

Compilation of Rule Based Interpretation/Clarifications/Advice Given by Department of Pension & Pensioners' Welfare to Ministries/Departments During March, 2024

1. Power to withheld or withdrawal of pensionary benefits and effect of disciplinary proceedings:

S. No.	Relevant Rules/Orders	Case Description	Brief Advice of Policy Desk of DoPPW
1.	Rule 8 of the CCS(Pension) Rules, 2021	<p>Referring Ministry – Department of Telecommunications</p> <p>Reference No. - 07-09/2021-Vig.I (Pt.) dated 14.02.2024</p> <p>Department of Telecommunications vide Note dated 14.02.2024 has informed that Sh. N was posted as Director in Government of Jharkhand and during the posting, an FIR was lodged against him under section 13-1(a) of Prevention of Corruption Act 1988 in Ranchi Police Station on 21.12.2020. The said case was under investigation and charge sheet was not filed. Later, Govt of Jharkhand intimated that the FIR was not made on direction of court but on the basis of order of Cabinet Secretariat and Vigilance Department of the said Govt. Thereafter, Special Vigilance Court, Ranchi, informed that the case has been instituted.</p> <p>3. DoT has also informed that in the absence of guidelines for grant of VC for the purpose of retirement in such cases where FIR has been filed or a case has been registered by the concerned government</p>	<p>Desk A, ID Note No. 38/03(08)/2024-P&PW (A) (9541) dated 21.03.2024.</p> <p>The matter has been examined in this Department.</p> <p>2. In the matter it is stated that the relevant Rules 8(3), Rule 8(4)(c) and Explanation (1) (a) & (b) under Rule 8 of the CCS (Pension) Rules, 2021, provide as under :</p> <p><i>8(3) In the case of Government servant who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings instituted under rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 are continued under sub-rule (2), a provisional pension as provided in sub-rule (4) shall be sanctioned.</i></p> <p><i>8(4) (c) No gratuities shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon.</i></p> <p><i>Explanation - For the purpose of this rule,-</i> <i>(1) (a) departmental proceedings shall be deemed to</i></p>

	<p>against the officer, VC was granted in respect of Sh. N subject to the clarifications from DoPT. Sh. N retired on 31.08.2023.</p> <p>4. DoPT clarified that they have not issued any specific guidelines for grant of vigilance clearance for the purpose of retirement. DoT has therefore, sought advice of DoPPW in the matter.</p> <p>8. Therefore, the administrative Ministry is required to examine whether the conditions mentioned in Rule 8(3) were existing in the case of Sh.Niranjan Kumar on the date of his retirement i.e. 31.08.2023. If the conditions mentioned under rule 8(3) existed on the date of his retirement, he was entitled for sanction of provisional pension under the said rule and consequently, Rule 8(4) (c) of the said rules would also be applicable.</p>	<p><i>be instituted on the date on which the statement of charges is issued to the Government servant or pensioners, or if the Government servant has been placed under suspension from an earlier date, on such date; and</i></p> <p><i>(1)(b) Judicial proceedings shall be deemed to be instituted-</i></p> <p><i>(i) In the case of criminal proceedings, on the date on which the complaint or report of a police officer, of which the Magistrate takes cognizance, is made; and</i></p> <p><i>(ii) In the case of civil proceedings, on the date the suit is filed in the court.</i></p> <p>3. It is stated that there is no provision for issue of vigilance clearance under Rule 8 of the CCS (Pension) Rules, 2021 for grant of retirement benefits. However, whether the conditions mentioned in Rule 8(3) were existing in the case of Sh. N on the date of his retirement is relevant. If the conditions mentioned under rule 8(3) existed on the date of his retirement, he was entitled for sanction of provisional pension under the said rule and consequently, Rule 8(4)(c) of the said rules would also be applicable.</p> <p>The administrative Ministry was advised to accordingly, examine the matter and take necessary action as per aforesaid rules.</p>
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2. Recovery from Pension and Gratuity

