

The 29th April 1976

OFFICE MEMORANDUM

Subject : Simplification procedure with a view to eliminating the delays in the payment of superannuation pension and death-cum-retirement gratuity.

No.FAP/SC/9/76/5 : The question of simplifying and expediting the procedures for the sanctioning and grant of pension to the State Government employees has been under Government's consideration. The Governor of Assam, after careful consideration of the recent decision of the Government of India as contained in their office Memorandum No.F.11 (3)-EV (A)/76, dated 28th February 1976 pleased to decide that the following modifications in the Assam Services (Pension) Rules 1969 and other relevant orders will come into force from 1st May 1976, that is in respect of persons retiring on or after 30th April, 1976.

2. Time table for the Work – the payment of superannuation pensions should in all cases commence on the first day of the month in which they are due. For this purpose the heads of office responsible for connected with pension cases, including those responsible for the issuing pension payment orders will be required to observe the following time schedule for the various processes leading to the authorization of pension and gratuity. The Government intention is that while preliminary and preparatory work should be commenced sufficiently in advanced and adequate time allowed the various stages and processes of work, these should not be allowed to be unduly prolonged or to become interminable. To obviate this for cut-off dates are prescribed for each stage so that when a cut-off date is reached the work will then necessary proceed to the next stage :

- (a) The head of office or other authority responsible for preparing the pension papers will initiate the pension case two years before the date of retirement of the Government servant. At this stage, the work will be essentially that of assembling the information necessary for working out the qualifying service (or at a later date calculation of average emoluments). As most delay in pension cases arise from gaps, deficiencies and imperfection in the service book/records every effort should be made at this stage to remove these while at same time keeping in mind that what is intended is not a total overhaul or audit of the entire service book or records but only a scrutiny limited to the immediate purpose on hand namely, the preparation of the pension papers. This process should be completed in good time at any rate not later than 8 months in advance of the date of retirement of the Government servant.
- (b) On reaching the above stage i.e., 8 months before the retirement that the actual work of preparation of pension papers viz, the reckoning of qualifying service and the calculation of average emoluments should be taken up. Any deficiency or imperfection or omission which still remains in the service records will be ignored at this stage and the determination of the qualifying service will be proceeded with on the basis of entries in the service records whatever the degree of perfection to which it might have been possible to bring them by that date.
- (c) The average emoluments will be determined with reference to emoluments drawn during the last 10 complete months and not 36 months as was the practice here-to-fore. While the period to be taken for average calculations has been reduced the other provisions in rule 115 of the Assam Services (Pension) Rules 1969 will continue to apply mutatis mutandis. This works involve not merely an arithmetical calculation of the average emoluments but also a check of the correctness of the emoluments on the first date of the ten months period would naturally depend on the correctness prior to this date. However, any such check of the correctness of the past emoluments whether in the office preparing the pension paper or later in the office responsible for issuing the payment order should not become an occasion for an extensive examination going back in to the distant past. The check should be the minimum which is absolutely necessary and it should not in any case go back to a period earlier than a maximum of 24 months preceding the date of retirement.

- (d) The process of determining of qualifying service and the average emoluments and the admissible Pension and gratuity should be positively completed within a period of two months and the pension papers should be sent to the office responsible for issuing the pension payment order not later than 6 months before the date of retirement. That office will after the necessary scrutiny of the papers [limited to the immediate purpose on hand as mentioned in sub-paragraph (a) and (c) above] issue the pension payment order including the order for the payment of the death-cum-retirement gratuity not later than one month in advance of the date of retirement.
- (e) The time schedule and procedures, mentioned above will equally apply mutatis mutandis to those cases in which the office is to issue the pension payment order has also the responsibility for the preparation of pension papers.
- (f) In those cases in which the retirement of Government servants takes place earlier than the normal date of compulsory retirement either in pursuance of the provisions of F.R. 56 (b) or (c) or because of the permanent absorption of the Government servant in a public undertaking in terms of Rule 98 (i) of the Assam Services (Pension) Rules, 1969 the nature of the retirement would preclude advanced action in regard to the pension cases. In such cases too, the pension case would have to be processed very expeditiously and instructions in this regard will be issued separately.

