wife or wives in the case of a male Government servant;</p> <p>husband, including judicially separated husband in the case of a female Government servant;</p> <p>sons including stepsons and adopted sons;</p> <p>unmarried daughters including stepdaughters and adopted daughters;</p> <p>widowed or divorced daughters including stepdaughters and adopted daughters;</p> <p>father including adoptive parents in the case of individuals whose personal law permits adoption;</p> <p>mother including adoptive parents in the case of individuals whose personal law permits adoption;</p> <p>brothers including stepbrothers who are suffering from any disorder or disability of mind including the mentally retarded or physically crippled or disabled without any limit of age and brothers, including stepbrothers, below the age of eighteen years, in other cases;</p> <p>unmarried sisters, widowed sisters and divorced sisters including stepsisters;</p> <p>married daughters; and</p> <p>children of a pre-deceased son.</p> <p>(d) Sub-rule 50 (1) of CCS (Pension) Rules, 2021 states that where a Government Servant dies, the family of the deceased shall be entitled to a family pension from the date following the date of death of the Government servant or the retired Government servant, as the case may be.</p> <p>2. Accordingly, the case may be proceed as per above</p>
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			provisions of the CCS (Pension) Rules, 2021. The family pension and Death benefits of Late Shri N is to be shared between the Smt. M and eligible child born from the 2nd wife. The Government of Puducherry, may, also, as deemed, record the same under due process of law to deviate from the judgement passed by the Hon'ble Court in this matter.
9.	Rule 50 of CCS(Pension) Rules, 2021	<p>Referring Ministry – Ministry of Statistics & Programme Implementation</p> <p>Reference No. A-38012/2/2021-Ad.II</p> <p>Shri P joined government service on 08.08.1990 in Department of Programme Implementation and expired on 13.07.1991. He left behind his wife Smt. A and 1st daughter namely B (D.O.B.- 19.9.1989). His 2nd daughter C (D.O.B.- 26.9.1991) was born posthumously. He was on the strength of Department of Programme Implementation and the pension matter of Deptt. of PI was dealt by the PAO (Cabinet Affairs). Later on, in the year 1999, Deptt. of Programme Implementation was merged with the Ministry of Statistics. At present, Ministry of Programme Implementation comes in purview of Pay & Accounts Office (PI), Ministry of Statistics & PI.</p> <p>PPO for family pension was issued for Smt. A by Cabinet Affairs in 1991. Smt. A re-married on 17.10.1993. Thereafter, PAO (Cabinet Affairs) issued a fresh PPO in 1997 in favor of 1st daughter Ms. B and she started getting family pension.</p> <p>Ms. B requested for grant of family pension to Ms. C. She informed that she was receiving family pension and she got married in April, 2018. She stated that State Bank of India stopped her pension vide their letter dated 29.06.2016 and started recovering the excess amount of pension paid beyond</p>	<p>Desk E ID Note No. 1/1(25)/2024-P&PW(E) dated 12.04.2024.</p> <p>The matter has been examined and the comments of this Department are as under:-</p> <p>(i) The Department of Pension and Pensioners Welfare has notified the Central Civil Services (CCS) (Pension) Rules, 2021 on 20.12.2021 in supersession of the Central Civil Services (Pension) Rules, 1972. As far as considering this case matter in the light of sub rule 2 (d) of Rule 87 of CCS (Pension) Rule, 2021 by Ministry of Programme Implementation it can be stated that there has been no pendency of providing the death gratuity and family pension in the instant case. The case is only pending due to granting of family pension to the next eligible child of the deceased government servant.</p> <p>(ii) As per Sub-rule 50 (9) (h) of CCS (Pension) Rules, 2021, Rule, the disability of Ms. C existed during the life time of her mother who is alive but became ineligible for family pension due to her remarriage. She will be considered for granting of</p>

		<p>attaining 25 years of age i.e. on 19.9.2014. She has requested to provide her the dues of family pension upto April, 2018 (the date of her marriage). She has also informed that Varsha's mental situation is not fine and that she has been receiving medical treatment since 2008.</p> <p>As M/o PI have no basis to confirm the cutoff date since when Ms. C is disabled,, therefore, they decided that Ms C was mentally disabled from 21.03.2023 i.e. the date of issue of certificate. Ms. C is unmarried does not have any source of income. Ms. C attained the age of 25 years in Sept, 2016.</p> <p>Ministry has sought clarifications on the following points :</p> <p>(i) Family pension for the period 26.09.2016 to 28.04.2018 needs to be granted to whom as both the daughters of Late Sh P appear to be eligible for family pension subject to Third Proviso to Rule 54(6) of CCS(Pension) Rules, 1972 .