<p>2.</p>	<p>DoPT OM dated 18.08.1980</p>	<p>Referring Ministry/ organization – Directorate General of Assam Rifles</p> <p>Reference No. II.11015/Pen/NE/(Ser Pen)/2024/1010 dated 18.01.2024</p> <p>The DGAR has informed that some ex-Hav of Assam Rifles, who were pre- maturely retired from service in the year 2008 by invoking Rule 48(1) (b) of the CCS (Pension) Rules 1972, have been granted the benefit of notional pay and service for the intervening period from the date of pre-mature retirement till superannuation as per orders of Hon'ble High Court of Guwahati dated 18.01.2023 in each case.</p> <p>Hon'ble Gauhati High Court in W.A. 359 , 356 and 352 of 2022, vide its judgments dated 18.01.2023, has ordered as under:</p> <p><i>para 12 - "We are of the considered view that in the absence of reasons in the Review Service Sheet by the Review Board that the appellant is required to be retired in Public Interest, as held by the learned single judge, the impugned order directing premature release of the appellant cannot be sustained in law and the same is ordered accordingly."</i></p> <p><i>para 13 - "Considering the fact that the appellant had attained the age of superannuation in the meantime, no</i></p>	<p>Desk A ID Note No. 38/03(05)/2024-P&PW (A) (9482) dated 06.03.2024.</p> <p>The matter has been examined in the Department.</p> <p>In this connection, it is stated that as per GOI, Dept. of Personnel and AR OM No.F.4 (11)-PU/79 dated 18.08.1980 (Appendix-5 Swamy's Pension Rules, 1972 Compilation-Instructions regarding premature retirement), clarifications were issued on reinstatement in premature retirement. However, there are no specific instructions available with reference to the instant matter referred to by DGAR.</p> <p>Further, it is stated that the Hon'ble HC in its Order dated 18.01.2023 has not given any specific orders regarding recovery of pension and other benefits already drawn for the intervening period by the applicants/ pensioners during which the principle of "No work, No pay' has been ordered by the Hon'ble Court. Therefore, since no recovery has been advised, DGAR may seek clarificatory order from the Hon'ble HC in this regard in consultation with Department of Legal Affairs.</p>
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useful purpose will be served by directing reinstatement in service of the appellant. This court is of the considered view that ends of justice will be served, if the order of the learned Single Judge is suitable modified and the respondent authorities are directed to calculate the pay and service benefits payable to the appellant with effect from the date he was prematurely retired till the date he would have been superannuated. It is ordered accordingly. The respondents will calculate the pay and service benefits attributable to the appellant from the date of his premature retirement till the date he would have ordinarily superannuated from the service. It is however made clear that the appellant will not be entitled to any salary from the period he was prematurely retired till the date he attained the age of superannuation on the principle of "no work, no pay". However, the pay and service benefits as directed above would be entitled to the appellant."

para 14 - "Accordingly, we set aside the impugned order dated 28.07.2022 of prematurely retiring the appellant from service. The impugned order of the learned Single Judge is also set aside to the extent indicated above. The directions for release of pay and service benefits to the appellant will be carried out within a period of four weeks from the date of receipt of certified copy of the order by the respondents."

PAO(AR), Shillong, advised that all the above pensioners have to deposit/refund the pension drawn for the intervening period on the principal of "No work, No pay" for cancellation of old PPO allotted to them. As the pensioners are unable to refund such huge amount at this stage in a single installment, DGAR has sought clarification from this Department as to the specific policy/Rule regarding recovery of pensionary benefits

		in installment basis from the notionally re-instated pensioners.	
3.	Rule 66 of CCS(Pension) Rules	<p>Referring Ministry – Department of Higher Educations</p> <p>Reference No. 2-13/2018-T.S.-I (Pt.3) dated 21.02.2024</p> <p>D/o Higher Education has informed that IIT Delhi made unilateral modifications in their R&PRs (in 2019) without approval of the M/o Education which resulted in a number of anomalies and Audit observations. The unilateral modifications were withdrawn in the year 2022. However, the unilateral modifications resulted in excess payment of pay/allowances to serving/retired employees of IIT Delhi due to wrongful pay fixation. The issued referred by DoHE is about the waiving off of recovery from the 30 retired employees who had drawn pension/retirement benefits on wrongful enhanced pay. Employees have also filed court case in the matter.</p> <p>The matter was referred by them to D/o Expenditure. Deptt of Expenditure raised a number of observations in the matter and advised the D/o Higher Education to take up the matter with DoPT in view of instructions issued by DoPT vide OM No. 18/03/2015-Esst. (Pay-I) dated 02.03.2016 regarding recovery of wrongful/excess payments made to Govt servants and also with DoPPW.</p>	<p>Desk A ID Note No. 38/03(06)/2024-P&PW (A) (9532) dated 27.03.2024.</p> <p>The matter has been examined. The Department of Pension & Pensioners' Welfare is the nodal Department for formulation of rules/policies relating to pension and other retirement benefits of Central Government Civil Employees civil covered under CCS (Pension) Rules, 2021. These rules are, however, not suo-moto applicable to employees of Autonomous Bodies such as IIT Delhi, etc. It is also a fact that the Autonomous Bodies are governed as per their own set of rules/regulations.</p> <p>In so far as, revision of pension after authorisation and recovery or otherwise of such excess payment to the pensioner/ family pensioner is concerned, rule 66 of the CCS (Pension) Rules, 2021 is relevant.</p> <p>Rule 66 of the CCS (Pension) Rules, 2021, provides as under:</p> <p><i>66. Revision of pension after authorisation.- (1) The pension authorised under rule 44 and family pension authorised under rule 50 may be revised by the Government in accordance with any general order issued in implementation of decisions taken on the recommendations of the Central Pay Commissions, or otherwise, and the pension or family pension so revised shall thereafter be the basic pension or basic family pension for grant of additional pension under sub-rule (5) of rule 44 or additional family pension under sub-rule (3) of rule 50 or dearness</i></p>

