

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

1. Pension revision :

S. No.	Relevant Rules/ Orders	Case Description	Brief Advice of Policy Desk of DoPPW
1.	<p>Pension revision as per 6th CPC</p> <p>OM No.38/37/08-P&PW(A) dated 01.09.2008</p>	<p>Referring Ministry –Department of Atomic Energy</p> <p>Reference No. F.No. 13/5(63)/2016-I&M (NFC)/ 3475 dated 04.03.2024</p> <p>Shri M, retired voluntary on 31.05.2001 (FN) with qualifying service of 31 years. The last pay drawn in 5th CPC & pay scale was Rs.7250/- in pay scale 5500-175-9000. Pension on retirement (pro rata as per 31 yrs of qualifying service) was fixed at 50% of average emoluments for last 10 months) of Rs.3355/- pm. Corresponding 6th CPC scale was 9300-34800 with Grade Pay 4200. Revised consolidated pension w.e.f. 01.01.2006 at Rs.7583/- as per para 4.1 of OM No.38/37/08-P&PW(A) dated 01.09.2008 corresponding to pre revised pension i.e 3355/-</p> <p>Hon'ble CAT, on an OA filed by the applicant directed to revise the pension of Shri M as under:</p> <p><i>(IV) Now, applying clause 4.1 of O.M dated 1.9.2008 of DOP& PW, which gives the methodology of working out the pension, To put the calculations simply, the formula given by the G.O.I vide Office Memorandum F. No. 38/37/08-P&PW(A) dated 01.09.2008 is to multiply fifty percent of the last pay drawn by the multiplication factor of 2.26. When</i></p>	<p>Desk A ID Note No.No.38/05(14)/2021-P&PW (A) (7029) dated 03.05.2024.</p> <p>The matter was examined in the Department.</p> <p>Prior to 01.01.2006, pension was calculated at 50% of average emoluments for last 10 months which was reduced pro rata in cases where qualifying service was less than 33 yrs.</p> <p>OM No.38/37/08-P&PW(A) dated 01.09.2008 regarding pension revision of pre-2006 retirees as per 6th CPC w.e.f. 01.01.2006, provides as under:</p> <p>(i) As per para 4.1 of said OM dated 01.09.2008 , the pension/family pension of existing pre-2006 pensioners/family pensioners is to be revised w.e.f. 01.01.2006 by consolidating with effect from 1.1.2006 by adding together (i)The existing pension (ii) Dearness Pension, where applicable (ii) Dearness relief @ 24% of Basic Pension/Basic family pension plus dearness pension as admissible and (iv) fitment weightage @ 40% of the existing pension. Said OM dated 01.09.2008 also provided a table for ready reference for para 4.1.</p> <p>(ii) Para 4.2 of said OM dated 01.09.2008 further provided that the fixation of pension will be subject to the provision that the revised pension, in no case, shall be lower than fifty per cent of the minimum of the pay in the pay band plus the grade pay corresponding to the pre-revised pay scale from which the pensioner had retired.</p> <p>Thereafter, following OMs/instructions based on following Court Orders were issued by this Department for further revision of pension of pre-2006</p>

done, the figure we arrive at is $(7250 \times 2.26)/2 = \text{Rs.}8193$.

As per clause 4.2 of the cited memo, the consolidated pension to be granted should not be less than fifty percent of the minimum of the pay band (Rs. 9300 - 34,800) plus the grade pay of Rs.4200 which works out to Rs.6750 $[(9300+ 4200)/2 = \text{Rs} 6750]$. The higher of the two worked out as per the clauses referred to shall be granted to the applicant which, in the present case, is Rs.8193. Even as per the concordance table appended to the memo dated 1.9.2008, indicates the pension to be granted as Rs.8194, taking the basic pension as Rs.3625. Respondents working out the pension based on 10 months average emoluments and then working out prorata pension is not as per rules, and hence irregular. Though the Tribunal appreciates the pains taken by the Respondents counsel to present a working sheet, but it is based on a wrong premise.

Therefore, the respondents are directed to consider to revise the pension of the applicant taking basic as Rs.3625 as expounded above, as per the 6th CPC recommendations and the different OMs cited supra.

