

ASSAM

PENSION CODE

CONTAINING:

Assam Services Pension Rules, 1969

Assam Services (Extraordinary Pension Rules, 1963

Assam Services (Commutation of Pension) Rules, 1965

Assam Payment of Arrears of Pension Rules, 1987

WITH

Notes, Latest Amendments & Exhaustive Case -Law

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PREFACE TO THE FOURTH EDITION

Since “pensions” are being extended to larger sections of Society like Teachers, Professors, Lecturers, Lawyers etc., the publication will serve as a guide-line for those sittings on legislative side to govern it.

The Code covers most important portion of Service Law for Assam & Meghalaya including up-to -date rules on pension, its commutation apart from the latest and last word on case-law.

An endeavour has been made to interpret the law in simple and simplified form to enable not only a lawyer but layman as well to understand the subject. Since it is equally useful for Government Servants including quasi-judicial interpreters of pension law like the Accountant General, Financial Experts and Public Bodies apart from Unions Representing Public Servants.

The publication is will be useful for day-to-day work.

In this edition Assam Payment of Arrears of Pension Rules, 1987 and Meghalaya Civil Service (Pension) Rules, 1983 have been added.

In a nutshell it will be found useful for Commercial establishments in public sector of the States.

The publication, it is hoped, will be received by the Bench, the Bar, Profession, Trade, vocation and laymen alike.

Errors and omissions, if any, will be thankfully acknowledged to serve as a guide for future self-correction.

-Author

:: Assam Pension Code ::

THE ASSAM SERVICES (PENSION) RULES, 1969

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The Assam Services (Pension) Rules, 1969

Notification No. FMP-75/60/Pt. III, dated Shillong the 1st October 1969— In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and in supersession of the rules in the Assam Pension Manual, Second Edition, 1939, made in pursuance of the declaration in Notification No. 4632-F (b), dated the 17th October, 1936, the Governor of Assam is pleased to make the following rules, namely ;

PART I

GENERAL

CHAPTER I

Definitions and Principles

1. These rules may be called the Assam Services (Pension) Rules, 1969.

2. They shall come into force at once.

3. (1) References to the “Assam High Court” in any of the law mentioned in clause 2, shall be construed as referring to the “Gauhati High Court (the High Court of Assam, Nagaland, Meghalaya, Manipur and Tripura),” and

(2) References to any Government Departments or authorities, other than those specified in the Table in clause 2, shall be construed as referring to the corresponding Governments or authorities in Meghalaya or to such Government Departments

or authorities in Meghalaya or to such Government Departments or authorities exercising corresponding power or authority in Meghalaya.

3. Deputation (duty) allowance is an allowance given, in addition to pay or salary, to an officer deputed on special temporary duty when such duty involves a decided increase of work or responsibility in comparison with the duties of his regular appointment.

4. Deputation (Local) allowance is an allowance given in addition to pay or salary, to an officer deputed on special temporary duty in consideration of a change of station involved by the deputation.

Note 1.— When the deputation involves both increased work or responsibility and a change of station, the deputation allowance will be classed as deputation (duty) or deputation (local) allowance according as the former or the latter is the main consideration in fixing the allowance.

Note 2.— The extra emoluments drawn by an officer filling a temporary appointment which is not of like character to an existing appointment, will be classed as a deputation (duty) allowance or as deputation (local) allowance, according as they are granted for increased work or responsibility, or for change of station.

5. Duty allowance is an allowance given to an officer, in addition to pay or salary, in consideration of the unhealthiness of the locality in which the work is performed or of the specially arduous nature of his duties or increased work of responsibility or

for the discharge of duties which do not properly belong to his office and for which there is no sanctioned appointment.

Note 1.—Special pay granted under F.R. 9 (25) will be treated as Duty Allowance.

Note 2.—Field (Horse) allowance drawn by Supervisor Kanongos in the plains and Hills Districts and classified as Special Pay will be treated as duty allowance.

6. Local allowance is an allowance given to an officer in addition to pay or salary, consideration of exceptional local circumstances such as the expensiveness of the locality on duty.

House rent allowances and Assam allowances are local allowances. Travelling allowances, conveyance, allowances, house allowance and tentage allowances are not local allowances.

7. Local Fund.— The expression “Local Fund” denotes—

- (1) Revenue administered by bodies which by law or rule having force of law come under the control of Government whether in regard to the proceeding generally or to specific matters such as the sanctioning of their budgets, sanction to the creation or filling up of particular appointments, the enactment of leave, pension or similar rules ; and
- (2) The revenues of any body which may be specially notified as such.

8. Pay and Salary.— (a) “Pay” means “monthly substantive pay”. It includes also “Overseas allowance” and “Technical Allowance”.

(b) “Salary” means the sum of pay and acting allowance, or charge allowance.

Note 1.— Personal allowance is treated as emoluments for pension in the circumstances indicated in Rule 114.

Note 2.— The allowances of an officer holding conjointly with another office a professorship or lecturership in any Government Institution, are part of his salary.

Note 3.— “Salary” does not include a local allowances, deputation (local) allowance, house-rent, tentage, or travelling allowance, daily, monthly or yearly.

Note 4.— Deputation (duty) allowances and duty allowances are treated as special pays which are included in the term “emoluments” for calculating pension in the circumstances indicated in Rule 114.

Comments

Pay.— Remuneration is wider term than salary or “pay”. It includes pay and allowances which an employee receives. “Pay” and “allowance” are not synonymous. “Allowance” is a payment received by an employee beyond agreed salary for additional services rendered by him. [Jannalagadda Venkataraju v. Board of Revenue, (1960) 2 Lab LJ 283 at 284 (Andh Pra)].

Salary.— In general the word “salary” is used for payment of servants of a higher class and wages is confined to the earning of

labourers and artisans. [Mutsadi Lal v. Bhagwan Das, AIR 1962 All 172 at p. 173].

Salary signifies a recompense or consideration given to person for his pains bestowed upon another man's business. (Stroud.) The earnings of a commercial traveller whose employment is at so much a year terminable by a week's notice may be salary. [Ex- parte, Brindles, 56 LT 498].

Salary or wage.— "Salary or wage" means all remuneration other than remuneration in respect of overtime work capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to an employment and includes dearness allowance (that is to say, all cash payment by whatever name called paid to an employee on account of a rise in the cost of living), but does not include—

- (i) any other allowance which the employee is for the time being entitled to ;
- (ii) the value of any house accommodation or of supply of light , water, medical, attendance or other amenity or of any service or of any concessional supply of foodgrains or other article ;
- (iii) any travelling concession ;
- (iv) any bonus (including incentive. production and attendance bonus) ;
- (v) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of employee under any law for the time being in force ;
- (vi) any retrenchment compensation or any gratuity or other retirement benefits payable to the employee or any ex-gratia payment made to him;
- (vii) any commission payable to the employee.

Salary and wages.— Both “salary” and “wages” are emolument paid to an employee by way of recompense for his labour . Neither of the two terms is a “term of art”.

“Salary” on the other hand, is remuneration paid to an employee whose period of engagement is more or less permanent in character, for other than manual or relatively unskilled labour is not very definite and it cannot be argued that the remuneration for skilled labour is not “wages”. The “wages” and “salary”, both may be paid weekly, fortnightly or monthly. The remuneration for the day’s work is not ordinarily termed “salary”. Simply because wages for the month run into hundreds, as they very often do now, would not mean that the employee is not earning wages, properly so called. A clerk in an office may earn much less than the monthly

wages of a skilled labourer. Ordinarily, he is said to earn his salary. But, in principle, there is no difference between the two. [Mohmedali v. Union of India, AIR 1964 SC 980 at 985: (1963-64) 24 FJR 221: (1963) 6 Fac LR 251: (1963) 1 Lab LJ 536: (1963) 2 SCA 77: (1964) 1 SCJ 329: (1963)Supp 1 SCR 993].

9. Pension.—Except when the term “Pension” is used in contradistinction to Gratuity, “Pension” includes Gratuity and Death-cum-Retirement Gratuity.

Comments

Pension.—The word “pension” has been held to mean a periodical allowance or stipend granted, not in respect of any right, privilege, perquisite or office, but on account of past service or particular merits or as compensation to dethrone princes, their families and

dependants. [Bankey Behari v. Lala Babu, AIR 1955 All 1 at 3: 1954 ALJ 641: 1954 AWR 577].

The word “pension” has not been defined anywhere. However, it has been held that it implies periodical payment of money to a pensioner. [see Wasif Ali Mirza v. Karnani Industrial Bank, AIR 1931 PC 160 and Lachmi Narain v. Makund Singh, ILR 26 All 617].

Two essentials are necessary in order to constitute a pension:

(1) it must be a periodical payment, and

(2) it must be a grant not in respect of any rights privilege, perquisite or offices but on political consideration or on account of past services or present infirmities or as a compassionate allowance. [see Yadeo v. Jankida, AIR 1937 Nag 202; Secretary of State v. Khemchand Jaychand, ILR

4 Bom 432; Shiv Narain Singh v. Muni Lal, AIR 1934 Lah 881; and Bansi Ram v. Narsingha, AIR 1914 Cal. 765]

It has been held to be a periodical payment of money for past services. [see Municipal Council, Salem v. Gururajah Rao, AIR 1935 Mad 249]. It is a bounty for past services rendered to the public or to the State. It is mainly designed to assist the pensioner in providing his daily wants. It is a mere bounty or gratuity given by the Government in consideration or recognition of meritorious

past services rendered by the pensioner or by some kinsman or ancestor. [S.H. Beg Mirza v. State , AIR 1959 All 769 at p. 770: 1959 ALJ 855].

Pension, Gratuity and Provident Fund, as is well known, are three different and distinct types of retirement benefits although the basis for calculating all of them is furnished by the salary or emoluments drawn by a Government servant. [Srirangachar v. Commissioner of Income tax, M. P. Nagpur, AIR 1969 MP 127: 1969 MPLJ 60: 1969 MPWR 382 : 1969 Jab Lj 435].

A pension is a periodical payment. Once a part of it is converted into a capital sum it ceases to partake the nature of pension.

Held, that in view of the rules operating in the case a gratuity must be taken to be commuted pension, which is a capital sum and not an accumulated pension and, therefore, the jurisdiction of a Civil Court to entertain a suit relating to the amount of gratuity was not barred by Section 4 of the Pension Act, 1871. [Mela Ram v. Superintendent of Post Offices, Agra, ILR (1968) 2 All 792: AIR 1970 All 234].

10. “Class IV Services” (Previously called “Inferior”) means any kind of services which may be specially classed as such by order of the Governor and any other kind of service on scales of pay the maximum of which does not exceed Rs. 650¹ or such other limit as the Governor may fix from time to time.

11. “Superior service” means any kind of service which is not Class IV.

Comments

Service - means of. - One of the meanings of the word “service” generally is occupation or status of a servant and when used in plural it can mean persons holding a particular occupation or members of a particular department. [Roshanlal v. The State, AIR 1951 Pepsu 164 at p. 168: 52 Cr LJ 1438].

Service, as defined, would usually mean permanent service or temporary service which is likely to be made permanent in due course if certain usual conditions are satisfied by the persons who is temporarily appointed. [Abdul Kader v. State, AIR 1957 Hyd 12 at p. 13: ILR (1956) Hyd 622].

12. A temporary appointment is an appointment carrying a definite rate of pay sanctioned for a limited time.

1. Subs, by U. O. No. FM. 22/75/4, dated 20-3-1975 (w.e.f. 1-1-1981).

PART II
ORDINARY PENSIONS
CHAPTER II
General Rules

Section I—Extent of Application

- 13.** Every pension shall be held to have granted subject to the conditions contained in Chapter X.
- 14.** The conditions of service of Police Officers include special rules for pension which are laid down in Chapter VII.
- 15. (1)** The provisions in Rules 52, 99, 109 and 112 apply to officers appointed substantively to the services or the appointments specified below before 18th February, 1941, provided that the provisions in Rules 99, 109 and 112 shall not apply to officers who did not specifically elect to retain the rules applicable to them prior to 13th February, 1954 and, 1954 and came to be governed by the Liberalised Pension Rules, in Chapter VIII vide Rule 17 or 18 or specifically elected to be governed by Chapter VIII vide Rule 18:

The Agriculture Department

State Services.

The Education Department

State Services.

Inspectors of Factory and Boiler.

The Forest Department

State Officers of and above the rank of Extra Assistant Conservator.

The State Civil Service

Extra Assistant Commissioner.

The State Judicial Service – Senior

Registrar, Assam High Court.

District and Sessions Judges.

Legal Remembrancer.

Additional District Judges.

The State Judicial Service – Junior

Subordinate and Assistant Sessions Judges.

Deputy Registrar, Assam High Court

Munsiffs.

Assistant Registrar, Assam High Court.

The Medical Department

Civil Surgeons and Civil Assistant Surgeons.

Professors of Medical Colleges

Public Analyst and Officer-in-charge, Public Health Laboratory.

Director and Assistant Director of Pasteur Institute.

The Police Department

Deputy Superintendents.

The Public Works Department

Officers of the State Engineering Service.

The Excise Department

Superintendent of Assam Government Press.

Deputy Secretary.

Under Secretary.

Deputy Director, Assam Surveys .

Examiner, Local Accounts.

Registrar, P. W. D. Secretariat.

Head Mistress, Pine Mount School

Principal, Technical School, Jorhat.

Weaving Superintendent.

Assistant Registrar of Co-operative Societies when not a member of a regular State Service.

(2) The Governor may include, in the list in clause (1) any Gazetted services or appointments the duties of which are so important that they cannot be regarded as subordinates.

Note.— An officer who does not hold substantively one of the appointments mentioned above, but who, by rendering officiating service counting as effective service in one of the appointments included in the schedule appended to Rule 112, becomes eligible for an additional pension, is entitled to the benefits of this rule.

16. Rule 15 does not apply to an officer— (1) Who entered Government service on or after the 18th February 1941, or (2) who, having entered such service before that date did not hold a lien or a suspended lien on a permanent pensionable post before that date, or (3) who is transferred on or after that date, permanently from service under a State Government or a Local Fund

administered by Government to a service under the Central Government and did not hold a lien or a suspended lien on a permanent pensionable post under the State Government or the Local Fund before that date. In the case of such officers, Rules 100, 110 and 113 will apply: provided that these rules shall not apply to officers who did not specifically elect to retain the rule applicable to them prior to 13th February, 1954 and came under the Liberalised Pension Rules in Chapter VIII vide Rule 17 or 18 or specifically elected to be governed by Chapter VIII vide Rule 18.