			<p><i>relief under rule 52.</i></p> <p><i>(2) Subject to the provisions of rule 7 and rule 8, pension or family pension once authorized after final assessment or revised under sub-rule (1) shall not be revised to the disadvantage of the Government servant, unless such revision becomes necessary on account of detection of a clerical error subsequently:</i></p> <p><i>Provided that no revision of pension or family pension to the disadvantage of the pensioner or family pensioner shall be ordered without the concurrence of the Department of Pension and Pensioners' Welfare if the clerical error is detected after a period of two years from the date of authorisation or revision of pension or family pension.</i></p> <p><i>(3) The question whether the revision has become necessary on account of a clerical error or not shall be decided by the administrative Ministry or Department.</i></p> <p><i>(4) If, consequent on revision of pension or family pension under sub-rule (2), an excess payment of pension or family pension is found to have been made to the pensioner or family pensioner and if such excess payment is not on account of any misrepresentation of facts by the pensioner or family pensioner, the administrative Ministry or Department shall examine in consultation with the Ministry of Finance (Department of Expenditure) whether or not recovery of such excess payment can be waived off and issue appropriate orders in accordance</i></p>
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			<p><i>with the relevant rules and instructions in this regard.</i></p> <p><i>(5) Where the administrative Ministry or Department decides not to waive off the excess payment of pension or family pension, the retired Government servant concerned or family pensioner shall be served with a notice by the Head of Office requiring him to refund the excess payment of pension within a period of two months from the date of receipt of notice by him.</i></p> <p><i>(6) In case the Government servant fails to comply with the notice, the Head of Office shall, by order in writing, direct that such excess payment shall be adjusted in instalments by short payments of pension in future, in one or more instalments, as the Head of Office may direct.</i></p> <p>This Department has no specific comments on applicability of these rules to the employees of autonomous bodies.</p>
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3. Counting of past service:

<p>4</p>	<p>Rule 26 of CCS(Pension) Rules, and OMs dated 28.10.2009 and 11.06.2020</p>	<p>Referring Ministry – Ministry of Earth Sciences</p> <p>Reference No. MoES/11/10/20-Estt. dated 22.02.2024.</p> <p>Shri S had joined the post of Scientist F in the Ministry of Earth Sciences on direct recruitment basis with effect from 29/09/2020. Prior to joining Central Government service, he was appointed as Scientist w.e.f. 09/12/2004 in Central Salt & Marine Chemicals Research Institute (CSMCRI), Bhavnager. He was relieved from the Post in CSMCRI on 30.06.2008. Thereafter, he joined the post of Assistant Professor in the University of Calcutta with effect from 01/07/2008. He joined the Ministry on 29.09.2020 and was holding lien in his previous post.</p> <p>Shri S was covered under CPF scheme in CSMCRI, Bhavnagar and in the University of Calcutta, he was contributing towards GPF and was governed under pension rules of the State Government.</p> <p>In view of the above, MoES had sought clarification / advise on the following:</p> <p>(i) Whether Shri S shall be covered under the OPS, since he had been contributing towards GPF under the State Government pension scheme,</p> <p>(ii) Counting of past service of Shri S for pensionary benefits as admissible to Government employees.</p>	<p>Desk B ID Note No. 28/02/2022-P&PW(B) dated 07.03.2024</p> <p>It is stated that the conditions for counting of past service for pensionary benefits under CCS (Pension) Rules,1972 on joining Central Government service on or after 01.01.2004 in accordance with this Department’s OMs dated 26.07.2005, 28.10.2009 and 11.06.2020 are as under:</p> <p>(i) In the cases where mobility from the autonomous body to Central Government 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 Central Government service 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 the Central Government.</p>
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5	<p>Rule 26 of CCS(Pension) Rules, and OMs dated 28.10.2009 and 11.06.2020</p>	<p>Referring Ministry – Ministry of Home Affairs Reference No. 31012/12/2023-IPS-II dated 22.02.2024</p> <p>Shri A had served in Indian Oil Corporation Limited from 01.07.2002 to 22.08.2012. Thereafter, he joined Indian Police Services on 03.09.2012 after giving Technical Resignation to IOCL on 22.08.2012. Shri A had requested for counting of past service rendered by him in IOCL for coverage under CCS (Pension) Rules, 1972 in light of DoP&T OM No. 25011/06/2014-AIS(II) dated 04.11.2015.</p>	<p>Desk B ID Note No. 28/03/2024-P&PW(B) dated 01.03.2024</p> <p>The Department of Pension and PW administers pension related policy matters in respect to Central Government civil employees under CCS (Pension) Rules, 1972 (now 2021). All India Service officers are not governed under these rules as they are governed under separate service rules for pensionary matters administered by DoP&T.</p> <p>The benefit of counting of past service under the CCS(Pension) Rules, 1972 was extended vide OM dated 28.10.2009 to those employees who were initially appointed before 1.1.2004 in (i) Central Government Departments covered under Railway Pension Rules other similar non-contributing pensionable establishments of Central Government covered by old Pension Scheme /rules other than CCS (Pension) Rules, 1972 OR, (ii) State Government covered under old pension scheme similar to CCS(Pension) Rules, OR (iii) Central / State</p>