The WP filed by the Department was dismissed by Hon'ble High Court. Department has referred the matter for further course of action in the matter.

retirees as per 6th CPC, the comparative statement viz a viz corresponding pension revision in respect of Sh.M. are as under:

OA No./date of order and Operative part of Judgement in brief	Action taken by DoPPW in compliance of Court Order	Corresponding Revision of pension in respect of Sh.M
<p>Order dated 01.11.2011 passed by Hon'ble CAT PB Delhi in OA 655/2010 filed by Central Govt SAG(S-29) Pensioners' Association Vs UOI</p> <p>As per the Order Para 30 - "In view of what has been stated above, we are of the view that the clarificatory OM dated 3.10.2008 and further OM dated 14.10.2008(which is also based upon clarificatory OM dated 3.10.2002) and OM dated 11.02.2009, whereby representation was rejected by common order, are required to be quashed and set aside, which we accordingly do. Respondents are directed to re-fix the pension of all pre-2006 retirees w.e.f.</p>	<p>In the meantime during pendency of court case, as per Govt decision dated 24.09.2012, DoPPW issued OM No.38/37/08-P&PW(A) dated 28.01.2013 stating that the pension of pre-2006 pensioners as revised w.e.f. 1.1.2006 in terms of para 4.1 or para 4.2 of the aforesaid OM dated 1.9.2008, as amended from time to time, would be further stepped up to 50% of the sum of minimum of pay in the pay band and the grade pay corresponding to the pre-revised pay scale from which the pensioner had retired, as arrived at with reference to the fitment tables annexed to the Ministry of Finance, Department of Expenditure OM</p>	<p>As per OM dated 28.01.2013, Minimum pay in 9300-34800 + GP 4200 corresponding to 5500-175-9000 is Rs.14430/- i.e 10230+4200 as per DoE OM 30.08.2008.</p> <p>Minimum guaranteed pension under para 4.2 of OM dated 01.09.2008, would be 50% of 14430 = 7215 reduced prorata to 31 years as Rs.6778/- for 31 yrs w.e.f. 24.09.2012. (Sl.No.11, reg S-10 in Annexure to OM dated 28.01.2013)</p>

			<p><i>01.01.2006 based on the resolution dated 29.08.2008 and in light of our observations made above."</i></p> <p>It is stated that the Relevant extract of the clarificatory memorandum dated 03.10.2008, inter alia, clarifying para-4.2 of the memorandum dated 01.09.2008 reads as under: -</p> <p><i>"The Pension calculated at 50% of the minimum of pay in the pay band plus grade pay would be calculated at the minimum of the pay in the pay band (irrespective of the pre-revised scale of pay) plus the grade pay corresponding to the pre-revised pay scale. For example, if a pensioner had retired in the pre-revised scale of pay of Rs.18400-22400, the corresponding pay band being Rs.37400-67000 and the</i></p>	<p>No.1/1/2008-IC dated 30th August, 2008, with effect from 24.09.2012.</p> <p>As such if a pensioner retired in 18400-22400 pre revised scale for which corresponding 6th CPC is 37400-67000 plus 10000 GP then minimum pension would be 50% of 44700+10000 i.e 27350 (44700 being minimum pay in 37400-67000 as per DoE said OM dated 30.08.2008.</p> <p>However, para 5 of the above OM dated 28.01.2013, provided for pro rata reduction in revised pension based on qualifying service.</p>	
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			<p><i>corresponding grade pay being Rs.10,000/- p.m., his minimum guaranteed pension would be 50% of Rs.37,400+ Rs.10,000 (i.e. Rs.23,700).</i></p>		
			<p>WP 1535/2012 was filed by UOI against above mentioned order dated 01.11.2011 of CAT Delhi. HC Delhi vide Order dated 29.04.2013 dismissed the WP and observed in para 1 that <i>we note that on January 28, 2013 the petitioners have issued an office memorandum dated January 28,2013 which reads as under:</i> (contents of OM dated 28.01.2013 not reproduced for the sake of brevity) <i>Para2 -the only issue therefore which survives is, with respect to para 9 of OM aforesaid which makes it applicable with effect from September 24, 2012 and thereby denying</i></p>	<p>After dismissal of WP/SLP, an OM No.38/37/08-P&PW(A) dated 30.07.2015 was issued in of compliance of order dated 01.11.2011 in OA 655/2010 and said order dated 29.04.2013 of HC Delhi stating that it has been decided that the pension/family pension of all pre-2006 pensioners/family pensioners may be revised in accordance with this Department's OM No.38/37/08-P&PW(A) dated 28.1.2013 with effect from 1.1.2006 instead of 24.9.2012.</p>	<p>In terms of OM dated 30.07.2015, Minimum guaranteed pension would be same as above, w.e.f. 01.01.2006.</p> <p>As Sh. M was already drawing higher consolidated pension Rs.7583/-in terms of para 4.1 on OM dated 01.09.2008 w.e.f. 01.01.06, no revision was required in terms of DoPPW OM 28.01.2013 and 30.07.2015.</p>