17. The rules in Chapter VIII but excluding Section IV—Family Pension Scheme, 1964, apply to—

- (1) Officers belonging to any of the classes I, II and III, who either—
 - (a) joined the appointment on or after 13th February, 1954, or
 - (b) having joined the appointment before that date did not hold a lien or a suspended lien on a permanent pensionable post under the state Government before that date, or
 - (c) through holding lien or a suspended lien on a permanent pensionable post under the State Government before that date did not opt for the existing pension rules applicable to them prior to 13th February, 1954 or specifically opted for the liberalised pension rules coming into force on 13th February, 1954 (Chapter VIII) and thus came under them.
- (2) Class IV Government servants irrespective of their dates of entry into service:

Provided that these officers mentioned in (1) and (2) above who were in service on 31st December, 1963 did not specifically opt in writing to retain the existing liberalised pension rules applicable to them on that date and did not elect to come under the Family Pension Scheme, 1964 in Section IV of Chapter VIII.

18. The rules in Chapter VIII but excluding Section III—Family Pension, 1954 apply to—

- (1) Officers belonging to any of the classes I, II and III who either—
 - (a) joined their appointment on or after 13th February, 1954, or
 - (b) having joined the appointment before that date did not hold a lien or a suspended lien on a permanent pensionable post under the State Government before that date, or
 - (c) though holding a lien or a suspended lien on a permanent pensionable post under the State Government before that date did not specifically opt for the existing pension rules applicable to them prior to 13th February, 1954 or specifically opted for the liberalised pension rules coming into force on 13th February, 1954 (Chapter VIII) and thus came under them.
- (2) Class IV Government servants irrespective of their dates of entry into service:

Provided that these officers mentioned in (1) and (2) above who were in service on 31st December, 1963 did not specifically opt in writing to retain the existing liberalised pension rules as applicable

to them on that date and thus came under the Family Pension Scheme, 1964, or specifically elected in writing to come under the Family Pension Scheme, 1964, in Section IV in substitution of Section III—Family Pension, 1964 of the Liberalised Pension Rules in Chapter VIII.

(3) Officers who were holding lien or a suspended lien on any permanent pensionable post on 13th February, 1954 and specifically opted in writing to retain the old pension rules applicable to them prior to 13th February, 1954 and thus did not come under the Liberalised Pension Rules, 1954 in Chapter VIII and who having been in service on 31st December, 1963 specifically opted in writing to come under the Liberalised Pension Rules as a whole including the Family Pension Scheme, 1964 in Section IV (but excluding Section III) of Chapter VIII.

(4) Officers who enter service on or after 1st January, 1964.

19. The pension of all officers other than those referred to in Rules 14, 15, 16, 17 and 18 are regulated by the rules in this Part as also the pensions of those for whom special provisions are made to the extent the rules in this Part are not inconsistent with those special provisions: provided that it is open to the Governor to rule that the service of any class of officers serving under the State Government does not qualify for pension.

20. Future good conduct is an implied condition of every grant of a pension. The Governor of Assam reserves to himself the right of withholding or withdrawing a pension or any part of it, if the pensioner be convicted of serious crime or be guilty of grave misconduct.

Note 1. —Active support or advocacy of any political movement, the professed object of which is the subversion of the Government established by law, constitutes grave misconduct within the meaning of this rule.

Note 2. —The failure or refusal of a pensioner to pay any amount owed by him to Government is not ‘misconduct’ within the meaning of this rule.

Explanation—A claim may become known and the question of making recovery may arise—

- (a) when the calculation of pension is being made and before the pension is actually sanctioned, or
- (b) after the pension has been sanctioned.

The claim and the recovery may be one or other of the following: —

- (1) Recovery as a punitive measure in order to make good loss caused to Government as a result of negligence or fraud on the part of the person concerned while he was in service.
- (2) Recovery of other Government dues such as over issues of pay, allowances or leave salary, or admitted or obvious dues such as house-rent, postal life insurance premia, outstanding motor-car, house building, traveling allowance or other advances.
- (3) Recovery of non-Government dues.

In cases falling under (a) above, none of the recoveries mentioned in clauses (1) and (3) above may be affected by a reduction of pension about to be sanctioned except—

- (i) in the circumstances contemplated in Rule 21 or Rule 106 (b) when an officer's service can be held to have been not thoroughly satisfactory, a reduction in the amount of pension may be made under Rule 106 (b) by a competent authority.
- (ii) when the pensioner by request made or consent given has agreed that the recovery may be made.

In cases falling under (b) above also none of the recoveries described in clauses (1) and (3) may be effected by deduction from a pension already sanctioned except at the request or with the express consent of the pensioner, or in the circumstances mentioned in Rule 21.

The above Rule 10 refers only to crime or misconduct occurring after the pensioner has retired from service and would not, therefore, cover a reduction of pension made for the purpose of retrieving loss caused to Government as a result of negligence or fraud on the part of the pensioner before he had retired from service (But see Rule 21).

Note 3. —Recovery of all Government dues from the death-*cum*-retirement gratuity or any other types or gratuity due in respect of any officer may be made without obtaining his consent or the consent of the members of his family.

Comments

Reduction of Pension. —In the absence of a finding that the service of the Government servant has not been “thoroughly satisfactory”, the reduction of the pension was beyond the competence of Government. [K. S. Rajeshkhariah v. The State of Mysore and Another, AIR 1968 Mys 206 at pp. 207, 208].

Disciplinary proceedings. —A disciplinary proceeding against a Government servant comes to an end when he retires and there is no power in Government to retain him in services so that a punishment may be imposed on him in a pending disciplinary proceeding. [K. S. Rajeshkhariah v. The State of Mysore and Another, AIR 1968 Mys 206 at p. 207].

21. The Governor of Assam reserves to himself the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government, if in a departmental or judicial proceeding 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—

(a) such departmental proceeding, if instituted while the officer was in service, whether before his retirement or during his re-employment, shall, after the final retirement of the officer, be deemed to be a proceeding under this rule and shall be continued and concluded by the authority by which it was commenced in the same manner as if the officer had continued in service;

¹[*Explanation.* —The continuation of the proceeding after the final retirement of the officer shall be automatic under sub-rule (a) of Rule 21 and no fresh decision of the Governor and/or the Appointing Authority nor any show cause notice to the person concerned shall be necessary.

The powers under Rule 21 shall be exercisable not only in case of causing pecuniary loss to Government but also in all other cases.

(b) such departmental proceeding, if not instituted while the officer was in service, whether before his retirement or during his re-employment—

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

1. Ins. by Noti. No. FMP 14/84/83, dated 16-8-1989, published in Assam Gazette, Part-IIA, dated 4-1-1989, page-1139.
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(ii) shall not be in respect of any event which took place more than 4 years before such institution; and

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

(c) no such judicial proceeding, if not instituted while the officer was in service, whether before his retirement or during his re-employment, shall be instituted in respect of a cause of action which arose or an event which took place more than 4 years before such institution; and

(d) the Assam Service Commission shall be consulted before final orders are passed.

Explanation. — For the purpose of this rule—

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

(b) a judicial proceeding shall be deemed to be instituted—

(i) in the case of a criminal proceeding, on the date on which the complaint or report of the police officer, on which the Magistrate takes cognizance, is made, and

(ii) in the case of a civil proceeding, on the date of presentation of the plaint in the Court.

Note 1. —This applies also to recoveries from death-*cum*-retirement gratuity and family pension sanctioned under Chapter VIII.

Note 2. —Under the above rules, besides the right of ordering recovery from a pension of the amount of the pecuniary loss caused to Government, the Governor of Assam has also reserved to himself the right of withholding or withdrawing a pension or any part of it whether permanently or for a specified period. The authority which institutes proceedings of the nature referred to in the above rule, should without delay intimate the fact to the Audit Officer concerned.

It has also been decided that in a case in which a pension as such is not withheld or withdrawn but the amount of any pecuniary loss caused to Government is ordered to be

recovered from the pension, the recovery should not ordinarily be made at rate exceeding one-third of the gross pension originally sanctioned including any amount which may have been commuted.

Comments

Nature, ambit and scope conferred under, Rule 21 of the Pension Rules does not contemplate or authorise automatic continuation of any pending disciplinary proceedings against a retired Government servant. Indeed, condition precedent for continuance of the proceedings in terms of clause (a) thereof was a decision of the competent authority, namely, Governor of Assam, to take action against the person concerned under Rule 21. That apart, before a pending proceedings can be “continued” after retirement of a Government servant a show cause notice must be served on him apprising him of the decision and of the action proposed to be taken in terms of clause (a) of Rule 21. Reasonableness of that procedure would, however, mandate those requirements to be fulfilled in a reasonable manner and within a reasonable time. In *Mansaram*, (1984) 1 S. C. C. 125, their Lordships of the Supreme Court held that, case, when time was not stipulated in the statute in respect of the proposed action in the administrative action contemplated must be taken within a reasonable time. The nature of the action and the proceedings contemplated under Rule 21 make it necessary to insist on the primacy of the requirements of “reasonable time”. Because the nature of the right created by the Pension Rules and the object of the provisions of the said Rules make it clear that there should be no unreasonable delay in the matter of settlements of a claim for pension. The object fulfilling the Directive Principles must not be defeated. Reasonable explanation must be forthcoming to explain the delay in taking the decision by the competent authority under Rule 21 and also in the service of show cause notice thereunder by

the disciplinary authority. A pending proceedings can not be allowed to prolong indefinitely awaiting either the “decision” or the “show cause notice” which are essential requirements of an action under Rule 21. [Girija Kr. Phukan v. State of Assam, (1984) 2 Gau. L. R. 488 at pp. 500 and 501].

Power of the authority to withhold or withdraw a pension. – A bar perusal of rule 21 of the Assam Services (Pension) Rules, 1964, makes it quite plain that the authority has a right to withhold or withdraw a pension or any part of it permanently or for a specified period, if the pensioner was found guilty of grave misconduct or negligent during the period of his service. For withholding pension, it would be necessary to draw departmental proceedings against the delinquent. Such departmental proceedings may be instituted while the pensioner was in service or while he was re-employed. The departmental proceedings may also be initiated against the pensioner even after his retirement under clause (b) of Rules 21 provided the sanction of the Government of Assam had been obtained to do so. However, such departmental proceedings cannot be taken with respect to any event which and occurred more than four years before such institution. Moreover, the proceedings may be conducted only by such authority and at such place as the Governor of Assam may direct in that behalf. It also requires that the Public Service Commission shall be consulted before orders are passed. [Eyaqub Hussain v. The Secretary to the Government of Assam, Public Works Departments Dispur and Others, (1984) 2 Gau. L.R. 424 at p. 426].

22. (1) Where any departmental or judicial proceeding is instituted under Rule 21 or where a departmental proceeding is continued under clause (a) of the proviso thereto against an officer who has retired on attending the age of compulsory retirement or otherwise, he shall be paid during the period

commencing from the date of his retirement to the date on which upon conclusion of such proceeding, final order are passed, a provisional pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service up to the date of retirement , 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; but no gratuity or death-cum-retirement gratuity shall be paid to him until the conclusion of such proceeding and the issue of final order thereon.

(2) Payment of provisional pension made under clause (1) shall be adjusted against the final retirement benefits sanctioned to such officer upon conclusion of the aforesaid proceeding 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.

Note. – The grant of pension under this rule shall not prejudice the operation of Rule 106 when final pension is sanctioned upon conclusion of the proceeding.

Section II- Cases in which claims are inadmissible

23. In the following cases no claim to pension is admitted: —

- (a) when an officer is appointed for a limited time only or for a specified duty , on the completion of which he is to be discharged.

- (b) when a person is employed temporarily or on monthly wages without specified limit of time or duty; but a

month's notice to discharge should be given to such person and his wages must be paid for any period by which such notice falls short of a month.

Interpretation – The first notice given to an officer employed under the conditions of this rule ceases to be effective when it is cancelled by a subsequent order, and the officer is entitled to a fresh notice before his renewed term of employment for a further indefinite period could be cancelled.

(c) when a person's whole time is not retained for the public service, but he is merely paid for work done for the State.

Note 1. – This clause applies among others, to the following Officers;

Advocate-General, Solicitor to Government, Government Pleaders and other law Officers not debarred from private practice.

Note 2. – Service in Pound Establishment is neither permanent nor qualifying for pension. Allowances given to Government servants for pound work in addition to their ordinary pay are not to be considered when calculating pension. This does not apply to office assistants entertained in district offices.

(d) when a public servant holds some other pensionable office, he earns no pension in respect of an office of the kind mentioned in clause (c) or in duties paid for by a Local Allowance.

(e) service where benefit under the Contributory Provident Fund (Assam Service) Rules or similar benefits are admissible.

Note. -Person enjoying such benefits, if absorbed in regular pensionable service, may count his past service during which benefit of Contributory Provident Fund were enjoyed in accordance with Rule 28 of the Contributory Provident Fund (Assam Service) Rules.

(f) Service governed by specified contract unless there is stipulation contrary to it in the contract deed.

Note. -If contract officers who were initially engaged on contract were subsequently appointed to the same or a different post in a substantive capacity on pensionable basis without interruption of duty, their contract service may be treated like any other services temporary and permanent, rendered in a pensionable establishment and allowed to count for pension subject to the usual conditions laid down in the pension rules irrespective of whether the officer concerned subscribed to the Contributory Provident Fund or not throughout the period of contract:

Provided that if during the period of contract or any part of it, an officer subscribed to the Contributory Provide Found he may be allowed the option of surrendering the Government's contribution to his Contributory Provident Fund account together with interest thereon and count the contract service towards pensions as indicated above;

Provided further that he did not draw higher initial pay or any other inflated rates of pay by reason of the absence of any

retirement benefits for the periods during which he did not subscribe to the Contributory Provident Fund.

Option envisaged in proviso above should be exercised within a period of three months of appointment substantively to a permanent and pensionable post and communicated to the Accountant General. If no communication is received within the stipulated period, he will be deemed to have opted for not counting the period of contract service towards pension under this rule.

24. Misconduct or inefficiency —No pension may be granted to an officer dismissed or removed for misconduct, insolvency or inefficiency; but to officers so dismissed or removed compassionate allowances or/and land compassionate gratuity may be granted when they are deserving of special consideration; provided that the allowance/gratuity granted to any officer shall not exceed two-thirds of the pension/gratuity which would have been admissible to him if he retired on medical certificate.

Note 1. —No officer, even if belonging to a class entitled to commute ordinary pension, is entitled to commute compassionate allowance. A commutation to such an allowance may be sanctioned by competent authority only on proofs that the proceeds of the commutation will be invested for the permanent benefit of the commutor's family.