			<p>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>DoP&T vide their OM No. 25011/06/2014-AIS(II) dated 04.11.2015 had extended the provisions of OM dated 28.10.2009 to AIS officers.</p> <p>Further, as per DOPPW OM No. 28/24/94-P&PW (B) dated 13.09.1996, service rendered in a PSU do not count for pensionary benefits on mobility to Central Government service under the CCS(Pension) Rules.</p>
6	<p>Rule 11 of CCS(Pension) Rules, 2021</p>	<p>Referring Ministry – Ministry of Home Affairs</p> <p>Reference No. A-42012/09/2024-AD-II(PT-1) dated 12.03.2024.</p> <p>Ministry of Home Affairs vide their ID note dated 12.03.2024 has sought clarifications from this Department on counting of his ad-hoc service as qualifying service for the purpose of grant of pensionary benefits, on the following points</p> <p>(a) Initial appointment on adhoc basis followed without interruption by substantive appointment.</p> <p>(b) Initial appointment on casual labour-temporary service followed by adhoc appointment and then followed without interruption by substantive appointment.</p>	<p>Desk B ID Note No. 28/02/2023-P&PW(B) dated 26.03.2024</p> <p>The provisions for counting of service as qualifying service for pensionary benefits have been stipulated in rule 11 of CCS(Pension) Rules, 2021. This rules provides that:</p> <p>“Subject to the provisions of these rules, qualifying service of a Government servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity :</p> <p>Provided that officiating or temporary service is followed without interruption by substantive appointment in the same or another service or post”</p> <p>The term ‘ad-hoc’ service doesn’t figure in the CCS (Pension) Rules, 2021 including Rule 11. Hence, there is</p>

			<p>no provision for counting of ad-hoc service in the CCS (Pension) Rules, 2021.</p> <p>The subject matters of casual labour/ daily rated persons are administered by DoPT.</p>
7	<p>DoPPW OM dated 07.02.1986</p>	<p>Referring Ministry – Ministry of Information and Broadcasting</p> <p>Reference No. A-50013/113/2023-BAP dated 14.02.2028</p> <p>Shri T was Transmission Executive (TRES) at Akashwani, Raigarh w.e.f. 16.10.1995. Consequent upon his selection to the post of Assistant Professor in IGKV, Chhattisgarh, a State Autonomous Body, his technical resignation from the post of TRES was accepted and he was relieved w.e.f. 07.04.2003. Consequently, he joined IGKV on 08.04.2003.</p> <p>IGKV vide letter dated 07.12.2017 requested him to deposit Rs. 7,96,903.32/- towards pension and leave salary contribution to the account of their Comptroller so that his service rendered at Akashvani may be included for the purpose of pensionary benefits there.</p> <p>Thereafter, he requested Akashvani, to deposit the aforesaid amount to the account of Comptroller, IGKV.</p> <p>DG, Akashwani informed Akashvani, Raigarh that there was no rule to transfer such benefits of pension contribution and leave salary contribution in case of technical resignation. Shri T made another request in this regard.</p>	<p>Desk B ID Note No. 28/03/2023-P&PW (B) dated 01.03.2024</p> <p>It is stated that the benefit of DoPPW's OM dated 29.08.1984 regarding counting of past service on mobility from Central Government service to Central autonomous bodies through proper channel was extended to State Government autonomous bodies vide OM dated 07.02.1986. The provisions of OM dated 29.08.1984 was applicable to the employees of autonomous bodies of the State Government of Madhya Pradesh.</p> <p>2. The OM dated 07.02.1986 for extending the benefit of counting of service with state autonomous bodies were issued in agreement with the States. However, there is no such agreement as has been sought by the Ministry of Information and Broadcasting, available with the State of Chhattisgarh with respect to applicability of OM dated 07.02.1986. Further, in the case referred by the Department, autonomous body of the State Government has agreed to count the service rendered in Central Government, therefore, the question of following the OM dated 07.02.1986 by the State Government of Chhattisgarh may not arise.</p> <p>3. Therefore, Department may take administrative decision to either transfer the pro-rata pension liability for the service rendered by the employee in Central Government for counting his past service in the</p>

		<p>Ministry of I&B has sought clarification on the following points:</p> <ol style="list-style-type: none">i. In accordance with DoP&PW's OM dated 29.08.1984, pro-rata pension / service gratuity / terminal gratuity and DCRG for the service upto the date of absorption in respect of Central Govt. and Central Autonomous Body will be discharged in the case of absorption to Central Autonomous Body and Central Govt. respectively.ii. Such benefits i.e. counting of service for pension on reciprocal basis were extended to Central Govt. employees absorbed in State Autonomous Bodies and vice-versa vide DoP&PW's OM dated 07.02.1986. But, such benefits were extended in respect of the States mentioned in DoP&PW's OMs dated 07.02.1986, 17.06.1986, 30.10.1986, 20.03.1987 and 20.07.1989.iii. It is not clear whether such pro-rata pensionary benefits have to be transferred to a state Autonomous Body of Chhattisgarh or not.	<p>autonomous body or to grant the employee pensionary benefits for his service in the Central Government.</p>
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4. Family pension:

8.	Rule 50 of CCS(Pension) Rules, 2021	<p>Referring Ministry– Central Bureau of Communication, Ministry of Information and Technology</p> <p>Reference file No. A-38012/4/2023-Ad-III-A</p> <p>Shri N, ex-Plate Filer superannuated on 31.1.2005. He died on 5.1.2023. Ms. C submitted an application to the Office of Central Bureau of Communication requesting for grant of family pension to her as divorced daughter of Shri N.</p> <p>Office while processing her application found that the service book/record of Late Shri N was not available. However, photo copies of some of the documents of late Shri N was available in the file.</p> <p>Office has sought clarification on eligibility of the daughter for family pension in the absence of service book/records consisting of details of family members of the deceased.</p>	<p>Desk E ID Note No. 1/1 (18)/2024-P&PW(E) dated 1.03.2024</p> <p>The matter has been examined and the clarifications of this Department are as under:</p> <p>(i) Rule 50(9)(j) (iii) of CCS(Pension) Rules, 2021, states that the family pension shall be granted or continued to be payable to an unmarried or widowed or divorced daughter beyond the age of twenty-five years for life or until she gets married or re-married or until she starts earning her livelihood, whichever is the earliest if she was dependent on her parent or parents when he or she or they were alive. Further, as per Pension Rules, a divorced daughter is deemed to be dependent, if her income from other sources is equal to or more than the minimum family pension i.e. Rs 9000/- plus dearness relief thereon. The rule position has been further clarified vide this department's OM No. 1/1(1)/2022-P&PW (E) dated 26.10.2022.</p> <p>(ii) As far as the non-availability of details of family members in the service book is concerned, it is stated that Sub Rule 50 (15) (i) as well as sub-rule 74 (2) of CCS (Pension) Rules, 2021 mentions that the claim of a member of the family of the deceased Government servant shall not be rejected on the ground that the details of such member of the family are not available in Form 4 or office</p>
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			records, if the Head of Office is otherwise satisfied about the eligibility of the member of the family for grant of family pension under these rules.
9.	Rule 50 of CCS(Pension) Rules, 2021	<p>Referring Ministry– Ministry of Railways</p> <p>Reference No. 2022/ERB-III/3(1)/80 dated 19.01.2024</p> <p>Sh. U, Ex Accounts Assistant, Railway Board expired while in service on 16.11.2022. The deceased employee is survived by his widow Smt. N, one major son Shri P and one minor son Shri D.</p> <p>Before the case for family pension could be considered, Smt. R, sister of Late Sh. U filed a petition in the Court of Chief Metropolitan Magistrate, Saket Court, New Delhi praying for suitable direction to the police authority, for registering an F.I.R against Smt. N and his two sons and one another alleging that they all conspired together and have killed the deceased. The matter is pending before the Metropolitan Magistrate for more than one year and no F.I.R. was registered till that time.</p> <p>Railway Board referred rule 72 of the Railway Services Pension Rules, 1993, which states that if a person, who in the event of death of a Railway servant while in service is eligible to receive gratuity in term of extant rules, is charged with the offence of murdering the railway servant or for abetting in the commission of such an offence, his claim to receive his share of gratuity shall remain suspended till the conclusion of the criminal proceedings instituted against him. Further, Rule 75 (14) (i) of the said rules stipulates that if a person, who is eligible to receive family pension under this rule is charged with the offence of murdering the railway servant or for abetting in the commission</p>	<p>Desk E ID Note No. 1/1(23) /2023-P&PW(E) dated 04.03.2024</p> <p>The matter has been examined and the views of this Department are as under:-</p> <p>Sub-rule 14 of Rule 50 of CCS (Pension) Rules, 2021 which is applicable to employees of Central civil Services in such matters stipulates as under :</p> <p>(14)(a) A child of a Government servant or a pensioner, while claiming family pension on death of the said Government servant or pensioner, shall indicate against the specific column in Form 10 whether or not he or she is eligible for another family pension under this rule in respect of the other parent and, if so, the amount of family pension admissible to him or her from that source.</p> <p>(b) The Head of Office, while determining the amount of family pension payable to such person, shall take into account the information furnished by the claimant in this regard and ensure that the sum of family pensions payable to that person in respect of both parents does not exceed the limits specified in sub-rule (13).</p> <p><i>(c) If a person, who in the event of death of a Government servant while in service, is eligible to</i></p>