			<p><i>arrears to be paid to the pensioners with effect from January 01,2006.</i></p> <p>SLP filed by UOI against above was also dismissed</p>		
			<p>Judgement dated 16.08.2013 by CAT Ernakulam in OA 715/2012 filed by M.O. Inasu which was upheld by HC Kerala and Apex Court also. As per the judgement dated 16.08.2013 in OA 715/2012:</p> <p><i>In the light of the above, the settled law is that in no case the pension of the pre-2006 pensioners shall be lower than fifty percent of the minimum of the pay in the Pay Band plus Grade Pay thereon corresponding to the pre-revised pay scale from which the pensioner had retired. It means that pension</i></p>	<p>In compliance of court Order dated 16.08.2023, DoPPW issued OM No.38/37/08-P&PW(A) dated 06.04.2016 stating that the revised consolidated pension of pre-2006 pensioners shall not be lower than 50% of the minimum of the pay in the Pay Band and the grade pay (wherever applicable) corresponding to the pre-revised pay scale as per fitment table without pro-rata reduction of pension even if they had qualifying service of less than 33 years at the time of retirement. Accordingly, Para 5</p>	<p>The minimum guaranteed pension in respect of Sh. M without prorata reduction, as per OM dated 28.01.2013 is Rs.7215/- w.e.f. 01.01.2006, as stated above</p> <p>Sh. M was already drawing higher consolidated pension Rs.7583/-in terms of para4.1 w.e.f. 01.01.06.</p> <p>As such, no revision was required in terms of DoPPW OM 06.04.2016.</p>

			<p><i>of a pre-2006 retiree has to be first calculated taking into account the revised pay in the pay Band plus Grade Pay corresponding to the pay scale from which he retired proportionate to the length of his service and then find what is 50% of the minimum of the Pay Band plus Grade Pay and fix higher of the two as his pension. Hence the applicants are eligible to get the minimum pension in the Pay Band plus Grade Pay of the Deputy Office Superintendent, the post from which they had retired, with effect from 01.01.2006.</i></p> <p><i>Para 8 - The respondents are directed to issue revised Pension Payment Order (PPO) to the applicants specifying the pension on the basis of Para 4.2 of the O.M. dated 01.09.2008, i.e. 50% of the minimum of</i></p>	<p>of this Department's OM of even number dated 28.1.2013 would stand deleted. The arrears of revised pension would be payable with effect from 1.1.2006.</p>	
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the pay in the Pay Band plus Grade Pay.

Therefore, the pension of Sh. M has been revised correctly w.e.f. 01.01.2006 under para 4.1 of OM dated 01.09.2008 as **Rs.7583/-** and does not require further revision in terms of above OMs/clarification which were issued subsequently in compliance of above court orders for revision of pension under para 4.2 of OM dated 01.09.2008. However, Sh. M filed an OA before the Hon'ble CAT, Hyderabad Bench praying for revision of 6th CPC pension with basic pension at Rs.3570/- (i.e 50% of Avg emoluments) instead of Rs.3355/- in view of DoPPW OM dated 06.04.2016 regarding de-linking of pension with 33 yrs of service.

Hon'ble CAT, Hyderabad Bench directed to revise the pension of Shri M as under:

(IV) Now, applying clause 4.1 of O.M dated 1.9.2008 of DOP & PW, which gives the methodology of working out the pension, To put the calculations simply, the formula given by the G.O.I vide Office Memorandum F. No. 38/37/08-P&PW(A) dated 01.09.2008 is to multiply fifty percent of the last pay drawn by the multiplication factor of 2.26. When done, the figure we arrive at is $(7250 \times 2.26)/2 = \text{Rs.}8193$.

As per clause 4.2 of the cited memo, the consolidated pension to be granted should not be less than fifty percent of the minimum of the pay band (Rs. 9300 - 34,800) plus the grade pay of Rs.4200 which works out to Rs.6750 $[(9300 + 4200)/2 = \text{Rs } 6750]$. The higher of the two worked out as per the clauses referred to shall be granted to the applicant which, in the

present case, is Rs.8193. Even as per the concordance table appended to the memo dated 1.9.2008, indicates the pension to be granted as Rs.8194, taking the basic pension as Rs.3625. Respondents working out the pension based on 10 months average emoluments and then working out prorata pension is not as per rules, and hence irregular. Though the Tribunal appreciates the pains taken by the Respondents counsel to present a working sheet, but it is based on a wrong premise.