3. Extraordinary leave and suspension : (a) Under Note 2 below Rule 54 of the Assam Services (Pension) Rules, 1969 as amended by Government Notification No.FMP.2/70/33, dated 15th June 1971 Extraordinary Leave is allowed to count for pension if it is taken –

- (i) On medical certificate or
- (ii) due to inability of the person to join or re-join duty due to civil commotion or natural calamity ; or
- (iii) for prosecution of higher scientific and technical studies.

Extraordinary leave taken on other groups is treated as non-qualifying and therefore, a definite entry is to be made in the service records to that effect. Entries regarding service being qualifying or otherwise are required to be made simultaneously with the event. Even where this is not done it should still be possible to rectify the omission during the period allowed for preparatory action i.e., from two years in advance of the retirement date up to eight months before retirement. At the end of that period, however, [i.e. when the actual preparation of the papers is taken in hand as laid down in paragraph 2 (b) above] no further enquiry into past events or check of past records should be undertaken. Specific entries in the services record regarding non-qualifying periods will be taken note of and such periods exclude from the service. All spells of extraordinary leave not covered by such specific entries will be deemed to be qualifying service.

(b) Similarly, Rule 61 of the Assam Services (Pension) Rules, 1969 requires that in cases other than those in which suspension has been held to be wholly unjustified, the competent authority should at the appropriate time declare whether and to what extent the period of suspension will count towards the qualifying service. Special entries in this regard in the service book/records will be taken note of at the time of reckoning qualifying service. In the absence any specific entry, period of suspension shall be taken as counting towards the qualifying service.

4. Breaks in service. In the absence of a specific indication to the contrary in the service records, an interruption between two spells of service rendered under the State Government will be treated as automatically condoned and the pre-interruption service treated as qualifying service for pension, except where it is otherwise known that the interruption was caused by resignation dismissal or removal from service or participation in strick. The period of interruption itself will under no circumstances be reckoned as qualifying service for pension.

5. Deputation/Foreign Service – (a) There are some cases in which in accordance with the terms of deputation/foreign service, it is the responsibility and liability of the Government servant himself to maintain the continuity of pensionable service by the payment of pension contributions. In such cases, it will be necessary to ascertain whether the recoveries have been made, before the period of foreign service is reckoned as qualifying service. However, the Government servant is sometimes put to considerable difficulty because of defective or incomplete record maintenance by the administrative/accounts offices. In such cases, while he could be reasonably asked to show that he had indeed made the contributions, the administrative authority should show a spirit of reasonableness and accommodation in evaluating and accepting such evidence as he is able to put forward, and not insist rigidly on formal proof with reference to service or accounts records for the maintenance of which the Government servant is not responsible.

(b) Where, however the responsibility for making pension contributions is that of the borrowing organization and where either some of the contributions are incomplete, while the authorities concerned should pursue the matter with borrowing organization separately for appropriate action, this should have no bearing on the processing and finalization of pension papers.

6. Administrative sanction to pension and the concept of approved service :-

(a) It has been noticed that the submission of pension papers to the Head of the Department or Appointing Authority for administrative sanction to pension with reference to the concept of approved service though largely a formality in the vast majority of cases, leads to a good deal of delay in the finalization of pension cases. It has, therefore, been decided that the requirement of an administrative sanction to pension which is referred to in a number of places in the Assam Services (Pension) Rules, 1969 should be dispensed with. The determination of pension will hereafter be merely a matter of calculation in accordance with rules and the pension papers not be submitted to the Head of the Department or the Appointing Authority.

(b) However, the intention behind the provisions in Rule 106 (b) of the Assam Services (Pension) Rules, under which less than the full admissible quantum of pension/gratuity can be granted after a summary procedure in a particular case on the grounds of unsatisfactory service or conduct is not proposed to be given up. Recourse to this provision will obviously be had only in exceptional cases and for this purpose it is not considered necessary to submit all pension cases to the Head of the Department or the Appointing Authority or subject them to a process of administrative sanction. Instead, at the time the preparation of pension papers is taken up, i.e., 8 months prior to the retirement date the Head of Office should address a separate enquiry to the Appointing Authority whether there is any intention to grant less than full pension or to institute any proceeding. (The pension Paper need not be sent to that authority for this purpose). In the absence of a reply to this inquiry, the authority preparing the pension papers should assume that there is no intention to grant less than full pension/gratuity and should process the pension papers accordingly so as to transmit them by the prescribed dead-line to the authority responsible for issuing the pension payment order. If, however the appointing authority does decide that there is a case for granting less than the full admissible pension/gratuity, the procedure laid down in Rule 106 (b) of the Assam Services (Pension) Rules, 1969 should be followed and this process should be positively completed before the deadline for sending the pension papers to the authority responsible for issuing the pension payment order is reached i.e. earlier than six months prior to the retirement date.

