

RAILWAY SERVICES (PENSION) RULES, 1993

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RAILWAY SERVICES (PENSION) RULES, 1993

¹ Published in the Gazette of India. (Extra-or.) Pt. II. Sec. 3 (II) dated 3rd December, 1993. In exercise of the powers conferred by the proviso to Article 309 of the Constitution, the President hereby makes the following rules, namely:

CHAPTER 1 **PRELIMINARY**

1. Short title and commencement :-

- (1) These rules may be called the Railway Services (Pension) Rules, 1993.

(2) They shall come into force on the date of their publication in the official Gazette.

2. Application :-

Save as otherwise expressly provided in these rules, these rules shall apply to the following railway servants, namely :

- (1) any group 'D' railway servant whose service was pensionable, before the introduction of Pension System for Railway Servants on the

16th day of November, 1957;

(2) any non-pensionable railway servant who was in service on the 16th day of November, 1957 and who elected to be governed by these rules;

(3) any non-pensionable railway servant who was in service on the 1st day of January, 1986 and did not opt to be governed by the State Railway Provident Fund (Contributors) Rules, and

(4) any person entering a railway service on or after the 16th November, 1957, except a person who is appointed on contract or re-employed after superannuation or whose terms of appointment specifically provide to the contrary.

3. Definitions :-

In these rules unless the context otherwise requires,

(1) "Accounts Officer" means a Financial Adviser and Chief Accounts Officer of a railway or such other Officers as may be appointed in this behalf by the Railway Board;

(2) "allottee" means a railway servant to whom railway or Government accommodation has been allotted on payment of license fee or otherwise;

(3) "average emoluments" means average emoluments as determined in accordance with Rule 50;

(4) "Code" means the Indian Railway Establishment Code, as amended from time to time;

(5) "child" means son or unmarried daughter of a railway servant under twenty-five years of age and the expression 'children' shall be construed accordingly;

(6) "dearness relief" means a dearness relief within the meaning of Rule 75;

(7) "Defence Services" means services under the Government of India in the Ministry of Defence and the Defence Accounts Department under the control of the Ministry of Finance paid out of the Defence Services Estimates and not permanently subject to the Air Force Act, 1950 (45 of 1950) or the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957);

(8) "emoluments" means emoluments as defined in Rule 49;

(9) "family pension" means Family Pension, 1964 admissible under Rule 75;

(10) "foreign service" means service in which a railway servant receives his pay with the sanction of the Government from any source other than the Consolidated Fund of India or the Consolidated Fund of a State or the Consolidated Fund of a Union Territory;

(11) "Form" means a form appended to these rules";

(12) "Government" means the Central Government;

(13) "Government dues or Railway dues" means dues referred to in sub-rule (3) of Rule 15;

(14) "gratuity" includes,

(1) service gratuity payable under sub-rule (1) of Rule 69;

(2) retirement gratuity or death gratuity payable under sub-rule (1) of Rule 70; and

(3) residuary gratuity payable under sub-rule (2) of Rule 70.

(15) "Head of a department" means any authority whom the President may, by order, declare to be the Head of a department for the purpose of these rules;

(16) "Head of Office" means a gazetted officer whom the appointing authority may, by order declare as Head of Office and includes such other authority or person whom the appointing authority may specify in the like manner;

(17) "Local Fund Administered by Government" means the fund administered by a body which, by law or rule having the force of law, comes under the control of the Government and over whose expenditure the Government retains complete and direct control;

(18) "minor" means a person who has not completed the age of eighteen years;

(19) "pension" includes gratuity except when the term pension is used in contradiction to gratuity but does not include dearness relief.

(20) "pension disbursing authority" means

(i) Branch of a nationalised bank, or

(ii) Treasury including sub-treasury, or

(iii) Post office or sub-post office authorised to disburse pension on behalf of Railway, or

(iv) Account officer.

(21) "pension sanctioning authority" means the authority competent to sanction pension under these rules;

(22) "qualifying service" means service rendered while on duty or otherwise which shall be taken into account for the purpose and gratuities admissible under these rules;

(23) "railway servant" means a person who is a member of a railway service or holds a post under the administrative control of the Railway Board and includes a person who is holding the post of Chairman, Financial Commissioner or a Member of the Railway Board but does not include casual labour or person lent from a service or post which is not under the administrative control of the Railway Board to a service or post which is under such administrative control;

(24) "retirement benefits" includes pension or service gratuity and retirement gratuity where admissible;

(25) "service book" includes service roll, if any;

(26) "Substitutes" means a person engaged against a regular, permanent, or temporary post by reason of absence on leave or otherwise of a permanent or temporary railway servant and such substitute shall not be deemed to be a railway servant unless he is absorbed in the regular railway service;

(27) "Treasury" includes a sub-treasury.

4. Meaning of words and expressions not defined in these rules

:-

Words and expressions used therein and not defined but defined in the Code shall have meaning respectively assigned to them in that Code.

5. Government servants transferred from services and posts to which these rules do not apply :-

(1) A Government servant whose service is pensionable under the Central Government shall become subject to these rules if he is permanently transferred to a railway service on or after the first day of April, 1957.

(2) Where sub-rule (1) applies, any amount paid by such Government servant to the General Provident Fund or any other non-contributory Provident Fund while in previous employment, along with the interest thereon standing to his credit shall be transferred to his new account in the State Railway Provident Fund while in previous employment, along with the interest thereon standing to his credit shall be transferred to his new account in the State Railway Provident Fund (non-

contributory).

(3) The previous service rendered by such Government servant shall be taken into account for the purpose of these rules to the extent permissible under these rules.

Note :-A temporary Government servant who has been or is likely to be retrenched from Civil Department and succeeds in securing employment in railway service while on terminal leave or before their services are actually terminated, shall also be treated as having been transferred.

CHAPTER 2

GENERAL CONDITIONS

6. Regulation of claims to pension or family pension :-

(1) Any claim to pension or family pension shall be regulated by the provision of these rules in force at the time when a railway servant retires or is retired or is discharged or is allowed to resign from service or dies, as the case may be.

(2) The day on which a railway servant retires or is retired or is discharged or is allowed to resign from service or dies as the case may be, shall be treated as his last working day.

Provided that in the case of a railway servant who is retired prematurely or who retires voluntarily under the provisions of Rule 1802 to Rule 1804 of the Code or under the scheme of voluntary retirement after completing twenty years of qualifying service under Rule 67, as the case may be, the date of retirement shall be treated as a non-working day.

7. Limitation on number of pensions :-

(1) A railway servant shall not earn two pensions in the same service or post at the same time or by the same continuous service.

(2) Except as provided in Rule 34, a railway servant who, having retired on a superannuation pension or retiring pension is subsequently re-employed shall not be entitled to a separate pension or gratuity for the period of his re-employment.

8. Pension subject to future good conduct :-

(1)

(a) Future good conduct shall be an implied condition of every grant of pension and its continuance under these rules.

(b) The appointing authority may, by order in writing, withhold or withdraw a pension or a part thereof, whether permanently or for a specified period, if the pensioner is convicted of a serious crime or is found guilty of grave misconduct:

Provided that where a part of pension is withheld or withdrawn, the amount of such pension shall not be reduced below the amount of rupees three hundred and seventy-five per mensem.

(2) Where a pensioner is convicted of a serious crime by a court of law, action under sub-rule (1) shall be taken in the light of the judgment of a court relating to such conviction.

(3) In a case not falling under sub-rule (2), if the authority referred to in sub-rule (1) considers that the pensioner is prima facie guilty of grave misconduct it shall, before passing an order under sub-rule (1);

(a) serve upon the pensioner a notice specifying the action proposed to be taken against him and the ground on which it is proposed to be taken and calling upon him to submit, within fifteen days of the receipt of the notice or such further time not exceeding fifteen days as may be allowed by the appointing authority, such representation as he may wish to make against the proposal; and

(b) take into consideration the representation, if any, submitted by the pensioner under clause (a).

(4) Where the authority competent to pass an order under sub-rule (1) is the President, the Union Public Service Commission shall be consulted before the order is passed.

(5) An appeal against an order under sub-rule (1), passed by any authority other than the President, shall lie to the President and the President shall, in consultation with the Union Public Service Commission pass such orders on such appeal as he deems fit.

Explanation.-In this rule the expression,

(a) "serious crime" includes a crime involving offence under the Official Secrets Act, 1923 (19 of 1923);

(b) "grave misconduct" includes the communication or disclosure of any secret official code or password or any sketch plan, model article, note, documents or information, such as is mentioned in Section 5 of the Official Secrets Act, 1923 (19 of 1923) which was obtained holding office under the Government so as to prejudicially affect the interest of the general public or security of the State.

NOTE:- Notice to withhold pension.-The issue of separate notice under

Rule 8(3) is not required in a case where charge- sheet has already been served under Rules, before imposing penalty on completion of proceedings under Section 9(2) of Rules. [A.B. Bagalwadi v. The Secretary, 1999 (3) SLJ 237].

9. Right of the President to withhold or withdraw pension :-

(1) The President reserves to himself the right of withholding a pension or gratuity, or both, either full or in part, whether permanently or for a specified period, and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused to the Railway, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service, including service rendered upon re-employment after retirement:

Provided that the Union Public Service Commission shall be consulted before any final orders are passed:

Provided further that where a part of pension is withheld or withdrawn the amount of such pension shall not be reduced below the amount rupees three hundred seventy-five per mensem.

(2) The departmental proceedings referred to in sub-rule (1),

(a) if instituted while the railway servant was in service whether before his retirement or during his re-employment, shall after the final retirement of the railway servant, be deemed to be proceeding under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the railway servant had continued in service: Provided that where the departmental proceedings are instituted by an authority subordinate to the President, that authority shall submit a report recording its findings to the President;

(b) if not instituted while the railway servant was in service, whether before his retirement or during his re-employment

(i) shall not be instituted save with the sanction of the President;

(ii) shall not be in respect of any event which took place more than four years before such institution.

(iii) shall be conducted by such authority and in such place as the President may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the railway servant during his service.

(3) In the case of a railway servant who has retired on attaining the

age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued under sub-rule (2), a provisional pension as provided in Rule 96 shall be sanctioned.

(4) Where the President decides not to withhold or withdraw pension but orders recovery of pecuniary loss from pension, the recovery shall not ordinarily be made at a rate exceeding one-third of the pension admissible on the date of retirement of a railway servant.

(5) For the purpose of this rule,-

(a) departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the railway servant or pensioner, or if the railway servant has been placed under suspension from an earlier date, on such date; and

(b) judicial proceedings shall be deemed to be instituted,

(i) in the case of criminal proceedings, on the date on which the complaint or report of a Police Officer, of which the magistrate takes cognizance, is made; and

(ii) in the case of civil proceedings, on the date the plaint is presented in the Court.

10. Provisional Pension where departmental or judicial proceedings may be pending :-

(1)

(a) In respect of a railway servant referred to in sub-rule (3) of Rule 9, the Accounts Officer shall authorise the provisional pension not exceeding the maximum pension which would have been admissible on the basis of qualifying service up to the date of retirement of the railway servant or if he was under suspension on the date of retirement, up to the date immediately preceding the date on which he was placed under suspension.

(b) The provisional pension shall be authorised by Accounts Officer during the period commencing from the date of retirement up to and including the date on which, after the conclusion of departmental or judicial proceedings, final orders are passed by the competent authority.

(c) No gratuity shall be paid to the railway servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon;

provided that, where departmental proceedings have been instituted under the provisions of the Railway Servants (Discipline and Appeal) Rules, 1968, for imposing any of the penalties specified in clause (i), (ii), (iii-a) and (iv) of Rule 6 of the said rules, the payment of gratuity shall be authorised to be paid to the railway servant.

(2) Payment of provisional pension made under sub-rule (1) shall be adjusted against final retirement benefits sanctioned to such railway servant upon conclusion of such proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld either permanently or for a specified period.

11. Commercial employment after retirement :-

(i) If a pensioner who, immediately before his retirement was a member of Central Service Group 'A' wishes to accept any commercial employment before the expiry of two years from the date of his retirement, he shall obtain the previous sanction of the Government to such acceptance by submitting an application in Form 18:

Provided that a Government servant who was permitted by the Government to take up a particular form of commercial employment during his leave preparatory to retirement or during refused leave shall not be required to obtain subsequent permission for his continuance in such employment after retirement.

(2) Subject to the provisions of sub-rule (3), the Government may, by order in writing, on an application made under sub-rule (1) by a pensioner, grant, subject to such condition, if any, as it may deem necessary, permission, or refuse, for reasons to be recorded in the order, permission to such pensioner to take up the commercial employment specified in the application.

(3) In granting or refusing permission under sub-rule (2) to a pensioner for taking up any commercial employment, the Government shall have regard to the following factors, namely :

(a) the nature of the employment proposed to be taken up and the antecedents of the employer;

(b) whether his duties in the employment which he proposes to take up might be such as to bring him into conflict with Government;

(c) whether the pensioner while in service had any such dealing with the employer under whom he proposes to seek employment as might afford a reasonable basis for the suspicion that such pensioner had shown favour to such employer;

(d) whether the duties of the commercial employment proposed involve liaison or contact work with Governments;

(e) whether his commercial duties will be such that his previous official position or knowledge or experience under Government could be used to give the proposed employer an unfair advantage;

(f) the emoluments offered by the proposed employer; and

(g) any other relevant factor.

(4) Where within a period of sixty days of the date of receipt of an application under sub-rule (3), the Government does not refuse to grant the permission applied for or does not communicate the refusal to the applicant, the Government shall be deemed to have granted the permission applied for:

Provided that in any case where defective or insufficient information is furnished by the applicant and it becomes necessary for Government to seek further clarifications or information or both from him, the period of sixty days shall be counted from the date on which the defects have been removed or complete information has been furnished by the applicant.

(5) Where the Government grants the permission applied for subject to any conditions or refuses such permission, the applicant, may, within thirty days of the receipt of the order of the Government to that effect, make a representation against any such condition or refusal and the Government may make such orders thereon as it deems fit:

Provided that no order other than an order cancelling such condition or granting such permission without any conditions shall be made under this sub- rule without giving the pensioner making the representation an opportunity to show cause against the order proposed to be made.

(6) If any pensioner takes up any commercial employment at any time before the expiry of two years from the date of his retirement without the prior permission of the Government or commits a breach of any condition subject to which permission to take up any commercial employment has been granted to him under this rule, it shall be competent for the Government to declare by order in writing and for reasons to be recorded therein that he shall not be entitled to the whole or such part of the pension and for such periods as may be specified in the order :

Provided that no such order shall be made without giving the pensioner concerned an opportunity of showing cause against such declaration :

Provided further that in making any order under this sub-rule the Government shall have regard to the following factors, namely :

- (i) the financial circumstances of the pensioner concerned;
- (ii) the nature of, and the emoluments from, the commercial employment taken up by the pensioner concerned; and
- (iii) any other relevant factor.

(7) Every order passed by the Government under this rule shall be communicated to the pensioner concerned.

(8) In this rule the expression-

(a) "commercial employment" means-

(i) an employment in any capacity including that of an agent under a company, co-operative society, firm or individual engaged in trading, commercial, industrial, financial or professional business and includes also a directorship of such company and partnership of such firm, but does not include employment under a body corporate, wholly or substantially owned or controlled by the Central Government or a State Government;

(ii) setting up practice, either independently or as a partner of a firm, as adviser or consultant in matters in respect of which the pensioner;

(1) has no professional qualifications and the matters in respect of which the practice is to be set up or is carried on are relatable to his official knowledge or experience; or;

(2) has professional qualifications and the matters in respect of which such practice is to be set up are such as are likely to give his clients an unfair advantage by reason of his previous official position, or;

(3) has to undertake work involving liaison or contact with the office or officers of the Government.

Explanation:-For the purpose of this rule the expression "employment" under a cooperative society includes the holding of any office, whether elective or otherwise such as that of President, Chairman, Manager, Secretary, Treasurer and the like, by whatever name called in such society :

(b) "date of retirement", in relation to a railway servant re-employed after retirement, without any break, either in the same or in another Group 'A' post under the Government or in any other equivalent post under a State Government, means the date on which such railway servant finally ceases to be re-employed in Government service.

12. Restriction on practice in Income Tax and other cases after retirement :-

(1) No pensioner who, while in service was a member of any Group 'A' railway service retires from a post under the Department of Revenue in the Ministry of Finance, shall set up practice before the expiry of two years from the date of his retirement

(a) in any area which was within the local limit of his jurisdiction during the last three years immediately before his retirement;

(b) in areas other than those referred to in clause (a) without the previous sanction of the President.

(2) No pension shall be payable to such pensioner who sets up practice in contravention of sub-rule (1) in respect of any period for which he has set up practice or such longer period as the Government may direct.

Explanation.-For the purposes of this rule the expressions,

(i) "practice" means practice either independently or as a partner of a firm or a consultant or adviser in matters relating to Income-tax, Wealth tax, duties of custom, duties of Central Excises or estate duty, or as representative of assessee in proceeding under the enactment relating to the levy of such tax or duty;

(ii) "date of retirement" shall have the same meaning as in Explanation (b) to Rule 11.

13. Employment after retirement under a Government outside India :-

If a pensioner who immediately before his retirement was a member of railway service Group 'A', wished to accept any employment under any Government outside India he shall obtain the previous permission of a Ministry of Railways (Railway Board), for such acceptance, and no pension shall be payable to a pensioner who accepts, such an employment without proper permission in respect of any period for which he is so employed or such longer period as the Government may direct :

Provided that a railway servant who was permitted by the Ministry of Railways (Railway Board) to take up a particular form of employment under any Government outside India during his leave preparatory to retirement shall not be required to obtain subsequent permission for his continuance in such employment after retirement.

Explanation.-For the purpose of this rule, the expression "employment under any Government outside India" includes employment under any local authority or corporation or any other institution or organisation which functions under the supervision or control of a Government outside India, or an employment under an International Organisation of which the Government of India is not a member.

14. Periods which shall not be treated as service for pensionary benefits :-

Periods of employment in any of the following capacities shall not constitute service for pensionary benefits, namely.