</p> <p>(ii) For the period from 29.04.2018 to 20.03.2023 it appears that Ms. C is eligible for Family pension subject to condition until she gets married or until she starts earning her livelihood. It is not clear as to what document can be accepted for ascertaining her eligibility as per income criteria for past period.</p> <p>(iii) For the period from 21.03.2023 Ms. C appears to have become eligible for family pension for life as disability certificate has been issued on 21.03.2023.</p>	<p>family pension as disabled child for life after the issuance of disability certificate on 21.3.2023. Accordingly, Ms. C is eligible for receiving family pension after her elder sister Ms. B attained the age of 25 years i.e. after 19.9.2014 and the family pension will be paid to her considering her as dependent unmarried daughter. The excess amount as family pension paid to the elder sister Ms. B till 29.6.2016 beyond her attaining the age of 25 years on 19.9.2014 is being recovered by the bank. There is no question about to whom the payment of family pension be made during the period 26.9.2016 to 28.4.2018 as Ms. C became eligible for family pension after 19.9.2014. Ms. C will continue to receive pension as dependent unmarried daughter till 21.3.2023 or till her marriage and then from 22.3.2023 she is eligible for receiving family pension for life as dependent disabled child of the government servant. Her marriage after 21.3.2023 will not affect payment of family pension to her. An OM dated 26.10.2022 has been issued by DOPPW clarifying grant of family pension under CCS (Pension) Rules, 2021 to a child or sibling of a deceased government servant/pensioner suffering from mental or physical disability.</p> <p>(iii) The income criteria of Ms. C is to be decided by the administrative department as per Sub-rule 50 (12) of CCS (Pension) Rules, 2021.</p> <p>(iv) Therefore, the dates as per the clarifications sought and the clarifications are as follows:</p>
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			<p>a) From 26/9/2016 to 28/4/2018 - Younger dependent unmarried daughter will receive family pension. Excess pension paid to elder sister is already getting recovered.</p> <p>b) 29/4/2018 to 20/3/23 - Younger dependent unmarried daughter will receive family pension. Income certificate is to be decided as per satisfaction of Administrative authority.</p> <p>c) 20/3/23 onwards – Ms. C shall continue to receive family pension for life as mentally disabled child invoking relevant Rule 50(9)(h). The disability arose during the lifetime of the mother since she is alive. Marriage of Ms. C would not have any effect on the family pension.</p>
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7. Relaxation of rules :

10	Rule 88 of CCS(Pension) Rules, 1972	<p>Referring Department – Department of Posts</p> <p>Reference No. 99-14/2013-Pen (9487) dated 19.02.2024 and OM of even number dated 19.03.2024.</p> <p>Shri M was initially appointed as Gramin Dak Sevak (GDS) from 23.03.1983 to 25.08.1999 and was appointed as Postman w.e.f. 26.08.1999 till his retirement on superannuation on 31.01.2009. He rendered qualifying service for 9 years 5 months and 6 days.</p> <p>As per Rule 49 of CCS (Pension) Rules 1972 (now rule 44), minimum 10 years of qualifying service is required for grant of pension. Further, 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. Accordingly, he was not entitled for any pension.</p> <p>Sh. M filed court cases for grant of pension. Hon'ble Court directed to re- examine the case in light of Rule 88 and issue a speaking order. A reasoned speaking order was issued to him and it was decided that counting of past GDS service rendered by him towards the qualifying service for pension could not be considered for relaxation of CCS (Pension) Rules 1972 by invoking Rule 88. He then filed another application before Hon'ble CAT Calcutta for pension.</p> <p>In the meantime, a decision regarding service of Gramin Dak Sevaks was received, in which Hon'ble SC observed that <i>there is no provision under the law on the basis of which any period of the service rendered by the respondents in the capacity of GDS could be added to their regular tenure in the postal department for the</i></p>	<p>Desk A ID Note No.38/03(07)/2024-P&PW (A) (9528) dated 09.04.2024.</p> <p>The matter has been examined in this Department and the observations are as under:</p> <p>In view of the Apex court decision, DoP has already taken a Policy decision on 25.11.2020 that no further relaxation on case-to-case/en-masse basis will be considered under Rule 88 of CCS (Pension) Rules, 1972. Any deviation from this policy decision will have cascading effects.</p> <p>Above decision of the Department not to relax the requirement of qualifying service was well ratified by Hon'ble CAT and Hon'ble HC Calcutta, in earlier OAs/WPs. However, in the instant case filed by the applicant, he had sought relief on the basis of relaxation granted to similarly situated person who was having less than 9 yrs and 9 months service and granted pension.</p> <p>In the High Court, it has been informed the Hon'ble Court that the case of Sh. M is not identical to case of the other case but the dissimilarities have not been explained properly to Hon'ble HC.</p> <p>The judgments of Hon'ble HC are based on the principle of similar treatment to similarly circumstanced persons. Therefore, DoP needs to</p>