	<p>of such an offence, the claim of such person, including other eligible member or members of the deceased family to receive the family pension, shall remain suspended till the conclusion of the criminal proceedings instituted against him.</p> <p>Railway Board has sent the matter to the Legal Directorate of their office for their opinion. Legal Directorate mentioned that the provisions of Rule 75 (14) (i) of the Railway Services Pension Rules 1993 are not applicable in the instant case.</p> <p>In the report of SHO it has been mentioned that in the viscera report, the expert opined that “on chemical, microscopic & TLC examination: metallic poisons, ethyl and methyl alcohol, cyanide, phosphide, alkaloids, barbiturates, tranquilizers and pesticides could not be detected in exhibits”. Regarding cause of death of Late Sh U, doctor opined that the cause of death is myocardial insufficiency consequent upon coronary artery disease, which is a natural cause of death. In his conclusion, SHO has stated that nothing has come on record to establish that the death of the deceased was homicidal and the allegations levelled by Smt. R could not be substantiated.</p> <p>Accordingly, Ministry of Railways has sought advice of this Department of payment of family pension.</p>	<p><i>receive family pension under this rule, is charged with the offence of murdering the Government servant or for abetting in the commission of such an offence, the family pension shall not be paid to such a person till the conclusion of the criminal proceedings instituted against him.</i></p> <p>(d) During the period the family pension is not paid to a person under clause (c), the family pension shall be paid to other eligible member of the family, if any, from the date following the date of death of the Government servant:</p> <p>Provided that if the spouse of the Government servant is charged with the offence of murdering the Government servant or for abetting in the commission of such an offence and the other member of the family eligible for family pension is a minor child of the deceased Government servant, the family pension to such minor child shall be payable through a duly appointed guardian, and the mother or father of the minor child shall not act as guardian for the purpose of drawal of family pension.</p> <p>(e) If on the conclusion of the criminal proceedings referred to in clause (c), the person concerned:</p> <ol style="list-style-type: none"> i. is convicted for the murder or abetting in the murder of the Government servant, such a person shall be debarred from receiving the family pension which shall be continued to be paid to other eligible member of the family, if any;
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			<p>ii. is acquitted of the charge of murder or abetting in the murder of the Government servant, the family pension shall become payable to such a person-from the date of such acquittal and the family pension to other member of the family shall be discontinued from that date:</p> <p>Provided that if there was no other eligible member of the family or the family pension ceased to be payable to the other eligible member of the family before the date of acquittal of the person concerned, the family pension shall be payable to such a person from the date following the date of death of the Government servant or from the date on which family pension ceased to be payable to the other eligible member of the family, as the case may be.</p> <p>(f) The provisions of clause (c) to clause (e) shall also apply for the family pension becoming payable on the death of a Government servant after his retirement.</p> <p>Explanation.- For the purpose of this sub-rule, the charge of murdering or abetting in the murder of Government servant will include the charge of abetting death by suicide.</p> <p>2. In the case matter of Late Shri U, there has been no F.I.R. lodged against Smt. N, widow of the deceased and her sons. The medical report confirmed that the cause of death of the deceased is natural. Accordingly, it is upto Railway Board</p>
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			being the administrative department to decide the case matter in the light of the provisions of Rule 75 (14) (i) of the Railway Services Pension Rules 1993.
10.	Rule 50 of CCS(Pension) Rules, 2021	<p>Referring Ministry– Department of Telecommunications</p> <p>Reference No. 38-73/2017-Pen(T)dated 02.01.2023</p> <p>Shri J was an employee on the post of lineman w.e.f. 14.02.1970 in Department of Telecom (DoT). He expired on 05.12.1991 while in service, leaving behind her sister, Ms. M along with his two brothers, namely, Shri S and Shri H as his legal heirs.</p> <p>GMTD BSNL Haryana vide their letters dated 28.8.1992 and 19.11.1992 , has paid Smt. D, mother of the deceased employee, the amount of leave encashment and Bonus for the FY 1991-1992, the life time arrear of deceased. In the GPF Nomination, the name of Smt J, legal wife of the deceased was mentioned as nominee.</p> <p>Department has stated that they have a copy of communication from the sister of the deceased dated 01.05.1994 which she has filed in her succession petition wherein she has admitted that Smt. J is alive.</p> <p>The Hon'ble Saket Court has allowed the succession petition vide Order dated 09.08.2023. Hon'ble Court has directed that terminal/pensionary benefits of late Shri J i.e. (i) gratuity of Rs.19,800/- (with interest), (ii) arrears of pension of Rs.9,20,165/- as on 30.04.2016 (including applicable D.A. + interest); and (iii) arrears of pension accrued from May 2016 till date (with applicable DA + interest) held by DOT, may be paid</p>	<p>Desk E ID Note No. 1/1(11)/2024-P&PW(E) dated 08.03.2024</p> <p>The matter has been examined and the comments of this Department are as under:</p> <p>(a) Sub Rule (6) of the Rule 50 of CCS (Pension) Rules, 2021 describes about the eligibility of family members for paying family pension. The text of the sub rule (6) is reproduced below:</p> <p>“(6) 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> <p>(i) subject to provisions of sub-rule (8), widow or widower, (including a post-retiral spouse and judicially separated wife or husband),</p> <p>(ii) subject to provisions of sub-rule (9), children (including adopted children, step children and children born after retirement of the pensioner),</p> <p>(iii) subject to provisions of sub-rule (10), dependent parents (including adoptive parents) of the deceased Government servant or pensioner,</p> <p>(iv) subject to provisions of sub-rule (11), dependent siblings (i.e. brother or sister) of the</p>