- (i) in a part-time capacity;
- (ii) at casual market or daily rates;
- (iii) in a non-pensionable post;
- (iv) in a post paid from contingencies except as provided in Rule 31;
- (v) under a covenant or a contract which does not specifically provide for grant of pensionary benefits;
- (vi) work done on payment of a fee of honorarium;
- (vii) first four years of apprenticeship of Special Class Apprentices (the last two years of apprenticeship shall be treated as a period of probation);
- (viii) removal or dismissal from service in accordance with Rule 40;
- (ix) resignation from service as indicated under Rule 41;
- (x) period of unauthorised absence in continuation of authorised joining time or in continuation of authorised leave of absence treated as overstay;
- (xi) joining time allowed to a railway servant transferred at his own request and not in public interest for which he is not entitled to be paid;
- (xii) period of service treated as dies non;
- (xiii) foreign service in respect of which the foreign employer of railway servant has not paid service contribution unless the payment has been specifically waived by the President;
- (xiv) on contract basis except when followed by confirmation.

Notes.-Unpaid holidays, Sundays and short periods of leave for half-a-day or less granted to railway workshop staff shall be treated as

qualifying service.

15. Recovery and adjustment of Government or Railway dues from pensionary benefits :-

(1) It shall be the duty of the Head of Office to ascertain and assess Government or Railway dues payable by a railway servant due for retirement.

(2) The Railway or Government dues as ascertained and assessed, which remains outstanding till the date of retirement or death of the railway servant, shall be adjusted against the amount of the retirement gratuity or death gratuity or terminal gratuity and recovery of the dues against the retiring railway servant shall be regulated in accordance with the provisions of sub-rule (4).

(3) For the purpose of this rule, the expression "Railway or Government dues" includes

(a) dues pertaining to railway or Government accommodation including arrears of licence fee, if any;

(b) dues other than those pertaining to railway or Government accommodation, namely, balance of house-building or conveyance or any other advance, overpayment of pay and allowances, leave salary or any other advance, overpayment of pay and allowances, leave salary or other dues such as Post Office or Life Insurance premia, losses (including short collection in freight charges, shortage in stores) caused to the Government or the Railway as a result of negligence or fraud on the part of the railway servant while he was in service.

(4)

(i) A claim against the railway servant may be on account of all or any of the following :

(a) losses (including short collection in freight charges, shortage in stores, caused to the Government or the Railway as a result of negligence or fraud on the part of the railway servant while he was in service;

(b) other Government dues such as overpayment on account of pay and allowances or other dues such as house rent, Post Office or Life Insurance premia, or outstanding advance;

(c) non-Government dues.-

(ii) Recovery of losses specified in sub-clause (a) of clause (i) of this sub-rule shall be made subject to the conditions laid down in Rule 8

being satisfied from recurring pensions and also commuted value thereof, which are governed by the Pensions Act, 1871 (23 of 1871). A recovery on account of item (a) of sub-para (i) which cannot be made in terms of Rule 8, and any recovery on account of sub- clause items (b) and (c) of clause (i) that cannot be made from these even with the consent of the railway servant, the same shall be recovered from retirement, death, terminal or service gratuity which are not subject to the Pensions Act, 1871 (23 of 1871). It is permissible to make recovery of Government dues from the retirement, death, terminal or service gratuity even without obtaining his consent, or without obtaining the consent of the members of his family in the case of a deceased railway servant.

(iii) Sanction to pensionary benefits shall not be delayed pending recovery of any outstanding Government dues. If at the time of sanction, any dues remain unassessed or unrealised the following courses should be adopted :

(a) In respect of the dues as mentioned in sub-clause (a) of clause (i) of this sub-rule a suitable cash deposit may be taken from the railway servant or only such portion of the gratuity as may be considered sufficient, may be held over till the outstanding dues are assessed and adjusted;

(b) In respect of the dues as mentioned in sub-clause (b) of clause (i) of this sub-rule (1) The retiring railway servant may be asked to furnish a surety of suitable permanent railway servant. If the surety furnished by him is found acceptable, the payment of his pension or gratuity or his last claim for pay, etc. should not be withheld and the surety shall sign a bond in Form 2.

(2) If the retiring railway servant is unable or not willing to furnish a surety, then action shall be taken as specified in sub-clause (a) of sub-clause (iii).

(3) The authority sanctioning pension in each case shall be competent to accept the surety bond in Form 2 on behalf of the President.

(c) In respect of the dues as mentioned in sub-clause (c) of clause (i) the quasi-Government and non-Government dues, such as amounts payable by a railway servant to Consumer Co-operative Societies, Consumer Credit Societies or the dues payable to an autonomous organisation by a railway servant while on deputation may be recovered from the retirement gratuity which has become payable to the retiring railway servant provided he gives his consent for doing so in writing to the administration.

(iv) In all the cases referred to in sub-clauses (a) and ((b)) of clause (i) of this sub-rule, the amounts which the retiring railway servants are required to deposit or those which are withheld from the gratuity payable to them shall not be disproportionately large and that such amounts are not withheld or the sureties furnished are not bound over for unduly long periods. To achieve this the following principles should be observed by all the authorities concerned :

(a) The cash deposit to be taken or the amount of gratuity to be withheld should not exceed the estimated amount of the outstanding dues plus twenty-five servant concerned.

(b) Dues mentioned in clause (i) of this sub-rule should be assessed and adjusted within a period of three months from the date of retirement of the railway servant concerned.

(c) Steps should be taken to see that there is no loss to Government on account of negligence on the part of the officials concerned while intimating and processing of a demand. The officials concerned shall be liable to disciplinary action in not assessing the Government dues in time and the question whether the recovery of the irrecoverable amount shall be waived or the recovery made from the officials held responsible for not assessing the Government dues in time should be considered on merits.

(d) As soon as proceedings of the nature referred to in Rule 8 are instituted, the authority which instituted the proceedings should without delay intimate the fact to the Accounts Officer.

16. Adjustment and recovery of dues pertaining to Government or Railway accommodation :-

(1) The Directorate of Estates on receipt of intimation from the Head of Office under sub-rule (1) of Rule 98 regarding the issue of No Demand Certificate shall scrutinise its records and inform the Head of Office eight months before the date of retirement of the allottee, if any licence fee was recoverable from him in respect of the period prior to eight months of his retirement. If no intimation in regard to recovery of outstanding licence fee is received by the Head of Office by the stipulated date, it shall be presumed that no licence fee was recoverable from the allottee in respect of the period preceding eight months of his retirement.

(2) The Head of Office shall ensure that licence fee for the next eight months, that is up to the date of retirement of the allottee is recovered every month from the pay and allowances of the allottee.

(3) Where the Directorate of Estates intimates the amount of licence fee recoverable in respect of the period mentioned in sub-rule (1), the Head of Office shall ensure that outstanding licence fee is recovered in instalments from the current pay and allowances of the allottee and where the entire amount is not recovered from the pay and allowances, the balance shall be recovered out of the gratuity before its payment is authorised.

(4) The Directorate of Estates shall also inform the Head of Office the amount of licence fee for the retention of Government accommodation for the permissible period of four months beyond the date of retirement of the allottee. The Head of Office shall adjust the amount of that licence fee from the amount of the gratuity together with the unrecovered licence fee, if any; mentioned in sub-rule (3).

(5) If in any particular case, it is not possible for the Directorate of Estates to determine the outstanding licence fee, the Directorate shall inform the Head of Office that ten percent of the gratuity or one thousand rupees, whichever is less, may be withheld pending receipt of further information.

(6) The recovery of licence fee for the occupation of the Government accommodation beyond the permissible period of four months after the date of retirement of allottee shall be the responsibility of the Directorate of Estates. Any amount becoming due on account of licence fee for retention of Government accommodation beyond four months after retirement and remaining unpaid licence fee may be recovered by the Directorate of Estates through the Accounts Officer concerned from the dearness relief without the consent of the pensioner. In such cases no dearness relief should be disbursed until full recovery of such dues have been made.

Note.-For the purpose of this rule, the licence fee shall also include any other charges payable by the allottee for any damage or loss caused by him to the accommodation or its fittings.

(7) A railway servant shall vacate the railway accommodation immediately after his retirement.

(8) In case where a railway accommodation is not vacated by a railway servant after superannuation or after cessation of service such as voluntary retirement, or death, the full amount of the retirement gratuity, death gratuity or special contribution to Provident Fund, as the case may be, shall be withheld. The amount so withheld shall remain with the administration in the form of cash which shall be released immediately on the vacation of such railway accommodation.

17. Pensionary benefits to staff declared unfit :-

If a railway servant is medically unfit for his post but is retained in service in an alternative appointment under the provisions of the Code and subsequently becomes entitled to receive retirement gratuity or pension, he shall be given the option of accepting either of the following, whichever he may, prefer,

(i) the gratuity or pension which he would normally be granted with reference to his total service in both the spells of his service taken together;

(ii) the sum of

(a) gratuity or pension which he would have been granted if he had been medically invalidated out of service instead of being retained in an alternative appointment at the end of the first spell of his service; and

(b) the retirement gratuity or pension which he would normally have been granted for the second spell of this service rendered in the alternative appointment :

Provided that if the total qualifying service of the railway servant in both the spells of the service taken together exceeds 33 years, the qualifying service in the second spell shall be reduced by the number of years by which total qualifying service in both the spell taken together exceeds 33 years and his ordinary gratuity or pension and death-cum-retirement gratuity for the second spell of service shall be calculated with reference to the reduced qualifying service so calculated.

18. Pensionary, terminal or death benefits to temporary railway servants :-

(1) A temporary railway servant who retires on superannuation or on being declared permanently incapacitated for further railway service by the appropriate medical authority after having rendered temporary service not less than ten years shall be eligible for grant of superannuation, invalid pension, retirement gratuity and family pension at the same scale as admissible to permanent railway servant under these rules.

Explanation.-For the purpose of sub-rule (1) "service" shall have the meaning assigned to it in sub-rule (6), 1002 of the Code except that it shall not include the period of first four years of apprenticeship of Special Class Railway.

(2) A temporary railway servant who seeks voluntary retirement after

completion of twenty years of service shall continue to be eligible for retirement pension and other pensionary benefits like retirement gratuity and family pension as admissible under these rules.

(3) In the event of death in harness of a temporary railway servant his family shall be eligible to family pension and death gratuity on the same scale as admissible to families of permanent railway servants under these rules.

(4) The terminal or death gratuity shall not be admissible,-

(i) to a probationer or other railway servant discharged for failure to pass prescribed or other examination;

(ii) in a case where the railway servant concerned resigns his post or is removed or dismissed from railway service;

(iii) to employees re-employed under the terms of re-employment applicable to retired employees.

(5) The rules and orders applicable to the admissibility of death-cum-retirement gratuity to permanent pensionable railway servants shall apply as far as may be to the terminal or death gratuity also subject to the provisions of the sub-rules (6) to (10).

(6) No nomination for death or terminal gratuity shall be necessary.

(7) The payment of the terminal gratuity in the case of a temporary railway servant who dies before receiving payment of the said gratuity or of the death gratuity shall be made to his family in the following order of preference :

(1) wife or wives including judicially separated wife or wives in the case of a male railway servant,

(2) husband including judicially separated husband in the case of a female railway servant,

(3) sons including step sons and adopted sons,

(4) unmarried daughters including step daughters and adopted daughters,

(5) widowed daughters including step daughters and adopted daughters,

(6) father,

(7) mother including adopted parents in the case of individuals whose personal law permits adoption,

- (8) brothers below the age of eighteen years including step brothers,
- (9) unmarried sisters and widowed sisters including step sisters,
- (10) married daughters, and
- (11) children of a predeceased son.

(8) If a person eligible to the gratuity in the order of preference mentioned in item (1) of sub-rule (7) is totally denied any share in the property of railway servant under a will or deed made by him, such person shall be treated as ineligible to receive the gratuity which shall then be paid to the next person in the order of preference and where the railway servant makes any such will or deed he may intimate the fact in writing to the Head of Office who shall keep a note in the service book of the railway servant.

(9) The amount of gratuity payable to a temporary railway servant or to his family in the event of his death may be determined on the basis of the entries made in his service book and drawn without a formal application or accounts report, just as pay claims in pay bill form.

(10) The non-service staff appointed on the personal staff of Minister(s) or Deputy Ministers that is the staff appointed at the discretion of the Minister(s) or Deputy Ministers and who on the date of their appointment are not already in Government service shall be treated as purely temporary employees for the purpose of the benefits admissible under this rule.

19. Pension on re-employment :-

Pension on re-employment shall be subject to the conditions laid down in Rule 33.

CHAPTER 3

QUALIFYING SERVICE

20. Commencement of qualifying service :-

Subject to the provisions of these rules, qualifying service of a railway servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity :

Provided that officiating or temporary service is followed, without interruption, by substantive appointment in the same or another service or post :

Provided further that

- (a) in the case of a railway servant in a Group 'D' service or post who

held a lien or a suspended lien on a permanent pensionable post prior to the 17th April, 1950, service rendered before attaining the age of sixteen years shall not count for any purpose; and

(b) in the case of a railway servant not covered by clause (a), service rendered before attaining the age of sixteen years shall not count, except for compensation gratuity.

21. Conditions subject to which service qualifies :-

(1) The service of a railway servant shall not qualify unless his duties and pay are regulated by the Government; or under conditions determined by the Government.

Explanation.-Save as otherwise provided in these rules for the purpose of sub-rule (1) the expression "service" means service under the Government and paid by that Government from the Consolidated Fund of India or a Local Fund administered by that Government but does not include service in a non-pensionable establishment unless such service is treated as qualifying service by that Government.

(2) The case of a railway servant belonging to a State Government who is permanently transferred to a service or post under the Railways, the continuous service rendered under the State Government in an officiating or temporary capacity if any, followed without interruption by substantive appointment or the continuous service rendered under that Government in an officiating capacity as the case may be, shall qualify :

Provided that nothing contained in this sub-rule shall apply to any such railway servant who is appointed otherwise than by deputation to a service or post to which these rules apply.

22. Counting of service on Railways as qualifying service :-

The service of a railway servant which shall qualify for pensionary benefits, to the extent provided for in these rules, shall be as follows :

(i) continuous service in the Indian Railways or continuous service in former company railway or in a former State Railway which have been taken over by the Central Government, and followed by service on Indian Railways.

Note.-Service rendered by a railway servant with a former State Ruler whether as a State employee or personally to the ex-Ruler or in his household prior to the Federal Financial Integration, followed -without break of such service, shall be treated as service in the former State Railway for the purpose of pensionary benefits irrespective of whether his emoluments were paid from the State Revenues or from the private

source of the ex-Ruler.

(ii) Services rendered before the joining the Indian Railways or; a former Company railway or former State railway, which have been taken over by the Government, provided it is :

(a) a service in an Indian Railway or former State railway or former Company railway if at the time of transfer it was decided that such service could count for special contribution to Provident Fund;

(b) a service on a contract basis on an Indian Railway or a former Company railway or a former State Railway subject to the provisions of Rule 24;

(c) a service under a private railway company or a quasi-railway body to the extent and subject to the provisions of Rule 25.

(iii) A non-pensionable service of a scientific employer under a semi Government institution which is financed from cess or Government grants subject to the provisions of Rule 30.

(iv) A military or a war service.

(v) A qualifying service rendered under the Central Government (in a Civil Ministry or Department or as a civilian employee under the Ministry of Defence including the Ordnance Factories) or a State Government before transfer to Railways in accordance with the provisions of Rule 27.

23. Counting of service on probation :-

Service constituting period of probation of a railway servant appointed as a probationer or on probation and also the last two years of apprenticeship period of Special Class Apprentices shall be treated as qualifying service.

24. Counting of service on contract :-

(1) A person who is initially engaged by the Railways on a contract and is subsequently appointed to the same or another post in a substantive capacity, without a break in service, such contract period of service shall be treated like any other permanent service, in the railway and be taken into account for calculating for the pensionary benefits, subject to the conditions laid down in these rules, (1)

Provided that

(i) the period of contract service, during which the Contract officer did not subscribe to the State Railway Provident Fund (Contributory), shall count to the extent indicated above, if during such period, the railway

servant concerned did not receive any inflated rates of pay by reason of absence of any retirement benefits;

(ii) if the railway servant concerned has subscribed to the State Railway Provident Fund (Contributory) during a period of contract service, he shall have the option either

(a) to refund the Government contribution in the Provident Fund together with interest thereon, and Special Contribution to provident Fund, if any, for the period in question and to count the contract service for pensionary benefits to the extent indicated above, or

(b) to retain the Government contribution to the Provident Fund with interest thereon including any other compensation and Special Contribution to Provident Fund, if any, and not to count the period of contract service in question for pensionary benefits.

(2) The option, referred to in sub-clause (a) or sub-clause (b) of clause (i) of sub-rule (1), shall be exercised within three months from the date of issue of the order of confirmation of the railway servant concerned in a substantive post and if he is on leave on that date, within three months of his return from leave, whichever is later.

(3) If no option is received from the railway servant within the period referred to in sub-rule (2), he shall be deemed to have opted for retention of monetary benefits referred to in sub-clause (b) of clause (ii) of sub-rule (1).

(4) Where a railway servant (on contract basis) who was admitted to the State Railway Contributory Provident Fund opts for the alternative in sub-clause (a) of clause (ii) of sub-rule (1) above, the amount of Government contribution together with interest thereon including any other compensation standing to his credit in State Railway Provident Fund (Contributory) and the Special Contribution to the Provident Fund, if any, shall be surrendered and such amount shall be credited to the Consolidated Fund of India :

Provided that in a case where the Government contribution and the Special Contribution, if any, have been paid to the railway servant, he shall be required to refund the amount received by him together with compound interest on the amount actually received from the date(s) of payment to the date of final refund, at the rate which would have been applicable to the Government contribution, if that amount would have remained in the Fund and earned interest. In case where the railway servant dies before the entire amount is refunded, the amount which remains to be refunded shall be adjusted against the death gratuity which may become payable to the family of such railway servant.

25. Counting of service rendered under private railway companies and quasi railway bodies :-

(1) The previous service of employees of the former private or former State railway companies and quasi-railway bodies who were absorbed in or appointed as fresh entrants in the Indian Railways shall be taken into account for pensionary benefits under these rules, if countable as under, for the purpose of special contribution to Provident Fund.

(i) if under the existing order, the service is not countable for special contribution to Provident Fund, the same shall not be taken into account for pensionary benefits;

(ii) if under the existing orders, previous service is countable for determining only eligibility for special contribution to Provident Fund the same shall be taken into account in full for pensionary benefits.