Note 2. —Death-cum-retirement gratuity or family pension under Rule 135 and Rule 137 may not also similarly be granted if the officer is so dismissed or removed. Compassionate grants may, however, be made under these rules in accordance with above principle and subject to some conditions.

25. Compulsory retirement as a penalty. -An officer compulsorily retired from service, as a penalty, may be granted by the authority competent to impose such penalty, pension at a rate not less than two-thirds and not more than full invalid pension and special additional pension, if any, admissible to him on date of his compulsory retirement:

Provided that in the case of an officer mentioned in Rule 16 or 17 who has completed before such retirement 25 years of qualifying superior service or more the pension shall be not less than two-thirds and not more than the full retiring pension and additional pension, if any, to which he would have been entitled if he retired on that date.

26. Claims for widows— (a) It being the duty of every Government officer himself to provide for his family the Governor recognises no claim save as provided in Chapter VIII, by a widow on account of the services of her husband.

(b) The submission of such claims save under every extraordinary circumstances, as envisaged in the Assam Services (Compassionate Fund) Rules, 1962, is disapproved as calculated only to give rise to hopes which cannot be fulfilled.

Note 1. -*Immediate relief to the family of non-Gazetted officers-* Head of Departments and Officers may sanction to the families of non-Gazetted Government servants in permanent or temporary employ (excluding the members of the work charged establishment and daily rated staff) who had rendered not less than three years' continuous service and who died while in service (whether on duty or on leave with or without pay) an advance equal to two months pay subject to a maximum of Rs. 2,000 (rupees two thousand¹) only if in the opinion of the Head of the Department/office the

family concerned has been left in the indigent circumstances upon the death of the Government servant on whom it was dependent and is in immediate need of financial assistance.

Payment of the advance should be made in the same manner and to the person or persons eligible or would have been eligible to receive the death-cum-retirement gratuity under the liberalised pension rules in Chapter VIII.

In all cases an undertaking should be taken from the person or persons concerned before the payment is made that he/she or they agree(s) to the amount being deducted from the death-cum-retirement gratuity or any other gratuity or the Provident Fund amount or any grant from the Compassionate Fund, as the case may be, ultimately payable to him/her or them

This advance shall be debited to “S—Deposits and Advances—Part III—Advances not bearing interest—Departmental—Advances—Civil Advances—(e) O. B. A. (i)”.

The sanction order communicated by the Head of Department/Office shall contain the following particulars:

1. Name of official (Non-Gazetted).
2. Designation and office in which the person was last working.
3. Last pay drawn (Permanent any officiating).
4. Length of qualifying and non-qualifying service.
5. Amount of Advance sanctioned.
6. Name of the payee.

Copies of the sanction shall be sent to the Audit Office Heads of offices will draw the money required on establishment pay bill

forms enclosing copy of the sanction and disburse them to the payee(s) specified in the sanction order. The fact of payment of advance in this behalf and of similar other payments should be noted in the Last Pay Certificate sent the Audit Office with papers relating to the death-cum-retirement gratuity and similar other claims.

<p>1. Ins. by Noti. No. PPG (P) 138/88/1 dated 21-10-1989 for Rs. 500, published in Assam Gazette, Part IIA, dated 1-11-1989 at p. 124.</p>

Heads of Departments/Officers shall see that the advance is adjusted as early as possible, and in any case, within a period of six months from the date of sanction. If the amount of death-cum-retirement gratuity or similar other payment is less than the advance initially sanctioned and if this balance is eventually treated as irrecoverable the same shall be debited to "71-Miscellaneous-Irrecoverable temporary loans and advances written off" under special orders of Government.

27. Limitation. -(a) An officer cannot earn two pensions in the same office at the same time, or by the same continuous service.

(b) Two officers may not simultaneously count service in respect of the same office.

28. Military Service. —(a) Service rendered by an employee belonging to one of the classes mentioned in Note 2 below, after attaining the age of 18 years, which is pensionable under military rules but which terminates before a pension has been earned in respect of it, may at the discretion of the Governor be allowed to count, when followed by service qualifying for

pension under civil rules, as part of such service, provided that any bonus or gratuity received in lieu of pension on, or since discharged from military service shall be refunded in such number of monthly instalments not normally exceeding 36 and beginning from such date, as in each case the Governor may decide Service so allowed to count shall, however, be restricted to service, within or outside the employee's unit or department, in India or elsewhere, which has been paid from the Consolidated Fund of India/State or for which a pensionary contribution has been received by the Consolidated Fund of India/State.

(b) Service pensionable under military rules which does not terminate before a pension has been earned in respect of it shall not be allowed to count for pension under civil rules.

Note 1. —An officer, ex-soldier or ex-seaman will not be brought under the operation of this rule as a matter of course. Each case will be decided on its merits, e.g. there may be cases in which it may be open to a claimant for pension to add military service during World War II to former non-pensionable service in the Army in order to claim the benefit of a military pension. In such cases it may be to the advantage of the claimant that he should not be brought under the operation of this rule.

Note 2. —This rule applies to Indian Officers and men of the Indian Army, and to non-combatant departmental and regimental employees and followers of the supplemental service. It also applies to warrant officers and departmental officers of the commissary and assistant surgeon classes.

Note 3. —To be eligible for the concession in this rule the individual concerned should take his discharge from the Army,

Navy or Air force, as the case may be within 12 months of the date of his confirmation in the appointment pensionable under civil rules. This limit may, in special cases, be relaxed.

Note 4. —Employees in the Military Police have the option of counting service under any other provisions of these rules which would give them a similar or more liberal concession.

Note 5. — A person permanently appointed to the Civil Police Force or to a post in the Jails. Department who before such appointment has served in the reserve of the Indian Army, may, if has military service whether are not including service with the colours in addition to service in the reserve, was pensionable under military rules but terminated before he had qualified for pension, be permitted at the discretion of the Governor, and subject to the provisions contained in above rule, to count for civil pension the whole of his service within the colours, if any, and half his service in the reserve.

29. Civil employees (other than members of services or Departments governed by special orders) who prior to their civil employment, have rendered 'war service' between the 3rd September, 1939 and the 1st April, 1946 which did not earn a service pension under the military rules, shall be allowed to count such service including sick leave taken during such service, for the purpose of civil pension, subject to the observance of the following general principles—

- (1) completed six monthly periods of 'war services' shall be allowed to count up to a maximum of five years ;

(2) In the case of a services in which a minimum age is fixed for recruitment, no 'war service' rendered below that age shall be allowed to count for pension;

(3) any break between war service and subsequent civil service shall be treated as automatically condoned.

Interpretation 1. Military service rendered during the World War II, i.e., war service, shall be classified into two categories,

(i) where the war service has been rendered in addition to other military service pensionable under the military rules and rendered before or after such war service ; and

(ii) where the war service stands alone, i.e., where no military service has been rendered except service during the war period viz. 3rd September, 1939 to 1st April, 1946

In regard to war service falling in category (i) above, the Government servant concerned is permitted to count his war service, (i.e., the portion of service rendered between 3rd September, 1939 and 1st April, 1946 for civil pension, either under Rule 28 or under Rule 29 whichever may be more advantageous to him, subject, of course, to the limitations prescribed in the respective rules.

In regard to war service falling in category (ii) above, the Government servant has no option and such war service must be counted under Rule 29 only subject to the limitations prescribed therein.

Ordinarily war service shall be counted if admissible under Rule 29 only; but in cases where the war service has been

rendered in addition to other military service pensionable under the military rules either before or after the war, the Government servant concerned shall have the option to count if it is more advantageous to him, his war service under rule 28 if otherwise admissible.

CHAPTER III

Conditions of Qualifying Service

Section I—Definition of Qualifying Service

30. Beginning of Service. —(a) Except for compensation gratuity an officer's service does not qualify till he has completed eighteen years of age provided that in the case of a Class IV Government servant who, having entered such service on or before 13th February, 1954 , held a lien or a suspended lien on a permanent pensionable post under the Government of Assam on that date , the service shall count from the age of 16 years. This will also apply to police personnel mentioned in chapter VII.

(b) in other cases, unless it be otherwise provided by special rule or contract, the service of every officer begins where he takes charge of the office to which he is first appointed.

Note. —Whatever minimum age may have been fixed for entry into service the minimum age after which service will count for pension has to be determined with reference to Rule 30.

31. Conditions to qualifying service. —The service of an officer does not qualify for pension unless it conforms to the following three conditions:

Firstly, the service must be under Government;

Secondly, the employment must be substantive and permanent;

Thirdly, the servant must be paid by Government.

Provided that the Governor may, even though either or both of conditions (1) and (2) above are not fulfilled, —

- (i) declare that any specified kind of service rendered in a non-Gazetted capacity shall qualify for pension, and
- (ii) in individual cases and subject to such conditions as he may think fit to impose in each case allow service rendered by an officer to count for pension.

Section II—First—Condition—Service under Government

32. The service of an officer does not qualify unless he is appointed and his duties and pay are regulated by the Government, or under conditions determined by the Government.

The following are examples of officers excluded from pension by this rule:

Example. —(1) Officers of a Municipality.

(2) Officers of Grant-in-aid Schools and institutions.

(3) Subordinates appointed by Treasurer on their own responsibility.

Note 1. —The service of Potdars whether appointed by the District Officers or by the Treasurer is non-pensionable but the Governor may consider applications for pension or gratuities in the case of Potdars who retire after putting in not less than ten years' satisfactory service.

Note 2. —The service of treasury assistants is pensionable.

Note 3. —The fact that the whole or part of the pay of Government servant in pensionable service is recovered by Government from a third party does not operate to render his service other than pension if the Government servant is appointed, controlled and paid by Government.

Note 4. —The service of section-writers is non-pensionable.

33. A scientific employee engaged in research in semi-Government institution which is financed from cess or Government grants and who on a Contributory Provident Fund basis in such an institution may, on permanent appointment without any interruption to a pensionable service or post under the Government, count his previous service in that institution during which he subscribed to that Fund as service qualifying the pension provided that the contribution together with interest thereon paid by the institution is made over to the Government. The service during which he did not subscribe to the Contributory Fund will not be so reckoned unless previous employer agrees to bear proportionate charges on account of pensionary benefits for service so rendered. If, however, the officer was not on a Contributory Provident Fund basis such an institution his previous service will be reckoned qualifying for pension if the previous employer agrees to bear proportionate charges on account of pensionary benefits.

34. Service paid from Contract Allowances. —Service on an establishment paid from a Contract Establishment Allowance, with the detailed distribution of which the Government does not interfere, does not qualify whether such contract allowance is a fixed amount or consist of fees.

35. Service on an establishment paid from contract allowances of the Governor does not qualify. —This shall not, however, apply to persons who are borne substantively on a permanent establishment paid from the Consolidated Fund of the State and who are deputed to Governor's Household Establishment.

Note 1. —Permanent members of the Household Establishment of the Governor, who are appointed against supernumerary post in the office of the Secretary to the Governor and are placed on deputation to the Household Establishment, count their services for pension against the said supernumerary posts and the expenditure on their pensions are met out of the Consolidated Fund of the State.

Note 2. —The post of the house-bearer in the office of the Military Secretary to the Governor is pensionable.

Note 3. —The Governor is authorised to grant at his discretion gratuities upto a maximum of Rs. 5,000 during his term of office to domestic servant in the Raj-Bhavan establishment paid from the Consolidated Fund of the State of Assam, who are not otherwise entitled to pension, on their retirement after not less than ten years' service or to the families of such domestic servants on their death after less than ten years' service.

Section III—Second Condition—General Principles

36. Service does not qualify unless the officer holds a substantive office on a permanent establishment:

Provided that continuous temporary or officiating service under the Government of Assam, followed without interruption by confirmation in the same or any other post, shall count in full as qualifying service except in respect of—

(a) Periods of temporary or officiating service in non-pensionable establishment, and

(b) Periods of service paid from contingencies.

Note 1. —In case of Central Government servant who is permanently transferred to the State Government without any interruption in service, the term temporary or officiating service used in the above proviso shall include such service rendered under the Central Government who have agreed to bear the proportionate pensionary liability on a reciprocal basis.

Note 2. —The Governor of Assam is pleased to declare as pensionable the temporary services (without lien in any pensionable posts) rendered under the State Government by the re-employed released personnel of Sylhet, who held pensionable appointment before Partition, irrespective of whether they retire during the continuance of temporary services or as a result of the abolition of the temporary posts so held or on subsequent absorption in other permanent vacancies.

The Governor is also pleased to condone the period of interruptions in service of such personnel before their re-employment irrespective of the period of break.

Cases of personnel who, thought being absorbed in permanent posts, actually serve in temporary appointments and retire therefrom do not come within the purview of this rule.

37. An establishment which is employed for a period exceeding six months in each year is a permanent establishment. Service in such an establishment including the period during which the establishment is not employed , qualifies for pension , provided that a Government servant who was not on actual duty or on authorised leave on the date on which the establishment was discharged, after completion of its work , or who was not on actual duty on which the establishment was again re- employed , shall not count as service qualifying for pension the period during which the establishment is not employed.

Note 1. – An establishment which is employed for periods not exceeding six months is a temporary establishment and service in such an establishment does not qualify for pension.

Note 2. – For the purpose of calculation of average emoluments for pension in respect of a reasonable establishment , the whole of the last three years of service including the periods (which count) but during which no emoluments were drawn should enter in to calculation and not merely the periods during which emoluments were drawn. The emoluments that should be taken into account should under rule 115 be those actually drawn during the period.

38. Apprentices and probationer.—Service as an apprentice does not qualify for pension.

39. The service of a probationer qualifies ; so does that of an officer who is no probation for an office provided that the officer is appointed substantively on completion of the period of probation.

Note 1.—The period of training or probation of the State Forest Service Officers and Rangers shall count towards pension provided

that no period so passed before an officer has completed 23 years of age shall count.

Note 2.—The period spent by Civil Assistant Surgeons on Military duty as temporary officers of the Indian Medical Service will count for pension.

40. Permanent Officer deputed.—An officer on a permanent establishment detached on duty in a temporary post, on the understanding that, when the temporary duty ceases he will return to the permanent establishment, counts his detached service in respect of his permanent appointment.

Explanation.—An officer whose lien has been suspended under F. R. 14 (b) will count his service under this rule in respect of his permanent post and his locum tenens who has been made provisional in his place will be treated as permanent for all practical purposes except for pension.