	<p>to the petitioners.</p> <p>The amount payable shall be calculated by the Department of Telecom through Controller of Communication Accounts (CCA) Cell, Ambala, Haryana, as per the actual amount of terminal/pensionary benefits payable on the date of this judgment, and the succession certificate shall be considered qua that amount as well.</p> <p>The succession certificate shall be considered only as an entitlement of petitioner to receive the amount of aforesaid terminal benefits.</p> <p>Govt. counsel has stated that he has informed Hon'ble Court about the concealment of fact of marriage of the deceased Government servant and also that the wife has not been made a party in the matter. He advised to file appeal against the order. However, LA, DOT has opined that it does not appear to be a fit case to challenge.</p>	<p>deceased Government servant or pensioner, suffering from a mental or physical disability,</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) 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, then to the family as explained under Sub-rule (6) of Rule 45 below:</p> <ul style="list-style-type: none"> i. wife or wives including judicially separated wife or wives in the case of a male Government servant; ii. husband, including judicially separated husband in the case of a female Government servant; iii. sons including stepsons and adopted sons; iv. unmarried daughters including stepdaughters and adopted daughters; v. widowed or divorced daughters including stepdaughters and adopted daughters; vi. father including adoptive parents in the case of individuals whose personal law permits adoption;
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			<p>vii. mother including adoptive parents in the case of individuals whose personal law permits adoption;</p> <p>viii. 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>ix. unmarried sisters, widowed sisters and divorced sisters including stepsisters;</p> <p>x. married daughters; and</p> <p>xi. children of a pre-deceased son.</p> <p>2. Department of Telecom may consider to appeal against the order of Saket Court as advised by Addl. Central Govt. Counsel</p>
11.	Rule 50 of CCS(Pension) Rules, 2021	<p>Referring Ministry– Office of the Principal Commissioner of Customs(G)</p> <p>Reference No. S/15-269/2021 Acctts (M) dated 15.01.2024</p> <p>Smt. L, divorced daughter of Late Shri K applied for family pension in the Office of the Principal Commissioner of Customs, Mumbai. Her family pension papers were submitted by the office to PAO. PAO issued the letter to CPAO for cancellation of old PPO in respect of Smt. S W/o Late Shri K. Further, PAO forwarded the family pension case to CPAO along with new PPO Number for finalization.</p> <p>The PAO returned the case to O/o the Principal Commissioner of</p>	<p>Desk E ID Note No. 1/1(10)/2024-P&PW(E) dated 11.03.2024</p> <p>The matter has been examined. Rule 50(9)(j) of Central Civil Services (Pension) Rules, 2021 states as under:-</p> <p>“Where a deceased Government servant or pensioner is not survived by a son or daughter eligible for family pension under clause (d) or clause (h) dies or ceases to fulfil the eligibility conditions for family pension prescribed in those clauses, the family pension shall be granted or continued to be payable to an unmarried or</p>

		<p>Customs vide letter dated 05.09.2023 along with the following remarks of CPAO:</p> <ol style="list-style-type: none"> 1. “Family pension may be granted to divorced daughter where the divorce proceedings had been filed in the competent court during the lifetime of the government servant or his/her spouse but divorce took place after their death. In such cases, the family pension will commence from the date of divorce. 2. If Smt. L is not able to provide divorce decree order issued by competent court, the case may be forwarded to D/o P&PW for seeking clarification or relaxation. <p>It was submitted by the daughter that she will not able to produce the copy of Divorced Decree order issued by the Competent Court, Mumbai to her as the most of the documents including the Divorce Decree order was washed away by the massive floods that lashed Mumbai during the year 2005. Further she stated that all her efforts in obtaining a duplicate copy of the Divorce Decree also went futile as the Divorce dates way back to the year 1972-73, dates back to almost 50 years ago. All other documents called for by the PAO, New Delhi have been duly submitted to them.</p> <p>In view of the above facts, O/o the Principal Commissioner of Customs has forwarded the case to this Department for seeking clarification or relaxation in the matter.</p>	<p>widowed or divorced daughter beyond the age of twenty five years for life or until she gets married or re-married or until she starts earning her livelihood, whichever is the earliest.”</p> <p>Provided that the family pension shall be payable to a divorced daughter from the date of divorce if the divorce proceedings were filed in a competent court during the life time of the Government servant or pensioner or his or her spouse but the divorce took place after their death.</p> <p>2. In the instant case Smt. L, divorced daughter of late Shri K, who was divorced in the year 1972-73 could not provide the documents relating to divorce decree. Therefore, as per rules without divorce decree it may not be possible to consider her for family pension and Office of Principal Commissioner, Customs may go by the rules.</p>
12.	<p>Rule 50 of CCS(Pension) Rules, 2021</p>	<p>Referring Ministry– Department of Telecommunications</p> <p>Reference No. 2-177/2022-23/BA&IT/832 dated 08.02.2024</p> <p>Smt. U is a widowed daughter of Late B who expired on 26.01.1960. After the death of the pensioner, his spouse Smt. S was granted paid family pension. Smt. S. expired on 07.02.2018 and Smt. U widowed daughter of the pensioner submitted an</p>	<p>Desk E ID Note No. 1/1(24)/2024-P&PW(E) dated 19.03.2024</p> <p>The matter has been examined and the comments of this Department are as under:</p> <p>"Rule 50(9)(j)(iii) of CCS(Pension) Rules,</p>