(2) The previous service, which is taken into account in accordance with the provisions of sub-rule (1), shall be treated as service in Railways to the extent indicated therein, for pensionary benefits under these rules.

26. Counting of service rendered in the Indian Railway Conference Association :-

If a part of the service rendered by a railway servant is in Indian Railway Conference Association, such service shall be deemed as having been rendered under the Government and shall be taken into account for calculating the qualifying service under these rules :

Provided that the transfer has been effected as a result of the railway servant's application having been forwarded through proper channel or in consequence of the Indian Railway Conference Association and the Indian Railway Administration having agreed to such transfer on account of the employee's special qualification or experience.

27. Counting of service under the Central Government (in a Civil Ministry or Department or as a Civilian employee under the Ministry of Defence including Ordnance Factories) or a State Government by a person transferred and permanently absorbed on the Railway :-

(1) A pensionable employee transferred to the Railways from another Central Government Department shall be treated as on deputation so long as he is not permanently absorbed in the railway service and on permanent absorption in such service he shall be entitled to pensionary benefits under these rules.

(2) If a permanent employee, who is a member of a Contributory

Provident Fund, is transferred and permanently absorbed in a railway service on pensionable basis, the period of service rendered by him prior to his joining such railway service shall count for pensionary benefits under these rules and the employee's contribution to his Provident Fund Account shall be resumed by the Ministry or Department under which he had served prior to joining such railway service.

(3) In the case of an employee, who was a member of a Contributory Provident Fund while in the service of a State Government, the amount of Government contribution with interest thereon shall be resumed by the railways with the consent of the State Government concerned and such employee shall be allowed to count the period of his service under the State Government which he had actually subscribed to the Contributory Provident Fund and if the State Government concerned is willing to bear the proportionate liability on service-share basis taking into account the entire service under such Government, the Government contribution for such service credit by it shall be resumed by such State Government.

(4) The provisions of Rule 23 shall apply as far as may be, to the contract service rendered under a State or the Central Government :

Provided that the previous contract service during which the railway servant did not subscribe to a Contributory Provident Fund shall count only if the previous employer is prepared to share the proportionate liability on service-share basis for the entire service rendered under him.

28. Counting of temporary service under the State and Central Government and allocation of pensionary liability :-

(1) The Government servants can be allowed the benefits of counting their qualifying service both under the Central Government and the State Government for grant of pension by the Government from where they retire:

Provided that the gratuity, if any, received by the Government employee for temporary service under the Central or State Government shall be refunded by him to the Government concerned.

(2) The Government servants eligible to claim the benefits of combined service in accordance with sub-rule (1) shall be of the following categories :

(a) those who having been retrenched from the service of the Central Government or a State Government but have secured on their own,

employment under a State or the Central Government either with or without interruption between the date of retrenchment and date of new appointment;

(b) those who while holding temporary posts under the Central Government or a State Government apply for posts under the Central Government or a State Government through proper channel with proper permission of the administrative authority concerned :

Provided that where an employee is required for administrative reasons, for satisfying a technical requirement, to tender resignation from the temporary post held by him before joining the new appointment, a certificate to the effect that such resignation had been tendered for administrative reasons or to satisfy a technical requirement to join, with proper permission the new posts, may be issued by the authority accepting the resignation. A record of this certificate may also be made in his service book under proper attestation to enable him to get this benefit at the time of retirement.

(3) The provision of this rule shall not apply to the employees in the previous employment of the State Governments of Jammu and Kashmir and Nagaland.

29. Pensionary liability of Departments of the Central Government :-

The liability for pension including gratuity shall be borne in full by the Department to which the Government servant permanently belongs at the time of retirement and no recovery of proportionate pension shall be made from another Department of the Central Government under whom he had served.

30. Counting of service rendered by Scientific employees in semi-Government institutions :-

Service rendered by a scientific employee in a semi-Government institution which is financed from cess or Government grants and during such service he was subscribing to a Contributory Provident Fund, shall, on permanent, appointment without any interruption to a pensionable railway service be counted as service qualifying for pension :

Provided that the contribution together with interest thereon paid by the said institution is made over to the Government but so much of the period of service during which he did not subscribe to the Contributory Provident Fund shall not be so reckoned unless the previous employer agrees to bear proportionate liability on account of pensionary benefits for the service so rendered. If the employee was not on a Contributory

Provident Fund basis in such an institution, his previous service shall be reckoned as qualifying for pension if the previous employer agrees to bear proportionate liability on account of pensionary benefits.

31. Counting of service paid from contingencies :-

In respect of a railway servant, in service on or after the 22nd day of August, 1969, half the service paid from contingencies shall be taken into account for calculating pensionary benefits on absorption in regular employment subject to the following conditions, namely:

(a) the service paid from contingencies has been in a job involving whole-time employment;

(b) the service paid from contingencies should be in a type of work or job for which regular posts could have been sanctioned as posts of mails, chowkidars and khalasis;

(c) the service should have been such for which payment has been made either on monthly-rate basis or on daily rate computed and paid on a monthly basis and which, though not analogous to the regular scales of pay, bears some relation in the matter of pay to those being paid for similar jobs being performed at the relevant period by staff in regular establishments;

(d) the service paid from contingencies has been continuous and followed by absorption in regular employment without a break : Provided that the weightage for past service paid from contingencies shall be limited to the period after 1st January, 1961 subject to the condition that authentic records of service such as pay bill, leave record or service book is available.

Notes.-

(1) The provisions of this rule shall also apply to casual labour paid from contingencies.

(2) The expression "absorption in regular employment" means absorption against a regular post.

32. Counting of service of a Substitute :-

Service rendered as substitute shall be counted for pensionary benefits from the date of completion of three months in the case of teachers and four months in other cases of continuous service as substitute followed by absorption in a regular Group C or Group D post without any break.

33. Counting of pre-retirement Civil (including railway) service in the case of re-employed railway servant :-

(1) A railway servant who, having retired on compensation pension or invalid pension or compensation gratuity or invalid gratuity, is re-employed and appointed substantively to a service or a post to which these rules apply, may exercise his option either :

(a) to continue to draw the pension or retain the gratuity sanctioned for his earlier service, in which case his former service shall not be counted as qualifying service; or

(b) to cease to draw his pension and refund

(i) pension already drawn;

(ii) the value received for commutation of part or a part of pension; and

(iii) the amount of death-cum-retirement gratuity including service gratuity, if any);

and count the previous service as qualifying service :

Provided that

(i) the pension drawn prior to the date of re-employment shall not be required to be refunded;

(ii) the element of pension ignored for fixation of his pay including the element of pension which was not taken into account for fixation of pay shall be refunded by him;

(iii) the element of pension equivalent of gratuity including the element of commuted part of pension, if any, which was taken into account for fixation of his pay shall be set off against the amount of death-cum-retirement gratuity and the commuted value of pension and the balance, if any, shall be refunded by him.

Explanation.-In the proviso to this sub-rule, the expression "which was taken into account" means, the amount of pension including the pension equivalent of gratuity by which pay of the railway servant was reduced on initial re-employment and the expression "which was not taken into account" shall be construed accordingly.

(2)

(a) The authority issuing the order of substantive appointment to a railway service or post referred to in sub-rule (1) shall along with such order require in writing the railway servant to exercise his option under that sub-rule within three months of the date of issue of such order or if he is on leave on that date, within three months of his return from leave, whichever is later and also bring to his notice the provision of

clause (b) of that sub-rule.

(b) If no option is exercised within the period referred to in clause (a), the railway servant shall be deemed to have opted for clause (a) of sub-rule (1).

(3) In case of a railway servant, who opts or is deemed to have opted for clause (a) of sub-rule (1), the pension or gratuity admissible for his subsequent service shall be subject to the limitation that the service gratuity or the capital value of the pension and death-cum-retirement gratuity, if any shall not be greater than the difference between the value of the pension and death-cum-retirement gratuity, if any, which would have been admissible to him at the time of his final retirement if the two periods of service were combined and the value of retirement benefit already granted to him for the previous service.

Note.-The capital value of pension shall be calculated in accordance with the Table in the Appendix II under the Railway Service (Commutation of Pension) Rules, 1993, as applicable at the time of the second or final retirement.

(4)

(a) a railway servant who opts for clause (b) of sub-rule (1) shall be required to refund the gratuity including death-cum-retirement, if any, received in respect of his earlier service, in monthly instalments not exceeding thirty-six in number, the first instalment beginning from the month following the month in which he exercised such option.

(b) The right to count previous service as qualifying service shall not be revived until the whole amount has been refunded.

(5) In a case where a railway servant who, having elected to refund the gratuity, dies before the entire amount is refunded, the unrefunded amount of gratuity shall be adjusted against the death-cum-retirement gratuity which may become payable to such deceased's family.

34. Counting of military service rendered before employment on the Railways :-

(1) A railway servant who is re-employed in a railway service or post before attaining the age of superannuation and who, before such re-employment, had rendered military service after attaining the age of eighteen years, may, on his confirmation in a railway service on post, opt either

(a) to continue to draw the military pension or retain gratuity received

on discharge from military service, in which case his former military services shall not count as qualifying service; or

(b) to cease to draw his pension and refund,

(i) the pension already drawn;

(ii) the value received for the commutation of a part of military pension; and;

(iii) the amount of death-cum-retirement gratuity including service gratuity, if any, and count previous military service as qualifying service, in which case the service so allowed to count shall be restricted to service within or outside the employee's unit or department in India or elsewhere which is paid from the Consolidated Fund of India or for which pensionary contribution has been received by the Government :

Provided that-

(i) the pension drawn prior to the date of re-employment shall not be required to be refunded;

(ii) the element of pension which was ignored for fixation of his pay including the element of pension which was not taken into account for fixation of pay on re-employment shall be refunded by him;

(iii) the element of pension equivalent of gratuity including the element of commuted part of pension, if any, which was taken into account for fixation of pay shall be set off against the amount of death-cum-retirement gratuity and the commuted value of pension and the balance, if any, shall be refunded by him.

Explanation.-In the proviso to this sub-rule, the expression "which was taken into account" means the amount of pension including the pension equivalent of gratuity by which the pay of the railway servant was reduced on initial re-employment and the expression "which was not taken into account" shall be construed accordingly.

(2)

(a) The authority issuing the order of substantive appointment to a railway service or post referred to in sub-rule (1) shall along with such order require in writing the railway servant to exercise his option under that sub-rule within three months of the date of issue of such order or if he is on leave on that date within three months of his return from leave, whichever is later and , also bring to his notice the provisions of clause (b) of that sub-rule.

(b) If no option is exercised within the period referred to in clause (a),

the railway servant shall be deemed to have opted for clause (a) of sub-rule (b). If no option is exercised within the period referred to in clause (a), the railway servant shall be deemed to have opted for clause (a) of sub-rule (1).

(3)

(a) a railway servant who opts for clause (b) of sub-rule (1) shall be required to refund the pension, bonus or gratuity received in respect of his earlier military service, in monthly instalments not exceeding thirtysix in number, the first instalment beginning from the month following the month in which he exercised such option.

(b) The right to count previous service as qualifying service shall not revive until the whole amount has been refunded.

(4) In the case where a railway servant who, having elected to refund the pension, bonus or gratuity, dies before the entire amount is refunded, the unrefunded amount of pension or gratuity shall be adjusted against the death-cum-retirement gratuity which may become payable to such deceased's family.

(5) When an order is passed under this rule allowing previous military service to count as part of the service qualifying for civil pension, the order shall be deemed to include the condonation of interruption in service, in the military service and between the military and railway services.

35. Verification of military service :-

Before pension is granted, the war of Military service of the individual to whom pension is payable and the amount of bonus or gratuity in lieu of pension paid to him shall be verified, in Form 3 from the following authorities as indicated against each category of the employees, namely :

1. Ex-service Commissioned Officers-

(a) Non-medical Officers-^{A.G's}

Branch/Org 3 (RR & C) (d) Army head Quarter, DHQ, **PO, New**

Delhi.

(b) Medical Officers-MPRS (O)
(NE) Medical Directorate,
Army Headquarters, DHQ, PO,
New Delhi.

(c) Ex-Naval Officers.-Personal Services Directorate, (Naval Appointments)
Headquarters, DHQ, PO, New Delhi.

(d) Ex-Air Force Officers.-
Directorate of Personnel
(Officers) (PO 2) Air
Headquarters, DHQ, PO, New
Delhi.

2. Ex-J.C.O's Other Ranks and NCsE and their equivalent in the navy and Air
Force, (The authorities concerned shall be addressed enclosing two copies of Form 3,-

(a) JCOs, ORs and NCsF of the Indian Army-the respective Record Officer as
indicated in Discharge Certificate of an individual concerned. (A list of the existing
Record Offices is given in Appendix II)

(b) CPO Petty Officers and Sailors of the Navy.-The Captain, Naval barracks (Drafting Office), Bombay.

(c) MWOs, Ws, NCO's and Airmen of the Air Force.-Directorate of Personnel (Airman, Air Headquarters), Vayu Bhagwan, **New Delhi.**

36. Counting of period spent on leave :-

All leave during service for which leave salary is payable and all extraordinary leave granted on medical grounds shall count as qualifying service :

Provided that in the case of extraordinary leave other than extraordinary leave granted on medical certificate, the appointing authority may, at the time of granting such leave; allow the period of that leave to count as qualifying service if such leave is granted to a railway servant,

(i) due to his inability to join or rejoin duty on account of civil commotion, or

(ii) for prosecuting higher scientific or technical studies.

37. Counting periods of suspension :-

Where a railway servant is kept under suspension pending inquiry into his conduct the period of such suspension shall count as qualifying service only here on conclusion of such inquiry, he has been fully exonerated or the suspension is held to be wholly unjustified and in other cases, the period of such suspension shall not count unless the authority competent to pass orders under the rule governing such cases expressly declare that it shall count to such extent as that authority may declare. Where the authority reinstating the railway servant had not passed order as to the treatment of the period of suspension for the purpose of qualifying service for pensionary benefits

the period of suspension shall qualify only if it had been treated as duty or leave due, as the case may.

NOTE:-Pensionary benefits Suspension-.The emoluments drawn at the end of period just before retirement is relevant and not the pay drawn before the commencement of suspension for computing the qualifying service of appellant. [R.P. Kapur v. Union of India, 1999 (3) RSJ 692 (SC)].

38. Counting of period spent on training :-

The Ministry of Railway may, by order, decide whether the time spent by a railway servant under training immediately before his appointment to service under the Railways shall count as qualifying service.

39. Counting of past service on reinstatement :-

(1) A railway servant who is dismissed, removed or compulsorily retired from service, but is reinstated on appeal review, is entitled to count his past service as qualifying service.

(2) The period of interruption in service between the date of dismissal, removal or compulsory retirement, as the case may be, and the date of reinstatement, and the period of suspension, if any, shall not count as qualifying service unless regularised as 'duty' or 'leave' by a specific order of the authority which passed the order of reinstatement.

40. Forfeiture of service on dismissal or removal :-

Dismissal or removal of a railway servant from a service or post shall lead to forfeiture of his past service.

41. Forfeiture of service on resignation :-

(1) Resignation by a railway servant from a service or a post, unless it is allowed to be withdrawn in the public interest by the appointing authority shall lead to forfeiture of his past service.

(2) A resignation shall not lead to forfeiture of past service if it has been submitted to take up, with proper permission, another appointment, whether temporary or permanent under the Government where service qualifies for pension.

(3) Interruption in service in a case falling under sub-rule (2) due to the two appointments, being at different stations, not exceeding the joining time permissible under the rules of transfer, shall be covered by grant of leave of any kind due to the railway servant on the date of relief or by formal condonation to the extent to which the period is not covered by leave due to him.

(4) The appointing authority may permit a person to withdraw his

resignation in the public interest on the following conditions, namely :

(i) that the resignation was tendered by the railway servant, for some compelling reasons which did not involve on his integrity, efficiency or conduct and the request for withdrawal of the resignation has been made as a result of a material change in the circumstances which originally compelled him to tender the resignation;

(ii) that during the period intervening between the date on which the resignation became effective and the date from which the request for withdrawal was made, the conduct of the person concerned was in no way improper;

(iii) that the period of absence from duty between the date on which the resignation became effective and the date on which the railway servant is allowed to resume duty as a result of permission to withdraw the resignation is not more than ninety days;

(iv) that the post, which was vacated by the railway servant on the acceptance of his resignation or any other comparable post, is available.

(5) Request for withdrawal of a resignation shall not be accepted by the appointing authority where a railway servant resigns his service or post with a view to taking up an appointment in or under a private commercial company or in or under a Corporation or company wholly or substantially owned or controlled by the Government or in or under a body controlled or financed by the Government.

(6) When an order is passed by the appointing authority allowing a person to withdraw his resignation and to resume duty, the order shall be deemed to include the condonation of interruption in service but the period of interruption shall not count as qualifying service.

(7) A resignation submitted for the purpose of Rule 53 shall not entail forfeiture of past service under the Government or the Railways.

42. Effect of interruption in service :-

(1) An interruption in the service of a railway servant shall lead to forfeiture of his past service except in the following cases namely :

(a) authorised leave of absence;

(b) unauthorised absence in continuation of authorised leave of absence so long as the post of absentee is not substantively filled;

(c) suspension, where it is immediately followed by reinstatement whether in the same or a different post, or where the railway servant

dies or is permitted to retire or is retired on attaining the age of compulsory retirement, while under suspension;

(d) transfer to non-qualifying service in an establishment under the control of the Government if such transfer has been ordered by a competent authority in the public interest;

(e) joining time while on transfer from one post to another;

(2) Notwithstanding anything contained in sub-rule (1) the appointing authority may, by order, commute retrospectively the period of absence without leave as extraordinary leave.

43. Condonation of interruption in service :-

(1)

(a) In the absence of a specific indication to the contrary in the service book, an interruption between two spells of Government service rendered by a railway servant under Government including civil service rendered and paid out of Defence Services Estimates or Railway Estimates shall be treated as automatically condoned and the pre-interruption service treated as qualifying service.

(b) Nothing in clause (a) shall apply to interruption caused by resignation, dismissal or removal from service or for participation in a strike.

(2) Where the break in service of a railway servant is condoned, he shall, unless specifically provided to the contrary in the sanction for such condonation, refund any gratuity, special contribution as well as Government contribution to Provident Fund, if any, with interest thereon, received by him in respect of his service before the break.

