GOVERNMENT OF INDIA (BHARAT SARKAR) MINISTRY OF RAILWAYS (RAIL MANTRALAYA) RAILWAY BOARD.

No. F(E)III/ 2003/PN1/33

NEW DELHI

Dt.05:02.2004

The GMs/ FA&CAOs,
All Indian Railways/Production Units,
(As per Mailing List)

Sub: Policy regarding release of pensionary dues in cases where judicial proceedings are pending against the retiring Railway servants.

In terms of Rules 9 (3) and 10 (c) of Railway Services (Pension) Rules, 1993, a railway servant, who is retiring on attaining the age of superannuation or otherwise, against whom any departmental or judicial proceedings, including criminal and civil proceedings, are instituted or continued under Rule 9(2) of the Rules ibid, shall be sanctioned provisional pension and his/her gratuity shall be withheld. The sanction of final pension and release of gratuity shall depend upon the final orders issued on conclusion of the departmental or judicial proceedings. In this background, the All India Railwaymen's Federation has represented that the Rules 9(3) and 10 (c) of the Pension Rules are applied by one of the Zonal Railways in each and every case of judicial proceedings, even in those civil cases pertaining to partition of property and divorce, without making any distinction as to whether such disputes have any concern with the Railways or not, which is causing hardship to the retired Railway servants.

2. The matter has been examined in consultation with the Department of Pension & Pensioners' Welfare, the nodal Department of Government of India on pensionary matters. After careful consideration of the matter, it has been decided by the President that since the judicial proceedings pending against a Railway servant automatically become proceedings under Rule 9 of Pension Rules after his/her retirement, the concerned disciplinary authority should review such cases at the time of retirement and satisfy itself as to whether the judicial proceedings pending against the Railway servant attract any of the provisions contained in the Railway Servants (Conduct) Rules 1966 or are in any way prejudicial to the interests of the Railways/Government, and on conclusion of the judicial proceedings the retired Railway servant shall not have been fully exonerated and/or the penalty of cut in pension or gratuity or both, in part, or in full shall have been imposed. If the result of the review is in the affirmative, it shall be appropriate to continue the judicial proceedings as deemed proceedings under Rule 9 of Railway Services (Pension) Rules, 1993. On the

other hand, if the judicial proceedings pertain to mere civil cases of property disputes between a Railway servant and any other private party, or partition suit without any criminal angle involved and with which Railways/Government have no concern, or divorce suits having no bearings on the conduct of the Railway servant, as laid down in Railway Servants (Conduct) Rules, 1966, such judicial proceedings need not be continued as deemed proceedings under Rule 9 of Railway Services (Pension) Rules, 1993. It has also been decided by the President that PHODs, DRMs and GMs being the appointing authorities of non-gazetted Railway servants and Group 'B' Railway officers, may review all the cases where judicial proceedings pending against the Railway servants at the time of retirement have already been treated as deemed proceedings or are to be treated as such in future under Rule 9 of Railway Services (Pension) Rules, 1993 and decide about the future under Rule 9 of Railway Services (Pension) Rules, 1993 and decide about the desirability or otherwise of continuing such proceedings under Rule 9 of the Pension Rules. Similar cases of retiring group 'A' officers as are not found desirable to continue Rules. Similar cases of retiring group 'A' officers as are not found desirable to continue as proceedings under Rule 9 of Pension Rules shall be referred to Railway Board, with the recommendations of the General Manager, for taking a final decision.

- 4. Please acknowledge receipt of this letter.
- Hindi version is enclosed.

(S.SREERAM)

Dy. Director Finance (Estt.)III.,

Railway Roam

No. F(E)III/ 2003/PN1/33.

NEW DELHI

s to whether such disputes have I. 20.10 edited Railway S.

Copy to Deputy Comptroller and Auditor General of India (Railways), Room No. 224, Railway Bhavan, New Delhi (40 spares).

for Financial Commissioner/Railways.

as deemed proceedings under Rule

No. F(E)III/ 2003/PN1/33.

NEW DELHI

Dt.05-02.2004

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for Secretary/Railway Board

No. F(E)III/ 2003/PN1/33.