(V) Besides, the case is fully covered by the verdict of the Hon'ble Principal Bench of this Tribunal in OA 655/2010, which was upheld by the Hon'ble Supreme Court.

Therefore, the respondents are directed to consider as under:

i) To revise the pension of the applicant taking basic as Rs.3625 as expounded above, as per the 6th CPC recommendations and the different OMs cited supra.

It is seen that the Hon'ble CAT vide above order directed to revise the pension of Shri M with effect from 01.01.2006 taking pre-revised basic pension as Rs. 3625/- (i.e 50% of last basic Rs.7250/-) instead of actual basic pension of Rs.3355/- as per para 4.1 of OM dated 01.09.2008, which is not as per the existing instructions of Govt. Therefore, DAE filed a WP No. 25154/2019 before the Hon'ble High Court which was dismissed. The review petition filed in the matter was also dismissed.

Since the pension revision in respect of Sh.M was as per the instructions of DoPPW, DAE has proposed that the said order passed by the Hon'ble HC in Review petition may be challenged.

In this connection, it may be seen that Hon'ble CAT, Hyderabad Bench vide Order dated 13.06.2019 directed NFC to revise the pension of Shri M R Tagore taking pre-revised basic pension as Rs. 3625/- (i.e 50% of last basic Rs.7250/-) instead of actual basic pension of Rs.3355/- relying upon the order dated 01.11.2011 of Principle Bench, CAT in OA No. 655/2010. On the other hand, Hon'ble HC Telangana, while upholding the order of Hon'ble CAT, has relied on the judgement dated 16.08.2013 passed by CAT Ernakulam in OA 715/2012 filed by M.O.Inasu.

As mentioned in para 3 above, this Department has issued OM No.38/37/08-P&PW(A) dated 30.07.2015 in implementation of the

			<p>order dated 01.11.2011 of Principle Bench, CAT in OA No. 655/2010 and OM No.38/37/08-P&PW(A) dated 06.04.2016 in implementation of the order dated 16.08.2013 passed by CAT Ernakulam in OA 715/2012 filed by M.O. Inasu.</p> <p>None of the above judgements and orders/OMs envisage re-working of pre-2006 pension for the purpose of revision of pension w.e.f. 1.1.2006 under para 4.1 of OM dated 1.9.2008 (as has been directed by Hon'ble CAT Hyderabad vide order 13.06.2019 in the instant case). The above mentioned orders of CAT and OMs issued by this Department relate to revision of pension w.e.f. 1.1.2006 under para 4.2 of OM dated 1.9.2008, which provides that the revised pension would not be less than 50% of the minimum pay in the revised pay structure. The fact of the matter is that none of the earlier orders of Courts or the OMs issued by this Department result in any additional benefit to Shri M.</p> <p>DAE had correctly revised the pension in respect of Sh. M as per para 4.1 of OM dated 1.9.2008, as his consolidated revised pension w.e.f. 01.01.2006 (under para 4.1 of OM dated 01.09.2008) i.e Rs.7583/- is higher than 50% of the minimum of the pay in the Pay Band and the grade pay corresponding to the pre-revised pay scale (under para 4.2 of said OM) as per fitment table without prorata reduction of pension i.e Rs.7215/-, in terms of OM dated 06.04.2016 issued in compliance of CAT Ernakulam judgment dated 16.08.2013 in OA 715/2012.</p> <p>Department of Atomic Energy was, therefore, advised to take further course of action in consultation with Department of Legal Affairs.</p>
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2. Qualifying service:

<p>2.</p>	<p>Rule 21 of CCS(Pension) Rules</p>	<p>Referring Ministry –Ministry of Home Affairs.</p> <p>Reference No. V-14013/556/2014/L&R (9684) dated 06.05.2024</p> <p>Sh. M was appointed as Constable in CISF on 30.03.1982. He was dismissed from service on 30.11.1991 but later, in compliance of order of Hon'ble High Court of Orissa, CISF modified the penalty as Compulsory Retirement from service with two/third pension and gratuity. However, as he had less than 10 years of qualifying service on 30.11.1991 (including suspension/ EOL), he was not granted pension. He filed Writ Petition before Hon'ble HC Orissa for grant of pension, which was allowed:</p> <p><i>"30. The petitioner having putting 9 years and 8 months of service, the period of 8 months by fiction of law has to be treated as one complete year, in computing the service period as qualifying service as envisaged under Rule 49(1) of CCS (Pension) Rules thereby entitling of petitioner for pension on account of compulsory retirement in terms of Rule 40 of CCS (Pension) Rules."</i></p> <p>The WA and SLP filed by MHA against above order were dismissed. Hon'ble SC dismissed the SLP stating that:</p> <p><i>The concerned period which was deducted as non-qualifying service pertains to the suspension period and also the period when the respondent was granted extraordinary leave. These two periods, in our opinion, cannot be deducted, for determining the qualifying service for pension."</i></p>	<p>Desk A ID Note No.38/03(16)/2024-P&PW (A) (9721) dated 21.05.2024.</p> <p>The matter has been examined in the Department.</p> <p>Shri M had rendered less than 10 years of qualifying service before his dismissal on 30.11.1991 (including suspension/EOL), therefore, he was not granted pension.</p> <p>The case has not been referred to this Department earlier at any stage for comments or interpretation/relaxation of pension rules. The court orders are not in consonance with the extant Pension Rules, on the issue of qualifying service for grant of pension.</p> <p>As all legal recourse stands exhausted, on the issue of implementation of the court order, the administrative Ministry may take an administrative decision to implement the said court order in personam. It is hereby reiterated, that for any broader interpretation / relaxation of the relevant rules under the statute of CCS (Pension) Rules, a reference should be made to this department invariably for availing considered and uniform view in similar cases of other departments.</p>
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		Ministry has sought advice of this Department on implementation of court order in the matter.	
3.	OMs dated 26.07.2005 and 28.10.2009	<p>Referring Ministry –Department of Fisheries</p> <p>Reference No. 9-7/2023-Admn.V(in eoffice) dated 24.04.2024.</p> <p>Smt. D working as Private Secretary in an autonomous organization under the Department of Fisheries initially joined the Department of Consumer Affairs as LDC with effect from 12.03.1986. On 20.11.2004, she joined the autonomous body on deputation basis and subsequently was absorbed there w.e.f. 21.11.2008 as PS after giving technical resignation from Central Govt. (Deptt. of Consumer Affairs). Smt. D retired from service from the body w.e.f. 30.04.2024 on attaining the age of superannuation.</p> <p>The concerned autonomous body is a non-pensionable organization and neither Pay and Accounts Office is in existence there nor it is registered under Bhavisya. The body approached Dept of Consumer Affairs for processing her retirement benefits and they are processing it on pro-rata basis upto the period of 20.11.2008, provided the body reimburse expenditure for the period when she was on deputation in the body.</p> <p>Department had sought clarifications on following points:-</p> <ol style="list-style-type: none"> i. Which Office will process the pension case of Smt. D in the absence of PAO in the body. 	<p>Desk B ID Note No.28/03/2024-P&PW(B) dated 02.05.2024</p> <p>The Department of Pension and Pensioners' Welfare administers pension related policy matters in respect to Central Government civil employees under the 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. For the purpose of counting of past service on mobility from Central Government service to an autonomous body service in terms of OMs dated 26.07.2005 and 28.10.2009, following conditions would required to be satisfied:</p> <ol style="list-style-type: none"> (i) In the cases where mobility from the Central Government service to autonomous body has taken place on or after 01.01.2004, the employees should have joined in the Central Government prior to 01.01.2004 and was covered under the CCS(Pension) Rules, 1972. (ii) The employee has moved from Central Government service 28/03/2024-P&PW(B) to autonomous body after submitting technical resignation from the previous organization. (iii) The present autonomous body where employee has joined has pension

	<p>ii. Whether, Smt. D will be eligible for counting of past service in Department of Consumer Affairs and benefit of DoP&PW's OM No. 57/05/2021-P&PW(B) dated 03.03.2023 and continue in old pension scheme in the body till retirement</p> <p>iii. she will be eligible for pro-rata pension for the service rendered in Department of Consumer Affairs and provision of new pension scheme in the body.</p>	<p>scheme similar to CCS(Pension) Rules, 1972 for any category of its employee.</p> <p>(iv) The pro-rata pension liability for the period of service rendered by the employee in previous organization is transferred by the Government to the autonomous body.</p> <p>In the instant case, referred by the Department, it has been stated that the autonomous body does not have pension scheme similar to CCS(Pension) Rules 1972 for any category of its employees. Therefore, there is no question of counting of past service rendered in the Central Government on mobility to the autonomous body on or after 01.01.2004 in this case. Hence, employee would be eligible for pensionary benefits in accordance with relevant rules from Central Government for the service rendered in the Government and would get terminal benefits for her service in the autonomous body as per the rules applicable to their employees. The provisions of DoPPW OM dated 03.03.2023 is not relevant in the above case.</p>
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3. Counting of military service:

4.	Rule 19 of CCS(Pension) Rules 1972	Referring Ministry –Ministry of Defence Reference No. 16(1)/DAD/C/2023 dated 19.04.2024 Shri C has joined Central Government civil service on 29.08.2006. Prior to joining, civil service, he has served in Indian Air Force from 26.10.1993 to 20.10.2003. He has requested for counting of his past military service in accordance with Rule 19 of the CCS(Pension) Rules, 1972. MoD had stated that DoPPW vide their OM dated 26.07.2005 has restored the provision of Rule 18 of the CCS(Pension)Rules, 1972. However, there is no provision regarding counting of past military service under Rule 19.	Desk B ID Note No. 28/02/2024-P&PW(B) dated 09.05.2024 The Department of Pension and Pensioners' Welfare is a policy Department and it is for the administrative Department to undertake personal matters of employees including examination and decision on requests of Government employees in accordance with relevant rules. The counting of past military service on re-employment in Central Government civil employment was available under Rule 19 of the CCS(Pension) Rules, 1972. Since, the provisions of the CCS(Pension) Rules, 1972 are applicable to Central Government civil employees joined service on or before 31.12.2003, therefore, provisions of these rules including rule 18 and rule 19 are not applicable on joining civil service on or after 01.01.2004. Therefore, the matter of counting of past service on mobility to Central Government civil service on or after 01.01.2004 need to be examined in light of this Department's O.Ms dated 26.07.2005 and 28.10.2009.
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4. Interest on delayed payment of pensionary benefits:

<p>5.</p>	<p>Rule 68 of CCS(Pension) Rules 1972</p>	<p>Referring Ministry –Ministry of Housing and Urban Affairs</p> <p>Reference No. 8/31/2023-EC-III(B) dated 15.04.2024.</p> <p>Sh. B, CPWD retired on 31.07.2016. He had submitted his Pension case through Bhavishya Portal very late on 28.07.2016 whereas a retiring employee has to submit his pension papers six months before his retirement date. The concerned office of the applicant uploaded his pension case on Bhavishya Portal on 05.08.2016 and forwarded it to the concerned PAO. The Pension case was returned by the concerned PAO many times with observations. The verification of pay fixation by Internal Audit, Pr. Account Office, MoHUA, New Delhi also took considerable time. The payment of GPF, Commutation, leave encashment, gratuity etc were made to the employee during June- August, 2017.</p> <p>Aggrieved by the above, applicant filed OA in CAT, Allahabad Bench for payment of interest on delayed payment of his retiral dues. The Hon'ble CAT, Allahabad Bench disposed of the aforesaid OA with the following directions: <i>“..the court is of view that applicant is entitled for interest on delayed payment of his retiral dues after three months of his retirement, i.e. from 30.10.2016 because pension papers have been submitted by the applicant belatedly in the last week of his retirement. Accordingly, O.A is allowed Respondents are directed to pay the interest @ 6% simple interest on the delayed payment of retiral dues to the applicant from 30.10.2016 till the time of actual payment.”</i></p>	<p>Desk B ID Note No.28/02/2024-P&PW(B) dated 20.05.2024</p> <p>The comments of this Department, were as under:</p> <p>(a) Interest on delayed payment of gratuity : Rule 68 of the CCS(Pension) Rules, 1972, stipulates that-</p> <p>(1) If the payment of gratuity has been authorized later than the date when its payment becomes due, and it is clearly established that the delay in payment was attributable to administrative lapses, interest shall be paid at such rate as may be prescribed and in accordance with the instructions issued from time to time.</p> <p>Provided that the delay in payment was not caused on account of failure on the part of the Government servant to comply with the procedure laid down by the Government for processing his pension papers.</p> <p>(2) Every case of delayed payment of gratuity shall be considered by the Secretary of the Administrative Ministry or the Department in respect of its employees and the employees of its attaches and subordinate offices and where the Secretary of the Ministry or the Department is satisfied that the delay in the payment of gratuity was caused on account of administrative lapse, the Secretary of the Ministry or the Department shall sanction payment of interest.</p> <p>(ii) Vide DoPPW O.M. No. 38/34/2001-P&PW(F) dated 29.04.2002 it has been clarified all Ministries / Departments that where the payment of DCRG has been delayed beyond three months from the date of retirement, an interest at the rate applicable to GPF deposits determined from time to time by the Government of India will be paid to retired/dependants of deceased Government servants..</p> <p>(iii) It is for the Secretary of the administrative Department to decide the grant of interest on delayed payment of gratuity and implementation of court order.</p> <p>(b) With respect to payment of interest on GPF balance, it is informed that DoPPW vide OM dated 28.10.2022 has already issued timelines for</p>
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	<p>As per advise of Department of Expenditure to them, matter has been referred to this Department for advice in the matter.</p>	<p>completion of various activities in the process of authorisation of pension and gratuity on retirement on superannuation of a Government servant. As per para 2 (c), The Government servant shall submit the complete Forms not later than six months prior to his date of retirement. And in this case, the pensioner has submitted his papers just three days before his retirement which caused delay on the part of department for preparation for processing of pension case. Elaborate procedure has been laid down in Rules 56 and 57 for preparatory work for processing of pension case on superannuation during the period of one year before retirement.</p> <p>It has been also been observed that there is also delay on the part of department for the payment of retiral dues. Hence, this department is of the view that verdict of Hon'ble CAT, Allahabad Bench may be implemented and interest may be paid on delayed payment of GPF after three months of his retirement i.e. from 30.10.2016 till the time of actual payment. The applicability of Rule 68 (4) for fixing responsibility may also be taken into consideration by the ministry while deciding the decision of payment of the said interest.</p> <p>(c) On the question of payment of interest on commutation portion, rule 6 of the CCS(Commutation of Pension) Rules, 1981 provides that 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 Shri B received the commuted value of pension nearly one year after his retirement, he is entitled to receive the full amount of pension from the date of retirement till he is paid the commuted value of pension. As 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, the question of payment of any interest on delayed payment of commutation of pension does not arise.</p> <p>(d) Matter related to leave encashment is administered by DoPT. Hence, DoPT may be consulted on this matter.</p>
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5. National Pension System :