41. Substantive office abolished.—If the substantive office of an officer is abolished within the meaning of rule 69 but the officer is, at the time on special duty, or is, on abolition of his office, deputed on special duty, his service on special duty qualifies, but the duty must be special; mere employment in continuation of permanent employment, in a temporary appointment which happens at the time to be vacant, does not qualify.

42. Piece-work.—A press employee, who is paid for piecework, shall be treated as in pensionable service, if—

- (i) he is employed not casually, but as a member of a fixed establishment;

- (ii) during the last seventy two months of his actual employment he has been attached to one office uninterruptedly for twentyfour months, or it has not been through his own choice or misconduct that he has been so attached; and
- (iii) he has rendered continuous service for 25 years.

Note 1. –Continuous service for 25 years will count for pension in the case of all temporary piece-workers and all temporary salaried hands in the Assam Government Press.

Note 2.—A person who has rendered service partly in temporary establishment totaling in all 25 years or more will be eligible for pension.

Section IV – Third Condition – Sources of Remuneration

43. Service which satisfies the conditions prescribed in Sections II and III qualifies, or does not qualify, according to the source from which it is paid . With reference to this rule , service is classified as follows :

- (a) Paid from the Consolidated Fund of the State.
- (b) Paid from Local Funds.
- (c) Paid from Funds in respect to which the Government holds the position of Trustee.
- (d) Paid by fees levied by law , or under the authority of the Government, or by Commission.

- (e) Paid by the grant in accordance with law or custom of a tenure in land, or of any source of income, or right to collect money.

44. Consolidated Fund of the State.— Service paid from the Constituted Fund of the State qualifies.

Note 1.— The fact that arrangements are made for the recovery on the part of the Government, of the whole or part, of the cost of an establishment or officer (including not only the immediate cost but also that of the leave allowances and pension), does not affect the operation of this principle; provided that the establishment or officer is appointed, controlled and paid by the Government.

Note2. – The following are not in pensionable service :

- (i) Government servants who are paid for work done for Government but whose wholetime is not retained for the public service.
- (ii) Government servants who are paid from a contract grant whether such grants is a fixed amount or consist of fees.
- (iii) Government servants holding post which have been declared by the authority which created them to be non – pensionable.
- (iii) Government servants who are not in receipt of pay but are remunerated by—
 - (a) fees or commission, or

- (b) the grant of a tenure of land or of any other source of revenue or of a right to collect money.

45. Local Funds and Trust Funds.—Service paid from a Local Fund does not qualify.

Note 1. – Veterinary Assistants who work in local bodies and whose pay and allowances are shared between Government and the local bodies concerned are treated as in pensionable service. The local bodies concerned will pay annually for each Veterinary Assistant employed under them two-thirds of the average charge for the pay, including local allowance and pension contributions calculated on the strength of the service of the service for the time being.

Applications for pension, etc., shall be submitted through the local body concerned to the District Animal Husbandry and Veterinary Officer concerned and by the latter to the Directory of Animal Husbandry and Veterinary.

Note 2.– Service of vaccinators transferred from the Government service to the service under a local body is foreign service in respect of which no pensionary contribution is payable.

Note 3.—Service paid from a local fund which is administered by Government is pensionable service; but the cost of the pension earned by it will be met by the local fund.

46. Service paid from funds which Government holds only as a Trustee, such as under a Court of Wards or in Attached Estate, does not qualify.

47. Fees and Commission.—Except when fees for commission are drawn in addition to pay from the Consolidated Fund of the State , service in an office paid only by fees whether levied by law or under the authority of Government , or by a commission does not qualify.

Note.—Service paid from fees and commission in addition to pay from the Consolidated Fund of the State qualifies but fees and commission should not be included in Pay to determine whether the service is ‘Superior’ or Class IV.

48. Tenure and land, etc. —Service paid by the grant, in accordance with law or custom of a tenure in land, or of any other source of income, or right to collect money, does not qualify.

Section V— Distinction between Superior and Class IV Service

49. Qualifying service is divided into “Superior” and “Class IV” (Previously called “Inferior”).

50. The Governor may transfer any appointment or class of appointments from Class IV to Superior.

Note - When the pensionary status of an appointment is changed from ‘Class IV’ to ‘Superior’, it is to be assumed that the change has retrospective effect unless there be special orders to the contrary.

51. Except where the rules are made specifically applicable to officers belonging to Superior Service the rules in the different Chapters in this Part shall also apply to officers belonging to Class IV.

CHAPTER IV

Rules for Reckoning Service

Section I—Special Addition

52. Special appointment.—For officers mentioned in Rule 15 who were recruited before 22nd September, 1939 the condition of adding to qualifying service is as follows:

In the case of.—(1) State Educational Service, (2) Factory and Boiler Inspector, (3) Superintendent of Government Press, (4) State Engineering Service, and (5) Assam Medical Service, Class I and of such other appointments as may be definitely specified in this behalf, in which recruitment is likely to take place after 25 years of age, officers recruited over that age may add to their service qualifying for superannuation pension (but not for any other class of pension), the actual period not exceeding five years by which their age at recruitment exceeded twenty-five years. This concession will not be granted to individual officers appointed at an age exceeding twenty-five years to Departments or appointments other than those included above. The benefit of this rule is not admissible to an officer whose actual qualifying service at the time he quits Governments service is less than ten years.

Note 1.—The extra years conceded in this rule count towards the limit of 28 years' qualifying service prescribed in Rule 112.

Note 2.—The benefit of this rule is as admissible to persons eligible for this concession only when they retire on attaining the age of superannuation and not in any other circumstances. In the case of persons eligible for this concession, who have exercised option under Rule 17 or 18 it shall not be permissible to determine the eligibility for and the amount of death-cum-retirement gratuity

under Rule 135, Section II or family pension under Rule 137, Section III of Chapter VIII , on the basis of the total qualifying service including the addition under this rule in cases where a Government servant dies while in service. In case, however, where a Government servant retires on attaining the age of superannuation , the death-cum-retirement gratuity will be calculated on the total of service including the addition . Similarly , when death occurs within five years of retirement on a superannuation pension , a family pension under Rule 137 will be admissible subject to the usual conditions, on the basis of the total qualifying service, including the addition.

53. An officer appointed to a service or post may 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 period by which his age at the time of recruitment exceeds twenty-five years or a period of five years, whichever is least , if the service or post 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 any such officer unless his actual qualifying service at the time he leaves Government service is not less than ten years.

Note.—The decision to grant be concession under this rule shall be taken by the Administrative Department at the time of

recruitment in consultation with the Finance Department and the Assam Public Service Commission .

Section II—Periods of Leave

54. Superior Service.— All periods of leave with allowance shall count as service.

Note .— Nothing in this rule shall affect the other provisions of the rules relating to the counting of special kind of leave for pension.

¹Note 2.— In the following circumstances, extraordinary leave should be allowed to count for pension , namely :-

- (i) If the extraordinary leave is taken on medical ground;
- (ii) If it is taken due to inability of the person to join or re-join duty due to civil commotion or natural calamity, provided he has no other type of leave to his credit;
- (iii) If it is taken for prosecution of higher Scientific and Technical studies.”

Comments
NOTIFICATION

Notification No. FGE, / 23/78/17, dated Dispur , the 19th day of July , 1978

OFFICE MEMORANDUM

Subject:— Cash payment in lieu of unutilised earned leave on the date of retirement.

The Government of Assam have had under consideration for some time the question of grant of cash equivalent for unutilised earned leave at the credit of State Government employees. The matter has been carefully considered and the Governor of Assam is pleased to decide that State Government servants may be paid cash equivalent of leave salary in respect of the period of earned leave at their credit at the time of retirement on superannuation .

2. The decision contained in this Officer Memorandum will be applicable to State Government servants retiring on superannuation on or after 19-7-78.

3. This concession will be subject to the following conditions:

(a) The payment of cash equivalent of leave salary shall be limited to a maximum of 180 days earned leave.

1. Vide Notification No. FMP. 2/70/33 dated 15-6-71 (AG-IIA, dated 23-6-71, page 1598).

(b) The cash equivalent of leave salary thus admissible will become payable on retirement and will be paid in one lump sum as an on time settlement.

(c) Cash payment under this order, will subject to (d) below , be equal to leave and dearness allowance admissible on that leave salary at the rates in rates in force on the date of retirement. No city compensatory allowance and/or house rent allowance shall be payable.

¹(d) * * *].

The authority competent to grant leave shall issue order granting cash equivalent of earned leave at credit on the date of retirement.

4. These orders shall not apply to cases of premature/voluntary retirement. Persons who are compulsorily retired as a measure of punishment under the disciplinary rules will also not be covered by these orders.

5. The benefit under these orders shall also be admissible to Government servants who attain the age of retirement on or after 19-7-78 and are granted extension of service after that date. In such cases, the benefit shall be granted on the date of final retirement on expiry of extension, to the extent of earned leave at credit on the date of superannuation plus the earned leave during the period of extension reduced by earned leave availed of during such period , subject to a maximum of 180 days. The above benefits will not , however , be available to those who attained the age of retirement before 19-7-78 and were on extension of service thereafter.

6. Consequent on issue of this Office Memorandum refusal of earned leave as preparatory to retirement embodied in Rule 4 of the Revised Leave Rules, 1934 will no longer be necessary. A Government servant can also avail of as leave preparatory to retirement, a part of earned at his credit. In that case he will be allowed benefits of these orders for the earned leave that remains at credit on the date of retirement in accordance with the terms and conditions stipulated in this Office Memorandum.

Necessary amendment to the Revised Leave Rules, 1934 will follow.

No. FEG. 23/78/26, dated, the 4th October, 1978

OFFICE MEMORANDUM

Subject:— Cash payment in lieu of unutilised earned leave on the date of retirement.

The undersigned is directed to refer to para 3 (d) of the Department's O. M. No. FEG. 13/78/17, dated 19-7-78 according to which deduction on account of pension and pensionary equivalent of other retirement benefits is required to be made the cash amount worked out in accordance with para 3 (c), *ibid.* The question of non-deduction of pension and pensionary equivalent of other retirement benefits from the cash amount worked out under para 3 (c) of the Department's O. M. dated 19-7-78 has been under consideration of the Government.

1. Para 3 (d) deleted w.e.f. 19-7-78, Vide Notification No. F.E.G. 23/78/26, dated the 4 th October, 1978.

After careful examination of all aspects the Governor of Assam is pleased to order that with effect from 19-7-78 no deduction on account of pension and pensionary equivalent of other retirement benefits need be made from the cash payment made in lieu of unutilised earned leave on the date of retirement on superannuation. Para 3 (d) of the office memorandum No. FEG. 23/78/17, dated 19-7-78 is hereby deleted with effect from 19-7-78.

2. Formal amendments to the Revised Leave Rule , 1934 will follow.

OFFICE MEMORANDUM

No. FMP. 22/88/1, dated dispur the 25th January, 1989¹— Rule, 1969, provides as follows:—

“An officer appointed to a service or post may 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 on the actual period by which his age at time of recruitment exceeds twenty-five years or a period of five years, whichever is less , if the service or post 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 any such officer unless his actual qualifying service at the time he leaves Government service is not less than ten years”.

Note 1. – Under the aforesaid rule also provides that the decision to grant the concession under this rule shall be taken by the Administrative Department at the time of recruitment in consultation with the Finance Department and the Assam Public Service Commission.

It has been noticed that the Administrative Depts. do not comply with the provision of the Note as aforesaid at the time of recruitment . It is, therefore impressed upon all concerned that the conditions stipulated in the rule and Note thereunder should be fulfilled at appropriate time in the matter of extension of the concession.

55. The Governor may at his discretion decide in case of an officer (including a person in training for, but actually appointed to , Government service) who is selected to undergo a course of training whether the time spent in training shall count as service qualifying for pension.

Note 1.- A Government servant required to attend a departmental examination, optional or compulsory for promotion within the normal scope of the Government servant’s department or office, shall be treated as on duty qualifying for pension during a reasonable time required for the journey to and from the place of examination and on the day or days of the examination.

1. Printed in AG-IIA, dated 24-5-89 page 545].

Note 2. – A Government servant who has been appointed to a post or to a cadre in Government service, shall be treated as on duty qualifying for pension during any course of instruction or training which may be required or permitted to undergo in accordance with the terms of any general or special orders of Government and during the time reasonably required for the journeys to and from the place of instruction or training.

Explanation — In estimating the ‘time reasonably required for the journey’ the head of the office or the controlling authority may, when necessary, allow time for preparation up to a limit of six days but should not ordinarily do so in case where the course of instruction lasts for less than six months.

Note 3 – A student, stipendiary or otherwise, who is entitled to be appointed to Government service on passing a course of training at a University, College or School, shall, unless in any case it be treated as on duty qualifying for pension during the interval between the satisfactory completion of the course and his assumption of duties.

Note 4.— The Governor may issue general order under this rule in regard to any specified class of officers under training.

56. Study leave when admissible shall count as service for pension.

57. Time passed as departmental leave by subordinates in the Assam Survey Department, whose service is superior shall count, provided they return to duty when required by their superior officers. Departmental leave granted to Class IV servants in the Assam Survey Department employed purely on field work shall also count for pension.

58. **Deputation out of India.**— When an officer is deputed out of India on duty the whole period of his absence from India count . When an officer on leave out of India is employed, or is detained after the termination of his leave, on duty , the period of such employment or detention shall count.

Note- The period of deputation converted into leave shall count for pension as leave and not as deputation.

59. **Recall to duty** – Time spent on the voyage to India by an officer who is recalled to duty before the expiry of any recognised leave out of India shall count provided his return to duty is compulsory.

60. **Class IV Service** – Leave in Class IV service shall be counted as service qualifying for pension to the same extent as is permissible in Superior service vide this section.

*Section III — Suspensions , Registration , Breaks and Deficiencies
in Service*

61 **Period of suspension.** — Time passed under suspension pending enquiry into conduct counts in full where , on conclusion of the enquiry , the Government servant has been full exonerated or the suspension is held to have been wholly unjustified ; in other cases, the period of suspension does not count unless the authority competent to pass orders under Fundamental Rule 54 expressly declares at the time that it shall count; and then it shall count only to such extent as the competent authority may declare.

Note – Where the period of suspension is converted into one of leave it shall count for pension to the extent such leave would normally count under Section II of the Chapter.

62. Registrations and dismissal. — (a) Registration from the public service, or dismissal or removal from it for misconduct, insolvency inefficiency not due to age, or failure to pass a prescribed examination entails forfeiture of past service.

(b) Resignation of an appointment with the prior written permission of the appointing authority to take up another appointment, in which counts, not resignation of the public service.