1. The G.M, N.F Railway(Const.), C.A.O, Southern Railway (Const) and Central Railway

2. The FA&CAOs, All Indian Railways, Production Units, N.F Railway (Const.) and Southern Railway (Const.)

3. The Director General and Ex.officio General Manager, RDSO/Lucknow.

4. The General Manager and FA&CAO, Metro Railway/Kolkata.

5. The CAOand FA&CAO, COFMOW/New Delhi. (12-minles unlish) if video back

6. The General Manager and FA&CAO, CORE/Allahabad.

7. Director General, Railway Staff College/Vadodara.

8 The CAO(Const.), MTP(R)/Mumbai.

9. The CAO(Const.),MTP(R)/Chennai.

10. The Executive Director, CAMTECH/Gwalior-474020 sibral IIA warmand largest and a

11. The Director, IRICEN/Pune, IRIEEN/Nasik Road, IRIMEE/Jamalpur, https://doi.org/10.1016/j.jamalpur. 7. Shri S.S.Ramachandra, Secretary General , All India Central Cor

IRISET/Secunderabad.

12. The Managing Director, IRCON, IRFC, MRVC, IRWO, IRC&TC, CONCOR of India Limited, Executive Director, CRIS. 13. The Chairman -cum-Managing Director, KRC Limited/New Delhi

14. Office of the Chief Project Administrator (Telecom), Indian Railway Central Organisation for Telecom(IRCOT) Consultancy, Shivaji Bridge/New Delhi. 15. The Director(Movement) Railways/Kolkata. A head again 1997 Dec. 9 monsains of the Director (Movement) Railways/Kolkata.

16. The Joint Director, Mil Rail, Ministry of Defence.

17. The Joint Director, Iron & Steel,5 Koila Ghat Street/Kolkata.

18. Chief Mining Advisor, Ministry of Railway, Dhanbad, Bihar.

..4..

19. The Chairman, RCC, Lok Sabha Secretariat/New Delhi.

22. The Chairman, RRB/Ajmer, Ahmedabad, Allahabad, Bangalore, Bhopal, 22. The Chairman, RRB/Ajmer, Ahmedabad, Allamada, Gorakhpur, Guwahati, Malda, Bhubaneshwar, Chandigarh, Chennai, Kolkata, Jammu, Gorakhpur, Guwahati, Malda, Bhubaneshwar, Chandigarh, Chennai, Secunderabad, and Trivandrum.

Mumbai, Muzaffarpur, Patna, Ranchi, Secunderabad, and Trivandrum.

23. The Editor, "Bharatiya Rail"

24. The Editor " Indian Railways"

25. Chairman, Passsenger Services Committee.

27. The Pay & Accounts Officer, Ministry of Railways (Railway Board)

28. The General Secretary, IRCA/New Delhi.

29. The Commissioner, Railway Safery/Lucknow. 30. Liaison Officer, VCPC, Zonal Railways/PUs/RDSO/Trg. Institutes, Metro

Railway/COFMOW/CORE etc.

31. Chairman, RILES
32. Computerised Facilitation Counter, Room No.5, Near Gate No.1, Rail Bhavan, New Delhi.

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1. Shri V.K. Sthanunathan, National President, National Federation of Railway Pensioners, 36, Venkatanarayana Road, T. Nagar, Chennai-600 017.

2. Shri K. Gopinath Menon, The Secretary General, National Federation of Railway

Pensioners, Kunnathurmedu, Palghat- 678 013.

3. Shri R.B. Kulkarni, President, AIRRF, 13/9, Vivekanand Housing Society, Gurumandir Road, Dombivli (East), Maharashtra-421 201.

4. B. Jayajaya Rao, President, All India Railway Officer's Association, 12-13-268

(505)New, Street-2, Lane 9, Tarnaka, Secunderabad-500 017.

5. The General Secretary, Railway Pensioners' Council Kiran Kutir, Larkania Tola

6. The General Secretary, All India Federation of Pensioners Association, T.P.M Hall.22.

Kavirai Street, Saidapet West, Chennai-600 015.

7. Shri S.S.Ramachandra, Secretary General, All India Central Committee of Pensioners Association. Flat No.144, New Suryakiran Apartments, Plot No. 65. Patpargani, New Delhi-110 092.

8. Shri M.S.Solanki, General Secretary, Central and AIS Pensioners Association, E-i/164, Arena Colony, Bhopal(M.P) 462 016

9. Shri Nirmal Dass Gupta, Vice President, Federation of Central Government Pensioners' Organisation, P-24C, Sagar Manna Road, Kolkata. 700 060

10. Shri B.S Dard, Secretary General, Central Government Pensioners' Association, 1874/2, Sector-64, S.A.S Nagar, Chandigarh 160 061.