44. Treatment of breaks in service condoned for Special Contribution to Provident Fund :-

Any break in service condoned prior to the 22nd June, 1961 for the purpose of Special Contribution to Provident Fund shall be deemed be condoned for the purpose of pensionary benefits also, provided that

(i) the railway servant who has not refunded the amount of gratuity (Special Contribution to Provident, Fund or Government contribution or both) received by him for the spell of service rendered prior to the break in service, refunds to the Government the amount thereof. No interest need be recovered on the amount for the period it remained with him;

(ii)

(a) the intention to make the refund has been made known by the railway servant in writing to the Accounts Officer not later than six months from the date of issue of orders of his confirmation in the substantive post or if he is on leave, within six months of date of his return from leave;

(b) the refund may be made in instalments not exceeding twelve in numbers as may be specified by the authority who condones the break in service;

(c) the right to count the previous service shall not revive till the whole amount has been completely refunded.

45. Addition to qualifying service in special circumstances :-

(1) A railway servant who retires from a service or post after the 31st March, 1960, shall be eligible to add to his service, qualifying for superannuation pension (but not for any other class of pension), the actual period not exceeding one-fourth of the length of his service or the actual periods by which his age at the time of recruitment exceeded twenty-five years or a period of five years, whichever is less, if the service or post to which the railway servant is appointed is one

(a) for which post-graduate research or specialist qualification or experience in scientific, technological or professional fields, is essential; and

(b) to which candidates of more than twenty-five years of age are normally recruited :

Provided that this concession shall not be admissible to a railway servant unless his actual qualifying service at the time he quits railway service is not less than ten years :

Provided further that this concession shall be admissible only if the recruitment rules in respect of the said service or post contain a specific provision, that the service or post is one which carries the benefit of this rule :

Provided also that this concession shall not be admissible to those who are eligible for counting their past service for superannuation pension unless they opt before the date of their retirement, which option once exercised shall be final, for the weightage of service under this sub-rule foregoing the counting of past service.

(2) A railway servant who is recruited at the age of thirty-five years or more, may, within a period of three months from the date of his appointment/elect to forego his right to pension whereupon he shall be

eligible to subscribe to a Contributory Provident Fund.

(3) The option referred to in sub-rule (2), once exercised shall be final-

NOTE.-Qualifying service Pension.-When mandatory qualifying service is as eligibility condition to join service then it cannot be as qualifying service for pension. [R.S. Peswani v. Union of India, 1999 (3) SLJ 367 (CAT)].

46. Period of deputation to United Nations and other Organisations :-

A railway servant deputed on foreign service, for a period of five years or more, to the United Nation's Secretariat or other United Nation's Bodies, the International Monetary Fund, the International Bank of Reconstruction and Development, or the Asian Development Bank or the Commonwealth Secretariat, may at his option

(a) pay the pension contribution in respect of his foreign service and count such service as qualifying for pension under these rules; or

(b) avail of the retirement benefits admissible under the rules of the aforesaid Organisations and not count such service as qualifying for pension under these rules:

Provided that where a railway servant opts for clause (b), retirement benefit shall be payable to him in India in rupees and from such date such manner as the Railway Board may, by order, specify :

Provided further that pension contributions, if any, paid by the railway servant, shall be refunded to him.

47. Verification of qualifying service after twentyfive years service or five years before retirement :-

(1) A railway servant on completing twentyfive years of service or on his being left with five years of service before the date of retirement, whichever is earlier; the Accounts Officer concerned in the case of a Gazetted Railway servant or the Head of Office in consultation with the Accounts Officer concerned in the case of a non-gazetted railway servant shall, in accordance with the rules for the time being in force, verify the service rendered by such railway servant, determine the qualifying service and communicate to him the period of qualifying service so determined in Form 15.

(2) Notwithstanding anything contained in sub-rule (1), where a railway servant is transferred to another department from a temporary department or on account of the closure of the department he had been previously serving, or because the post he held had been

declared surplus, the verification of his service may be done whenever such event occurs.

(3) The verification done under sub-rules (1) and (2) shall be treated as final and shall not be reopened except when necessitated by a subsequent change in the rules and orders governing the conditions under which the service qualifies for pension.

48. Deficiency in service :-

Any deficiency in the qualifying service of a railway servant shall not be condoned.

CHAPTER 4

EMOLUMENTS AND AVERAGE EMOLUMENTS

49. Emoluments :-

The expression-

(a) "emoluments", for the purpose of calculating various retirement and death benefits, means the basic pay as defined in clause (i) of Rule 1303 of the Code which a railway servant was receiving immediately before his retirement or on the date of his death : Provided that the stagnation increment shall be treated as emoluments for calculation or retirement benefits;

(b) "pay" in these rules means the pay in the revised scales under the Railway Services (Revised Pay) Rules, 1986 :

Provided that 'pay element' of Running Staff shall also include fifty five per centum of the basic pay for reckoning emoluments.

Note 1.- If a railway servant immediately before his retirement or death while in service had been absent from duty on leave for which leave salary is payable or having been suspended had been reinstated without forfeiture of service, the emoluments which he would have drawn had he not been absent from duty or suspended shall be the emoluments for the purposes of this rule:

Provided that any increase in pay (other than the increment referred to in Note 4) which is not actually drawn shall not form part of his emoluments.

Note 2.- Where a railway servant immediately before his retirement or death while in service had proceeded on leave for which leave salary is payable after having held a higher appointment, whether in an officiating or temporary capacity, the benefit of emoluments drawn in such higher appointment shall be given only if it is certified that the railway servant would have continued to hold the higher appointment but for his proceeding on leave.

Note 3.-If a railway servant immediately before his retirement or death while in service had been absent from duty on extraordinary leave, or had been under suspension, the period whereof does not count as service, the emoluments which he drew immediately before proceeding on such leave or being placed under suspension shall be the emoluments for the purposes of this rule.

Note 4.- If a railway servant immediately before his retirement or death while in service, was on earned leave and earned an increment which was not withheld, such increment though not actually drawn, shall form part of his emoluments :

Provided that the increment was earned during the currency of the earned leave not exceeding, one hundred and twenty days, or during the first one hundred and twenty days of earned leave where such leave was for more than one hundred and twenty days.

Note 5.-Pay drawn by a railway servant while on deputation to the Armed Forces of India shall be treated as emoluments.

Note 6.-Pay drawn by a railway servant while on foreign service shall not be treated as emoluments, but the pay which he would have drawn under the Railways, had he not been on foreign service shall alone be treated as emoluments.

Note 7.-Where a pensioner who is re-employed in railway service elects in terms of clause (a) of sub-rule (1) of Rule 33 or clause (a) of sub-rule 1 of Rule 34 to retain his pension for earlier service and whose pay on re-employment has been reduced by an amount not exceeding his pension, the element of pension by which his pay is reduced shall be treated as emoluments.

Note 8.- Where a railway servant has been transferred to an autonomous body consequent on the conversion of Department of Railways into such a body and the railway servant so transferred opts to retain the pensionary benefits under the rules of the railways, the emoluments drawn under the autonomous body shall be treated as emoluments for the purpose of this rule.

NOTE.- Suspension Pensionary benefits.-When under Rules, 49 and 1303 if full basic pay is "emoluments" being monthly amount drawn, then 75% of full basic pay will be 'emoluments' in the case of person under suspension. [R.P. Kapur v. Union of India, 1999 (3) SJ 692 (SC)].

50. Average emoluments :-

Average emoluments shall be determined with reference to the

emoluments drawn by a railway servant during the last ten months of his service.

Note 1.-If during the last ten months of his service a railway servant had been absent from the duty on leave of which leave salary is payable or having been suspended had been reinstated without forfeiture of service, the emoluments which he would have drawn, had he not been absent from duty or suspended, shall be taken into account for determining the average emoluments :

Provided that any increase in pay (other than the increment referred to in Note 3) which is not actually drawn shall not form part of his emoluments.

Note 2.- If, during the last ten months of his service, a railway servant had been absent from duty on extraordinary leave, or had been under suspension the period whereof does not count as service, the aforesaid period of leave or suspension shall be disregarded in the calculation of the average emoluments and equal period before the ten months shall be included.

Note 3.- In the case of a railway servant who was on earned leave during the last ten months of his service and earned an increment, which was not withheld, such increment, though not actually drawn shall be included in the average emoluments :

Provided that the increment was earned during the currency of the earned leave not exceeding one hundred and twenty days, or during the first one hundred and twenty days of earned leave where such leave was for more than one hundred and twenty days.

CHAPTER 5

CLASSES OF PENSIONS AND CONDITIONS GOVERNING THEIR GRANT

51. Super annuation Pension :-

A superannuation pension shall be granted to a railway servant who is retired on his attaining the age of compulsory retirement.

Note :- As from the 1st November, 1973, railway servants in Groups 'B', 'C' and 'D' service or posts, and as from the 1st April, 1974, railway servants in Group 'A' service or posts, shall retire from service with effect from the afternoon of the last day of the month in which their date of retirement according to Rule 1801 of the Code falls without prejudice to the provisions contained in Rules 1802, 1803 and 1804 of the said Code.

52. Retiring Pension :-

A retiring pension shall be granted to a railway servant who retires, or

has retired before attaining the age of compulsory retirement, in accordance with the provisions of Rules 66 and 67 of these rules and Rule 1802 of the Code.

53. Pension on absorption in or under a corporation, company or body :-

(1) A railway servant who has been permitted to be absorbed in a service or post in or under a corporation or company wholly or substantially owned or controlled by the Government or in or under a body controlled or financed by the Government shall, if such absorption is declared, by the Government to be in the public interest, be deemed to have retired from service from the date his resignation is accepted and shall be eligible to receive retirement benefits which he may have elected or deemed to have elected, and from such date as may be determined in accordance with the orders of the Railways applicable to him.

Explanation.-Date of absorption shall be-

(i) In case a railway employee joins a corporation or company or body on immediate absorption basis, the date on which he actually joins that corporation or company or body;

(ii) In case a railway employee initially joins a corporation or company or body on foreign service terms by retaining a lien under the Railways the date from which his unqualified resignation is accepted by the Railways.

(2) The provision of sub-rule (1) shall also apply to a railway servant who is permitted to be absorbed in joint sector undertakings, wholly under the joint control of Central Government and State Government/Union Territory Administrations or under the joint control, of two or more State Governments or Union Territory Administrations.

(3) Where there is a pension scheme in a body controlled financed by the Central Government in which a railway servant is absorbed, he shall be entitled to exercise option either to count the service rendered under the Railways in that body for pension or to receive pro rata retirement benefit for service rendered under the Railways in accordance with the orders issued by the Railways.

Explanation.-Body means autonomous body or statutory body.

54. Payment of lump sum amount to persons on absorption in or under a Corporation, Company or body :-

Where a railway servant referred to in Rule 53 elects the alternative of receiving the death-cum-retirement gratuity and a lump sum amount

in lieu of pension, he shall, in addition to the death-cum-retirement gratuity, be granted

(a) on an application made in this behalf, a lump sum amount not exceeding the commuted value of one third of his pension as may be admissible to him in accordance with the provisions of the Railway Service (Commutation of Pension) Rules, 1993; and

(b) terminal benefits equal to the commuted value of the balance amount of pension left after commuting one-third of pension to be worked out with reference to the Commutation Table in Appendix to the Railway Services (Commutation of Pension) Rules, 1993 on the date of his resignation subject to the condition that the railway servant surrenders his right of drawing two-thirds of his pension.

55. Invalid Pension :-

(1) invalid pension may be granted to a railway servant who retires from service on account of any bodily or mental infirmity which permanently incapacitates him for the service.

(2) A railway servant applying for an invalid pension shall submit a medical certificate, from a duly constituted medical authority, of his permanent incapacity for service due to bodily or mental infirmity.

(3) Where the medical authority referred to in sub-rule (2) has declared a railway servant fit for further service of less laborious character than that which he had been doing he should, provided he is willing to be so employed, be employed on a lower post and if there be no means of employing him even on a lower post, he may be admitted to invalid pension.

(4) A railway servant may, if he considers that he is not in a fit state of health to discharge his duties, apply to the appropriate authority for retirement on invalid gratuity or pension.

56. Rules regarding medical certificate :-

The medical certificate for incapacity shall be certified by the medical authority as under :

(i) If the railway servant is serving abroad or is on leave out of India, by a Medical Board to be convened for the purpose by the concerned Indian Mission abroad which shall consist of a physician, a surgeon and ophthalmologist all of whom shall have consultant status and are drawn from the doctors approved for the mission concerned :

Provided that a lady doctor shall be included as a member of such Medical Board whenever a female railway servant is to be examined.

(ii) If the railway servant is in India

(a) by the Medical officer in charge of the District or Division if the railway servant holds a Group 'D' or Group 'C' post but whose pay does not exceed seven hundred and fifty rupees per mensem;

(b) in all other cases by a Medical Board consisting of three District or Divisional Medical Officers, each in Senior Scale, but if this is not feasible, one or two members may be the Chief Medical Officer or the Civil or Presidency Surgeon or a specialist on the staff of a recognised Medical Institution but as far as possible one of the members of such Board shall be a physician, another a surgeon and the third being a specialist in the required lines.

Note.-An Assistant Medical Officer in independent charge of a District or Division may be co-opted as a member of the Medical Board, in case there is any difficulty in constituting the Board of three Senior Scale Medical Officers :

Provided that if the railway servant is posted at Delhi or New Delhi in the Railways Board or in the Railway Liaison Office and is governed by the Civil (non Railways) Medical Rules, the medical authority will be such as the Chairman of the Central Standing Medical Board, Dr. Ram Manohar Lohia Hospital or Safdarganj Hospital, New Delhi, may determine unless the medical examination is to be conducted at a place other than Delhi or New Delhi, in which case the medical authority shall be such as the Head of the Department may determine.

57. Conditions regarding grant of medical certificate :-

Save where he is on leave out of India, no railway servant shall apply for a medical certificate of incapacity and no such certificate shall be granted unless :

(i) the applicant produces a letter to show that the Head of his office or Department is aware of his intention to appear before the medical authority; and

(ii) the medical authority is informed about the age of the applicant as recorded in his service book or history of services and is supplied with a statement of the leave taken by him during the three years immediately preceding, and of the history of the medical case and the treatment adopted, as far as possible.

58. Statement giving grounds for retirement :-

When it is proposed to retire a railway servant, on an invalid gratuity or pension on account of general disability while he is still under fifty-eight years of age, the appropriate authority under whom he is

working shall forward to the medical authority an additional statement giving the grounds on which it is proposed to retire him.

59. Form of medical certificate :-

The medical certificate shall be in the following form :

"Certified that I/We have carefully examined AB.....son of CD..... ain the I/We consider AB.....to be completely and permanently incapacitated for further service of any kind (or in the department to which he belongs) in consequence of..... (Here state disease or cause). His incapacity does not appear to me/us to have been caused by irregular or

intemperate habits."

Note.: -If the incapacity is the result of irregular or intemperate habits, the following be substituted for the last sentence :

In my/our opinion his incapacity is directly or has been due to accelerated or aggravated by irregular intemperate habits.

(If the incapacity does not appear to be complete and permanent, the certificate should be modified accordingly and the following addition should be made):--

I am/We are of the opinion that AB.....is fit for

further service of a less laborious character than that which he has been doing (or may, after resting for.....months be fit for further service of a less laborious character than that which he has been doing).

60. Reasons for medical opinion of incapacity or under statement of age :-

If the medical authority considers a railway servant incapacitated for further service by general debility while still under the age of fifty-eight years, it shall give detailed reasons for its opinion. If the medical authority considers him to be above fifty-eight years of age it shall state its reasons for believing the age to be understated :

Provided that in doubtful cases, a second medical opinion shall be obtained.

61. Requirement of details in the certificate :-

A mere opinion certificate that inefficiency is due to old age or natural decay from advancing years shall not be deemed to be sufficient for retiring a railway servant on invalid gratuity or pension.

62. Date of invalidation :-

A railway servant, who is declared by the medical authority referred to in Rule 55 to be completely and permanently incapacitated for further service shall, if he is on duty, be retired from service from the date of

relief of his duties which shall be arranged without delay on receipt of a report from the medical authority or if he is granted leave under Rule 522 of the Code on the expiry of such leave but if he is on leave at the time of receipt of the medical certificate, he shall be retired from service on the expiry of such leave or extension of leave if any granted to him under Rule 522 of the said Code.

63. Compensation Pension :-

(1) If a railway servant is selected for discharge owing to the abolition of his permanent post, he shall, unless he is appointed to another post the conditions of which are deemed by the authority competent to discharge him to be at least equal to those of his own have the option

(a) of taking compensation pension to which he may be entitled for the service he had rendered, or

(b) of accepting another appointment on such pay as may be offered and continuing to count his previous service for pension.

(2)(a) Notice of at least three months shall be given to a railway servant in permanent employment before his services are dispensed with on the abolition of his permanent post.

(b) Where notice of at least three months is not given to the railway servant and he has not been provided with other employment on the date on which his services are dispensed with, the authority competent to dispense with his services, may sanction the payment of a sum not exceeding the pay and allowances for the period by which the notice actually given to him falls short of three months.

(c) No compensation pension shall be payable for the period in respect of which he received pay and allowances in lieu of notice.

(3) In case a railway servant is granted pay and allowances for the period by which the notice given to him falls short of three months and he is re-employed before the expiry of the period for which he has received pay and allowances he shall refund the pay and allowances so received for the period following his re-employment

(4) If a railway servant who is entitled to a compensation pension accepts instead another appointment under the Railways and subsequently becomes again entitled to receive a pension of any class, the amount of such pension shall not be less than what he could have claimed if he had not accepted the appointment.

64. Compulsory retirement pension :-

(1) A railway 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-third and not more than full compensation pension or gratuity, or both admissible to him on the date of his compulsory retirement.

(2) Whenever, in the case of a railway servant the President passes an order (whether original, appellate or in the exercise of power of review) awarding a pension less than the full compensation pension admissible under these rules, the Union Public Service Commission shall be consulted before such order is passed.

Explanation. In this sub-rule, the expression "pension includes gratuity".

(3) A pension granted or awarded under sub-rule (1) or, as the case, may be, under sub-rule (2), shall not be less than three hundred seventyfive rupees per mensem.

65. Compassionate allowance :-

(1) A railway 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.

(2) A compassionate allowance sanctioned under the proviso to sub-rule (1) shall not less than three hundred seventy-five rupees per mensem.

