

Clarify Pension Rules for 55 ii b

The GOI has taken initiative and started attacking the organized employees of CGE and PSU by implementing the provisions of Compulsory Retirement in the name of weeding out the deadwood and public concern and integrity. Modi Govt's bitterness is high in order. BSNL management has also instructed the field units to review the cases as per 55 ii b. NFTE has been striving its best to safeguard the employees job security and fighting CR. If unions in one voice are not echoing our apprehension, then the silence will be misunderstood as our tacit support/ enduring the draconian provision. One may feel difficult getting acceptance the management to withdraw the provision of 55 ii b, but we should not fail to get proper and assured safeguards for pension beyond any ambiguity. The relevant rights are called reciprocal rights- VR provision on attaining 55 years (though not absolute) and CR provision (absolute right) . Govt is fair enough and clarified the relevant pension rules for the same. But in our case (BSNL absorbed) Where is the clarification for pension and which rule of pension for 55 ii b the absolute right for compulsory retirement ..They should clarify the same like 37 A 12 given to VR provision either by inserting the eligibility provisions of pension as per 48 pension rules in 37 A or DOT should clarify that the premature retired- absorbed employees are eligible for retirement pension as per their IDA on that date as per provision eligible for CG employees of 48 1 b.. Till that is settled, no review on the basis of 55 ii b should be implemented and no one should be allowed on CR. We have reproduced some of the relevant rules for clarification

Government servants may retire from service voluntarily with pensionary benefits before attaining the age of superannuation under the following provisions of Fundamental Rules and CCS (Pension) Rules, 1972.

FR 56 (k)

1 Eligibility Group 'A &B' officers:

i. Entered service before 35 years of age

ii. Attained 50 years of age

Other cases: Attained 55 years of age

Pension rules CCS PR 48 1 a for minimum service 30 years

48 A for minimum service 20 years

- **FR 56J Pension Rule 48 of CCS (Pension) Rules, 1972**

FR 56 J it says that the appropriate authority has the absolute right to retire a government servant if it is of the opinion that it is in the public interest to do so

Group 'A & B' officers: iii. Entered service before 35 years of age

iv. Attained 50 years of age

Other cases: Attained 55 years of age

If CR as punishment then the Pension Rule is

(Here 56 K and 56 J are Reciprocal Rights one for employee to retire Voluntarily on attaining 55 years and other for Employer to retire an employee with pension as per rules 48- if CR as punishment then pension rule is 40)

- **VIGILANCE MANUAL [Chap. IX**

12. Dismissal, removal and reduction in rank.

12.1 It is well understood that the three terms 'dismissal', 'removal' and 'reduction in rank' used in the context of disciplinary proceedings have acquired a special connotation as signifying the three major punishments which can be inflicted upon Government servants under the CCS (CCA) Rules 1965 or under other corresponding service rules in accordance with the procedure prescribed in these rules. The Constitution uses them in that sense. 'Dismissal' and 'removal' amount to a premature termination of the service of a Government servant as a measure of penalty. The distinction between the two lies in that whereas in the case of removal, a person remains eligible for re-appointment under Government, in the case of dismissal, he will not ordinarily be so eligible.

Except for that difference, both dismissal and removal cast a stigma on the Government servant and imply that his services have been terminated owing to some misconduct or misbehavior. The term 'reduction in rank' denotes reduction to a lower post or a lower time-scale of pay or to a lower stage in a time-scale. A change of position in the seniority list of a cadre, however, will not amount to reduction in rank.

14. Permanent Government employees Where a person is appointed substantively to a post in Government service he normally acquires a right to hold the post until, under the rules he attains the age of superannuation or is retired in public interest after he has attained the age of 50 or 55 years as the case may be, under F.R. 56 (j). He cannot be turned out of his post unless the post itself is abolished or unless he is guilty of misconduct, negligence, inefficiency or of other disqualification and appropriate proceedings are taken under the relevant service rules read with Article 311. Termination of services of such a Government servant on grounds of misconduct, negligence, inefficiency, or other disqualification will amount to a punishment which can be

imposed only in accordance with the procedure laid down in the relevant rules as this will operate as a forfeiture of his right to hold the post by bringing about a premature end of his employment.

- **Pension Rules for VR and premature Retirement and Dismissal for CG Employees**

48. Retirement on completion of 30 years' qualifying service

(1) At any time after a Government servant has completed thirty years' qualifying service -

(a) he may retire from service, or

(b) he may be required by the appointing authority to retire in the public interest, and in the case of such retirement the Government servant shall be entitled to a retiring pension :

48-A. Retirement on completion of 20 years' qualifying service

(1) At any time after a Government servant has completed twenty years' qualifying service, he may, by giving notice of not less than three months in writing to the appointing authority, retire from service.