(c) Where the responsibility for preparing the pension papers rests with an authority other than the Head of the Office concerned, it should be the responsibility of the Head of the Office (or that of the next higher authority where the pension case is of the Head of the Office himself) or ascertain in advance from the appointing authority and communicate to the authority responsible for preparing the pension papers any intention to grant less than the full admissible pension/gratuity, not later than 6 months prior to the retirement date. Where no such intimation has been received the authority responsible for preparing pension papers will process the pension case on the assumption that full admissible pension and gratuity may be granted.

Right to withhold or withdraw pension :- (a) Nothing contained in para 6 above is intended to effect the provisions of Rule 21 of the Assam Services (Pension) Rules, 1969 which provide for withholding or with drawing of pension.

(b) Where department or judicial proceedings instituted during the service of the Government servant are not likely to be finalized by the date of retirement action to grant provisional pension in terms of rules 22 (1) and (2) should be taken. The provision of paragraph 8 (c) below will not apply to provisional pensions granted in terms of rule 22 (1) and (2) of the Assam Services (Pension) Rules, 1969.

(c) If after the pension papers have been forwarded to the office responsible for issuing the pension payment order in accordance with the provisions of paragraph 2 (b) above any event occurs which has a bearing on the amount of pension admissible, the fact shall be promptly reported to the office responsible for issuing the Pension and Gratuity Payment Order.

8. Payment of provisional pension and Gratuity, (a) The timetable laid down in paragraph 2 above is intended to be followed strictly. If, however for any special reasons it has not been found possible to complete and forward the pension papers to the office responsible for issuing the Pension Payment Order within the prescribed time schedule in a particular case, or if the pension papers have been sent late to that office and/or that office has either returned the papers to the Head Office for eliciting further information or has not been able to issue pension payment order before one month prior to the date of retirement of the Government servant, steps shall be taken by the Head of Office to authorize payment of provisional pension and gratuity by the first of the month in which it is due. For this Purpose, such information as is available in the official record may be used, and further the Head of Office should ask the retiring government servant for a simple statement giving his total length of service till the date of retirement indicating the period of breaks if any, and also the emoluments during the last ten months of service. The retiring Government servant may also be asked to certify that the facts stated by him are correct to the best of his knowledge and belief. If complete information in regard to the emoluments during the last ten months is not available either with Head of Office or with the Government servant the emolument last drawn should be taken provisionally as average emoluments. The Head of Office shall sanction 100% of the pension calculated with reference of the information so obtained, as a provisional pension. The death-cum-retirement gratuity should similarly be determined. The provisional pension and gratuity will be drawn and disbursed by the Head of Office in respect of non-gazetted government servants.. Before disbursing the provisional gratuity, all known dues such as long term advances still outstanding, overpayment of pay and allowances, etc. and other recoveries due, shall be adjusted. Where no such adjustments are due, a deduction of 10% of the gratuity or Rs.1000, whichever is less, shall be made partly to cover unassessed dues, if any, and partly as a margin for adjustment in the light of the final determination of the gratuity.

(b) At present, in respect of gazette Government servants it is the Accounts Officer which issues an Anticipatory Pension payment Order where the final pension has not yet been determined. In modification of this it has been decided that in these cases, too, if the final pension payment order has not been issued by the Accounts Officer one month before the retirements that the government servant may ask the Head of Office for the drawal and disbursement of provisional pension and gratuity. For this purpose, the procedure laid down in clause (a) will equally apply.

