

SOUTH CENTRAL RAILWAY

Headquarters Office
Personnel Branch
Secunderabad.
Date: 04.08.2017

No. P[R]500/XXV

ALL CONCERNED

PERSONNEL BRANCH SERIAL CIRCULAR No. 110/2017

Copy of Board's letter No.F[E]III/2005/PN1/23 dated 13.07.2017 is forwarded for information, guidance and necessary action. Board's letters quoted therein were circulated as under:

Board's letter date	SC No.
16.04.1986	102/88
16.03.1993	40/93
10.07.1995	116/95
25.10.1996	139/96
20.01.2005	18/05
22.09.2008	123/08
31.07.2013	76/13
10.08.2016	88/16


[K.RAVI KUMAR]
Secy. to CPO

For Chief Personnel Officer

Copy of Board's ltr. No. F[E]III/2005/PN1/23 dated 13.07.2017 [RBE No.69/2017]

Sub: Restoration of full pension of absorbee pensioners in view of the order dated 01.09.2016 of Hon'ble Supreme Court in Civil Appeal No. 6048/2010 and Civil Appeal No. 6371/2010

A copy of Department of Pension and Pensioners' Welfare (DOP&PW)'s O.M. No. 4/34/2002-P&PW(D) Vol.II dated 23rd June, 2017 on the above subject is enclosed for information and compliance. These instructions shall apply mutatis mutandis on the Railways also. The erstwhile Rule 37-A of the Central Civil Services (Pension) Rules, 1972, which corresponds to Rule 54 of the Railway Services (Pension) Rules, 1993, stands omitted vide Board's notification No. F(E)III/2003/PN1/25 dated 20.01.2005.

2. A concordance of DOP&PW's instructions and Railway Board's corresponding instructions is given below:-

S.No.	OM No. & date of DOP&T /MoF's orders	Railway Board's corresponding instructions
1	O.M. No. 28016/5/85-Estt.(C) dated 31.01.1986	Letter No. F(E)III/86/PN1/5 dated 16.04.1986.
2	O.M. No. 4(12)/85-P&PW dated 31.03.1987.	Letter No. F(E)III/84/PN1/4 dated 25.06.1987.
3	O.M. No. 4/43/88-P&PW(D) dated 16.10.1989.	Letter No. F(E)III/92/PN1/25 dated 16.03.1993.
4	O.M. No. 4/42/91-P&PW(D) dated 31.03.1995.	Letter No. F(E)III/95/PN1/9 dated 10.07.1995.
5	O.M. No. 4/3/86-P&PW(D) dated 30.09.1996.	Letter No. F(E)III/96/PN1/9 dated 25.10.1996.
6	O.M. No. 4/38/2008-P&PW(D) dated 15.09.2008.	Letter No. F(E)III/2005/PN1/23 dated 22.09.2008.
7	O.M. No. 4/30/2010-P&PW(D) dated 11.07.2013.	Letter No. F(E)III/2005/PN1/23 dated 31.07.2013.
8	O.M. No. 4/38/2008-P&PW(D) dated 04.08.2016.	Letter No. F(E)III/2005/PN1/23 dated 10.08.2016.

sd/-

[G. Priya Sudarsani]/JDF[E]

Copy of DOP&PW's O.M. No. 4/34/2002-P&PW(D) Vol.II dated 23rd June, 2017

Sub: Restoration of full pension of absorbee pensioners in view of the order dated 01.09.2016 of Hon'ble Supreme Court in Civil Appeal No. 6048/2010 and Civil Appeal No. 6371/2010.

The undersigned is directed to say that in accordance with the instructions which existed before 31.03.1995, a Government servant, on absorption in a Public Sector Undertaking or an Autonomous Body, had the option to draw pro-rata gratuity

and a lump sum amount in lieu of pension. The option regarding payment of lump sum amount in lieu of monthly pension on absorption in a PSU or autonomous body was available in terms of the instructions issued vide Department of Expenditure's O.M. No. 26(18)-E.V(B)/75 dated 08.04.1976, Department of Personnel & Training's O.M. No. 28016/5/85-Estt.(C) dated 31.01.1986 and Department of Pension & Pensioners' Welfare's O.M. No. 4(12)/85-P&PW dated 31.03.1987. This option was also available to Government employees on absorption in PSUs/autonomous bodies of the State Governments and Joint Sector undertakings in terms of this Department's O.M. No. 4/43/88-P&PW(D) dated 16.10.1989. The terms and conditions for absorption of Government employees consequent on conversion of a Government Department into a PSU or autonomous body issued vide this Department's O.M. No. 4/18/87-P&PW(D) dated 5.7.1989 also provided for a similar option of lump sum payment in lieu of monthly pension.

2. In accordance with Rule 37-A of the Central Civil Services (Pension) Rules, 1972, incorporated vide Department of Expenditure's Notification No. 44(I)-E.V./71 dated 09.04.1973, on exercise of the above option, an employee was entitled to a lump sum amount not exceeding the commuted value of one-third of the pension and terminal benefit equal to twice the aforesaid lump-sum amount, subject to the condition that the Government servant surrendered his right of drawing two-thirds of his pension.

3. The option to draw a lump sum amount in lieu of pension was withdrawn vide this Department's O.M. No. 4/42/91-P&PW(D) dated 31st March, 1995. Accordingly, the erstwhile Rule 37-A was omitted from the CCS(Pension) Rules, 1972 vide Notification No. 4/42/91-P&PW(D) dated 25.06.1997.