40. Compulsory retirement pension

(1) A Government servant compulsorily retired from service as a penalty may be granted, by the authority competent to impose such penalty, pension or gratuity or both at a rate not less than two-thirds and not more than '[full compensation pension] or gratuity or both admissible to him on the date of his compulsory retirement.

41. Compassionate allowance

(1) A Government servant who is dismissed or removed from service shall forfeit his pension and gratuity :

Provided that the authority competent to dismiss or remove him from service may, if the case is deserving of special consideration, sanction a compassionate allowance not exceeding two - thirds of pension or gratuity or both which would have been admissible to him if he had retired on '[compensation pension].

- **For BSNL Absorbed Pension 37A**

37A Sub Rule 12 for VR

(12) A Permanent Government servant absorbed in a Public Sector Undertaking or a temporary or quasi-permanent Government servant who has been confirmed in the a Public Sector Undertaking subsequent to his absorption therein, shall be eligible to seek voluntary retirement after completing ten years of qualifying service with the Government and the Public Sector Undertaking taken together, and such person shall be eligible for pensionary benefits on the basis of qualifying service.

25 (c) the dismissal or removal from service of the Public Sector Undertaking of any employee after his absorption in such undertaking for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service rendered under the Government and in the event of his dismissal or removal or retrenchment the decisions of the undertaking shall be subject to review by the Ministry administratively concerned with the undertaking .

- **CDA Rules 2006**

Rule 43. SPECIAL PROVISIONS IN RESPECT OF D.O.T STAFF ON PERMANENT ABSORPTION IN BSNL – CONFERRING SAFEGUARDS RELATING TO SECURITY OF SERVICE ON DISMISSAL/REMOVAL.

The D.O.T. employees on absorption in BSNL shall be governed by these rules from the date of their absorption in the company/date of issue of these rules. However, dismissal/removal from the service of BSNL after absorption, for any subsequent misconduct shall not amount to forfeiture of his retirement benefits for the service rendered in the Central Govt. Also in the event of dismissal/removal of such an employee from BSNL (i.e. D.O.T. staff permanently absorbed in BSNL), the employee concerned will be allowed protection to the extent that D.O.T. will review such order before final decision is taken by BSNL.

CDA 33 B Major penalties

(h) Compulsory retirement,

(i) Removal from service which shall not be a disqualification for future employment under Govt./or the Corporation / Company owns or controlled by the Govt.

(j) Dismissal from service which shall ordinarily be a disqualification for future employment under the Govt. or the Corporation/ Company owned or controlled by the Government.

Explanations: The following shall not amount to a penalty within the meaning of this rule: -

(vi) Compulsory retirement of an employee in accordance with the provision relating to his superannuation or retirement;

Rule 55. RETIREMENT

(ii) On attaining the age of superannuation:

(a) The age of superannuation shall be completion of 60 years and an employee shall retire from service on the last day of the month in which he attains the age of superannuation.

(b) The company may, if it is in the interest of the Company so to do have the absolute right to retire an employee at any time after he completes the age of 55 years by giving him three months' notice in writing or on payment of three months salary to him in lieu of such notice.

(c) An employee may also at any time after completing the age of 55 years voluntarily retire by giving three months' notice to the Company

- **DOT Clarifications and ensuring pension for dismissal/removal cases as per 37A 24 C (now 25 C)**

DOT F 318-12 /2008 pen (T) dt 21-7-2009

As per sub rule 24 c of 37 A , the absorbed employees of BSNL are entitled to retirement benefits for the service rendered in Government even if they are dismissed / removed from service after their absorption for any misconduct during service in BSNL. The retirement benefits in such cases shall be admissible from the day following date of dismissal/removal from BSNL “

DOT has issued its clarification to CCA, TN for the sought question of authority vide its letter dt 28-7-2012.

“ I am directed to refer to your communication dt 12-6-12 addressed to DDG Est received thro AGM Pen&Est, BSNL CO on 16-7-2012 on the above mentioned subject and to say that cases of employees who are dismissed from BSNL, to process their pension papers, as per sub rule 24 c, cases may be processed in the respective CCA offices like other normal cases and necessary confirmation, as required in the Rule may kindly be taken referring the cases to this Department through BSNL Co and concerned Vigilance wing”

30-1-16