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	<p><i>purpose of fulfilling the period of qualifying service on the question of grant of pension.</i></p> <p>The Apex Court also stated in para 2-(i) that - <i>In the event the Central Government or the postal department has already issued any order for pension to any of the respondents, then such pension should not be disturbed and in respect of the other respondents, who have not been issued order for pension, the concerned ministry may consider as to whether the minimum qualifying service Rule can be relaxed in their cases in terms of Rule 88 of the 1972 Rules.</i></p> <p>In view of above judgement, the Postal Service Board took a decision vide letter no. 99-24/2012 dated 25.11.2020 that <i>"there cannot be a single definition of undue hardship that can be applicable to all cases. Hence all cases similar to the cases tagged with the SLP may be taken up as per Rule 49 of CCS(Pension) Rules,1972 only where an inbuilt relaxation of three months has already been provided. No further relaxation on case-to-case/enmasse basis will be considered under Rule 88 of CCS (Pension) Rules, 1972."</i></p> <p>7. In the case filed by Shri M, Hon'ble Tribunal allowed the application and directed to consider the case of Shri M as has been done in other cases relied upon by the applicant in his application. The order was challenged by DoP, however, the same was also dismissed by Hon'ble High Court.</p> <p>8. DoP again considered his case and in the light of PSB decision dated 25.11.2020, rejected the case of Sh. M by issuing a speaking order stating that the case of Sh. M is not similarly circumstanced with the case of others relied upon by him. Aggrieved, Sh. M filed petition before Hon'ble HC Calcutta for implementation of CAT order. The Hon'ble HC set aside the said speaking order and directed the respondents to execute the Order dated 03.02.2022 passed in the original application condoning the short fall of service period of the petitioner up to the extent of minimum qualifying service for the purpose of granting pension and disburse</p>	<p>ensure that such court cases of sensitive nature including huge financial implications and cascading effects, must be defended properly.</p> <p>In the other case referred by the applicant, DoPPW had agreed for relaxation of qualifying service under Rule 88 vide Note dated 09.07.2015 on the grounds that his appointment as Group-D was delayed due to administrative reasons in holding of DPC in the year 2002 instead of 2001 and also in view that compliance of order of CAT Calcutta was involved in the matter. As such this case is different from the case of Sh.M.</p> <p>It is clear that the case of Sh. M is not identical to the other case. His case may be similar to a case where this Department had advised DoP to take an administrative decision as compliance of CAT Order was involved after dismissal of SLP by Hon'ble Supreme Court.</p> <p>From the order of Hon'ble HC in the Contempt petition, it appears that the Department has already taken decision to implement the court order. Therefore, this Department may not have any further comments in the case of Shri M.</p> <p>However, it is pertinent to mention that on the basis of judgement of Hon'ble Supreme Court; DoP has taken a policy decision not to relax qualifying service in the matter of Gramin Dak Sevaks. Also the matter is very sensitive having cascading effects with huge financial implications keeping in view the large number of such Gramin Dak Sevaks. DoP may also assess the repercussions of such court decisions and must ensure that the court cases are dealt properly at</p>
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		all consequential benefits.	<p>HQ level as per extant instructions without delays and there should be proper monitoring of all such cases having financial implications.</p> <p>Therefore, D/o Posts may consult D/o Expenditure as there are possibilities of huge financial implications due to demands from similarly placed employees who have short fall of minimum qualifying service of 10 years required for pension.</p>
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8. Disciplinary proceedings at the time of retirement :