		<p>application for claim of family pension.</p> <p>Smt. U submitted relevant documents with her claim along with an income certificate dated 19.03.2021 issued by Naib-Tehsildar, Dist-Hamirpur, certifying that her annual family income from all sources does not exceed Rs. 162000/-. Since monthly income derived (Rs. 13500/-) on the basis of the annual income was exceeding the amount of minimum family pension plus Dearness Relief, the case was rejected by O/o CCA Punjab.</p> <p>Later Smt. U submitted an income certificate dated 26.04.2022 issued by Naib-Tehsildar, Dist-Hamirpur, certifying that her annual family income from all sources does not exceed Rs. 54000/- with a plea to reconsider her case on the basis of fresh income certificate.</p> <p>She has also submitted a copy of ITR filed on 02.05.2023 for AY 2022-23 with annual income of Rs. 36000/- to reconsider her case.</p> <p>Accordingly, DoT has requested clarification as to whether the case can be settled in light of the fresh income certificate/ITR submitted by the claimant provided other eligibility conditions are fulfilled.</p>	<p>2021 does not indicate the period or date when the claimant should be dependent or not. It should be determined when the situation arises. In the instant case, the situation of dependence has arisen during A.Y. 2022-23 when the income of the widowed daughter fell below the specified amount. Hence her claims need to be considered during the period when her income from all sources is less than the prescribed minimum family pension i.e. Rs. 9000/- per month plus DR thereon.”</p>
13.	<p>Rule 50 of CCS(Pension) Rules, 2021</p>	<p>Referring Ministry– Department of Land Resources</p> <p>Reference No. A-19015/3/2005 – Admn.(Pt.) dated 01.03.2024</p> <p>Ms. E, former Section Officer, Department of Land Resources was expired on 24.8.2010. As per service book, she had nominated her Mother Smt. N & her brother Shri J on 9.11.1994. On the basis of the nomination made, CGEGIS</p>	<p>Desk E ID Note No. 1/1(43)/2021-P&PW(E)dated 22.03.2024</p> <p>The matter has been examined and the comments of this Department are as under:</p> <p>A. As per Rule 50 (6) of CCS (Pension) Rules, 2021, the family pension is payable to the widow (s)/widower who are legally wedded to deceased</p>

	<p>(Group insurance) and Leave Encashment payment were paid to her mother Smt. N.</p> <p>For payment of family pension to her mother, the papers were forwarded to PAO. However, the PAO requested for updated family details.</p> <p>On scrutiny of the Service Book, it was found that she had mentioned about her husband Shri M and her two sons namely Master A & Master B in the CGHS Card and also she availed LTC for self, husband and two children. She had neither informed about her marriage nor nominated her husband for any benefit.</p> <p>On an earlier reference, DoPPW advised that family pension may be granted as prescribed in Sub Rule 8, Rule 54 of the CCS Pension Rule, 1972, which covers eligible spouse and eligible children. DOPPW further remarked that “it is sad to observe that the pension has not been sanctioned even after lapse of two years and it is being delayed on trifling grounds. Under any circumstances, at least provisional family pension could have been sanctioned immediately as provided for under 77 to 80 of the Rules, <i>ibid</i>”.</p> <p>Mother of Late Ms. E. received the CGEGIS and Leave Encashment payments and requested to process family pension case in respect to her grandson, Master A on his attaining majority as there was no other legal claimant available for claiming the other pensionary benefits.</p> <p>Department has stated that the husband of late Government servant has not submitted any claim for family pension earlier. However, on 03.12.2019, after a gap of seven years, Shri M requested for grant of family pension benefits. He also submitted a surviving family details including his two children names.</p>	<p>Government Servant or pensioner. Further, Sub Rule 50 (9) of CCS (Pension) Rules, 2021 mentions that:</p> <p>(a) If the deceased Government servant or the pensioner is not survived by a widow or widower or if the widow or widower dies or ceases to be eligible for family pension, family pension at the rate specified in sub-rule (2) shall be payable to the child or children who fulfil the following conditions:</p> <p>(i) In the case of a son (other than a son suffering from a mental or physical disability) (including adopted son, step son and son born after retirement of the pensioner) unmarried, below the age of twenty five years and not earning his livelihood;</p> <p>B. Sub Rule 47 (1) of CCS (Pension) Rules, 2021 mentions that:</p> <p>(a) 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.</p> <p>(b) In case there is no such nomination or if the nomination made does not subsist, the gratuity shall be paid in the manner indicated below:</p>
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	<p>Since, the name of Shri M was not included in the service records, Department requested him to submit a Succession Certificate detailing therein the names of children. In response Shri M informed that he has remarried and family pension may be granted to child of late Govt. servant. However, he did not inform the date of his remarries. Therefore, the date of eligibility for the major child for family pension could not be decided.</p> <p>Thereafter, PAO(LR) requested for some documents viz. marriage and re-marriage certificate from the husband of Late Smt. E, Succession certificate issued from the court of law, complete details of husband with present address, permanent address and place of working etc</p> <p>In response elder son of late Ms. E. vide letter dated 04.12.2021 stated that he has submitted a surviving member certificate.</p> <p>On another reference, DoP&PW clarified that family pension is not a right/privilege. It is a social welfare measure and it is granted as per rules only. As per Rule 54(6) of the CCS Pension Rules, 1972, the period for which family pension is payable be as follows :</p> <ol style="list-style-type: none"> i. In the case of widow or widower, upto the date of death or re-marriage, whichever is earlier. ii. 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. DoP&PW has also stated that Sh. M, husband of Smt. E. appears to be eligible for family pension as per Rule. However, Sh. M becomes ineligible the day of remarriage. Thus, the children are eligible for family pension from the next date of re-marriage, subject to fulfillment the conditions laid down in the CCS (Pension) Rules. 	<ol style="list-style-type: none"> (i) if there are one or more surviving members of the family as in clauses (i), (ii), (iii), (iv) and (v) of the explanation below sub-rule (6) of rule 45, to all such members in equal shares; or (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 the explanation below sub-rule (6) of rule 45, to all such members in equal shares. <p>2. Accordingly, Department of Land Resources may proceed as per above provisions of the CCS (Pension) Rules, 2021. As per Rule 50 (6) of CCS (Pension) Rules, 2021, Shri M is not eligible for family pension.</p>
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