<p>6.</p>	<p>OMs dated 26.07.2005 and 28.10.2009</p>	<p>Referring Ministry –Ministry of Jal Shakti</p> <p>Reference No. जल. सं. मं. / ले. नि /समन्वय /ERM/2024-25/90 dated 10.04.2024</p> <p>Shri A joined Ministry of Jal Shakti on 17.03.2017 and passed away on 23.12.2021 and his PRAN could not be generated due to non-submission of NPS registration form by him.NPS contribution was deducted from the salary of deceased employee and Government Contribution is lying under RAT and options in form I & II under Rule 10 of CCS (Implementation of National Pension Scheme) Rules, 2021 were also not exercised by the deceased employee.</p> <p>The only living parent, his mother Smt. P was not dependent on the deceased Govt. employee, hence not eligible for family pension. However, as a legal heir, she may receive various dues such as leave encashment; CGEGIS, death gratuity etc. Hence, Ministry of Jal Shakti had requested this Department to clarify whether the employee contribution along with Government contribution lying under RAT along with prescribed GPF rate compounded annually may be credited/ paid to account of the legal heir i.e. Smt. P.</p>	<p>Desk B ID Note No.28/03/2024-P&PW(B) dated 03.05.2024</p> <p>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 now regulated under Section 20 of the PFRDA Act and regulations made there under by PFRDA. However, vide this Department's O.M. No. 38/41/06-P&PW(A) dated 05.05.2009, on provisional basis, benefit of pension/family pension and death gratuity was extended to the Government employees covered under NPS in the event of their death or discharge from Government service on account of invalidation/disablement.</p> <p>The provisions have been included in the CCS(Implementation of NPS) Rules, 2021 notified by this Department on 31.03.2021 to regulate service related matters in respect to Central Government civil employees covered under NPS which inter-alia includes provision for option to avail benefits under OPS or NPS in the event of death of a Central Government employees covered under NPS. The grant of benefit of family pension in respect to deceased Central Government employee covered under NPS is required to be decided as per the option exercised by the employee or the default option applicable in the case, if no such option exercised by the employee.</p> <p>As per provision of Rule-10 of the CCS (Implementation of NPS)Rules, 2021, in case of no option exercised by the employee, the default option within first 15 years of service would be grant of benefit under OPS in the event of the Government Servant. However, the rule also provides that in cases where the option exercised by the deceased Subscriber in accordance with sub-rule (1) or the default option in accordance with sub-rule (6) for benefit under the Central Civil Services (Pension) Rules, 1972 or the Central Civil Services (Extraordinary Pension) Rules, 1939 becomes infructuous on account of non-availability of an eligible member of the family for grant of family pension under the Central Civil Services (Pension) Rules, 1972 or the Central Civil Services (Extraordinary Pension) Rules, 1939, such option would be deemed to have</p>
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6. Payment of Gratuity:

7.	<p>Payment of Gratuity Act, 1972</p> <p>Referring Ministry –Ministry of Health and Family Welfare</p> <p>Reference No. A.11019/08/2024-ME dated 30.04.2024</p> <p>Shri R, an ex-employee of an autonomous body under the MoHFW, requested for payment of gratuity under the Gratuity Act, 1972.</p> <p>He had been appointed in the Institute as a casual employee in Telephone Exchange in the year 1994 and retired from service on 01/02/2023 after completing 28 years 07 months of service. He was granted temporary status of casual worker under the “Casual Labourers (Grant of Temporary Status and Regulation) Scheme of Government of India, 1993” on 19/10/2005 although he was not regularized.</p> <p>His case was processed for payment of gratuity as per instructions given by Regional Labour Commissioner (Central), Ministry of Labour & Employment, Ranchi. The case was sent back citing DoPT OM No. 49014/5/2019-Estt. (c) dated 13/02/2020.</p> <p>A Notice was received from the Regional Labour Commissioner (Central), Ranchi, regarding payment of gratuity under the Gratuity Act, 1972 to Shri R with simple interest on the amount of gratuity. Department has referred the matter for clarification from this Department.</p>	<p>Desk B ID Note No.28/03/2024-P&PW(B) dated 09.05.2024</p> <p>The Department of Pension and Pensioners’ Welfare administers matters related to gratuity in respect of Central Government Civil employees under the CCS (Pension) Rules, 2021 and CCS (Payment of Gratuity under NPS) Rules, 2021.</p> <p>These rules are not applicable to persons in casual and daily rated employment. The Payment of Gratuity Act, 1972 is administered by Ministry of Labour and Employment. Therefore, Ministry may ascertain the applicability of grant of gratuity to Shri R under the provisions of Payment of Gratuity Act, 1972 from Ministry of Labour and Employment.</p>
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7. General Provident Fund:

<p>4.</p>	<p>Rule 7, 8 and 10 of General Provident Fund (Central Services) Rules, 1960</p>	<p>Referring Ministry –Government of Bihar</p> <p>Reference No. GPF-01-315/2022/1583 dated 04.04.2024</p> <p>Government of Bihar sought clarification regarding payable interest after ceiling of Rs.5 lakhs on subscription to General Provident Fund (State Services) in a financial year.</p> <p>They referred Department’s ID Note No.3/6/2023-P&PW(F) dated 12.06.2023 which state that “in respect of the question of payment of interest on the amount exceeding Rs.5.00 lakhs, the above mentioned instructions of this Department do not intend to deny interest on the GPF subscription over and above the ceiling of Rs.5.00 lakhs, in cases where the amount of total subscription in the year 2022-23 in respect of a Government servant exceeds Rs.5.00 lakhs. The interest on the subscription in excess of Rs.5.00 lakhs shall however, be subject to income tax, as per the rules notified by the Department of Revenue.”</p>	<p>Desk F ID Note No.3/2/2024-P&PW(F) dated 06.05.2024</p> <p>The matter was examined in the Department.</p> <p>In this connection, it is mentioned here that Rule 7, 8 and 10 of General Provident Fund (Central Services) Rules, 1960 were amended vide notification dated 15.6.2022, vide which it was informed that the sum of the monthly subscription by a subscriber under the GPF during a financial year together with the amount of arrear subscriptions deposited in that financial year shall not exceed the threshold limit (at present Rupees Five Lakhs).</p> <p>However, references were received in the department seeking advice as to how the GPF subscription is to be regulated in the case of those Government servants in which cases the total subscription of GPF in the current financial year (i.e. 2022-23) has already exceeded the limit even with the minimum subscription of 6% of emoluments prescribed under General Provident Fund (Central Services) Rules, 1960. Keeping in view the difficulties being faced by the different Ministries/departments, the matter was again examined in this Department and the following instructions were issued vide O.M. dated 02.11.2022:</p> <p>"(a) in the case of those Government servants, whose GPF subscription during the current financial year (i.e 2022-23) has already exceeded the threshold limit of Rs. 5 lakhs, no further deduction of GPF subscription may be made from their salary in the current financial year. In those cases, the provision regarding minimum monthly subscription of 6% of the emoluments shall be deemed to have been relaxed,</p> <p>(b) In the case of those Government servants, whose GPF subscription during the current financial year (i.e. 2022-23) has not yet reached/exceeded the threshold limit of Rs.5 lakh, further deductions towards GPF subscriptions during the current financial</p>
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