11.	Rule 5 of CCS (Payment of Gratuity under NPS) Rules, 2021	<p>Referring Ministry/ Department – Cabinet Secretariat (SR)</p> <p>Reference No. -2/1/2023-Vig. Cell dated 15.03.2024.</p> <p>A disciplinary proceeding was initiated against Shri T under rule 14 of CCS(CCA) Rules, 1965 for entering into second marriage while having his first wife living, by issuing a Charge-sheet dated 31.03.2021.</p> <p>Shri T remained absent from duty without intimation w.e.f. 09.07.2020. Later, it was ascertained that Shri T was lodged in Jail subsequent to an FIR filed by Ms. M on 10.07.2020. As per the Judgement of Hon'ble Court, Ms. M got married to Shri T on 21.03.2020 and he was step father to daughter of Ms M. However, as per his service records, the name of his wife is mentioned as Smt. S.</p> <p>Shri T retired under suspension on attaining the age of superannuation on 31.03.2021. Shri T joined the present department on re- employment basis on 18.07.2006 after serving in Military service from 1981 to 2001. Upon his joining on re-employment basis, he was placed under National Pension System.</p> <p>The charges regarding second marriage framed against him were found to be proved. Since the CO retired on attaining the age of superannuation on 31.03.2021 under suspension, therefore, as stipulated under sub-rule (2) (a) of Rule 5 of Central Civil Services (Payment of Gratuity under National Pension System) Rules, 2021, the disciplinary proceedings initiated against him vide Memorandum dated 31.03.2021 were continued under this rule and</p>	<p>Desk B ID Note No. 28/02/2024-P&PW(B) dated 09.04.2024.</p> <p>It is stated that the National Pension System (NPS) was introduced for Central Government employees w.e.f. 01.01.2004 by Ministry of Finance (Department of Economic Affairs) vide Notification No. 5/7/2003- ECB & PR dated 22.12.2003. Consequent upon introduction of NPS, CCS(Pension) Rules, 1972 were amended and these rules are applicable to employees joined Central Government service on or before 31.12.2003.</p> <p>Subsequently, the benefit of retirement gratuity and death gratuity had been extended to the Central Government employees covered under National Pension System vide Department of Pension & Pensioners' Welfare's OM No.7/5/2012-P&PW(F)(B) dated 26.08.2016 on the same terms and conditions as are applicable under the CCS (Pension) Rules, 1972. Therefore, provisions of rule 9 of these rules were also applicable for grant of gratuity to Central Government employees joined service on or after 01.01.2004.</p> <p>Subsequently, this Department has notified Central Civil Services (Payment of Gratuity under National Pension System) Rules, 2021 for regulating gratuity related matters of Central Government employees covered under NPS. These rules are effective from</p>
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	<p>concluded by the same Disciplinary Authority who had commenced it.</p> <p>2.5 Rule 5 of Central Civil Services (Payment of Gratuity under National Pension System) Rules, 2021 regarding Right of President to withhold gratuity states that-</p> <p>"(1) The President reserves to himself the right of withholding gratuity, either in full or in part and of ordering recovery from gratuity of the whole or part of any pecuniary loss caused to the Government, if, in any departmental or judicial proceedings instituted while the Government servant was in service, in service, the retired Government servant is found guilty of grave misconduct or negligence:</p> <p>Provided that the Union Public Service Commission shall be consulted before any final orders are passed by the President under this rule:</p> <p>(2) a. The departmental proceedings referred to in sub-rule (1), shall, after the retirement of the Government servant, be deemed to be proceedings under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service:</p> <p>Provided that in all cases where the departmental proceedings are instituted by an authority subordinate to the President, that authority shall submit a report recording its findings to the President.</p> <p>b. No gratuity shall be payable to the Government servant until the conclusion of the departmental or judicial proceedings referred to in sub-rule (1) and issue of final orders thereon."</p> <p>In terms of Rule 5 (1) of CCS (Payment of Gratuity under NPS) Rules, 2021, the Disciplinary Authority in the present case is the President, therefore , a proposal seeking approval of the Hon'ble</p>	<p>the date of its notification i.e. 24.09.2021. These rules were framed in line with the provisions of the CCS(Pension) Rules, 1972. However, the provision of amendment made in these rules vide notification dated 07.10.2022 have not yet been carried out in the CCS(Payment of Gratuity under NPS) Rules, 2021.</p> <p>In the case referred by the Department, the CO had superannuated from service on 31.03.2021 i.e. before applicability of the CCS(Payment of Gratuity under NPS) Rules, 2021. Hence, provisions of these rules to be made applicable retrospectively may not be tenable.</p> <p>However, since, the benefits of retirement gratuity and death gratuity was extended to Central Government employees vide OM dated 26.08.2016 on the same terms and conditions as are applicable under the CCS(Pension) Rules, 1972, therefore, provisions of these rules may be made applicable in the present case also. In that case, the amendment to these rules vide notification dated 07.10.2022 would also be applicable.</p>
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