CHAPTER 6

REGULATION OF AMOUNTS OF PENSION

66. Retirement on completion of 30 years qualifying service :-

(1) At any time after a railway 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 railway servant shall be entitled to a retiring pension :

Provided that-

(i) a railway servant shall give a notice in writing to the appointing

authority at least three months before the date on which he wishes to retire; and

(ii) the appointing authority may also give a notice in writing to a railway servant at least three months before the date on which he is required to retire in the public interest or three months pay and allowances in lieu of such notice :

Provided further that where the railway servant giving notice under clause (i) of the first proviso is under suspension, it shall be open to the appointing authority to withhold permission to such railway servant to retire under this:

Provided also that the provisions of clause (a) of sub-rule (1) of this rule shall not apply to a railway servant, including Scientist or technical expert who is-

(i) on assignment under the Indian Technical and Economic Co-operation (ITEC) Programme of the Ministry of External Affairs and other aid programmes;

(ii) posted abroad in foreign-based offices of the Ministries or Department;

(iii) on a specific contract assignment to a foreign Government, unless, after having been transferred to India, he has resumed the charge of the post in India and served for a period of not less than one year.

(2)

(a) A railway servant referred to in clause (i), of the first proviso to sub-rule (1) may, make a request in writing to the appointing authority to accept notice of less than three months giving reason therefor;

(b) on receipt of a request under clause (a), the appointing authority may consider such request for curtailment of the period of notice of three months on merits and if it is satisfied that the curtailment of the period of notice will not cause any administrative inconvenience, the appointing authority may relax the requirement of notice of three months on the condition that the railway servant shall not apply for commutation of a part of his pension before the expiry of the period of notice of three months.

(3) A railway servant who has elected to retire under this rule and has given the necessary intimation to that effect to the appointing authority, shall be precluded from withdrawing his election subsequently except with the specific approval of such authority :

Provided that the request for withdrawal shall be within the intended

dale of his retirement.

Explanation.-For the purpose of this rule, "appointing authority" means the authority which is competent to make appointments to the service or post from which the railway servant retires.

67. Retirement on completion of 20 years qualifying service :-

(1) At any time after a railway 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 :

Provided that this sub-rule shall not apply to a railway servant including Scientist or technical expert who is

(i) on assignment under the Indian Technical and Economic Cooperation (ITEC) Programme of the Ministry Affairs and other aid programmes;

(ii) posted abroad in foreign-based offices of the Ministries or Department;

(iii) on a specific contract assignment to a foreign Government unless, after having been transferred to India, he has resumed the charge of a post in India and served for a period of not less than one year.

(2) The notice of voluntary retirement given under sub-rule (1) shall require acceptance by the appointing authority :

Provided that where the appointing authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.

(3)

(a) A railway servant referred to in sub-rule (1) may, make a request in writing to the appointing authority to accept notice of voluntary retirement of less than three months giving reasons therefor;

(b) On receipt of a request under clause (a), the appointing authority subject to the provisions of sub-rule (2) may consider such request for the curtailment of the period of notice of three months on merits and if it is satisfied that the curtailment of the period of notice will not cause any administrative inconvenience, the appointing authority may relax the requirement of notice of three months on the condition that the railway servant shall not apply for commutation of a part of his pension before the expiry of the period of notice of three months.

(4) A railway servant, who has elected to retire under this rule and has

given the necessary notice to that effect to the appointing authority, shall be precluded from withdrawing his notice except with the specific approval of such authority :

Provided that the request for withdrawal shall be made before the intended date of his retirement.

(5) The pension and death-cum-retirement gratuity of the railway servant retiring under this rule shall be based on the emoluments as defined under Rule 49 and Rule 50 and the increase not exceeding five years in his qualifying service shall not entitle him to any notional fixation of pay for purposes of calculating pension and gratuity.

(6) This rule shall not apply to a railway servant who retires from railway service for being absorbed permanently in an autonomous body or a public sector undertaking to which he is on deputation at the time of seeking voluntary retirement.

Explanation.-For the purpose of this rule, "appointing authority" means the authority which is competent to make appointment to the service or post from which the railway servant seeks voluntary retirement.

68. Addition to qualifying service on voluntary retirement :-

(1) The qualifying service as on the date intended retirement of the railway servant retiring under Rule 66 or Rule 67 of these rules or clause (k) of Rules 1802 to 1804 of the Code, with or without permission shall be increased by the period not exceeding five years, subject to the condition that the total qualifying service rendered by the railway servant does not in any case exceed thirty-three years and it does not take him beyond the date of super annuation.

(2) The weightage of five years under sub-rule (1) shall not be admissible in cases of those railway servants who are prematurely retired by the Railways in the public interest under clause (b) of sub-rule (1) of Rule 66 of these rules or Rules 1802 to 1804 of the Code.

69. Amount of pension :-

(1) In the case of a railway servant retiring in accordance with the provisions of these rules before completing qualifying service of ten years, the amount of service gratuity shall be calculated at the rate of half month's emoluments for every completed six-monthly period of service.

(2)(a) In the case of a railway servant retiring in accordance with the provisions of these rules after completing qualifying service of not less than thirtythree years, the amount of pension shall be calculated at

fifty per cent of average emoluments subject to a maximum of rupees four thousand and five hundred per mensem;

(b) in the case of a railway servant retiring in accordance with the provisions of these rules before completing qualifying service of thirty-three years, but after completing the qualifying service: of ten years, the amount of pension shall be proportionate to the amount of pension admissible under clause (a) and in no case the amount of pension shall be less than rupees three hundred seventy five per mensem;

(c) notwithstanding anything contained in clauses (a) and (b), the amount of invalid pension shall not be less than the amount of family pension admissible under sub-rule (2) of Rule 75.

(3) In calculating the length of qualifying service, fraction of a year equal to three months and above shall be treated as a completed one-half year and reckoned as qualifying service.

(4) The amount of pension finally determined under clause (a) or clause (b) of sub-rule (2) shall be expressed in whole rupees and where the pension contains a fraction of a rupee it shall be rounded off to the next higher rupee.

70. Retirement gratuity or death gratuity :-

(1)

(a) In the case of a railway servant, who has completed five years, qualifying service and has become eligible for service gratuity or pension under Rule 69, shall, on his retirement, be granted retirement gratuity equal to one-fourth of his emoluments for each completed six monthly period of qualifying service subject to maximum of sixteen and one-half times the emoluments and there shall be no ceiling on reckonable emoluments for calculating the gratuity.

(b) If a railway servant dies while in service, the amount of death gratuity shall be paid to the family in the manner indicated in the Time below :

Length of qualifying service	Rate of gratuity

(i) Less than one year	2 times of emoluments
(ii) One year or more but less than 5 years	6 times of emoluments
(iii) 5 years or more but less than 20 years	12 times of emoluments
(iv) 20 years or more	Half of emoluments for every completed six monthly period of

qualifying
service
subject to
maximum of
thirty-three
times
emoluments
provided that
the amount of
death gratuity
shall in no case,

exceed one lakh rupees.

Provided that the amount of retirement gratuity or death gratuity payable under this rule shall in no case exceed rupees one lakh :

Provided further that the amount of retirement or death gratuity as finally calculated shall be rounded off to the next higher rupee.

(2) If a railway servant, who has become eligible for a service gratuity or pension, dies within five years from the date of his retirement from service including compulsory retirement as a penalty and the sums actually received by him at the time of his death on account of such gratuity or pension including ad hoc increase, if any, together with the retirement gratuity admissible under sub-rule (1) and the commuted value of any portion of pension commuted by him are less than the amount equal to twelve times of his emoluments, a residuary gratuity

equal to the deficiency may be granted to his family in the manner indicated in sub-rule (1), Rule 71.

(3) The emoluments for the purpose of gratuity admissible under this rule shall be reckoned in accordance with Rule 49 :

Provided that if the emoluments of a railway servant have been reduced during the last ten months of his service otherwise than as penalty the average emoluments as referred to in Rule 50 shall be treated as emoluments.

(4) For the purposes of this rule, Rule 71, Rule 73 and Rule 74 "family", in relation to railway servant, means

(i) Wife or wives including judicially separated wife or wives in the case of a male railway servant;

(ii) husband including judicially separated husband in the case of a female railway servant;

(iii) sons including step sons and adopted sons;

(iv) unmarried daughters including step daughters and adopted daughters;

(v) widowed daughters including step daughters and adopted daughters;

(vi) father including adoptive parents in the case of individuals whose personal law permits adoption;

(vii) mother including adoptive parents in the case of individuals whose personal law permits adoption;

(viii) including adoptive parents in the case of individuals whose personal law permits adoption;

(ix) brothers below the age of eighteen years including step brothers;

(x) unmarried sisters and widowed sisters including step sisters;

(xi) married daughters; and

(xii) children of predeceased son.

71. Persons to whom gratuity is payable :-

(1)

(a) The gratuity payable under Rule 70 shall be paid to the person or persons on whom the right to receive the gratuity is conferred by making a nomination under Rule 74;

(b) if there is no such nomination or if the nomination made does not subsist, the gratuity shall be paid in the manner indicated below :

(i) if there are one or more surviving members of the family as in clauses (i), (ii), (iii) and (iv) of sub-rule (5) of Rule 70, to all such members in equal shares;

(ii) if there are no such surviving members of the family as in clause (i) above, but there are one or more members as in clauses (v), (vi), (vii), (viii), (ix), (x) and (xi) of sub-rule (5) of Rule 70 to all such members in equal shares.

(2) If a railway servant dies after retirement without receiving the gratuity admissible under sub-rule (1) of Rule 70 the gratuity shall be disbursed to the family in the manner indicated in sub-rule (1).

(3) The right of a female member of the family, or that of a brother of a railway servant who dies while in service or after retirement, to receive the share of gratuity shall not be affected if the female member marries or remarries or the brother attains the age of eighteen years, after the death of the railway servant and before receiving her or his share of the gratuity.

(4) Where the gratuity is granted under Rule 70 to a minor member of the family of the deceased railway servant, it shall be payable to the guardian on behalf of the minor.

NOTE:- Gratuity. Since gratuity is a welfare scheme and not an estate of employee, therefore, applicant, wife is entitled to payment of gratuity. [Smt. Gopa Mazumdar v. Union of India, 1999 (3) SLJ 10 (CAT)].

72. Debarring a person from receiving gratuity :-

(1) If a person, who in the event of death of a railway servant while in service is eligible to receive gratuity in terms of Rule 71, is charged with the offence of murdering the railway servant or for abetting in the commission of such an offence, his claim to receive his share of gratuity shall remain suspended till the conclusion of the criminal proceedings instituted against him.

(2) If on the conclusion of the criminal proceedings referred to in sub-rule (1), the person concerned (a) is convicted for the murder or abetting in the murder of the railway servant, he shall be debarred from receiving his share of gratuity which shall be payable to other eligible members of the family, if any; (b) if acquitted of the charge of murdering or abetting in the murder of the railway servant, his share of gratuity shall be payable to him.

(3) The provisions of sub-rules (1) and (2) shall also apply to the undisbursed gratuity referred to in sub-rule (2) of Rule 71.

73. Lapse of death-cum-retirement gratuity :-

Where a railway servant dies while in service; or after retirement without receiving the amount of gratuity and leaves behind no family, and,

(a) has made no nomination, or

(b) the nomination made by him does not subsist the amount of death-cum-retirement gratuity payable in respect of such railway servant under Rule 70 shall lapse to the Government:

Provided that the amount of death gratuity or retirement gratuity shall be payable to the person in whose favour a succession certificate in respect of the gratuity has been granted by a Court of law.

74. Nominations :-

(1) A railway servant shall, on his initial confirmation in a service or post, made a nomination in Form 4 or Form 5, as may be appropriate In the circumstances of the case, conferred on one or more persons the right to receive the death-cum-retirement gratuity payable under Rule 70 :

Provided that if at the time of making the nomination-

(i) the railway servant has a family, the nomination shall not be in favour of any person or persons other than the members of his family; or

(ii) the railway servant has no family, the nomination may be made in favour of a person or persons, or a body of individuals, whether incorporated or not.

(2) If a railway servant nominates more than one person under sub-rule (1), he shall specify in the nomination the amount of share payable to each of the nominees in such manner as to cover the entire amount of gratuity.

(3) A railway servant may provide in the nomination-

(i) that in respect of any specified nominee who predeceases the railway servant, or who dies after the death of the railway servant but before receiving the payment of gratuity, the right conferred on that nominee shall pass to such other person as may be specified in the nomination :

Provided that if at the time of making the nomination the railway

servant has a family consisting of more than one member, the person so specified shall not be a person other than a member of his family :

Provided further that where a railway servant has only one member in his family, and a nomination has been made in his favour, it is open to the railway servant to nominate alternate nominee or nominees in favour of any person or a body of individuals, whether incorporated or not;

(ii) that the nomination shall become invalid in the event of the happening of the contingency provided therein.

(4) The nomination made by a railway servant who has no family at the time of making it, or the nomination made by a railway servant under the second proviso to clause (i) of sub-rule (3) where he has only one member of his family shall become invalid in the event of the railway servant subsequently acquiring a family, or an additional member in the family, as the case may be.

(5) A railway servant may, at any time, cancel a nomination by sending a notice in writing to the authority mentioned in sub-rule (7) :

Provided that he shall, along with such notice, send a fresh nomination made in accordance with this rule.

(6) Immediately on the death of a nominee in respect of whom no special provision has been made in the nomination under clause (i) of sub-rule (3) or on the occurrence of any event by reason of which the nomination becomes invalid in pursuance of clause (ii) of that sub-rule, the railway servant shall send to the authority mentioned in sub-rule (7) a notice in writing cancelling the nomination together with a fresh nomination made in accordance with this rule.

(7)

(a) Every nomination made, and every notice of cancellation given by a railway servant under these rules, shall be sent by the railway servant to his Accounts Officer in the case of a gazetted railway servant and to the Head of Office in the case of non-gazetted railway servant.

(b) Immediately on receipt of a nomination from a non-gazetted railway servant, the Head of Office shall countersign it indicating the date of receipt and keep it in a separate confidential file which should be lodged for safe keeping with him or other responsible officer nominated by him for his purpose, and a clear note made in the service record or service book, as the case may be, of the railway servant as to what nominations and related notices have been received from him and where they have been lodged for safe custody and an

acknowledgement to the railway servant concerned confirming that the nominations made by him and the related notices have been duly received and placed on record shall invariably be sent to every railway servant making or cancelling a nomination, by the Accounts Officer in the case of gazetted railway servants and by the Head of Office in the case of non-gazetted railway servants.

Note.-The power to countersign nomination form sent by non-gazetted railway servants may be delegated by the Head of Office to his subordinate gazetted officer.

(8) Every nomination made, and every notice of cancellation given by a railway servant shall, to the extent that it is valid, take effect from the date on which it is received by the authority mentioned in sub-rule (7).

75. Family Pension Scheme for Railway Servants, 1964 :-

(1) The provisions of this rule shall apply :

(a) to a railway servant entering service in a pensionable establishment on or after the 1st January, 1964; and

(b) to a railway servant who was in service on the 31st December, 1963 and came to be governed by the provisions of the Family Pension Scheme for Railway employees, 1964, contained in Railway Boards letter No. F(P) 63 PN-1/40, dated the 2nd January, 1964 as in force immediately before the commencement of these rules.

Note.-The provision of this rule have also been extended from 22nd September, 1977, to railway servants on pensionable establishments who retired or died before the 31st December, 1963 and also to those who were alive on that date but had opted out of the 1964 Scheme.

(2) Without prejudice to the provisions contained in sub-rule (3), where a railway servant dies-

(a) after completion of one year of continuous service; or

(b) before completion of one year of continuous service, provided the deceased railway servant concerned immediately prior to his appointment to the service or post was examined by the appropriate medical authority and declared fit by that authority for railway service;

(c) after retirement from service and was on the date of death in receipt of pension, or compassionate allowance, referred to in Chapter V, other than the pension referred to in Rule 53;

the family of the deceased shall be entitled to a family pension 1964 (hereinafter in this rule referred to as family pension) the amount of

which shall be determined in accordance with the Table below :

TABLE

Basic pay per month of railway servant	Rate of family pension per month inclusive of dearness relief up to average Consumer Price Index-608
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(i)	Not exceeding Rs.1,500	30 per cent of basic pay subject to a minimum of Rs.375.
(ii)	Exceeding Rs.1,500 but not exceeding Rs.3,000	20 percent of basic pay subject to a minimum of

		Rs.450.
(iii)	Exceeding Rs.3000	15 percent of basic pay subject to a minimum of Rs.600 and a maximum of Rs.1,250.

Explanation.-The expression "Continuous one year of service" wherever it occurs in this rule shall be constructed to include "less than one year of continuous service" as defined in clause (b).

(3) The amount of family pension shall be fixed at monthly rates and expressed in whole rupees and where the family pension contained a fraction of a rupee, it shall be rounded off to the next higher rupee :

Provided that in no case a family pension in excess of the maximum

specified under this rule shall be allowed.

(4)

(i)

(a) Where a railway servant, who is not governed by the Workmen's Compensation Act, 1923 (8 of 1923), dies while in service after having rendered not less than seven years continuous service, the rate of family pension payable to the family shall be equal to fifty per cent of the pay last drawn or twice the family pension admissible under sub-rule (2), whichever is less, and the amount so admissible shall be payable from the date following date of death of the railway servant for a period of seven years, or for period up to the date on which the deceased railway servant would have attained the age of sixty-five years had he survived, whichever is less.

(b) In the event of death of railway servant after retirement, the family pension as determined under sub-clause (a) shall be payable for a period of seven years, or for a period up to the date on which the retired deceased railway servant would have attained the age of sixty-five years had he survived, whichever is less :

Provided that in no case the amount of family pension determined under sub-clause (b) of this clause shall exceed the pension sanctioned on retirement from railway service :

Provided further that where the amount of pension sanctioned on retirement is less than the amount of family pension admissible under sub-rule (2), the amount of family pension determined under this clause shall be limited to the amount of family pension admissible under sub-rule (2).

Explanation-.For the purpose of this sub-clause "pension sanctioned on retirement" includes the part of the pension which the retired railway servant may have commuted before death.

(ii)

(a) Where a railway servant, who is governed by the Workmens Compensation Act, 1923 (8 of 1923), dies while in service after having rendered not less than seven years continuous service, the rate of family pension payable to the family shall be equal to fifty per cent of the pay last drawn or one and a half times the family pension admissible under sub-rule (2), whichever is less.

