

SOUTH CENTRAL RAILWAY

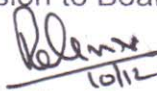
Headquarters Office.
Personnel Branch/SC.
Date: 10.12.2015

No.P(R)/579/VIII

ALL CONCERNED

PERSONNEL BRANCH SERIAL CIRCULAR NO.143/2015

Copy of Board's letter No.E[P&A]I-2015/RT-38 dated 10/12.11.2015 is forwarded for information, guidance and necessary action. The quarterly data as called for in para 09 of Board's letter may be furnished to APO/Bills [Co-ordination Section] in this office for consolidation and onward transmission to Board.



(K.Ravi Kumar)
APO[E&HQ]

For Chief Personnel Officer

Board's letter No. E[P&A]I-2015/RT-38 dated 10/12.11.2015 [RBE No.143/2015]

*Sub: Strengthening of Administration – Premature retirement of
Railway servants – Periodical review under rule
1802[a]/1803[a]/1804[a] – R-II, 1987 edition – regarding.*

DOP&T vide their OM No.25013/1/2013-Estt[A] dated 21.03.2014 and 25013/01/2013-Estt.A.IV dated 11.09.2015 have reiterated the instructions on Compulsory Retirement under FR 56[j], 56[l] or Rule 48[1][b] of CCS [Pension] Rules, 1972 with a view to improve efficiency and strengthening of the administrative machinery at all levels. They have asked to follow these instructions strictly and to review the performance of Govt. servants periodically with a view to ascertain whether the Government servant should be retained in service or retired from service in the public interest. Provisions in this regard are contained in FR 56[j], 56[l] or Rule 48[1][b] of CCS [Pension] Rules, 1972. The corresponding rules in railways are Rule 1802[a]/ 1803[a]/ 1804[a] – IREC Volume II, 1987 edition.

2. DOP&T has also drawn attention to the observation made by Hon'ble Supreme Court in State of Gujarat Vs. Umedbhai M. Patel, 2001[3] SCC 314, which are as follows:

[i] Whenever the services of a public servant are no longer useful to the general administration, the officer can be compulsorily retired for the sake of public interest.

[ii] Ordinarily, the order of compulsory retirement is not to be treated as a punishment coming under Article 311 of the Constitution.

[iii] " For better administration, it is necessary to chop of dead wood , but the order of compulsory retirement can be passed after having due regard to the entire service record of the officers."

[iv] Any adverse entries made in the confidential record shall be taken note of and be given due weightage in passing such order.

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[v] Even un-communicated entries in the confidential record can also be taken into consideration.

[vi] The order of compulsory retirement shall not be passed as a short cut to avoid Departmental enquiry when such course is more desirable.

[vii] If the officer was given a promotion despite adverse entries made in the confidential record, that is a fact in favour of the officer.

[viii] Compulsory retirement shall not be imposed as a punitive measure.

3. In order to ensure that the power, conferred on the authorities empowered to retire a railway employee prematurely is exercised fairly and impartially and not arbitrarily, consolidated instructions relating to premature retirement of railway servants with a view to strengthening of administration were issued under the Board's letter No. E[P&A]I-77/RT-53 dated 15.11.1979. These guidelines have, however, not been adequately followed by the Appointing Authorities. With the Government's commitment to provide clean administration, it is essential that the power for premature retirement in public interest is availed of to weed out all those employees whose integrity is doubtful, with due regard to the appropriate procedure laid down for action for premature retirement.

4. The entire service records should be considered in every review. Here Service Record will take in all relevant records viz., ACR/APAR dossier along with personal file of the officer containing valuable material. Similarly, the work and performance of the officer could also be assessed by looking into files dealt with by him or in any papers or reports prepared and submitted by him. All these data along with a comprehensive brief should be prepared for consideration by the Review Committee. Even un-communicated remarks in the ACRs/APARs may be taken into consideration also. In case of those officers who have been promoted during the last five years, the previous entries in the ACRs may be taken into account if the officer was promoted on the basis of seniority cum fitness, and not on the basis of merit.

5. As far as integrity is considered, the following observations of the Hon'ble Supreme Court, while upholding compulsory retirement in the case of S. Ramachandra Raju Vs State of Orissa, may be kept in view:

“ The officer would live by reputation built around him. In an appropriate case, there may not be sufficient evidence to take punitive disciplinary action of removal from service. But his conduct and reputation is such that his continuance in services would be a menace to public service and injurious to public interest.”

Thus while considering integrity of an employee, actions or decisions taken by the employee which do not appear to be above board, complaints received against him, or suspicious property transactions, for which there may not be sufficient evidence to initiate departmental proceedings, may be taken into account.

Judgement of the Apex Court in the case of Shri K. Kandaswamy, I.P.S [TN:1966] in K. Kandaswamy vs. Union of India & Anr, 1996 AIR 277, 1995 SCC [6] 162 is relevant here. There were persistent reports of Shri Kandaswamy acquiring large assets and of his getting money from his subordinates. He also indulged in property transactions which gave rise to suspicion about his bonafides. The Hon'ble Supreme Court upheld his compulsory retirement under provisions of the relevant Rules.

6. Similarly, reports of conduct unbecoming of a Government servant may also form basis for compulsory retirement. As per the Hon'ble Supreme Court in State of UP And Others vs Vijay Kumar Jain, Appeal [Civil]2083 of 2002:-

“ If conduct of a government employee becomes unbecoming to the public interest or obstructs the efficiency in public services, the government has an absolute right to compulsorily retire such an employee in public interest.”

7. Further, CVO in the case of gazetted officers, or his representative in the case of non-gazetted officers, will be associated in case of record reflecting adversely on the integrity of any employee.

8. In addition to above, internal committees may be constituted to assist the Review Committees in reviewing the cases. These Committees will ensure that the service record of the employees being reviewed, along with a summary bringing out all relevant information, is submitted to the Cadre Authorities at least three months before the due date of review.

9. In view of DOP&T's present guidelines, the Board's letters No. E[P&A]I-77/RT-53 dated 15.11.1979 and E[P&A]I-87/RT-4 dated 17.10.1989 containing the provisions on Premature Retirement under Rule 1802 [a]/1803 [a] / 1804[a] – IREC, Vol.II, 1987 edition are enclosed for guidance. In addition to this, instructions issued by Board from time to time on the subject may also be linked while deciding such matters. Further all Zonal Railways are requested to follow the above instructions and periodically review the cases of railway servants as required under Rule 1802[a]/1803 [a] / 1804[a] – IREC, Vol.II, 1987 edition. The quarterly data in enclosed proforma in respect of reviewing the cases of retirement under the aforesaid provisions during the period from 01.04.2014 to 31.03.2015 may be furnished **immediately**.

10. As per the latest guidelines of DOP&T's OM dated 21.03.2014, para II [3] [c] & [d] of the Board's enclosed letter dated 15.11.1979 should be read as under:

“[c] While the entire service record of an officer should be considered at the time of review, no employee should ordinarily be retired on grounds of ineffectiveness if his/her service during the preceding 5 years or where he/she has been promoted to a higher post during that 5 year period, his/her service in the highest post, has been found satisfactory.

Consideration is ordinarily to be confined to the preceding 5 years or to the period in the higher post in case of promotion within the period of 5 years, if compulsory retirement is sought to be made on grounds of ineffectiveness. There is no such stipulation, however where the employees is to be retired on grounds of doubtful integrity.”