In cases where an interruption in service is inevitable due to the two appointments being at different stations, such interruptions, not exceeding the joining time permissible under the rules on transfer, shall be covered by grant of leave of any kind due to the Government servant or by the date of relief or by formal condonation under Rule 66 to extent to which the period is not covered by leave due to the Government servant.

63. (a) Government servant who is dismissed, removed or compulsorily retired from public service, but is re-instated on appeal or revision, is entitled to count his past service.

(b) The period of break in service between the date of dismissal, removal or compulsory retirement, as the case may be, and the date of re-instatement and the period of suspension (if any) shall not count unless regularised as duty or leave by a specific order of the authority which passed the order of re-instatement; provided that the period of suspension converted into one of leave

shall count for pension to the extent such leave would count under Section II of this Chapter.

64. Interruptions. – An interruption in the service of an officer entails forfeiture of his past service except in the following cases:

(a) Authorised leave of absence.

(b) Unauthorised absence in continuation of authorised leave of absence so long as the office of the absentee is not substantively filled; if his substantively filled, the past service of the absentee is forfeited.

(c) Suspension immediately followed by re-instatement, which need not be to the same office or where the officer died or is permitted to retire while under suspension.

(d) Abolition of office or loss appointment owing to reduction of establishment.

Note – The above clause (d) applies only in case of eradication of permanent office or loss of permanent appointment.

(e) Transfer to non-qualifying service in an establishment under Government control. The transfer must be made by competent authority; an officer who voluntarily resigns qualifying service cannot claim the benefit of this exception. Transfer to grant in aid school entails forfeiture.

(f) Transfer to service on the household establishments of the Governor.

(g) Time occupied in transit from one appointment to another, provided that the officer is transferred under the orders of competent authority, or, if he is non-Gazetted officer, with the consent of the head of his old office.

65. The authority who sanctions the pension may commute retrospectively periods of absence without leave into leave without allowances.

66. Condonation of interruption and deficiencies.—

(a) Upon conditions as he may think fit in each case to impose, the Governor may condone all interruptions in the service of an officer.

(b) The Governor may, subject to such conditions as he may think fit to impose, delegate power under this rule to any authority to condone the interruptions in service of an officer.

Note 1. —The Governor has been pleased to delegate powers to the Administrative Departments¹ of the Government to condone interruptions in service, both permanent and temporary, under this State Government in cases where the following conditions are fulfilled :

- (i) The interruption should have been caused by reasons beyond control of the Government servant concerned –
- (ii) Service preceding the interruption should not be less than five years, duration, ² and in cases where there are two or more interruptions, the total service, pensionary benefits in respect of which will be lost if

the interruptions are not condoned, shall not be less than five years.

- (iii) The interruption should not be of more than one year's duration. In cases where there are two or more interruptions, the total of the periods of all the interruptions that are condoned should not exceed one year.

Note 2. - The Powers of condonation specified in this rule carry with them the power of reviving service rendered prior to interruptions, but forfeited under Rule 62 (a). This power shall not be exercised unless there are special reasons for doing so that is, if it can be shown that the Government servant had good reasons for resigning his appointment in the first instance or if he was compelled by reasons beyond his control, e.g., through illness, etc., to quit service before due time and it is considered fit to permit him to count certain past qualifying service for pension.

Note 3. - Break in the service, if any, of temporary Government servants who are retrenched from one State Government office on reduction of establishment and is re-appointed in another such office, is condoned for the purpose of reckoning continuous service, if the period of break does not exceed the joining time up to a maximum of 30 days, which the competent authority may grant in exercise of the powers delegated to him under the Fundamental Rules and Subsidiary Rules.

1. See Notification No. FMP 52/62/2, dated 24-7-1962.
2. 5 years excludes the proceed of condonation.

62. Upon such conditions as he may think fit in each case to impose, the Governor may condone a deficiency not exceeding twelve months in the qualifying service of an officer.

¹**[Note 1.** – As a compassionate allowance under Rule 24 is granted to an individual as an act of grace, the grant of further concession in the shape of a condonation of a deficiency in service is not permissible.

²**[Note 2.** – The word ‘deficiency’ includes not merely the period by which the officer’s qualifying service falls short of the minimum length of qualifying service, which would entitle him to a pension, but should be read as including the difference between the total amount of service qualifying for pension and the total length of service necessary to earn the maximum amount of pension admissible under the rules.

Note 3. – This rule is not intended to be used merely to allow Government servants to go on retiring pension a little sooner than they could as contemplated in Rules 98, 99, 100 and 101.

Note 4. – In the case of officers mentioned in Rule 17 the minimum qualifying service required for eligibility to death-cum-retirement gratuity under Section II and family pension under Section III of Chapter VIII is five years and twenty years respectively. In case where the qualifying service is less than prescribed minimum, the deficiency shall be condoned by invoking the provisions of this rule. Similarly the deficiency shall not be condoned by invoking the powers under this rule where the service of an officer mentioned in Rule 18, falls short of prescribed minimum of 5 years for

death-cum-retirement gratuity or one year's pension under Section IV of Chapter VIII.

Note 5. - Condonation of deficiency under Rule 67 will generally be allowed only in case of low paid employees proceeding on invalid or compensation pension. The term "low paid employees" for this purpose will mean Government servants on scales of pay the maximum of which does not exceed Rs. 100 p.m.

CHAPTER V
Conditions of Grant of Pension

Section I – Classification of Pensions

68. Pensions are divided into four classes, the rules for which are prescribed in the following sections of this Chapter :

- (a) Compensation Pension (Section II);
- (b) Invalid Pensions (Section III).

- 1. Notification No. FMP. 52/6/2, dated 24-7-1962
- 2. Power of condonation of deficiency in qualifying services withdrawn from the authorities.

- (c) Superannuation Pensions (Section IV).
- (d) Retiring Pensions (Section V).

Section II – Compensation Pension

69. If an officer is selected for discharge owing to the abolition of a 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 any compensation pension or gratuity to which he may be entitled from the service he has already rendered, or
- (b) of accepting another appointment or transfer to another establishment even on lower pay, if offered,

and continuing to count his previous service for pension.

70. Selection for discharge. —The selection of the officers to be discharged upon the reduction of an establishment prima facie be so made that the least charge for compensation pension will be incurred.

71. The discharge of one officer to make room for another better-qualified person is not the abolition of an appointment within the meaning of Rule 69; the abolition must produce a real saving to Government. The saving should always exceed the cost of the pension; otherwise reduction of establishment or abolition of appointment shall be postponed.

Note. - The relaxation of the condition laid down in this rule shall require the sanction of the Governor.

72. Restrictions. - A Sub-Deputy Collector, or a similar officer who belongs to the public service apart from his particular local appointments, cannot obtain a compensation pension of the abolition of a particular appointment.

73. No pension is admissible to an officer for the loss of an appointment on discharge after the completion of a specified term of service.

74. No pension may be awarded for the loss of duty or local allowance or any allowance or special pay.

75. Officers who, in addition to their own duties are employed in any capacity are not entitled to compensation pension on being relieved of such additional duties.

76. Special cases. – If it is necessary to discharge an officer in consequence of a case in the nature of duties of his office, the case should be referred to the Governor, who will deal with it in accordance with the rules laid down in this section as to notice of discharge and admissibility of compensation pension or gratuity.

77. If, of two appointments held by one office only one is abolished and it is desired to give him an immediate pension in respect of the abolished post the case shall be referred for the orders of the Governor.

78. Notice of discharge. – Reasonable notice should be given to an officer in permanent employ before his services are dispensed with on the abolition of his office. If, in any case, notice of at least three months is not given, and the officer has not been provided with an alternative employment on the date on which his services are dispensed with, then, with the sanction of the authority competent to dispense with the officer's service, a gratuity not exceeding the emoluments for the period by which the notice actually given to him falls short of three months may be paid to him, in addition to the pension to which he may be entitled under Rules 108 to 111, but the pension shall not be payable for the period in respect of which he received a gratuity in lieu of notice.

Note 1 – The gratuity prescribed in this rule is not granted as compensation for loss of employment but not only in lieu of notice of discharge, with a view to mitigate the hardship caused to an officer by the sudden loss of employment. When, therefore, an officer discharged without notice is provided with some other employment on the date on which his service are

dispensed with whether that employment be qualifying or non-qualifying service, he is not entitled to any gratuity.

Note 2. - Unless it contains an express statement to the contrary, an order for the abolition of an office or appointment shall not be brought into operation till the expiry of three months after notice has been given to the officer whose services are to be dispensed with on such abolition. The immediate head of the office or the department will be held responsible so that there is no unnecessary delay in giving such notice. In the case of an officer on leave, the order shall not be brought into operation until the leave expires.

Note 3. - "Emoluments" in this rule means the emoluments or leave allowances (or partly the one, partly the other), which the officer would be, receiving during the period in question had the notice not been given to him.

79. Whenever it is found necessary to determine the service of an officer serving under a contract within the period of his agreement a specific intimation of the determination of the agreement and of the grounds on which it has been so determined shall be furnished to the officer in writing.

80. Offer of re-employment. - The provisions in Rules 156 and 157 requiring the refund of a compensation gratuity on re-employment applies to a gratuity awarded under Rule 78 if the officer is permanently re-employed within three months from the date of the notice. But officer need not refund that proportion of his gratuity under this rule which the interval of his non-

employment bears to the whole period for which the gratuity is given. If the officer is re-employed only temporarily, he need refund no part of his gratuity, but if such temporary employment is foreseen, the gratuity should be proportionately reduced.

81. Acceptance of new appointment. – If an officer who is entitled to compensation pension accepts instead another appointment in the public service and subsequently becomes again entitled to receive a pension, the amount of such pension shall not be less than what he could have claimed if he had not accepted the appointment.

Section III – Invalid Pension

82. An invalid pension is awarded, on his retirement from the public service, to an officer who by bodily or mental infirmity is permanently incapacitated for the public service or for the particular branch of it which he belongs.

83. Rules regarding Medical Certificates. – If an officer applying for invalid pension is sixty years of age or more no certificate, by Medical authority is necessary; it suffices for the head of the office to certify the incapacity of the applicant. Otherwise incapacity for service must be established by a medical certificate in the manner specified below :

- (a) If the officer submitting the application is in India, the certificate of incapacity for further service shall be signed by –
 - (i) A Medical Board in case of all Gazetted Government servants and those non-Gazetted Government servants whose pay, as defined in

Fundamental Rule 2 (21), exceeds Rs. 300 per mensem :

Provided that the Certificate of a Civil surgeon or the Medical Officer of the sub-division in which the officer is serving countersigned by the Civil Surgeon of the same district, shall suffice when in the opinion of the Civil Surgeon, which shall be recorded in writing with reasons therefor and countersigned by another officer not less in status than a district officer of the district where the officer is serving or residing or by the Commissioner of Division, the applicant cannot without grave risk of serious injury to his health present himself before a Medical Board.

(ii) A Civil Surgeon or a District Medical Officer or Medical Officer of equivalent status or Medical Officer of the Sub-division in which the officer is serving countersigned by the Civil Surgeon of the same district in other cases.

(b) If the officer submitting the application is on leave elsewhere than in India, the Governor shall prescribe such procedure as he deems fit in the circumstances of the case.

(c) No medical certificate of incapacity for service may be granted unless 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 Officer. The Medical Officer shall also be supplied by the head of the office or department in which the applicant is employed with a statement of what appears from official records to be the applicant's age. Where the applicant has a service book, the age there recorded should be reported.

Note 1. - Serious illness of a Government servant may be an excuse for placing him under treatment but not for giving him certificate of permanent incapacity for further service without the knowledge of the head of the office and without having received authority from the department to which the Government servant belongs.

Note 2. - Where the examining Medical Officer recommends an operation for rapture of some such disease, but the Government servant does not submit to an operation a medical certificate of incapacity for further service should not be accepted without question. In such cases the medical report should state the findings on the following issues:

- (a) Is the Government servant at present incapacitated for service?
- (b) Does the expert medical testimony indicate that an operation would offer a reasonable probability of removing his incapacity?
- (c) Does the Government servant refuse to undergo the operation?

84. Medical Appeal Board. - An officer invalided by a Medical Board may submit to the Governor within one month of the receipt of such information a request to be examined by a Medical Appeal Board, supported by prima facie evidence that good ground exists for the appeal. The appeal cannot be claimed as of right but where an application is made it should be considered on merit.

85. (a) A succinct statement of the medical case, and of the treatment adopted, should, if possible, be appended in every case.

(b) If the examining Medical Officer, although unable to discover any specific disease in the officer, considers him incapacitated for further service by general debility while still under the age of fifty-five years, he should give detailed reasons for his opinion, and, if possible, a second medical opinion should always in such a case be obtained.

(c) In a case of this kind, special explanation will be expected from the head of the office or department of the grounds on which it is proposed to invalidate the officer.

Note 1. - The requirement of this rule need not be insisted upon in the case of a Class IV servant invalid for general debility while his age is less than 55 years and the Medical Officer certifies him invalidate the officer.

86. A simple certificate that inefficiency is due to old age or natural decay from advancing years, is not sufficient in the case of an officer whose recorded age is less than fifty-five years; but a Medical Officer is at liberty, when certifying that the officer is incapacitated for further service by general debility, to state his reasons for believing the age to be understated.

87. Form the Medical Certificate in India. - (a) The form of the certificate to be given respecting an officer applying for pension in India is as follows :

Certified that I (we) have carefully examined
..... A.B. son of
..... C.D. a
..... in the
..... His age is by his own statement
..... years, and by appearance
about year, I (we) consider
A.B. to be completely and permanently
incapacitated for further service of any kind 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 will be substituted for
the last sentence -

..... is directly due to

“In my (our) opinion his incapacity -----

..... has been accelerated or
aggravated by
irregular or 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 an/we are of opinion that A.B.
..... 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.]”

(b) The object of the alternative certificate of partial incapacity is that an officer should, if possible, be employed even on lower pay, so that the expense of pensioning him may be avoided. If there be no means of employing him in any of the post in even on lower pay, then he may be admitted to partially earning a living, it is necessary to grant to him the full pension admissible under rule.

88. Special precautions in the Police. – Medical officers should confine themselves, to recommending leave to such policemen as are not likely to benefit by a further stay in hospital and should not certify that a policeman is incapacitated for further service unless they are officially requested to report upon his capacity for further service.

89. Medical officer should be specifically careful in their examination of the physical unfitness of every applicant for pension, and, whenever the number of applicant for pension is large, the examination should, if possible, be conducted by two Medical Officers.