11. Shri C.R. Chatwani, Central Government Pensioners' Association, "SHIVANAND",

11/13, Krishna Kunj Society, Chhotunagar-7, Raiya Road, Rajkot 360 001.

12. Secretary General, Bharat Pensioners' Samaj, Post Box 3303, Jangpura Extension, New Delhi-110 014.

13. M/s. Bahri Bros., Publishers, Booksellers and Distributors, 742, Lajpat Rai Market, Delhi-110 006.

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Acs-II, PG, E(Rep)-I,II,III Railway Board.

भारत सरकार रेल मंत्रालय (रेलवे बोर्ड)

आर बी ई सं. ^{2,5}/.2004

सं. एक (ई) III/2003/पी एन 1/33

नई दिल्ली, दिनांक:05.02.2004

महाप्रबंधक/वित्त सलाहकार एवं मुख्य लेखा अधिकारी, सभी भारतीय रेलें/उत्पादन इकाइयां, (डाक सूची के अनुसार)

> विषय: सेवानिवृत्त हो रहे रेल कर्मचारियों जिनके विरूद्ध न्यायिक कार्यवाहियां लंबित हों को पेंशन संबंधी देय राशि देने के संबंध में नीति.

> > *****

रेल सेवा (पेंशन) नियम, 1993 के नियम 9(3) और 10(ग) के अनुसार, रेल कर्मचारी, जो अधिवर्षिता की आयु प्राप्त करके अथवा अन्यथा सेवानिवृत्त हो रहा है और जिसके विरूद्ध इन्हीं नियमों के नियम 9(2) के अंतर्गत आपराधिक और सिविल कार्यवाहियों सिहत कोई विभागीय या न्यायिक कार्यवाहियां संस्थित की गई हों या जारी रखी गई हों, को अनंतिम पेंशन मंजूर की जाएगी और उसकी ग्रेच्यूटी को रोक दिया जाएगा. अंतिम पेशन की स्वीकृति और ग्रेच्यूटी का भुगतान विभागीय अथवा न्यायिक कार्यवाहियों के निष्कर्ष पर जारी अंतिम आदेशों पर निर्भर करेगा. इसी पृष्ठभूमि में, अखिल भारतीय रेल कर्मचारी संघ ने अभ्यावेदन किया है कि पेंशन नियमों के नियम 9(3) और 10(ग) को एक क्षेत्रीय रेलवे द्वारा, न्यायिक कार्यवाहियों के प्रत्येक मामले यहां तक कि संपत्ति के बटवारे और तलाक से संबंधित सिविल मामलों में भी बिना कोई भेद किए कि ऐसे विवादों का रेलवे से कोई संबंध है भी या नहीं, लागू किया जा रहा है, इससे सेवानिवृत्त रेल कर्मचारियों को बहुत परेशानी हो रही है.

2. इस मामले की पेंशन एवं पेंशनर कल्याण विभाग जो पेंशन संबंधी मामलों पर भारत सरकार का नोडल विभाग है, के परामर्श से जांच की गई है. इस मामले पर ध्यानपूर्वक विचार करने के बाद राष्ट्रपित जी द्वारा यह निर्णय लिया गया है कि चूंकि रेलवे कर्मचारी के विरुद्ध लंबित न्यायिक कार्यवाही उसकी सेवानिवृत्ति के उपरांत पेंशन नियमों के नियम 9 के अंतर्गत स्वतः ही कार्यवाही बन जाती है. इसलिए संबंधित अनुशासनिक प्राधिकारी को सेवानिवृत्ति के समय ऐसे मामलों की समीक्षा करनी चाहिए और स्वयं को आश्वस्त करना चाहिए कि क्या रेलवे कर्मचारी के विरुद्ध लंबित न्यायिक कार्यवाही से रेल सेवक (आचरण) नियम, 1966 में अंतर्विष्ट कोई प्रावधान उन पर लागू तो नहीं होता अथवा किसी भी प्रकार से रेलवे/सरकार के हित के प्रतिकूल तो नहीं है, और न्यायिक कार्यवाही के पूरा होने पर सेवानिवृत्त कर्मचारी को पूरी तरह से दोष-मुक्त नहीं याभा