(b) The family pension so determined under sub-clause (a) shall be payable for the period mentioned in clause (i) :

Provided that where a compensation is not payable under the aforesaid Act, the pension sanctioning authority shall send a certificate to the Accounts Officer to the effect that the family of the deceased railway servant shall be paid family pension on the scale, and for the period, mentioned in clause (i).

(iii) After the expiry of the period referred to in clause (i), the family, in receipt of family pension under that clause or clause (ii) shall be entitled to family pension at the rate admissible under sub-rule (2).

(5) Where an award under the Railway Services (Extraordinary Pension) Rules, 1993 is admissible, no payment of family pension under this rule shall be authorised.

(6) The period for which family pension is payable shall be as follows :

(i) in the case of a widow or widower, up to the date of death of remarriage, whichever is earlier;

(ii) in the case of a son, until he attains the age of twentyfive years; and

(iii) in the case of an unmarried daughter, until she attains the age of twenty five years or until she gets married, whichever is earlier :

Provided that if the son or daughter, of a railway servant is suffering from any disorder or disability of mind or is physically crippled or disabled so as to render him or her unable to earn a living even after attaining the age of twenty-five years, the family pension shall be payable to such son or daughter for life subject to the following conditions, namely :

(a) the family pension shall be paid to such minor sons or daughters, through the guardian on the basis of guardianship certificate or the guardian appointed by a Court :

Provided that in respect of such sons or daughters who have attained the age of majority, it shall not be necessary to obtain guardianship certificate or appointment of a guardian by a Court either for grant or continuance of family pension to be sanctioned or continued to be paid to them subject to satisfaction of other eligibility conditions, under these rules;

(b) before allowing the family pension for life to any such son or daughter, the sanctioning authority shall satisfy that the handicap is of such as to prevent him r her from earning his or her livelihood and the same shall be evidenced by certificate obtained from a medical officer not below the rank of a divisional Medical Officer setting out, as far as

possible, the exact mental or physical condition of the child;

(c) the person receiving the family as a guardian of such son or daughter shall produce every three years a certificate from a medical officer not below the rank of divisional Medical Officer to the effect that the son or daughter continues to suffer from disorder or disability of mind or continues to be physically crippled or disabled.

Explanation.-

(1) Only that disability which manifests itself before the retirement or death of the railway servant while in service shall be taken into account for the purpose of grant of family pension under this sub-rule.

(2) A daughter shall become ineligible for family pension under this sub-rule from the date she gets married.

(3) The family pension payable to such a son or daughter shall be stopped if he or she starts earning his or her livelihood.

(4) In such cases it shall be the duty of the guardian to furnish a certificate to the Treasury or Bank, or Post Office (Authorised disbursement units for Railways), as the case may be, every month that;

(i) he or she has not started earning his or her livelihood;

(ii) in case of daughter that she has not yet married;

(d) if the sons and unmarried daughter including sons and unmarried daughters suffering from disorder or disability of mind are alive, the family pension shall be payable in the order of their birth irrespective of the sex of the child and the younger of him shall not be eligible for family pension unless the elder above him or her becomes ineligible for the grant of family pension. In case, where the family pension is payable to twin children, the same shall be payable to such twin children in equal shares and in the event of any of such children ceasing to be eligible for family pension, his or her share of family pension shall not lapse but shall become payable to the other such child and when both such children become ineligible for family pension, the family pension shall become payable to the next eligible single child or twin, as the case may be.

(7)

(i)

(a) Where the family pension is payable to more widows than one, the family pension shall be paid to the widows in equal shares.

Provided that if the widow is not survived by any child, her share of the family pension shall not lapse but shall be payable to the other widows in equal share, or if there is only one such other widow, in full, to her.

(ii) Where the deceased railway servant or pensioner is survived by a widow but has left behind eligible child or children from another wife who is not alive, the eligible child or children shall be entitled to the share of family pension which the mother would have received if she had been alive at the time of the death of the railway servant or pensioner :

Provided that on the share or shares of family pension payable to such a child or children or a widow or widows ceasing to be payable, such share or shares shall not lapse but shall be payable to the other widow or widows or the other child or children otherwise eligible, in equal shares, or if there is only one widow or child, in full, to such widow or child.

(ii) Where the deceased railway servant or pensioner is survived by a widow but has left behind child or children from a divorced wife or wives, such child or children if they satisfy the conditions of eligibility for payment of family pension shall be entitled to the share of family pension which the mother would have received at the time of the death of the railway servant or pensioner had she not been so divorced :

Provided that on the share or shares of family pension payable to such a child or children or to a widow or widows ceasing to be payable, such share or shares shall not lapse but shall be payable to the other widow or widows and or the other child or children otherwise eligible, in equal shares, or if there is only one widow or child, in full, to such widow, or child.

(8)

(i) Except as provided in clause (d) of sub-rule (6) and clause (i) of sub-rule (7), the family pension shall not be payable to more than one member of the family at the same time.

(ii) if a deceased railway servant or pensioner leaves behind a widow or widower, the family pension shall become payable to the widow or widower, failing which to the eligible child.

(9) Where a deceased railway servant or pensioner leaves behind more children than one, the eldest child shall be entitled to the family pension for the period mentioned in clause (b) or clause (c) of sub-rule

(6), as the case may be, and after the expiry of that period the next child shall become eligible for the grant of family pension.

(10) Where family pension is granted under this rule to minor, it shall be payable to the guardian on behalf of the minor.

(11) In the case both wife and husband are railway or government servants and are governed by the provisions of this rule or corresponding provisions of the Central Civil Services (Pension) Rules, 1972, and one of them dies while in service or after retirement, the family pension in respect of the deceased shall become payable to the surviving husband or wife and in the event of the death of the husband and wife, the surviving child or children shall be granted the two family pensions in respect of the deceased parents, subject to the limits specified below, namely :

(a)

(i) if the surviving child or children is or are eligible to draw two family pensions at the rate mentioned in sub-rule (4), the amount of both the pensions shall be limited to two thousand five hundred rupees per mensem;

(ii) if one of the family pensions ceases to be payable at the rate mentioned in sub-rule (4), and in lieu thereof the pension at the rate mentioned in sub-rule (2), becomes payable, the amount of both the pensions shall also be limited to two thousand five hundred fifty rupees per mensem.

(b) if both the family pensions are payable at the rates mentioned in sub-rule (2) the amount of two pensions shall be limited to one thousand two hundred and fifty rupees per mensem.

(12) Where a female railway servant or a male railway servant dies leaving behind a judicially separated husband or widow and no child or children, the family pension in respect of the deceased shall be payable to the person surviving :

Provided that where in a case the judicial separation is granted on the ground of adultery and the death of the railway servant takes place during the period of such judicial separation, the family pension shall not be payable to the person surviving, if such person surviving was held guilty of committing adultery.

(13)

(i) Where a female railway servant or male railway servant dies leaving behind a judicially separated husband or widow with a child or children,

the family pension payable in respect of the deceased shall be payable to surviving person provided he or she is the guardian of such child or children.

(ii) Where the surviving person has ceased to be the guardian of such child or children, such family pension shall be payable to the person who is the actual guardian of such child or children.

(14)

(i) If a person, who in the event of death of a railway servant, while in service is eligible to receive family pension under this rule, is charged with the offence of murdering the railway servant or for abetting in the commission of such an offence, the claim of such a person, including other eligible member or members of the family to receive the family pension, shall remain suspended till the conclusion of the criminal proceedings instituted against him.

(ii) If on the conclusion of the criminal proceedings referred to in clause (i), the person concerned-

(a) is convicted for the murder of or abetting in the murder of the railway servant, such a person shall be debarred from receiving the family pension which shall be payable to other eligible member of the family, from the date of death of the railway servant.

(b) is acquitted of the charge of murder of or abetting in the murder of the railway servant, the family pension shall be payable to such a person from the date of death of the railway servant.

(iii) The provisions of clauses (i) and (ii) shall also apply for the family pension becoming payable on the death of a railway servant after his retirement.

(15)

(i) As soon as a railway servant enters railway service, he shall furnish details of his family in Form 6 to the Head of Office and if the railway servant has no family, he shall furnish the details in Form 6 and soon as he acquires a family.

(ii) It shall be the duty of the railway servant to communicate forthwith to the Head of Office any subsequent change in the size of his family including the fact of marriage of his or her female child.

(iii)

(a) In the case of a non-gazetted railway servant the Head of Office shall keep the Form 6 in safe custody and make necessary additions

and alternations in the form on the basis of subsequent information furnished by the railway servant and all the communications which a railway servant may address to the Head of Office in this behalf, shall be acknowledged by the Head of Office.

(b) In the case of a gazetted railway servant, the Head of Office shall pass on the details of family members as also any additions and, alternations thereto/to the Accounts Officer for keeping the same in safe custody. It shall be the duty of the Accounts Officer to keep these particulars up-to-date and to acknowledge the receipt of these communications.

(16) The ad hoc increase in pension, sanctioned in the Ministry of Railway's letter No. E(P) 63 PNI/32 dated 21st October, 1963, as amended from time to time, shall not be payable to the family receipt of family pension under this rule.

(17) A military pensioner, who on retirement from military service, on retiring pension, service pension or invalid pension is governed for the grant of ordinary family pension by Army Instruction 2/S/64 or corresponding Navy or Air Force Instruction and is re-employed in a railway service or railway post before attaining the age of superannuation, shall for the purpose of eligibility for the family pension admissible under this rule or the family pension already authorised under the aforesaid Army, Navy or Air Force Instruction, be governed as follows -

(i) If he dies while holding a civil post in a temporary capacity in the course of re-employment, his family may be allowed to opt for the family pension admissible under this rule or the family pension authorised at the time of his retirement or discharge from the military service under Army Instruction 2/S/64 or the corresponding Navy or Air Force Instruction;

(ii) if he retires from railway service or railway post without holding a permanent post in a substantive capacity, his family in the event of his death after retirement shall be eligible for family pension authorised under Army Instruction 2/S/64 or corresponding Navy or Air Force Instruction;

(iii) if on confirmation in a railway service or a railway post in the , course of his re-employment, he has opted to retain military pension for the past military service in terms of clause (a) of sub-rule (1) of Rule 34, he shall exercise another option to receive family pension admissible under this rule or the family pension, already authorised under Army Instruction No. 2/S/64 or the corresponding Navy or Air

Force Instruction and such option shall be exercised with a period of three months of the date of the issue of orders of substantive appointment to a railway service or railway post or if he is on leave on that day, within three months of his return from leave, whichever is later. If no option is exercised within the period aforesaid, the pensioner shall be deemed to have opted for family pension authorised under Army Instruction No. 2/S/64 or the corresponding Navy or Air Force Instruction; and

(iv) if on confirmation in a railway service or railway post in the course of re-employment he, in terms of clause (b) of sub-rule (1) of Rule 34 has opted to surrender military pension and count in lieu thereof military service for civil pension, he shall be governed by family pension admissible under this rule.

(18) Family pension admissible under this rule shall not be granted to a person who is already in receipt of family pension or is eligible therefor under any other rules of the Central Government or a State Government or a Public Sector Undertaking, Autonomous Body or Local Fund under the Central or a State Government.

Provided that a person who is otherwise eligible for family pension under this rule may opt to receive family pension under this rule if he foregoes family pension admissible from any other source.

(19) For the purpose of this rule.-

(a) "Continuous service" means service rendered in temporary or permanent capacity in pensionable establishment and does not include-

(i) period of suspension, if any, and

(ii) period of service, if any, rendered before attaining the age of eighteen years;

(b) "family", in relation to railway servant, means-

(i) wife in the case of a male railway servant or husband in the case of a female railway servant;

(ii) a judicially separated wife or husband, such separation not being granted on the ground of adultery and the person surviving was not held guilty of committing adultery;

(iii) son who has not attained the age of twenty-five years and unmarried daughter who has not attained the age of twenty-five years, including such son and daughter born after retirement or adopted legally before retirement but shall not include a son or daughter adopted after retirement;

(c) "pay" means;

(i) the emoluments as specified in clause (a) of Rule 49, or

(ii) the average emoluments as referred to in Rule 50 if the emoluments of the deceased railway servant have been reduced during the last ten months of his service otherwise than as penalty :

Provided that the element of dearness allowance which has been treated as dearness pay under the Railway Boards letter No. PCIII/79/DP/1 dated the 11th June, 1979, shall not be treated as pay for the purpose of this rule.

(20) Nothing contained in this rule shall apply to;

(a) a re-employed railway servant who had retired before the 1st January, 1964, from-

(i) railway service on retiring pension, or superannuation pension, or;

(ii) military service on retiring pension, service pension or invalid pension, and who on the date of re-employment, had attained the age of superannuation applicable to the post in which he is re-employed;

(b) a military pensioner who retired from military service on or after the 1st January, 1964 and who on the date of re-employment in a railway service or a post had attained the age of superannuation applicable to the post in which he is re-employed;

(c) a railway servant referred to in Rule 53, who on absorption in a corporation or company wholly or substantially owned or controlled by the Government, or any other body, incorporated or not, is governed by the provision of the family pension scheme of the corporation or company or body, as the case may be.

(21) Dearness relief on pension or family pension-

(i) Relief may be granted to the pensioners and family pensioners in the form of dearness relief at such rates and conditions as the Government may specify from time to time.

(ii) If a pensioner is re-employed under the Central or a State Government or a Corporation, Company, Body or Bank under such Government in India or abroad including permanent absorption in such Corporation, Company, Body or Bank, he shall not be eligible to draw dearness relief on pension or family pension during the period of such re-employment.

(iii) A railway employee who gets permanently absorbed in terms of clause (a) of Rule 54 and opts for lump sum payment in lieu of pro rata

monthly pension in terms of clause (a) of Rule 54 shall not be eligible for dearness relief.

CHAPTER 7

DETERMINATION AND AUTHORISATION OF AMOUNTS OF PENSION AND GRATUITY

76. Preparation of list of railway servants due to retirement :-

(1) Every Head of Department or Head of Office, as the case may be, shall have a list prepared every six months, that is. on the 1st January, and the 1st July each year of all railway servants who are due to retire within the next twenty-four to thirty months of that date.

(2) A copy of every such list shall be supplied to Accounts Officer concerned not later than the 31st January or 31st July as the case may, of that year.

(3) In the case of railway servant retiring for reasons other than by way of superannuation, the Head of Office shall promptly inform the Accounts Officer concerned, as soon as the fact of such retirement becomes known to, him.

(4) A copy of the intimation sent by the Head of Office to the Accounts Officer under sub-rule (3) shall also be endorsed to the Engineering Department of the Railways or the Directorate of Estates, Government of India, as the case may be, if the railway servant concerned is an allottee of railway or Government accommodation.

77. Intimation to the Directorate of Estates regarding Issue of "No Demand Certificate" :-

(1) The Head of Office shall write to the Directorate of Estates at least two years before the anticipated date of retirement of the railway servant, who is in occupation of a Government accommodation (hereinafter referred to as allottee), for the issue of a 'No Demand Certificate in respect of the period preceding eight months of the retirement of the allottee.

(2) On receipt of the intimation under sub-rule (1), the Directorate of Estates shall take further action as provided in Rule 16.

78. Preparation of Pension papers :-

Every Head of Office shall undertake the work of preparation of pension papers in Form 7, two years before the date on which a railway servant is due to retire on superannuation, or on the date on which he proceeds on leave preparatory to retirement, whichever is earlier.

79. Stages for the completion of Pension papers :-

(1) The Head of Office shall divide the period of preparatory work of two years referred to in Rule 78 in the following three stages, namely :

(a) First Staged.-Verification of Service.

(i) The Head of Office shall go through the service book of the railway servant the certificates of verification for the entire service are recorded therein.

(ii) In respect of the unverified portion or portions of service, he shall arrange to verify the portion or portions of such service, as the case may be, with reference to pay bills acquittance rolls or other relevant records and record necessary Certificates in the service book.

(iii) If the service for any period is not capable of being verified in the manner specified in sub-clause (i) and sub-clause (ii), that period of service having been rendered by the railway servant in another Office or Department, a reference shall be made to the Head of Office in which the railway servant is shown to have served during that period for the purpose of verification.

(iv) If any portion of service rendered by a railway servant is not capable of being verified in the manner specified in sub-clause (i), or sub-clause (ii), or sub-clause (iii), the railway servant shall be asked to file a written statement on plain paper stating that he had in fact rendered that period of service and shall, at the foot of the statement, make and subscribe to a declaration as to the truth of that statement, and shall in support of such declaration produce all documentary evidence and furnish all information which is in his power to produce or furnish.

(v) The Head of Office shall, after taking into consideration the facts in the written statement and the evidence produced and the information furnished by that railway servant in support of the said period of service admit that portion of service as having been rendered for the purpose of calculating the pension of that railway servant.

(b) Second Stage-Making good omission in the service book

(i) the Head of Office while scrutinising the certificates of verification of service, shall also identify if there are any other omissions, imperfections or deficiencies which have a direct bearing on the determination of emoluments and the service qualifying for pension.

(ii) Every effort shall be made to complete the verification of service, as in clause (a) and to make good omissions, imperfections or deficiencies referred to in sub-clause (i) of this clause and any omissions, imperfections or deficiencies including the portion of service

shown as unverified in the service book which it has not been possible to verify in accordance with the produce laid down in clause (a) shall be ignored and service qualifying for pension shall be determined on the basis of the entries in the service book.

(iii) For the purpose of calculation of average emoluments, the Head of Office shall verify from the service book the correctness of the emoluments drawn or to be drawn during the last ten months of service and in order to ensure that the emoluments during the last ten months of service have been correctly shown in the service book, the Head of Office may verify the correctness of emoluments for the period of twenty-four months only preceding the date of retirement of a railway servant and not for any period prior to that date.

(c) Third Stage-Obtaining Form 8 by the Head of Office. The Head of Office shall, eight months prior to the date of retirement of the railway servant, obtain Form 8 from him duly completed.

(2) Action under clauses (a), (b) and (c) of sub-rule (1) shall be completed eight months prior to the date of retirement of the railway servant.

80. Completion of Pension papers :-

The Head of Office shall complete Part I of form 7 not later than six months of the date of retirement of the railway servant.