90. Restriction. – An officer discharged on the other grounds, has no claim under Rule 82 even though he produces medical evidence of incapacity for service.

91. If the incapacity is distinctly due to irregular or intemperate habits, but has been accelerated or aggravated by them, it will be for the authority by which the pension is grantable to decide what reduction should be made on this account.

Note. - The expression “irregular or intemperate habit” occurring in this rule refers to incapacity on account of

drug habit or on account of disease resulting from immoral habits.

92. Applicant to be discharged. – An officer who has submitted under Rule 83 a medical certificate of incapacity for further service shall, if he is on duty, be invalidated from service from the date of relief of his duties, which should be arranged without delay on receipt of the medical certificate, or if he is granted leave under S.R. 91, on the expiry of such leave. If he is on leave at the time of submission of the medical certificate, he shall be invalidated from service on the expiry of that leave or extension of leave, if any, granted to him under S. R. 91.

Section IV – Superannuation Pension

93. A superannuation pension is granted to an office entitled or compelled by rule, to retire at a particular age.

94. Superior and Class IV Service. – (a) Except where a separate date is laid down for particular class of officers, the date of compulsory retirement of Government servants in Superior service and Class IV service shall be the date as laid down in Fundamental Rule 56.

(b) No claim to compensation from an officer who is required to retire under the provisions of the rule will be entertained.

95. (1) Procedure. – With a view to ensure completion of pension records and documents in time to avoid the possibility of any delay in the commencement of pension each head of department and office or the Administrative Department, where there is no head to department or office, shall have a

superannuation statement prepared on the 1st of January in each year showing a list of all officer, Gazetted or non-Gazetted, who will attain the age of superannuation in course of the next calendar year i.e. between 1st January to 31st December of next year. As soon as the list is prepared an intimation should be sent to every such officer due to retire during the next year drawing his attention to his anticipated date of retirement and the provisions of Rules 184 to 188 to enable him to make a formal application for pension one year in advance of the date of his anticipated retirement. The list should also include the names of officers who are on temporary deputation to other Department/Government or on Foreign Service and intimation should similarly be issued to such officer as well as the head of the Department or foreign employer under whom he is serving temporarily. If no intimation is, however, issued to the officer this shall not in any way change his date of retirement and shall not confer on the Government servant any right to remain in service beyond the date on which he is required to retire. One copy each of the annual superannuation statement prepared should be sent to the Accountant General, Assam, Administrative Department and Finance Department respectively.

Comments

Notification No. FAP/SC/9/76/5, dated Dispur, the 29th April, 1976

OFFICE MEMORANDUM

Subject :— Simplification of procedures with a view to eliminating delays in the payment of superannuation pension and death-cum-retirement gratuity.

The question of simplifying and expediting the procedures for the sanctioning and grant of pension to the State Government employees has been under government's consideration. The Governor of Assam, after careful consideration of the recent decision of the Govt. of India as contained in their Office Memorandum NO. F. 11 (3)-EV (A)/ 76 dated 28-2-76, is pleased to decide that the following modifications in the Assam Services (Pension) Rules, 1960, and other relevant orders will come into force from 1st May, 1976, that is, in respect of persons retiring on after 30th April, 1976.

2. Time table for the work. — The payment of superannuation pensions should in all cases commence on the first day of the month in which they are due. For this purpose the Heads or officers responsible for or connected with pension cases, including those responsible for the issuing pension payment orders, will be required to observe the following time schedule for the various processes leading to the authorisation and payment of pension and gratuity. The Government's intention is that while the preliminary and preparatory work should be commenced sufficiently in advance and adequate time allowed various stages and processes of work, these should not be allowed to be unduly prolonged or to become interminable; to obviate this firm cut-off dates are prescribed for each stage so that when a cut-off date is reached the work will then necessarily proceed to the next state :

- (a) The Head of office or other authority responsible for preparing the pension papers will initiate the pension case *two years before the date of retirement* of the Govt. servant. At this stage, the work will be essentially that of assembling the information necessary for working out the qualifying service (or at a later date calculation of average emoluments). As

most delay in pension cases arise from gaps, deficiencies and imperfection in the service book/records, every effort should be made at this stage to remove these while at same time keeping in mind that what is intended is not a total overhaul or audit of the entire service book or records but only a scrutiny limited to the immediate purpose on hand namely the preparation of the pension papers. This process should be completed in good time at any rate *not later than 8 months in the advance of the date of retirement* of the Govt. servant.

- (b) On reaching the above stage i.e. 8 months before the retirement date, the actual work of preparation of pension papers viz. the reckoning of qualifying service and the calculation of average emoluments should be taken up. Any deficiency or imperfection or omission which still remains in the service records will be ignored at this state and the determination of the qualifying services will be proceeded with on the basis of entries in the service records, whatever the degree of perfection to which it might have been possible to bring them by that date.
- (c) *The average emoluments will be determined with reference to emoluments drawn during the last 10 complete months and not 36 months as was the practice heretofore.* While the period to be taken for average calculation has been reduced, the other provisions in Rule 115 of the Assam Services (Pension) Rules, 1969 will continue to apply mutatis mutandis. This work involves not merely an arithmetical calculation of the emoluments on the first date of the

ten months' period would naturally depend on the correctness prior to this date. However, any such check of the correctness of the past emoluments whether in the office preparing the pension papers or later in the office responsible for issuing the payment order, should not become an occasion for an extensive examination going back into the distant past; the check should be the minimum which is absolutely necessary and it should not in any case go back to a period earlier than a maximum of 24 months preceding the date of retirement.

- (d) The process of determining of qualifying the service and the average emoluments and the admissible pension and gratuity should be positively completed within a period of two months and the pension papers should be sent to the office responsible for issuing pension payment order not later than 6 months before the date of retirement. That office will, after the necessary scrutiny of the paper [limited to the immediate purpose on hand as mentioned in subparagraphs (a) and (c) above] issue the pension payment order including the order for the payment of the death-cum-retirement gratuity not later than one month in advance of the date of retirement.
- (e) The time schedule and procedures, mentioned above will equally apply *mutatis mutandis* to those cases in which the office which is to issue the pension payment order has also the responsibility for the preparation of pension papers.

- (f) In those cases in which the retirement of Government servants takes place earlier than the normal date of compulsory retirement either in pursuance of the provisions of F. R. 56 (b) or (c) or because of the permanent absorption of the Government servant in a public undertaking in terms of Rules 98 (i) of the Assam Services (Pension) Rules, 1969, the nature of the retirement would produce advance action in regard to the pension cases. In such cases too, the pension case would have to be processed very expeditiously and instructions in this regard will be issued separately.

3. Extraordinary leave and suspension.— (a) Under Note 2 below Rule 54 of the Assam Services (Pension) Rules, 1969 as amended by Government Notification No. FMP. 2/70/33, dated 15-6-1971 extraordinary leave is allowed to count for pension if it is taken —

- (i) on medical certificate; or
- (ii) due to inability of the pension to join or re-join duty due to civil commotion or natural calamity; or
- (iii) for prosecution of higher scientific and technical studies.

Extraordinary leave taken on other grounds is treated as non-qualifying and, therefore, a definite entry is to be made in the service-records to that effect. Entries regarding service being qualifying or otherwise are required to be made simultaneously with the event. Even where this is not done it should still be possible to rectify the omission during the period allowed for

preparatory action i.e., from two years in advance of the retirement date up to eight month before retirement. At the end of that period, however, (i.e., when the actual preparation of the pension paper is taken in hand as laid down in paragraph 2 (b) above] no further enquiry into past events or check of past records should be undertaken. Specific entries in the services record regarding non-qualifying periods will be taken note of and such periods excluded from the service. All spells of extraordinary leave not covered by such specific entries will be deemed to be qualifying service.

(b) Similarly, Rule 61 of the Assam Services (Pension) Rules, 1969 requires that in cases other than those in which suspension has been held to be wholly unjustified, the competent authority should at the appropriate time be declare whether and to what extent the period of suspension will count towards the qualifying service. Special entries in this regard in the service/ book/records will be taken note of at the time of reckoning qualifying service. In the absence of any specific entry, period of suspension shall be taken as counting towards the qualifying service.

4. Breaks in service. – In the absence of a specific indication to the contrary in the service records, an interruption between two spells of service rendered under the State Government will be treated automatically condoned had the pre-interruption service treated as qualifying service for pension, except where it is otherwise known that the interruption caused by resignation, dismissal or removal from service or participation in a strike. The period of interruption itself will under no circumstances be reckoned as qualifying service for pension.

5. Deputation / Foreign Service. – (a) There are some cases in which, in accordance with the terms or deputation/foreign

service, it is the responsibility and liability of the Government servant himself to maintain the continuity of pensionable service by the payment of pension contributions. In such cases, it will be necessary to ascertain whether the recoveries have been made, before the period of foreign service is reckoned as qualifying service. However, the Government servant is sometimes put to considerable difficulty because of defective or incomplete record maintenance by the administrative / accounts officers. In such cases, while he could be reasonably asked to show that he had indeed made the contributions, the administrative authority should shown a spirit of reasonableness and accommodation in evaluating and accepting such evidence as he is able to put forward, and not insist rigidly on formal proof with reference to service or accounts records for the maintenance of which the Government servant is not responsible.

(b) Where, however, the responsibility for making pension contributions is that of the borrowing organisation and where either some of the contributions are incomplete, while the authorities concerned should pursue the matter with the borrowing organisation separately for appropriate action, this should have no bearing on the processing and finalisation of pension papers.

6. Administrative sanction to pension and the concept of approved service. - (a) It has been noticed that the submission of pension papers to the Head of the Department or Appointing Authority for administrative sanction to pension with reference to the concept of approved service though largely a formality in the vast majority of cases, leads to a good deal of delay in the finalisation of pension cases. It has, before, been decided that the requirement of an administrative sanction to pension, which is referred to in a number of places in the Assam Services

(Pension) Rules, 1969 should be dispensed with. The determination of pension will hereafter be merely a matter of calculation in accordance with rules and the pension papers not be submitted to the Head of the Department or the Appointing Authority.

(b) However, the intention behind the provisions in Rule 106 (b) of the Assam Services (Pension) Rules, under which less than the full admissible quantum of pension/ gratuity can be granted after a summary procedure in a particular case on the grounds of unsatisfactory service or conduct, is not proposed to given up. Recourse to this provision will obviously be had only in exceptional cases and for this purpose it is not considered necessary to submit all pension cases to the Head of the Department or the Appointing Authority or subject them to a process of administrative sanction. Instead, at the time the preparation of pension papers is taken up, i.e. 8 months prior to the retirement date, the Head of the office should address a separate enquiry to the Appointing Authority whether there is any intention to grant less than full pension or to institute any proceedings. (The pension paper need not be sent to that authority for this purpose). In the absence of a reply to this enquiry, the authority preparing the pension papers should assume that there is no intention to grant less than full pension/gratuity and should process the pension papers accordingly so as to transmit them by the prescribed dead-line to the authority responsible for issuing the pension payment order. If, however, the appointing authority does decide that there is a case for granting less than the full admissible pension / gratuity, the procedure laid down in Rule 106 (b) of the Assam Services (Pension) Rules, 1969 should be followed, and this process, should be positively completed before the deadline for sending the pension papers to the authority

responsible for misusing the pension payment order is reached i.e., earlier than six months prior to the retirement date.

(c) Where the responsibility for preparing the pension papers rests with an authority other than the Head of the Office concerned, it should be the responsibility of the Head of the Office (or that the next higher authority, where the pension case is of the Head of the Office himself) or ascertain in advance from the appointing authority and communicate to the authority responsible for preparing the pension papers any intention to grant less than the full admissible pension/gratuity, not later than 6 months prior to the retirement date. Where no such intimation has been received the authority responsible for preparing pension papers will process the pension case on the assumption that full admissible pension and gratuity may be granted.

7. Right to withhold or withdraw pension. – (a) Nothing contained in para 6 above is intended to effect the provisions of rule 21 of the Assam Services (Pension) Rules, 1969 which provide for withholding or withdrawing of pension.

(b) Where departmental or judicial proceedings instituted during the service of the Government servant are not likely to be finalized by the date of retirement, action to grant provisional pension in terms of rule 22 (1) and (2) should be taken. The provisions of Paragraph 8 (c) below will not apply to provisional pensions granted in terms of rule 22 (1) and (2) of the Assam Services (Pension) Rules, 1869.

(c) If, after the pension papers have been forwarded to the officer responsible for issuing the Pension Payment Order in accordance with the provisions of Paragraph (2) (b) above, any event occurs which has a bearing on the amount of pension

admissible, the fact shall be promptly reported to the office responsible for issuing the Pension and Gratuity Payment Order.

8. Payment of provisional Pension and Gratuity. – (a) The time-table laid down in Paragraph 2 above is intended to be followed strictly. If, however, for any special reasons it has not been found possible to complete and forward the pension papers to the office responsible for issuing the Pension Payment Order within the prescribed time-schedule in a particular case, or if the pension papers have been sent late to that office and / or that office has either returned the papers to the Head Office for eliciting further information or has not been able to issue the Pension Payment Order before one month prior to the date of retirement of the Government servant, steps shall be taken by the Head of Office to authorise payment of provisional pension and gratuity by the first of the month in which it is due. For this purpose, such information as is available in the official records may be used, and further, the Head of Office should ask the retiring Government servant for a simple statement giving his total length of service (from the date of retirement indicating the period of breaks, if any), and also the emoluments during the last ten months of service. The retiring Government servant may also be asked to certify that the facts stated by him are correct to the best of his knowledge and belief. If complete information in regard to the emoluments drawn during the last ten months is not available either with the Head of Office or with the Government servant the emoluments last drawn should be taken provisionally as average emoluments. The Head of Office shall sanction 100% of the pension calculated with reference to the information so obtained, as a provisional pension. The death-cum-retirement gratuity should similarly be determined. The provisional pension and gratuity will be drawn and disbursed by the Head of Office in respect of non-gazette Government servants. Before disbursing the provisional gratuity, all known dues such as long

term advances still outstanding, overpayment of pay and allowances, etc. and other recoveries due, shall be adjusted. Where no such adjustments are due, a deduction of 10% of the gratuity or Rs. 1,000, whichever is less, shall be made partly to cover unassessed dues, if any, and partly as a margin for adjustment in the light of the final determination of the gratuity.