आएग और/अथवा पेंशन या ग्रेच्यूटी दोनों की आंशिक रूप से अथवा पूर्ण रूप से कटौती करने का दंड दिया आएगा. यदि समीक्षा का परिणाम सकारात्मक है तो रेल सेवक (पेंशन) नियम, 1993 के नियम 9 के अंतर्गत मान्य कार्रवाइयों के रूप में न्यायिक कार्यवाही को जारी रखना उचित होगा. दूसरी तरफ यदि न्यायिक कार्यवाही रेलवे कर्मचारी और किसी अन्य प्राइवेट पार्टी के बीच संपत्ति के झगड़े से संबंधित केवल सिविल मामला है, या बिना किसी आपराधिक पहलू के बंटवारे का मुकदमा है और जिससे रेलवे/सरकार का कोई संबंध नहीं है या तलाक का मुकदमा है जिसका रेल सेवक (आचरण) नियम, 1966 में निर्धारित किए गए अनुसार रेलखे कर्मचारी के आचरण पर कोई प्रभाव नहीं पड़ता, तो उस स्थिति में ऐसी न्यायिक कार्यवाहियों को रेल सेवा (पेंशन) नियम, 1993 के अंतर्गत मान्य कार्यवाहियों के रूप में जारी नहीं रखना चाहिए. राष्ट्रपति जी द्वारा यह भी निर्णय लिया गया है कि अराजपत्रित रेलवे सेवकों और समूह 'ख' रेल अधिकारियों के नियुक्ति प्राधिकारी होने के नाते प्रमुख विभागाध्यक्ष/मंडल रेल प्रबंधक और महाप्रबंधक उन सभी मामलों की समीक्षा करें जिनमें सेवानिवृत्ति के समय रेलवे कर्मचारियों के विरूद्ध लंबित न्यायिक कार्यवाहियों को पहले ही मान्य कार्यवाहियों के रूप में माना गया है अथवा भविष्य में रेल सेवा (पेंशन) नियम, 1993 के नियम 9 के अंतर्गत उन्हें माना जाना है और ऐसी कार्यवाहियों को पेंशन नियमों के नियम 9 के अंतर्गत जारी रखने या न रखने की वांछनीयता के संबंध में निर्णय लें. सेवानिवृत्त हो रहे समूह 'क' अधिकारियों के इसी प्रकार के जिन मामलों को पेंशन नियमों के नियम . 9 के अंतर्गत कार्यवाहियों के रूप में जारी रखना वांछनीय नहीं पाया जाता उन्हें महाप्रबंधक की सिफ़ारिशों के साथ अंतिम निर्णय लेने के लिए रेलवे बोर्ड को भेजा जाएगा.

4. कृपया इस पत्र की पावती दें.

म्हान के प्रतिकार के प्रतिकार

सं. एफ (ई) 111/2003/पी एन 1/33

नहं दिल्ली, दिनांक:05.02-20%

प्रतिलिपि भारत के उप नियंत्रक एवं महालेखा परीक्षक (रेल), कमरा नं. 224, रेल भवन, नई दिल्ली को (40 अतिरिक्त प्रतियों सहित) प्रेषित.

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No. 38/80/02-P&PW (A)
Government of India
Ministry of Personnel, P.G., and Pensions
Department of Pension and Pensioners' Welfare

3rd Floor, Lok Nayak Bhawan, Khan Market, New Delhi-110 003.,

Dated 19th September, 2003

OFFICE MEMORANDUM

2 2 SEP 2003

Subject: Grant of pensionary benefits in respect of Government employees retired during the pendency of Department or judicial proceedings not related to grave misconduct or neglect during the period of service.

The undersigned is directed to refer to Ministry of Railways' OM No.F(E)III/2003/PN1/33 dt 2.9.03 on the above subject and to say that the matter has been examined in consultation with the Ministry of Law.

- 2. The terms "grave misconduct or negligence in service" have neither been defined in CCS (Pension) Rules nor in the CCS (Conduct) Rules or in the CCS (CCA) Rules. It is also very difficult to assign exact definitions to the terms as it will depend on the facts and circumstances of each case which may vary from each other considering its relative merit and thus there can not be any straight jacket formula. However, under rule 9 of the Pension Rules, it is only the President who can alone decide as to whether a particular misconduct will be treated as a grave misconduct or negligence so as to attract the penal provision of rule 9 of the Pension Rules. This is a matter left to be decided by the President in relation to the original conduct of the delinquent.
- 3. Ministry of Railways may please examine the case and take decision, accordingly in the light of the above.

(B.A. Narayanan)
Under Secretary to the Government of India

Min

Ministry of Railways (Shri S. Sreeram, Dy. Director Finance (Estt.)III) Railway Board Rail Bhawan, New Delhi.

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