4. In implementation of the Order dated 15.12.1995 of Hon'ble Supreme Court in WP(C) No. 11855/85, instructions were issued vide this Department's O.M. No. 4/3/86-P&PW(D) dated 30.09.1996 for restoration of one-third commuted portion of pension of Government servants who had drawn lump sum payment on absorption in a PSU/autonomous body. Further instructions were issued, from time to time, for computation and revision of the one-third restored pension of such absorbee pensioners and for payment of the attendant benefits like dearness relief, etc. to such absorbee pensioners. Orders for revision of the one-third restored pension w.e.f. 01.01.2006 of such absorbee pensioners were issued vide this Department's O.M. No 4/38/2008- P&PW(D) dated 15/09/2008, O.M. No. 4/30/2010-P&PW(D) dated 11/07/2013 and O.M. No. 4/38/2008-P&PW(D) dated 04/08/2016. These absorbee pensioners were, however, entitled to dearness relief and age-related additional pension based on the notional full pension.

5. Hon'ble High Court of Judicature of Madras, in its judgement dated 02.08.2007 in Writ Petition no. 22207/2002 filed by one Sh. K. Ganesan, an officer in the office of Controller General of Accounts, held that surrendering of the right for drawal of 2/3rd of Pension after its commutation, as provided under Rule 37-A (b), was repugnant to Section 12 of the Pensions Act, 1871 and that the petitioner was lawfully entitled for the restoration of his pension after the expiry of the period of commutation of 2/3rd pension. Hon'ble High Court, accordingly, directed restoration of 2/3rd pension and payment of arrears accordingly.

6. An SLP (Civil) No. 4054/ 2008 (converted into Civil Appeal No. 6048 / 2010) was filed by the Union of India challenging the aforesaid order dated 02.08.2007 of Hon'ble High Court of Judicature of Madras. In its order dated 01.09.2016, Hon'ble Supreme Court found no justification to interfere with the order dated 02.08.2007 of Hon'ble High Court directing restoration of 2/3rd pension in respect of the respondent (Shri K. Ganesan), after the

expiry of the requisite period of commutation. The Civil Appeal No. 6048/2010 was accordingly dismissed by Hon'ble Supreme Court. In the said judgement dated 1.9.2016, similar direction was passed by Hon'ble Supreme Court in the Civil Appeal No. 6371/2010 for restoration of 2/3rd pension in respect of the petitioners, Shri K.L. Dhall, an absorbed employee of Ministry of Civil Aviation and member pensioners of Welfare Association of Central Government Officers, CAD Absorbed in PSU.

7. Review Petitions No. 465/2017 and No. 472/2017 were filed by Union of India in the Supreme Court against the aforesaid order dated 1.9.2016. Instructions were separately issued to the office of Controller General of Accounts and the Ministry of Civil Aviation vide OM No.4/34/2002-P&PW(D)Vol.II dated 21-12-2016 and OM No. 4/34/2002-P&PW(D).Vol.II dated 21-12-2016 respectively, for implementation of the orders of Hon'ble Supreme Court in respect of the petitioner/respondent pensioners in the aforesaid Civil Appeals, subject to the final outcome of the Review Petitions. The aforesaid Review Petitions No. 465/2017 and No. 472/2017 have been dismissed by Hon'ble Supreme Court on 22.03.2017.

8. The matter has been examined in consultation with the Department of Legal Affairs and the Ministry of Finance (Department of Expenditure). It has been decided to extend the benefit of order dated 02-08-2007 of the Hon'ble Madras High Court and the Order dated 01-09-2016 of the Hon'ble Supreme Court to all similarly placed absorbee pensioners. Accordingly, all such absorbee petitioners who had taken 100% lump-sum amount in lieu of pension on absorption in PSUs/Autonomous Bodies in accordance with the then existing Rule 37-A and in whose case 1/3 pension had been restored after 15 years, may be allowed restoration of full pension after expiry of commutation period of 15 years from the date of payment of 100% lump-sum amount.

9. The absorbee pensioners whose full pension is restored in terms of the above instructions would also be entitled to revision of their pension in accordance with the instructions issued from time to time in implementation of the recommendations of the Pay Commissions, including the 7th Central Pay Commission.

10. In their application to the persons belonging to the Indian Audit and Accounts Department, these orders issue in consultation with the Comptroller and Auditor General of India.

11. Ministry of Agriculture etc. are requested to bring the contents of these Orders to the notice of Controller of Accounts/Pay & Accounts Officers and Attached subordinate Offices under them on a top priority basis and for taking necessary action for implementation of the above instructions. All pension disbursing offices are also advised to prominently display these orders on their notice boards for the benefit of pensioners.

12. This issues with the approval of Ministry of Finance (Department of Expenditure) vide their ID Note No.1(11)/EV/2017 dated 26-05-2017 and dated 13.6.2017.

Sd/-
(Harjit Singh) Director

INDEX No. 1058 PENSION RULES	S.C.No.
<p>Board have decided that absorbee pensioners who had taken 100% lump-sum amount in lieu of pension on absorption in PSUs/Autonomous Bodies in accordance with the then existing Rule 54 of RS[Pension] Rules, 1993 and in whose case 1/3rd pension had been restored after 15 years, may be allowed restoration of full pension after expiry of commutation period of 15 years from the date of payment of 100% lump-sum amount.</p> <p>The absorbee pensioners whose full pension is restored as per these instructions would also be entitled to revision of their pension in accordance with the instructions issued from time to time in implementation of the recommendations of the Pay Commissions, including the 7th CPC.</p>	<p>100/2017</p>