(b) At present, in respect of Gazetted Government servants it is the Accounts Officer which issues an Anticipatory Pension Payment Order where the final pension has not yet been determined. In modification of this it has been decided that in these cases, too, if the final pension payment order has not been issued by the Accounts Officer one month before the retirement date the Government servant may ask the Head of Office for the drawal and disbursement of a provisional pension and gratuity. For this purpose, the procedure laid down in clause (a) will equally apply.

(c) **Provisional pension to become final after six months.** – The provisional pension is not intended to be continued on a provisional basis beyond a period of six months from the date of retirement. If the office responsible for issuing the Pension Payment Order has not finalized the pension case by that time, the provisional pension shall be deemed to have become final and it will be obligatory for the Office concerned to issue the final Pension Payments Order for the amount of pension and gratuity already calculated on a provisional basis; and the deduction made from the gratuity as per sub-paragraph (a) above shall also be release sdaubject to the provisions of paragraphs 9 and 10 below.

9. Last Pay Certificate . –The issue of the Last Pay Certificate should not be insisted upon before the payment of provisional pension. During the period of six-months after

retirement which has been provided for various purposes above, it should be possible for the Head of Office or other office concerned to issue the Last Pay Certificate to a Government servant. In issued cases in which the Last Pay Certificate has not been issued (whether this happens prior to the retirement of the Government servant as per paragraph 2 (d) above, or after his retirement and after the grant of the provisional pension), the Gratuity Payment Order will in any case include a provision for the withholding 10% or the gratuity of Rs. 1,000 whichever is less, pending the production of the Last Pay Certificate.

10. Adjustment of Government dues. – (a) Dues pertaining the Government accommodation – This existing procedure for the issue of No Demand Certificates and the adjustment of dues pertaining to the continued occupation of Govt. accommodation after retirement will for the present continue. The question of the elimination of delays arising from these procedures is separately under consideration.

(b) Dues other those pertaining to Government accommodation. – In respect of other Government dues steps should be taken to ascertain or assess the outstanding dues when the processing of pension papers is taken up two years prior to the retirement date. As the next stage of the actual preparation of pension papers is reached only after a year and four months, there is ample time for ascertaining all kinds of a Government dues. Once that stage is reached i.e. eight months before the retirement of the Government servant, any further probing of records for recoveries due shall cover only a limited period i.e., not more than two years before the date of retirement. It should thus be quite possible for the Head of Office, or the office which is to issue the Pension Payment Order, as the case may be, to ascertain or assess all the dues, particularly those pertaining to long-term advances

such as house-building or conveyance advance, over-payments of pay and allowances, and such other dues, prior to the prescribed deadline for the issue of the Pension Payment / Gratuity Payment Orders or the Provisional pension / gratuity order. The pension papers should clearly indicate the total amount of outstanding dues which should be recovered out of the death-cum-retirement gratuity before authority for the payment of gratuity (whether final or provisional) is issued; and if, after the pension papers have been transmitted to the office responsible for issuing the Pension Payment Order, additional recoveries to be made from the gratuity come to notice, the fact shall be promptly reported to that office. In a case where no major recoveries are due, but 10% of the gratuity or Rs. 1,000/- has been withheld because there might be unassessed Government dues, or because the gratuity has been provisionally paid as per paragraph 8 (a) above, or because Last Pay Certificate has not been received (see paragraph 9 above), the withheld amount shall automatically become payable on expiry of six months after retirement. The Head of Office (or the office issuing the pension and gratuity payment orders) shall indicate in the order granting a provisional gratuity (or the final Gratuity Payment Order) itself the amount of gratuity withheld and add further that the withheld amount shall be released by Office disbursing the pension without further instructions on the expiry of the period of six months from the date of retirement, unless for the recovery of a specified sum or sums from the withheld amount are issued within the aforesaid period.

11. Accountability of officers charged with the maintenance of records. - In taking the above decisions, Government have proceeded on the basis that in spite of every effort imperfections may remain in the records and procedures but that it would be unfair to a retiring Government servant if he had to suffer because of the lapses of those responsible for the proper

maintenance of service records. The fact that under the new procedures the presumption will be in favour of the Government servant if the records are incomplete or different in any manner underlines the importance of ensuring the proper, regular and timely completion of all the service and accounts records by the offices concerned, so as to minimize occasion for making such presumption. It has accordingly, been decided that if, in future, service records are found to be incomplete or imperfect at the time of processing and finalising pension cases, those cases will be delayed but the officials responsible for the maintenance of the records will be held accountable for any deficiencies, failure or omissions therein and action will be initiated against them. The Head of Department will ensure that these directions are complied with.

12. Monitoring and Reporting. - To keep an effective watch over the preparation and finalization of pension papers, a monitoring and reporting system will be introduced in the offices concerned. Separate general orders will follow in this respect.

13. The pension Rules, etc., may be decided to stand amended by the orders contained herein. Formal amendments will be issued in due course.

The annual superannuation statement shall be prepared in the following form -

Annual Superannuation Statement
**Statement of officers and staff due to retire on
 superannuation during the next official year, 19**
(From 1st January to 31st December

-

Name of establishment(s) / or

Department (s)

Appointment held by officer Whether the officer has been held on

Serial No.	Name of Officers	Substantive post and Scale and classification	Officiating post, scale and classification	Date of birth	Name of office/Department where employed	Date of superannuation	Extension and for what period	Re-employment and for what period	Provident Fund Account NO.	Remarks
1	2	3	4	5	6	7	8	9	10	11

Class I Officers
 Class II Officers
 Class III Officers
 Class IV Officers

Section V – Retiring Pension

96. A retiring pension is granted to an officer who is permitted to retire after completing qualifying superior service for thirty years or such less time as may for any special class of officers be prescribed.

97. The Governor of Assam may, at his discretion, allow a Government servant to retire on proportionate pension after 25 years of qualifying service, the amount of pension or/and gratuity

being calculated according to the table applicable to him, had he retired on invalid pension.

Note. - This rule may be applied, in case of necessity, to all categories of Government servants including those mentioned in rules 17 and 18 and are governed by the Liberalised Pension Rules in Chapter VIII.

98. The Governor may, at his discretion, allow a Governor servant in superior service proportionate pension or such other retirement benefits as may be determined on his resignation from Government service being accepted for accepting in employment or continuing in employment permanently under a body corporate owned or controlled by the Government.

Note 1. - In case of a Government servant who is deputed or transferred to service under a body corporate owned or controlled by Government or whose services are lent to such a body, and in the event of his resignation being accepted for permanent absorption the service under that body, an amount equal to what Government would have contributed had the officer been on Contributory Provident Fund terms under Government, together with simple interest thereon at two per cent for the period of his pensionable service under Government, may be credited to his Contributory Provident Fund Account with such corporate body as an opening balance on the date of permanent absorption Government's liability in respect of the Officer's pensionable service under them shall be treated as extinguished by this payment. This is to be done irrespective of the fact whether such corporate body has Contributory Provident Fund or Pension on

its side. The corporate body, if it has provision for C.P.F., would credit the amount paid by the Government in C.P.F. Account of the individual concerned and if there is provision for pension in the corporate body, that amount would be resumed by the body, who will then allow the period of Government service to count for pension admissible on its side. The above decision will apply, however, only where the permanent transfer from Government service to such corporate body is in the public interest. In all other cases Government will not accept any liability to pay retirement benefits for the period of service rendered by the officer before his transfer.

The Concession may not be claimed as a matter of right but may be sanctioned at the discretion of Government in individual cases where it is merited.

(ABM17/63/90-92, dated 9th January, 1965).

Note 2.- With effect from the 19th February, 1968 the following revised terms of retirement benefits will be applicable to a Government servant who is permanently absorbed in a public sector undertaking in the circumstances mentioned in Note 1 above :

- (i) A permanent Government servant on permanent absorption in a public undertaking, will be eligible for pro rata pension and D.C.R. Gratuity based on the length of his qualifying service under Government till the date of permanent absorption. The pension will be calculated on the basis of average emoluments for three years preceding the date of permanent

absorption and the D.C.R. Gratuity on the basis of the emoluments immediately before the permanent absorption.

In a case where an officer at the time of his permanent absorption has less than 10 years' service and is not entitled to pension, the question of proportionate pension will not arise and he will only be eligible to proportionate service gratuity in lieu of pension and D.C.R. Gratuity based on length of service.

- (ii) The amounts of pension/gratuity and the D.C.R. Gratuity would be currently worked out and will be intimated to the officer as well as to the undertaking as and when an officer is permanently absorbed
- (iii) The pro rata pension, gratuity, etc., admissible in respect of the service rendered under Government would be disburseable only from the date the Government servant would have normally superannuated had he continued in Government service.
- (iv) Every officer will exercise an option within six months of his permanent absorption, for either of the alternatives indicated below :
 - (a) Receiving the monthly pension and D.C.R. Gratuity already worked out, under the usual Government arrangements, or
 - (b) Receiving the gratuity and a lump-sum amount in lieu of pension worked out with reference to commutation tables obtaining on the date of

superannuation. Where no option is exercised within the prescribed period, the officer will automatically be governed by alternative (a) above.

Option once exercised shall be final. The option shall be exercised in writing and communicated by the officer concerned to the under taking.

- (v) Where an officer retires from the service of a public undertaking before his date superannuation, the proportionate pension and D.C.R. Gratuity will not be paid to him till such time as he actually attains the age of superannuation. This will be the case irrespective of the option exercised by him
- (vi) Cases of resignation from a public undertaking will for the purpose of these orders be treated as resignation from Government service, entailing forfeiture of the earlier service under Government and loss of the pensionary benefits under these orders.
- (vii) From the period of service rendered in a public undertaking the absorbed officers will be entitled to all the benefits admissible to other corresponding employees of the organisation.
- (viii) The total gratuity admissible in respect of the service rendered under the Government and that under the public undertaking should not exceed the amount that would have been admissible had the officer continued in Government service had retired on the pay which he drew on retirement from the public undertaking.

- (ix) Government would have no liability for family pension in such cases.
- (x) Any further liberalisation of pension rules decided upon by the Government after the permanent absorption of a Government servant in a public undertaking would not be extended to him.
- (xi) In cases where an officer has opted to receive pension at (iv) (a) above but wishes to commute a portion of the pension, such commutation will be regulated in accordance with the Government rules in force at the time of his superannuation.

The subsequent terms may not, however, alter the position of those State Government employees already under the previous terms laid down in Note 1 above.

(A.B.M. 17/63/59, dated 19th February, 1968).

99. For officer mentioned in rule 15, grant of retiring pension is regulated as follows ;

- (1) An officer, on his resignation being accepted, is entitled, to a retiring pension after completing qualifying service of not less than 25 years.
- (2) A retiring pension is also granted to an officer who is required by Governor to retire after completing 25 years, qualifying service or more.

Note. - The Governor retains absolute right to retire any officer after he has completed twenty-five years' qualifying service without giving any reason and no claim to special compensation on this account will be entertained. This right will not be exercised except when it is in the public interest to dispense with the further services of an officer.

100. For officers referred to in rule 16, grant of retiring pension is regulated as follows : -

- (1) An officer, on his resignation being accepted is entitled to a retiring pension after completing qualifying services of not less than 30 years.
- (2) A retiring pension is also granted to an officer who is required by the Governor to retire after competing 25 years, qualifying service or more.

Note. - The Governor retains absolute right to retire any officer after he has completed 25 years, qualifying service without giving any reason, and no claim to special compensation on this account will be entertained. The right will not be exercised except when it is in the public interest to dispense with the further services of an officer.

101. For officers, referred to in rules 17 and 18, grant of retiring pension is regulated as follows :

- (1) An officer may retire from service any time after completing 30 years' qualifying service provided that he shall give in this behalf a notice in writing to the

appropriate authority at least three months before the date on which he wishes to retire. Government may also require an officer to retire any time after he has completed 30 years' qualifying service : provided that the appropriate authority shall give in this behalf, a notice in writing to the officer, at least three months before the date on which he is required to retire.

- (2) An officer who retires or is retired, only in the manner indicated in sub-rule (1) may be granted a retiring pension not exceeding 30/80/th of average emoluments subject to a maximum of Rs. 8,100 per annum.

Note 1. -The authority competent to retire an officer under above rule should be the authority which has power to make substantive appointment to the post or service from which the Government servant is proposed to be retired.

Note 2. -Orders permitting / requiring a Government servant to retire after completing 30 years' qualifying service should as a rule not to be issued until after the fact that the officer has indeed completed qualifying service for 30 years has been verified in consultation with the Audit Officer, if need be.

Note 3. - In the case of Government servant under suspension, the exercise of right to retire on a retiring pension on completion of 30 years' qualifying service shall be subject to the prior approval of the authority which has powers to make substantive appointment to the past service from which the Government servant seeks retirement.

(FMP - 23/66/3, dated 25th July, 1966)

102. Combined appointments . - An officer holding two or more separate appointments may not, save with the express sanction of the Governor, resign one or more of such appointments on a pension without retiring from the public service altogether. There is no objection to his being relieved from one or more such appointments any time without being compelled to leave the service altogether; but in such cases, any pension admissible to him from service in the office or offices from which he is relieved, will be deferred until he finally retires.

Note. - The Government may delegate power under this rule to Head of Department.

CHAPTER VI

Amount of Pension

Section I—General Rules

103. The Amount of pension that may be granted by length of service as set forth in rules 108 to 111. Fractions of a half year not to be taken into account in the calculation of any pension admissible to an officer under this part of the rules.

Government of Assam's Decision

Minimum Pension

(1) In pursuance of the recommendations of the Pay Committee 1964 the minimum rate of superannuation, retiring compensation or invalid pension admissible to Government servants retiring on or after the 1st April, 1964 has been raised to Rs. 25 per mensem inclusive of all temporary increases sanctioned from time to time. This benefit has also been extended with effect from 1st April, 1964 to those Government servants who had retired prior to that date.

(Reference No. F.M.P. 92/64/10, dated the 3rd May, 1966)

Temporary Increase on Small Scale Pension

(2) The Government of Assam has had under review the measure of relief which is at present being allorded to small scale pensioners and has come to the conclusion that some further relief is necessary. Government is accordingly pleased to direct that, with effect from the 1st January, 1945, i.e., beginning with the pension due in February, 1945, and until further orders, the rates

of temporary increase specified below shall apply instead of those in force under existing orders :

Amount of pension per mensem	Rate of increase per mensem
Up to and not exceeding Rs. 20 Rs. 4
Exceeding Rs. 20 but not exceeding Rs. 60 Rs. 5
Exceeding Rs. 60 but not exceeding Rs. 100 Rs. 6

Pension in receipt of pensions higher than Rs. 100 a month but not higher than Rs. 106 shall receive such increase as will bring the total pension up to Rs. 106.