(c) Provisional Pension to become final after six months :- The provisional pension is not intended to be continued on a provisional basis beyond a period of six months from the date of retirement. If the office responsible for issuing the pension payment order has not finalized the pension case by that time, the provisional pension shall be deemed to have become final and it will be obligatory for the office concerned to issue the final Pension payments Order for the amount of pension and gratuity already calculated on a provisional basis ; and the deduction made from the gratuity as per sub-paragraph (a) above shall also be released subject to the provisions of paragraphs 9 and 10 below.

9. Last Pay Certificate : The issue of a Last Pay Certificate should not be insisted upon before the payment of provisional pension. During the period of six months after retirement which has been provided for various purposes above it should be possible for the Head of Office or other office concerned to issue the Last Pay Certificate to a Government servant. In cases in which the Last Pay Certificate has not been issued

2 (b) above, or after his retirement and after the grant of a provisional pension] the Gratuity Payment Order will in any case include a provision for the withholding 10% of the gratuity or Rs.1,000 whichever is less, pending the production of the Last Pay Certificate.

10. Adjustment of Government dues : (a) Dues pertaining to Government accommodation. The existing procedures for the issue of No Demand Certificate and the adjustment of dues pertaining to the continued occupation of Government accommodation after retirement will for the present continue. The question of the elimination of delays arising from these procedures is separately under consideration.

(b) Dues other than those pertaining to Government accommodation :- In respect of other Government dues steps should be taken to ascertain or assess prior to the retirement date. As the next stage of the actual preparation of pension papers is reached only after a year and four months, there is ample time or ascertaining all kinds of Government dues. Once that stage is reached i.e. eight months before the retirement of the Government servant, any further probing of records for recoveries due shall cover only a limited period i.e. no more than two years before the date of retirement. It should thus be quite possible for the Head of Office, or the office which is to issue the Pension Payment Order as the case may be, to ascertain or assess all the dues, particularly those pertaining to long term advances such as house-building or conveyance advance, over-payments of pay and allowances, and such other dues, prior to the prescribed dead-line for the issue of the Pension Payment/Gratuity Payment Orders or provisional pension/gratuity order. The pension papers should clearly indicate the total amount of outstanding dues which should be recovered out of the death-cum-retirement gratuity before authority for the payment of gratuity (whether final or provisional) is issued ; and if, after the pension papers have been transmitted to the office responsible for issuing the pension payment order, additional recoveries to be made from the gratuity come to notice, the fact shall promptly reported to that office. In a case where no major recoveries are due, but 10% of the gratuity or Rs.1,000 has been withheld because there might be unassessed Government dues, or because the gratuity has been provisionally paid as per paragraph 8(a) above, or because Last Pay Certificate has not been received (see paragraph 9 above), the withheld amount shall automatically become payable on the expiry of six months after retirement. The Head of Office (or the office issuing the pension and gratuity or the final gratuity payment order) itself the amount of gratuity withheld and add further that the withheld amount shall be released by the period of six months from the date of retirement ; unless for the recovery of a specified sum or sums from the withheld amount are issued within the aforesaid period.

11. Accordingly of officers charged with the maintenance of records. In taking the above decision, Government have proceeded on the basis that in spite of every effort imperfections may remain in the records and procedures but that would be unfair to a retiring Government servant if he had to suffer because of the lapses of those responsible for the proper maintenance of service record. The fact that under the new procedures the presumption will be in favour of the Government servant if the records are incomplete or different in any manner underlines the importance of ensuring the proper, regular and timely completion of all the service and accounts records by the offices concerned, so as to minimize occasion for making such presumption. It has accordingly, been decided that if, in future, service records are found to be incomplete or imperfect at the time of processing and finalizing pension cases, those cases will not be delayed but the official responsible for the maintenance of the records will be held accountable for any deficiencies, failure or omissions therein, and action will be initiated against them. The Head of Department will ensure that these directions are compiled with.

12. Monitoring and reporting : To keep an effective watch over the preparation and finalization of pension papers, a monitoring and reporting system will be introduced in the offices concerned. Separate general orders will follow in this respect.

13. The Pension Rules, etc. may be deemed to stand amended by the orders contained herein. Formal amendments will be issued in due course.

Sd/-

Secretary to the Government of Assam,

Finance Department