

Eastern Railway

No. E.787/O/PEN/PLXXVIII.

Kolkata, dated 17.04.2018.

ALL CONCERNED

Sub:- Retirement of Government Servant under Central Civil Services (Pension) Rules, 1972 and Central Civil Services (Extraordinary Pension) Rules- applicability of provisions of "Persons with Disabilities (Equal opportunities, protection and rights and full participation) Act, 1995".

Copy of Railway Board's letter No. F(E)III/2008/PN1/12 dated 23.03.2018(RBE No.46/2018) along with DOP&PW's O.M. 21/1/16-P&PW(F) dated 30th September, 2016 on the above subject is sent herewith for information, guidance and necessary action.

DA: As above.


(S.K.Chattopadhyay)
Sr. Personnel Officer (HQ)
For Chief Personnel Officer

INDEX NO. 1058: Clarification regarding Retirement of Government Servant under Central Civil Services (Pension) Rules, 1972 and Central Civil Services (Extraordinary Pension) Rules - applicability of provisions of "Persons with Disabilities (Equal opportunities, protection and rights and full participation) Act, 1995".

Copy of Railway Board's letter No. F(E)III/2008/PN1/12 dated 23.03.2018(RBE No.46/2018) along with DOP&PW's O.M. 21/1/16-P&PW(F) dated 30th September, 2016 addressed to GMS/PFA&CAOs, All Zonal Railways/Production Units and others is circulated herewith.

Sub:- Retirement of Government Servant under Central Civil Services (Pension) Rules, 1972 and Central Civil Services (Extraordinary Pension) Rules- applicability of provisions of "Persons with Disabilities (Equal opportunities, protection and rights and full participation) Act, 1995".

A copy of Department of Pension & Pensioners' Welfare (DOP&PW)'s OM. 21/1/16-P&PW(F) dated 30th September, 2016 on the above subject is enclosed for information and compliance. These instructions shall apply mutatis mutandis on Railways also. Rule 38,48 & 48-A of the Central Civil Services (Pension) Rules,1972. Correspond to Rule 55, 66 & 67 of the Railway Services (Pension) Rules, 1993 respectively and Civil Services (Extraordinary Pension) Rules, 1939 correspond to Railway Survives (Extraordinary Pension) Rules 1993. Department of Personnel & Training's O.Ms No.18017/1/2014-Estt(L) dated 25.02.2015 and No. 25012/1/2015-Estt.(A-IV) dated 19.05.2015 referred to in the enclosed O.M dated 30.09.2016, have been adopted on Railways vide this office's letter No. E(P&A) I-2017/CPC/LE-5 dated 30.08.2017.

S/d
(G.Priya Sudarsani)
Joint Director, Finance (Estt.),
Railway Board.

D.A.: As above.

Contd....2/-

No. 21/1/16-P&PW (F)
Government of India
Ministry of Personnel, PG & Pensions
Department of Pension & Pensioners' Welfare
3rd Floor, Lok Nayak Bhawan
Khan Market, New Delhi-110 003
Dated the 30th September, 2016

OFFICE MEMORANDUM

Sub :- Retirement of Government Servant under Central Civil Service (Pension) Rules, 1972 and Central Civil Services (Extraordinary Pension) Rules - applicability of provisions of "Persons with Disabilities (Equal opportunities, protection and rights and full participation) Act, 1995".

The undersigned is directed to say that Section 47 of the Persons with Disabilities (Equal opportunities, protection and rights and full participation) Act, 1995 (PWD Act, 1995) provides as under :-

"Non-discrimination in Government Employment"-(1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service:

Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(2) - No promotion shall be denied to a person merely on the ground of his disability :

Provided that the appropriate Government may having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section".

2. Department of Personnel & Training have, vide their OM No.18017/1/2014-Estt(L) dated 25.02.2015 and O.M. No. 25012/1/2015 - Estt (A-IV) dated 19.05.2015, issued instructions in pursuance of the above provisions of the PWD Act, 1995 in respect of the Government employees seeking retirement, on medical grounds, under the CCS(Pension) Rules. The instructions inter alia provide that whenever a Government servant seeks retirement under Rule 38 or Rule 48/48(A) of Central Civil Services (Pension) Rules citing medical grounds, or when the notice has been submitted due to a disability, the administrative authorities shall examine as to whether the case is covered under section 47 of the PWD Act, 1995. In case the provisions of the Act are applicable, the Government servant shall be advised that he/she has option of continue in service with the same pay scale and service benefits.

In case a disabled Government servant re-considers his decision and withdraws the notice for voluntary retirement, his case shall be dealt with under the provision of Section 47 of the Act read with the Department of Personnel and Training's OM dated 25.2.2015. If, however, in spite of being so advised, such Government servant still wishes to take voluntary retirement, the request may be processed as per the applicable Rules. A copy each of DoPT's OM dated 25.2.2015 and dated 19.5.2015 is enclosed.

3. Further, in accordance with the Central Civil Services (Extraordinary Pension) Rules disability pension is admissible to a Government servant if he is boarded out on account of disability due to wound, injury or disease which is attributable to Government service. The provisions of the Central Civil Services (Extraordinary Pension) Rules have been examined in the light of provisions of Section 47 of the PWD Act, 1995 and the instructions contained in DoP&T's OM dated 19.5.2015 referred to above. It is clarified that the provisions of the PWD Act and the instructions issued by DoP&T in this regard would also be applicable to Government servants covered by the provisions of Central Civil Services (Extraordinary Pension) Rules.

4. Accordingly, in all cases where a Government servant acquires disability on account of a wound, injury or disease attributable to Government service, administrative authorities shall examine as to whether the case is covered under Section 47 of the Persons with Disabilities (Equal opportunities, protection and rights and full participation) Act, 1995 (PWD Act, 1995). In case the provision are applicable, the Government servant shall be advised that he/she has the option of continuing in service with the same pay scale and service benefits. In case a disabled Government servant wishes to continue in service, his case shall be dealt with under the provision of Section 47 of PWD Act read with the Department of Personnel and Training's OM dated 19.5.2015. In case, however, the Government servant still wishes to retire, the request may be processed as per the provisions of Central Civil Services (Extraordinary Pension) Rules.

5. All Ministries and Departments are requested to keep the above in view of while processing cases of requests for retirement under CCS (Pension) Rules or CCS (EoP) Rules.


(Vandana Sharma)
Additional Secretary to the Government of India

To

The Secretaries,
All Ministries/Departments of the Government of India

Copy to:

1. Comptroller & Auditor General of India, New Delhi
2. Union Public Service Commission, New Delhi.
3. Central Vigilance Commission, New Delhi.