81. Forwarding of Pension papers to Accounts Officer :-

(1) After complying with the requirements of Rule 79 and Rule 80, the Head of Office shall forward to the Accounts Officer Form 7 and Form 8 duly completed with a covering letter in Form 9 along with service book of the railway servant duly completed, up-to-date, and any other documents relied upon for the verification of service.

(2) The Head of Office shall retain a copy each of the forms referred to in sub-rule (1) for his records.

(3) Where the payment is desired in another circle accounting unit, the Head of Office shall send Form 7, in duplicate, to the Accounts Officer.

(4) The papers referred to in sub-rule (1) shall be forwarded to the Accounts Officer not later than six months before the date of retirement of the railway servant.

82. Intimation to Accounts Officer regarding any event having bearing on pension :-

If after the pension papers have been forwarded to the Accounts Officer within the period specified in sub-rule (4) of Rule 81, any event

occurs which has a bearing on the amount of pension admissible, the fact shall be promptly reported to the Accounts Officer by the Head of Office.

83. Intimation of the particulars of railway dues to the Accounts Officer :-

(1) The Head of Office after ascertaining the railway dues as in, Rule 15, shall furnish the particulars to thereof the Accounts Officer at least two months before the date of retirement of a railway servant so that the dues are recovered out of the gratuity before its payment is authorised.

(2) If, after the particulars of railway dues have been intimated to the Accounts Officer under sub-rule (1), and additional railway dues come to the notice of the Head of Office, such dues shall be promptly reported to the Accounts Officer.

84. Payment of provisional pension and gratuity through money order or bank draft :-

If the provisional pension or gratuity or both, sanctioned under sub-rule (4) of Rule 91, is desired to be paid by the pensioner through money order or bank draft, the same shall be remitted to him through money order or bank draft at his cost : Provided that in the case of any pensioner who has been authorised payment of provisional pension not exceeding two hundred and fifty rupees per mensem (inclusive of the amount of relief on pension) at that amount shall, at the request of the pensioner, be remitted to him by money order at Railways expense.

85. Authorisation of pension and gratuity by the Accounts Officer :-

(1)

(a) On receipt of pension papers referred to in Rule 81, the Accounts Officer shall apply the requisite checks, record the account enforcement in Part II of Form 7 and assess the amount of pension and gratuity and issue the pension payment order not later than one month in advance of the date of the retirement of the railway servant if the pension is payable in his circle of accounting unit.

(b) If the pension is payable in another circle of accounting unit, the Accounts Officer shall send the pension payment order along with a copy of Form 7 and the accounts enforcement to the Accounts Officer of that for arranging payment.

(2) The amount of gratuity as determined by the Accounts Officer under clause (a) of sub-rule (1) shall be intimated to the Head of

Office with the remarks that the amount of gratuity may be drawn for disbursement to the retired railway servant after adjusting the Government dues, if any, referred to in Rule 15.

(3) The amount of gratuity withheld under sub-rule (5) of Rule 16 shall be adjusted by the Head of Office against the outstanding licence fee intimated by the directorate of Estates and the balance, if any, refunded to the retired railway servant.

86. Railway servants on deputation :-

(1) In the case of a railway servant who retires while on deputation to a Central Government Department, action to authorise pension and gratuity in accordance with the provisions of the Chapter shall be taken by the Head of Office of the borrowing Department.

(2) In the case of a railway servant who retires from service, while on deputation to a State Government or while on foreign service, action to authorise pension and gratuity in accordance with the provisions of this Chapter shall be taken by the Head of Office of the cadre authority which sanctioned deputation to the State Government or to foreign service.

(3) In the case of Central Government employees belonging to various Ministries or Departments who happen to be on deputation to Railways at the time of their retirement, their pension cases shall be handled by the parent Ministry or Department from where they proceeded on deputation.

87. Interest in delayed payment of gratuity :-

(1) If the payment of gratuity has been authorised after three months from the date when its payment became due on superannuation and it is clearly established that the delay in payment was attributable to administrative lapse, interest at such rate as may be specified from time to time by the Central Government in this behalf on the amount of gratuity in respect of the period beyond three months shall be paid :

Provided that the delay in the payment was not caused on account of failure on the part of the railway servant to comply with the procedure laid down in this Chapter.

(2) Every case of delayed payment of gratuity shall be considered by the General Manager or Administrative Head of the Railway Unit, as the case may be, and where the said General Manager or Administrative Head is satisfied that the delay in the payment of gratuity was caused on account of administrative lapse, he shall order for arranging the payment of interest. The powers to pass order for

payment of interest on delayed payment of death-cum-retirement gratuity shall rest with General Manager or Administrative Head of the Railway Unit and shall not be delegated to any lower authority.

(3) In all cases where the payment of interest has been ordered, the Railways shall fix the responsibility and take disciplinary action against the railway servant or servants concerned who are found responsible for the delay in the payment of gratuity.

(4) If as a result of Government's decision taken subsequent to the retirement of a railway servant, the amount of gratuity already paid on his retirement is enhanced on account of

(a) grant of emoluments higher than the emoluments on which gratuity already paid was determined, or

(b) liberalisation in the provisions of these rules from a date prior to the date of retirement of the railway servant concerned, no interest on the arrears of gratuity shall be paid.

(5) Gratuity becomes due immediately on retirement and in case of a railway servant dying in service, action for finalising his pension and death-cum-retirement gratuity shall be taken in accordance with the provisions of Chapter IX.

88. Date of retirement to be notified :-

When a railway servant retires from service in the case of a gazetted railway servant, a notification in the official Gazette, and in the case of a non-gazetted railway servant, an office order, shall be issued specifying the date of retirement within a week of such date and a copy of every such notification or office order, as the case may be, shall be forwarded immediately to the Accounts Officer :

Provided that where a notification in the official Gazette or an office order, as the case may be, regarding the grant of leave preparatory to retirement to a railway servant is issued, a further notification or office order that the railway servant has actually retired on the expiry of such leave shall not be necessary unless the leave is curtailed and the retirement is for any reason antedated or postponed.

CHAPTER 8

AUTHORITY COMPETENT TO SANCTION AMOUNTS OF PENSION AND GRATUITY

89. Authority competent to sanction pensionary benefits :-

(1) The pensionary benefits and commutation of pension shall be sanctioned and recoveries therefrom ordered by the authority concerned, specified below, namely :

(a) the General Manager in the case of a railway servant who is employed under the administrative control of a General Manager;

(b) the Head of the Department or Office or Project, in the case of a railway servant who is employed in a Department or Office or Project directly under the control of the Railway Board;

(c) the Secretary, Railway Board in the case of a railway servant not above the rank of a Section Officer who is employed in the Office of the Railway Board;

(d) the Railway Board in the case of a Head of Department or Office or Project directly under the control of the Railway Board, and a General Manager and an Officer above the rank of a Section Officer who is employed in the Railway Board.

(2) The power to sanction or pass order by the officers referred to in clauses (a) and (b) of sub-rule (1) may be delegated to the Heads of Departments or Divisional Railway Managers, as the case may be, or in the case of non-gazetted railway servant to a Divisional Officer and such power of the Secretary, Railway Board referred to in clause (c) of sub-rule (1) may be exercised by the Joint Secretary in the Ministry of Railways in the case of Officers not above the rank of Section Officers, and by a Deputy Secretary to whom powers may be delegated in this behalf by the Railway Board in the case of non-gazetted railway servant of the Railway Board's Office. In the case of non-gazetted staff employed in the Research, Designs and Standards Organisation, the powers of the Director General, Research, Designs and Standards Organisation may be delegated to the Deputy Director General, Research, Designs and Standards Organisation.

90. Revision of pension after sanction :-

(1) Subject to the provisions of Rule 8 and Rule 9 pension once sanctioned after final assessment shall not be revised to the disadvantage of the railway servant unless such revision becomes necessary on account of detection of a clerical error subsequently :

Provided that no revision of pension to the disadvantage of the pensioner shall be ordered by the Head of Office without the concurrence of the Railway Board if the clerical error is detected after a period of two years from the date of sanction of pension.

(2) For the purpose of sub-rule (1), the retired railway servant concerned shall be served with a notice by the Head of Office requiring him to refund the excess payment of pension within a period of two months from the date of receipt of notice by him.

(3) In case the railway servant fails to comply with the notice, the Head of Office shall, by order in writing, direct that such excess payment shall be adjusted in instalments by short payments of pension in future, in one or more instalments, as the Head of Office may direct.

91. Provisional Pension :-

(1) The various stages of action laid down in Rule 79 shall be strictly followed by the Head of Office. There may be an isolated case where, in spite of following the procedure laid down in Rule 79, it may not be possible for the Head of Office to forward the pension papers referred to in Rule 81 to the Accounts Officer within the period specified in sub-rule (4) of that rule; or where the pension papers have been forwarded to the Accounts Officer within the specified period but the Accounts Officer may have returned the pension papers to the Head of Office for eliciting further information before issue of pension payment order and order for the payment of gratuity. If the Head of Office in such a case is of the opinion that the railway servant is likely to retire before his pension or gratuity or both, can be finally assessed and settled in accordance with the provisions of these rules, he shall without delay, take steps to determine the qualifying years of service and the emoluments qualifying for pension after a most careful summary investigation that may be made. For this purpose he shall-

(i) rely upon such information as may be available in the official records; and

(ii) ask the retiring railway servant to file a written statement on plain paper stating the total length of qualifying service including details of emoluments drawn during the last ten months of service but excluding the breaks and other non-qualifying periods of service.

(2) The railway servant while furnishing the statement, as in clause (ii) of sub-rule (1) shall, at the foot of the statement make and subscribe to a declaration as to the truth of the statement.

(3) The Head of Office shall, thereafter determine the qualifying years of service and the emoluments qualifying for pension in accordance with the information available in the official records and the information obtained from the retiring railway servant under sub-rule (1) and he shall, then, determine the amount of provisional pension and the amount of the provisional death-cum-retirement gratuity.

(4) After the amount of pension and gratuity have been determined under sub-clause (3), the Head of Office shall take further action as follows:-

(a) He shall issue a sanction letter addressed to the railway servant endorsing a copy thereof to the Accounts Officer authorising

(i) hundred per cent pension as determined under sub-rule (3) as provisional pension for a period not exceeding six months to be reckoned from the date of retirement of the railway servant; and

(ii) hundred percent of the gratuity as provisional gratuity as determined under sub-rule (3) withholding that part of gratuity as provided in these rules.

(b) He shall indicate in the sanction letter the amount recoverable from the gratuity under sub-rule (1) of Rule 83. After issue of the sanction letter he shall draw :

(i) the amount of provisional pension; and

(ii) the amount of provisional gratuity after deducting therefrom the amount mentioned in sub-clause (ii) of clause (a).

(5) The amount of provisional pension and gratuity payable under sub-rule (4) shall, if necessary, be revised on the completion of the detailed scrutiny of the records.

(6)

(a) The payment of provisional pension shall not continue beyond the period of six months from the date of retirement of the railway servant. If the amount of final pension and the amount of final gratuity had been determined by the Head of Office in consultation with the Accounts Officer before the expiry of the said period of six months, the Accounts Officer shall

(i) issue the pension payment order; and

(ii) direct the Head of Office to draw and disburse the difference between the final account of gratuity and the amount of provisional gratuity paid under sub-clause (ii) of clause (b) of sub-rule (4) after adjusting the Government dues, if any, which may have come to notice after the payment of provisional gratuity.

(b) If the amount of provisional pension disbursed to a railway servant under sub-rule (4) is, on its final assessment, found to be in excess of the final pension assessed by the Accounts Officer, it shall be open to the Accounts Officer to adjust the excess amount of pension, in instalments, by making short payments of the pension payable in future.

(c)

(i) If the amount of provisional gratuity disbursed by the Head of Office under sub-rule (4) is larger than the amount finally assessed, the retired railway servant shall not be required to refund the excess amount actually disbursed to him.

(ii) The Head of Office shall ensure that chances of disbursing the amount of gratuity in excess of the amount finally assessed are minimised and the officials responsible for the excess payment shall be accountable for the overpayment.

(7) If the final amount of pension and gratuity have not been determined by the Head of Office in consultation with the Accounts Officer within a period of six months referred to in clause (a) of sub-rule (6), the Accounts Officer shall treat the provisional pension and gratuity as final and issue pension payment order immediately on the expiry of the period of six months.

(8) As soon as the pension payment order has been issued by the Accounts Officer under clause (a) of the sub-rule (6) or sub-rule (7), the Head of Office shall take steps to refund the amount of withheld gratuity under sub-clause (ii) of clause (a) of sub-rule (4) to the retired railway servant after adjusting railway dues or Government dues which may have come to notice after the Payment of provisional gratuity under sub-clause (ii) of clause (b) of sub-rule (4). If the railway servant was an allottee of Government accommodation or railway accommodation, the withheld amount should be refunded on receipt of 'No Demand Certificate' from the Directorate of Estates or on vacation of railway accommodation, as the case may be.

CHAPTER 9

FAMILY PENSION AND DEATH-CUM-RETIREMENT GRATUITY IN RESPECT OF RAILWAY SERVANT DYING WHILE IN SERVICE

92. Obtaining of claims for family pension and death-cum-retirement gratuity :-

(1) Where the Head of Office has received an intimation about the death of a railway servant while in service, he shall ascertain whether any death-cum-retirement gratuity or family pension or both is or are payable in respect of such deceased railway servant.

(2)

(a) Where the family of the deceased railway servant is eligible for the death-cum-retirement gratuity under Rule 70, the Head of Office shall ascertain :

(i) if the deceased railway servant had nominated any person or

persons to receive the gratuity; and

(ii) if the deceased railway servant had not made any nomination or the nomination made does not subsist, the person or persons to whom the gratuity may be payable.

(b) The Head of Office shall, then, address the person concerned in Form 11 or Form 12, as may be appropriate for making a claim in Form 13.

(3) Where the family of the deceased railway servant is eligible under Rule 75 for the Family Pension, 1964 :

(a) the Head of Office shall address the widow or widower in Form 14 for making a claim in Form 10, and

(b) where the deceased railway servant is survived only by a child or children, the guardian of such child or children, may submit a claim in Form 10 to the Head of Office :

Provided that the guardian shall not be required to submit a claim in the said form, on behalf of a child who had attained the age of eighteen years and such child may himself or herself submit a claim in the said form.

93. Completion of Form 16 :-

(1)

(a) The Head of Office while taking action to obtain claim or claims from the family in accordance with the provisions of Rule 92 shall simultaneously undertake the completion of Form 16. The work shall be completed within one month of the date on which intimation regarding the death of the railway servant has been received.

(b) The Head of Office shall go through the service book of the deceased railway servant and satisfy himself as to whether certificates of verification of service for the entire service are recorded therein.

(c) If there are any periods of unverified service, the Head of Office shall accept the unverified portion of service as verified on the basis of the available entries in the service book. For this purpose the Head of Office may rely on any other relevant material to which he may have ready access. While accepting the unverified portion of service, the Head of Office shall ensure that service was continuous and was not forfeited on account of dismissal, removal or resignation from service, or for the participation in strike.

(2)

(a) For the purpose of determination of emoluments for family pension and death-cum-retirement gratuity, the Head of Office shall confine the verification of the correctness of emoluments for a maximum period of one year preceding the date of death of the railway servant.

(b) In case the railway servant was on extraordinary leave on the date of death, the correctness of the emoluments for a maximum period of one year which he drew preceding the date of the commencement of the extraordinary leave shall be verified.

(3) The process of determination of qualifying service and qualifying emoluments shall be completed within one month of the receipt of intimation regarding the date of death of the railway servant and the amount of family pension and death-cum-retirement gratuity shall also be calculated accordingly.

94. Determination of the amount of family pension and gratuity where service records are incomplete :-

According to the instructions in vogue on the date of commencement of these rules, there should not be any case where service book has not been maintained properly. If, in any particular case the service book has not been maintained properly despite the Government's order on the subject, and it is not possible for the Head of Office to accept the unverified portion of service as verified on the basis of entries in the service book, the Head of Office shall not proceed with the verification of the entire spell of service and the verification of service in such a case shall be confined to the following spells of service :

(a)

(i) If the deceased railway servant on the date of death had rendered more than one year of service but less than seven years of service, the service and emoluments for the last year of service shall be verified and accepted by the Head of Office and the amount of family pension 1964 determined under sub-rule (2) and sub-rule (3) of Rule 75.

(ii) If the deceased railway servant of the date of his death had rendered more than seven years of service, the service for the last seven years and emoluments for service rendered in the last year shall be verified and accepted by the Head of Office and the amount of Family Pension 1964 and the period for which it is payable shall be determined in accordance with the provisions of sub-rule (4) of Rule 75.

(iii) If the deceased railway servant on the date of death had rendered more than seven years of service and the service of last seven years is not capable of being verified and accepted by the Head of Office but

the service rendered during the last year is capable of being verified and accepted, the Head of Office, pending the verification of service for seven years, shall calculate the amount of family pension in accordance with the provisions of sub-rule (2) and sub-rule (3) of Rule 75.

(iv) The service for the last seven years shall be verified and accepted within the next two months and the amount of family pension at the enhanced rate and the period for which it is payable shall be determined in accordance with provisions of sub-rule (4) of Rule 75.

(v) The determination of the amount of family pension in accordance with the provisions of sub-clauses (i), (ii) and (iii) shall be done within one month of the receipt of intimation of the date of death of the railway servant.

(b) For the purpose of death-cum-retirement gratuity :

(i) If the deceased railway servant had on the date of his death rendered more than five years of qualifying service but less than twenty-four years of qualifying service, and the spell of last five years service has been verified and accepted by the Head of Office under clause (a), the amount of death-cum-retirement gratuity shall be equal to twelve times of his emoluments as indicated in clause (b) of sub-rule (1) of Rule 70, where the verified and accepted service is less than five years of qualifying service, the amount of death-cum-retirement gratuity shall be the amount as indicated in item (i) or item (ii) in the Table below clause (b) of sub-rule (1) of Rule 70 as the case may be.

(ii) If the deceased railway servant had rendered more than twenty-four years of service and the entire service is not capable of being verified and accepted but the service for the last five years has been verified and accepted under sub-clause (1) the family of the deceased railway servant shall be allowed, on provisional basis, the death-cum-retirement gratuity equal to twelve times of the emoluments. Final amount of gratuity shall be determined by the Head of Office on the acceptance and verification of the entire spell of service which shall be done by the Head of Office within a period of six months from the date on which the authority for the payment of provisional gratuity was issued. The balance, if any, becoming payable as a result of determination of the final amount of death-cum-retirement gratuity shall then be authorised to the beneficiaries.

95. Forwarding of papers to the Accounts Officer :-

(1) On receipt of claim or claims, the Head of Office shall complete Items 20, 21, 22, 23 and 24 of Form 16 and send the said form in original to the Accounts Officer with a covering letter in Form 17 along

with the railway servant's service book duly completed up-to-date and any other documents relied upon the verification of the service claimed. This shall be done not later than one month of the receipt of claim by the Head of Office.

(2) The Head of Office shall retain one copy of the aforesaid Form 16 for his office record.

(3) If the payment is desired to another circle of accounting, Form 16 shall be sent in duplicate to the Accounts Officer.

(4) The Head of Office shall draw the attention of the Accounts Officer to the details of Government or Railway dues outstanding against the deceased railway servant, namely :

(a) Government or Railway dues as ascertained and assessed in terms of Rule 15 and recoverable out of the gratuity before payment is authorised,

(b) amount of gratuity to be held over partly for adjustment of railway dues which have not been assessed so far and partly as a margin for adjustment in the light of the final determination of the gratuity.

(5)

(a) If Form 16 has been completed and the claim or claims in the respective forms have not been received from the beneficiary or beneficiaries, the Head of Office shall forward Form 16 and the documents referred to in sub-rule (1) to the Accounts Officer leaving unfilled Items 20, 21, 22, 23 and 24 of Part I of the said form.

(b) As soon as the claim or claims are received by the Head of Office, they shall immediately be forwarded to the Accounts Officer with the request that Items 20, 21, 22, 23 and 24 of Part I of Form 16 may be filled by the Accounts Officer.

96. Sanction, drawal and disbursement of provisional Family Pension and gratuity :-

(1) After the documents referred to in Rule 95 have been sent to the Accounts Officer concerned, the Head of Office shall draw provisional family pension not exceeding the maximum family pension and hundred per cent of the gratuity as determined in accordance with the provisions of this Chapter and for this purpose the Head of Office, shall adopt the following procedure, namely :

(a) he shall issue a sanction letter in favour of claimant or claimants endorsing a copy thereof to the Accounts Officer concerned indicating the amount of provisional family pension and hundred per cent of the

gratuity as determined;

(b) he shall indicate in the sanction letter the amount recoverable out of the gratuity under sub-rule (4) of Rule 95;

(c) after issue of the sanction letter he shall draw :

(i) the amount of the provisional family pension; and

(ii) the amount of hundred per cent of the gratuity after deducting therefrom the dues mentioned in clause (b) in the same manner as pay and allowances of the establishment are drawn by him.

(2) The Head of Office shall disburse the provisional family pension (including arrears, if any) and the gratuity immediately after the same have been drawn under sub-rule (1).

(3) The payment of provisional family pension shall continue for a period of six months from the date of following the date of death of the railway servant unless the period is extended by the Accounts Officer under the proviso to sub-rule (1) of Rule 97.

(4) The Head of Office shall inform the Accounts Officer :

(a) as soon as the gratuity has been paid to the claimant or claimants; and

(b) as soon as the provisional family pension has been paid for a period of six months or for the period extended under provision to sub-rule (1) of Rule 97, as the case may be.

(5) If the claimant or any of the claimant or any of the claimants desire the payment of provisional family pension or of gratuity or of both through money order or bank draft, the same shall be remitted to him or her through money order or bank draft at his or her own cost:

Provided that in the case of any claimant who is sanctioned a provisional family pension not exceeding two hundred and fifty rupees (inclusive of relief on family pension) per mensem, the amount of pension shall, at the request of the claimant be remitted to him or her by money order or bank draft at Government expense.

97. Authorisation of final pension and balance of the gratuity by the Accounts Officer :-

(1) On receipt of the documents referred to in sub-rule (1) of Rule 95, the Accounts Officer shall, within a period of three months from the date of receipt of the documents apply the requisite check and complete Section I of Part II of Form 16 and assess the amount of family pension and gratuity :

Provided that if the Accounts Officer is, for any reason, unable to assess the amount within the period aforesaid, he shall communicate the fact to the Head of Office to continue to disburse the provisional family pension to the claimant for such period as may be specified by the Accounts Officer.

(2)

(a) If the family pension is payable in his circle of accounting unit, the Accounts Officer shall prepare the pension payment order.

(b) The payment of family pension shall be effective from the date following the date of which the payment of provisional family pension ceased.

(c) Arrears of family pension, if any, in respect of the period for which provisional family pension was drawn and disbursed by the Head of Office shall also be authorised by the Accounts Officer.

(3)

(a) The Accounts Officer shall determine the amount of the balance of the gratuity after adjusting the amount, if any, outstanding against the deceased railway servant.

(b) The Accounts Officer shall intimate to the Head of Office, the amount of the balance of gratuity determined under clause (a) with the remarks that amount of the balance of the gratuity may be drawn and disbursed by the Head of Office to the person or persons to whom the provisional gratuity has been paid.

(c) The amount of gratuity adjusted under sub-clause (a) for non-vacation of railway accommodation shall be adjusted by the Head of Office against the outstanding licence fee and the balance, if any, refunded to the person or persons to whom gratuity has been paid.

(4) The fact of the issue of the pension payment order shall be promptly reported to the Head of Office by the Accounts Officers and the documents which are no longer required shall also be returned to him.

(5) If the filial family pension including the arrears of provisional family pension is payable in another circle of accounting unit, the Accounts Officer shall send the pension payment order together with a copy of Form 16 duly completed to the Accounts Officer of that unit for arranging payment:

Provided that the adjustment of provisional family pension drawn and disbursed by the Head of Office, shall be made by the Accounts Officer

in whose circle of accounting unit the provisional family pension was paid.

(6) If the amount of provisional family pension as disbursed by the Head of Office is found to be in excess of the final family pension assessed by the Accounts Officer, it shall be open to the Accounts Officer to adjust the excess amount in instalments by the short payments of family pension payable in future.

(7)

(a) If the amount of gratuity disbursed by the Head of Office proves to be larger than the amount finally assessed by the Accounts Officer the beneficiary shall not be required to refund the excess.

(b) the Head of Office shall ensure that chances of disbursing the amount of gratuity in excess of the amount actually admissible are minimised and the official or officials responsible for the excess payment shall be accountable for the overpayment.

98. Adjustment of Government dues or railways dues :-

(1) Dues pertaining to Government accommodation,

(i) if on the date of death the railway servant was allottee of Government accommodation, the Head of Office on receipt of intimation regarding the death of such railway servant shall within seven days of the receipt of such intimation, write to the Directorate of Estates for the issue of 'No Demand Certificate' so that authorisation of family pension and death-cum-retirement gratuity is not delayed. While addressing the Directorate of Estates for the issue of 'No Demand Certificate', the Head of Office shall also supply the following information in duplicate (one copy marked to Rent Wing and the second to the Allotment Wing)

(a) name of the deceased railway servant with designation;

(b) particular of the accommodation (quarter No., type and locality);

(c) date of death of railway servant;

(d) whether the railway servant was on leave at the time of his death and if so, the period and nature of leave;

(e) whether the railway servant was enjoying rent-free accommodation;

(f) the period up to which licence fee had been recovered from the pay and allowance of the deceased railway servant and the monthly rate of recovery and particulars of the pay bill under which last recovery was

made;

(g) if the licence fee had not been recovered up to the date of death and the family intends to retain Government accommodation for the permissible period of four months from the date of death of the railway servant, details of the,

(1) period for which licence fee still remains to be recovered;

(2) the amount of licence fee in respect of the period at (1) to be determined on the basis of the standard rent bill;

(3) the amount of licence fee for the retention of Government accommodation by the family of the deceased railway servant for the concessional period of four months beyond the date of death of the railway servant to be determined on the basis of standard bill;

(4) the amount of licence fee sanctioned at (2) and (3) proposed to be recovered out of death-cum-retirement gratuity;

(5) details of any previous reference from the Directorate of Estates having bearing on the recovery of licence fee outstanding against the allottee and action taken therein.

(ii) The Head of Office shall recover from the death-cum-retirement gratuity the amount of licence fee as intimated to the Directorate of Estates under clause (i).

(iii) The recovery of licence fee for the occupation of Government accommodation beyond the permissible period of four months shall be the responsibility of the Directorate of Estate.

(iv) The Directorate of Estates shall scrutinize their records with a view to determine if licence fee other than the licence fee referred to in clause (i) was outstanding against the deceased railway servant. If any recovery is found, the amount and the period or periods to which such recovery or recoveries relate shall be communicated to the Head of Office within a period of three months of the receipt of intimation regarding the death of the railway servant under clause (i).

(v) Pending receipt of information under clause (iv), the Head of Office shall withhold ten per cent of the death-cum-retirement gratuity or one thousand rupees, whichever is less.

(vi) If no intimation is received by the Head of Office within the period specified under clause (iv) regarding recovery of licence fee, it shall be presumed that nothing was recoverable from the deceased railway servant and the amount of gratuity withheld shall be paid to the person or persons to whom the amount of death gratuity was paid.

(vii) If the Head of Office has received intimation from the Directorate of Estates under clause (vi) regarding licence fee outstanding against the deceased railway servant, the Head of Office shall verify from the acquittance rolls if the outstanding amount of licence fee was recovered from the pay and allowances of the deceased railway servant. If as a result of verification, it is found that the amount of licence fee shown as outstanding by the Directorate of Estates, had already been recovered, the Head of Office shall draw the attention of the Directorate of Estate to the pay bills under which the necessary recovery of the licence fee was made and, subject to the provisions of sub-rule (2) take steps to pay the amount of the gratuity withheld under clause (v) to the person or persons to whom the death gratuity was paid.

(viii) If the outstanding amount of licence fee was not recovered from the pay and allowances of the deceased railway servant, the outstanding amount shall be adjusted against the amount of the gratuity withheld under clause (v) and the balance, if any, repaid to the person to whom the amount of death-cum-retirement gratuity was paid.

(2) The Head of Office shall, within one month of the receipt of intimation regarding death of a railway servant, take steps to ascertain if any dues as referred to in Rule 15 and sub-rule (6) of Rule 16 were recoverable from the deceased railway servant. Such ascertainable dues shall be recovered from the amount of death-cum-retirement gratuity becoming payable to the family of the deceased railway servant.

99. Payment of family pension and death-cum-retirement gratuity when a railway servant dies while on deputation :-

(1) In the case of a railway servant who dies while on deputation to another Central Government Department, action to authorize family pension and death-cum-retirement gratuity in accordance with the provisions of this Chapter shall be taken by the Head of the borrowing Department.

(2) In the case of a railway servant who dies while on deputation to a State Government or while on foreign service, action to authorise the payments of family pension and death-cum- retirement gratuity in accordance with the provisions of this Chapter shall be taken by the Head of Office concerned from where the railway servant proceeded on deputation to the State Government or to the foreign service.

(3) In the case of a Central Government employee belonging to a

Ministry or Department who does while on deputation to the Railways, action to authorise the payments of family pension and death-cum-retirement gratuity in accordance with the provisions of this Chapter shall be taken by the parent Ministry or Department from where he has proceeded on deputation to the Railways.

CHAPTER 10

SANCTION OF FAMILY PENSION AND RESIDUARY GRATUITY IN RESPECT OF DECEASED PENSIONERS

100. Sanction of family pension and residuary gratuity on the death of pensioner :-

(1) Where the Head of Office has received intimation regarding the death of a retired railway servant who was in receipt of pension, he shall ascertain whether any family pension or residuary gratuity is or both are payable in respect of the deceased pensioner :

Provided that the Head of Office may, when he considers it necessary so to do, consult the Accounts Officer.

(2)

(a)

(i) If the deceased pensioner is survived by a widow or widower who is eligible for the grant of Family Pension 1964 under Rule 75, the amount of Family Pension 1964 as indicated in Pension Payment Order shall become payable to the widow or widower, as the case may be, from the day following the date of the pensioner.

(ii) On receipt of an application from the widow or widower, the pension disbursing authority from whom the deceased pensioner was drawing his or her pension shall authorise the payment of Family Pension, 1964 to the widow or widower, as the case may be.

(b)

(i) Where the deceased pensioner is survived by a child or children, the guardian of the child or children may submit a claim in Form 10 to the Head of Office for the payment of Family Pension, 1964 :

Provided that the guardian shall not be required to submit a claim in the said form on behalf of the son or unmarried daughter if he or she has attained the age of eighteen years and such a son or daughter may himself or herself submit a claim in the said form.

(ii) On receipt of a claim from the guardian, the Head of Office shall sanction the Family Pension, 1964 in Form 18.

(c)

(i) Where a widow or widower in receipt of Family Pension, 1964 remarries and has, at the time of remarriage, child or children from the former spouse who is or are eligible for Family Pension, 1964; the remarried individual shall be eligible to draw the Family Pension, 1964 on behalf of such child or children if such individual continues to be the guardian of such child or children.

(ii) For the purpose of sub-clause (i), the remarried individual shall apply to the. Head of Office on plain paper furnishing the following particulars, namely :

(1) a declaration that the applicant continues to be the guardian of such child or children;

(2) the date of remarriage;

(3) the name and date of birth of the child or children from the former spouse;

(4) the pension disbursing authority from where payment of Family Pension, 1964 on behalf of such child or children is desired;

(5) full postal address of the applicant.

(iii) If the remarried individual has, for any reason, ceased to be the guardian of such child or children, the Family Pension, 1964 shall become payable to the person entitled to act as guardian of such child or children under the law for the time being in force and such person may submit a claim in Form 10 to the Head of Office for the payment of Family Pension, 1964 :

Provided that the guardian shall not be required to submit a claim in the said form on behalf of the son or unmarried daughter if he or she has attained the age of eighteen years and such son or daughter may himself or herself submit a claim in the said form.

(iv) On receipt of the claim referred to in sub-clause (iii) the Head of Office shall sanction Family Pension 1964 in Form 19.

(d)

(i) Where a widow or widower in receipt of Family Pension, 1964 dies and leaves behind child or children who is or are eligible for Family Pension, 1964, the guardian may submit a claim in Form 10 of the Head of Office for the payment of Family Pension, 1964 :

Provided that the guardian shall not be required to submit a claim in the said form on behalf of the son or unmarried daughter if he or she

has attained the age of eighteen years and such a son or daughter may himself or herself submit claiming the said form.

(ii) On receipt of a claim under sub-clause (i) the Head of Office shall sanction Family Pension, 1964 in Form 19.

(3) Where on death of retired railway servant a residuary gratuity payable to the family of the deceased under sub-rule (2) of Rule 70, the Head of Office shall sanction its payment on receipt of a claim or claims in Form 20 from the person or persons eligible to receive the residuary gratuity.

101. Authorisation of payment by Accounts Officer :-

On receipt of the sanction under Rule 100 regarding the payment of family pension or of residuary gratuity or of both, the Accounts Officer shall authorise the payment of the same.

CHAPTER 11

PAYMENT OF PENSION

102. Date from which pension becomes payable :-

(1) Except in the case of a railway servant to whom the provisions of Rule 53 apply and subject to the provisions of Rule 9 and Rule 10 a pension, other than family pension, shall become payable from the date on which a railway servant ceases to be borne on the establishment.

(2) Pension, including family pension shall be payable for the day on which its recipient dies.

103. Currency in which pension is payable :-

All pensions including gratuities admissible under these rules shall be payable in rupees in India only.

104. Manner of payment of gratuity and pension :-

(1) Except as otherwise provided in these rules, a gratuity shall be paid in lump sum.

(2) A pension fixed at monthly rates shall be payable monthly on or after the first day of the following month.

105. Application of Treasury Rules :-

Save as otherwise provided in these rules, the Treasury Rules of the Central Government shall apply to the procedure of payment of

(i) pension;

(ii) pension undrawn for more than a year; and

(iii) pension in respect of a deceased pensioner.

CHAPTER 12

MISCELLANEOUS

106. Interpretation :-

Where any doubt arises as to the interpretation of these rules, it shall be referred to the Government in the Ministry of Railways (Railway Board), for decision. The Ministry of Railway (Railway Board) shall take decision after consulting the Department of Pension and Pensioners Welfare of the Government of India.

107. Power to relax :-

Where the pension sanctioning authority is satisfied that the operation of any of these rules causes undue hardship in any particular case, that authority, may for reasons to be recorded in writing, approach the Ministry of Railways (Railway Board) for dispensing with or relaxing the requirements of that rule to such extent and subject to such exceptions and conditions as it may consider necessary for dealing with the case in a just and equitable manner. The Ministry of Railways (Railway Board) shall examine each such case and arrange to communicate the sanction of the President to the proposed dispensation or relaxation as it may consider necessary keeping in view the merits of each case and keeping in view of any other statutory provisions :

Provided that no such order shall be made without concurrence of the Department of Pension and Pensioners Welfare, in the Ministry of Personnel, Public Grievances and Pensions, Government of India.

108. Repeal and saving :-

(1) On the commencement of these rules, every rule (including those contained in Volume II of the Indian Railway Establishment Code, Fifth Reprint), regulation or order including circulars (hereinafter referred to in this rule as old rules) in force immediately before such commencement shall, in so far as it provides for any of the matters contained in these rules, cease to operate.

(2) Notwithstanding such cesser of operation,

(a)

(i) every nomination for the payment of death-cum-retirement gratuity, or of Family Pension 1950;

(ii) every form regarding the details of family of a railway servant for the purpose of Family Pension 1964; and

(b) and nomination for the payment of death-cum-retirement gratuity

or of (Family Pension 1950), any form regarding the details of family of a railway servant for the purpose of Family Pension 1964 as required to be made or by a railway servant under the old rule but not made or given before the commencement of these rules shall be made or given after such commencement in accordance with the provisions of these rules;

(c) any case which pertains to the authorisation of pension to a railway servant who had retired before the commencement of these rules and is pending before such commencement shall be disposed of in accordance with the provisions of the old rules as if these rules had not been made;

(d) any case which pertains to the authorisation of death-cum-retirement gratuity and family pension to the family of the deceased railway servant or of a deceased pensioner and pending before the commencement of these rules shall be disposed of in accordance with the provisions of the old rules as if these rules had not been made;

(e) subject to the provisions of clauses (c) and (d) anything done or any action taken under the old rules shall be deemed to have been done or taken under the corresponding provisions of these rules.