Pensions for this purpose shall include the commuted portion also, if any, as well as extraordinary pensions but not maintenance allowances and the increase shall not be taken into account for the purpose of commutation of pension.

(Reference No. B.P. 61/43/155, dated the 24th August, 1945)

(3) The Government of Assam have had under review the measure of relief which is at present being afforded to small-scale pensioners and have come to the conclusion that some further relief is necessary. The Governor of Assam has accordingly been pleased to sanction, with effect from the 1st April, 1958, i.e., beginning with the pensions due in May, 1958, and until further orders, an additional temporary increase of Rs. 300 per mensem granting by the State Government. Persons drawing pensions exceeding Rs. 300 per mensem but below Rs.310 per mensem shall receive such increase as will bring the total pension upto Rs. 310 per mensem.

Pension for this purpose will mean the original civil pension including the commuted portion of pension, if any, pension equivalent of death-cum-retirement gratuity where admissible under new Liberalised Pension Rules of 1954, and extraordinary pension.

The above increase will be in addition to the existing rates of temporary increase admissible on small scale of pension.

(Reference No. F.M. P. 115/57/27, dated 24th March, 1958)

(4) The Government of Assam have had under review the measure of relief which is at present being afforded to small scale pensioners of the State Government and have come to the conclusion that some further relief is necessary. After careful examination of all aspects and taking into consideration that some pensioners received the full or partial benefit of the revised scale of pay 1964, the Governor of Assam is pleased to sanction, until further orders, the grant of further additional temporary increase (2nd Additional Temporary Increase) with effect from 1st May, 1970 i.e., beginning with the pension payable in June, 1970 to the State Government pensioners drawing pension upto Rs. 450 per mensem at the rates shown against each group of pensioners according to their date of retirement.

Government servants retiring from service

	Before 1-1- 69	Before 1-1- 66	On or after 1- 1-66
1. Basic pension upto Rs. 60 p.m.	Rs. 12 p.m.	Rs. 10 p.m.	Rs. 9 p.m.
2. Basic pension exceeding Rs. 60 p.m. but not exceeding Rs. 100 p.m.	Rs. 14 p.m.	Rs. 12 p.m.	Rs. 10 p.m.
3. Basic pension exceeding Rs. 100 but not exceeding Rs. 300.	Rs. 15 p.m.	Rs. 13 p.m.	Rs. 11 p.m.
4. Basic Pension exceeding Rs. 300 but not exceeding Rs. 450	Rs. 16 p.m.	Rs. 14 p.m.	Rs. 12 p.m.
5. Basic pension exceeding Rs. 450 p.m.	Such increase as will bring the total pension to Rs. 466 p.m.	Such increase as will bring the total pension to Rs. 464 p.m.	Such increase as will bring the total pension to Rs. 462 p.m.

Pension for the purpose will mean the original civil pension including commuted portion of pension, if any, pension equivalent of death-cum-retirement gratuity under the liberalised Pension

Rules of 1954; extraordinary pension; and family pension under the liberalised Pension Rules of 1954 but excluding the family pension admissible under the Family Pension Scheme, 1964.

The above increase will be in addition to the existing rates of temporary increase and additional temporary increase already admissible on small scale pension.

(5) The order to avoid recalculation in respect of all old pension cases under the Liberalised Pension Rules, 1954 for calculation of the pension equivalent of the death-cum-retirement gratuity to determine the quantum of the 2nd Additional Temporary Increase in decision (4) above, the Governor of Assam has been pleased to order that the basic pension of all pensioners under the Liberalised Pension Rules will be assumed to be increased by 30% (Thirty per cent.) rounded to the nearest rupee on account of the pension equivalent to the death-cum-retirement gratuity and the amount of 2nd Additional Temporary Increase admissible under the above quoted decision (4) will be determined after taking into account the above 30% (Thirty per cent.) national increase over basic pension.

Other terms and conditions of the above decision (4) will continue to apply as usual.

The decision will apply to all pensioners under the Liberalised Pension Rules whose pension is sanctioned till 31st August, 1970.

(Reference No. 19/66/Pt-167, dated 19th August, 1970 and Notification No. F.M.P. 27/70/14, dated 24th November, 1970.)

Comments

Government of Assam Decision Nos. (4) and (5) have been vide Notification No. F.M.P. 27/70/14, dated 24-11-70 and the amendment has come into force from the date of notification.

NOTIFICATION

**Finance Deptt. Pension Branch
Dated 8-6-1970**

***Subject* – Grant of further relief to the State Government Pensioners.**

Pensioner in receipt of small scale pension . – Governor of Assam is pleased to sanctioned until further orders, the grant of a further additional temporary increase (2nd Additional Temporary Increase) with effect from 1st May, 1970, (i.e., beginning with pension payable in June, 1970) to the State Government pensioners drawing pension upto Rs. 450 p.m. at the rates shown below against each group of pensioners according to their dates of retirement.

Government servants retiring from service

		Before 1-1-69	Before 1-1-66	On or after 1-1-66
(i)	Basic pension upto Rs. 60 p.m.	Rs. 12 p.m.	Rs. 10 p.m.	Rs. 9 p.m.
(ii)	Basic pension exceeding Rs. 60 but not exceeding	Rs. 14 p.m.	Rs. 12 p.m.	Rs. 10 p.m.

	Rs. 100 p.m.			
(iii)	Basic pension exceeding Rs. 100 but not exceeding Rs. 300p.m.	Rs. 15 p.m.	Rs. 13 p.m.	Rs. 11 p.m.
(iv)	Basic Pension exceeding Rs. 300 but not exceeding Rs. 450 p.m.	Rs. 16 p.m.	Rs. 14 p.m.	Rs. 12 p.m.
(v)	Basic pension exceeding Rs. 460 p.m.	Such increase as will bring the total pension to Rs. 466 p.m.	Such increase as will bring the total pension to Rs. 464 p.m.	Such increase as will bring the total pension to Rs. 462 p.m.

Pension for these purposes will mean the original civil pension indicating the commuted portion of pension, if any, pension equivalent to death-cum-retirement gratuity under the lised pension, F. P. under the Liberalised Pension Orders, 1954, but excluding F. P. admissible under F. P. Scheme, 1954.

The above increase will be in addition to the existing rate of temporary increase and additional temporary increase already admissible on small scale civil pensions.

NOTIFICATION

OM No. FMP. 12/74/1, dated 2nd July, 1974

Office Memorandum

Subject – Grant of ad hoc increase in pensions to the State Government Pensioners.

After a careful consideration of the recommendation made by the Assam Pay Commission, 1973, the Governor of Assam is pleased to sanction, until further orders, the grant of ad hoc increase in pension in addition to the increases already in force, with effect from 1-1-1973 (i.e., beginning with the pension payable in February, 1973) to the State Government pensioners drawing pension below Rs. 500 per mensem at the rates shown against each group of pensioners according to their dates of retirement as follows :

Government 'Servants Retiring' from Service

	Before 1-1- 1969	Before 1-1- 1966	On or after 1- 1-1966 but before 1-1- 1973
1. Basic pension not exceeding Rs. 100 p.m.	Rs. 22 p.m.	Rs. 18 p.m.	Rs. 10 p.m.
2. Basic pension exceeding Rs. 100 but not exceeding	Rs. 30 p.m.	Rs. 25 p.m.	50% of the basic pension subject to minimum of Rs. 10 p.m.

	Rs. 450			
	p.m.			
3. Basic	Such	Such	Such	increase
pension	increase as	increase as	as will bring	
exceeding	will bring the	will bring the	the total	
Rs. 450	total pension	total pension	pension to Rs.	
p.m.	to Rs. 500	to Rs. 500	500 p.m.	
	p.m.	p.m.		

The ad hoc increase sanctioned earlier and the increases suggested above shall not be admissible to Government servants retiring on or after 1-1-1973. Some Government servants retiring on or after 1-1-1973 without having availed of the revised pay-scale for sufficiently long period may lose due to non-admissibility of the ad hoc increases. In all such cases, an ad hoc increase may be sanctioned to make the total pensionary benefit equal to the amount they would have received had they retired on 31-12-72.

104. The amount of pension shall be expressed in whole rupees and where the pension calculated according to the rules contains a fraction of a rupee, it shall be rounded off to the next higher rupee.

105. Currency. – A pension is fixed in rupees, and not in sterling or any other currency even though it is to be paid outside India.

106. Award of full pension. – (a) The full pension admissible under the rules is not to be given as a matter of course, or unless the service rendered has been really approved.

(b) If the service of an officer has not been thoroughly satisfactory authority sanctioning the pension should make such reduction in the amount as it thinks proper.

Note 1. - Under the Liberalised Pension Rules in Chapter VIII both the pension and death-cum-retirement gratuity or either of them can be reduced in terms of rules above, it being left to the authority making the order of reduction to decide whether in an individual case pension or gratuity or both should be reduced. It is, therefore, necessary that such an authority should express its intention in clear and unequivocal language. In other words where it is desired to reduce both the pension and gratuity by a percentage or by a fixed amount, the intention should be specifically made clear in the orders to be passed, and where the orders issued provide specifically for a reduction in pension only, the gratuity will not be automatically reduced.

Note 2. - Except as provided in rule 21, a pension already granted cannot be reduced when proof, which was not available at the time of sanctioning the pension, subsequently given of the pensioner's service not having been thoroughly satisfactory.

Note 3. - Whenever an order reducing the pension of an office is passed, the officer affected shall have a right of appeal to the authority to whom an appeal against an order imposing upon him the penalty of dismissal service lies. Where the original order of reduction of pension is passed by the Governor, or where an order is passed by the Governor an appeal against an order

of a lower authority reducing the pension of an officer, the Assam Public Service Commission shall be consulted before passing such order.

Note 4. - (a) The rule cannot be used directly to effect a penal recovery but proof of a specific instance of fraud or negligence by an officer can be taken to be the ground for a finding that his service has not been thoroughly satisfactory within the meaning of this rule for the purpose of reducing his pension.

(b) The measure of the reduction in the amount of pension shall be the extend to which the officer's service as a whole has not failed to reach a thoroughly satisfactory standard, and shall not be equated against the loss caused to Government.

(c) The rule contemplates permanent reduction in amount of pension ordinarily admissible and does not admit of the reduction of the pension payable in respect of any particular period.

Note 5. - Any case in which a pension or a compassionate allowance less than the maximum admissible has been once sanctioned could not be reopened without any special reasons.

107. Limitations. - An officer entitled to pension may not take a gratuity instead of pension.

Section II – Amount of Pension

108. The amount of pension shall be regulated as follows:

(a) After a service of less than ten years, gratuity not exceeding (except in special cases, and under the orders of the Governor up to a maximum of 12 months' emoluments) one-half month's emoluments for each completed six monthly period of service. If the emolument of the officer has been reduced during last three years of service, otherwise than as a penalty, average emoluments may, at the discretion of the authority which has power to sanction the gratuity, be substituted for emoluments.

(b) After a service of not less than ten years a pension succeeding the following amounts :

Completed six monthly period of qualifying service	Scale of pension		Maximum limit of pension			
	(1)	(2)	(3)		Rs	
			Rs		Rs	
	20	1000 th of average emoluments	2,000 a year	of	166 a month	
21	10-1/2	do	2,100	do	175	do
22	11	do	2,200	do	183-1/3	do
23	11-1/2	do	2,300	do	19-1/3	do
24	12	do	2,400	do	200-1/8	do
25	12-1/2	do	2,500	do	298-1/8	do
26	13	do	2,600	do	216-2/3	do
27	13-1/2	do	2,700	do	225	do
28	14	do	2,800	do	233-1/3	do
29	14-1/2	do	2,900	do	241-2/3	do
30	15	do	3,000	do	250	do

31	15-1/2	do	3,100	do	258-1/3	do
32	16	do	3,200	do	266-2/3	do
33	16-1/2	do	3,300	do	275	do
34	17	do	3,400	do	283-1/3	do
35	17-1/2	do	3,500	do	291-2/3	do
36	18	do	3,600	do	300	do
37	18-1/2	do	3,700	do	308-1/3	do
38	19	do	3,800	do	316-2/3	do
39	19-1/2	do	3,900	do	325	do
40	20	do	4,000	do	333-1/3	do
41	20-	do	4,100	do	341-2/3	do
	1/12					
42	21	do	4,200	do	350	do
43	21-1/2	do	4,300	do	358-1/3	do
44	22	do	4,400	do	366-2/3	do
45	22-1/2	do	4,500	do	375	do
46	23	do	4,600	do	383-1/3	do
47	23-1/2	do	4,700	do	291-2/3	do
48	24	do	4,800	do	400	do
49	24-1/2	do	4,900	do	408-1/3	do
50	30	do	5,000	do	416-2/3	do

and
above

109. For officers mentioned in Rule 15, the amount of pension shall be regulated as follows :

(a) For retiring pensions. - Up to 49 completed six monthly periods of qualifying service, as in Rule 108 and, thereafter, as follows :

Completed six monthly period of qualifying service	Scale of pension		Maximum limit of pension			
	(1)	(2)	(3)			
			Rs		Rs	
50	25/60 ^{ths} of average emoluments		5,000 a year of 417-2/4 a month			
51	25-1/2	do	5,100	do	425	do
52	26	do	5,200	do	433-1/3	do
53	26-1/2	do	5,300	do	441-1/3	do
54	27	do	5,400	do	450	do
55	27-1/2	do	5,500	do	458-1/3	do
56	28	do	5,600	do	466-2/3	do
57	28-1/2	do	5,700	do	475	do
58	29	do	5,800	do	883-1/3	do
59	29-1/2	do	5900	do	491-2/3	do
60	30	do	6,000	do	500	do
and above						

(b) For other pensions. – Up to 50 completed six monthly periods of qualifying services as in Rule 108 and thereafter as follows :

Completed six monthly period of qualifying service	Scale of pension		Maximum limit of pension			
	(1)	(2)	(3)			
			Rs		Rs	
	51	30/60ths of average emoluments	5,100 a year	of	425 a month	
	52	30 do	5,200	do	433- 1/3	do
	53	30 do	5,300	do	441- 2/3	do
	54	30 do	5,400	do	450	do
	55	30 do	5,500	do	458- 1/3	do
	56	30 do	5,600	do	466- 2/3	do
	57	30 do	5,700	do	475	do
	58	30 do	5,800	do	483- 1/3	do
	59	30 do	5,900	do	491- 2/3	do
	60	30 do	6,000	do	500	do
and above						

110. For officers referred to in Rule 16, the amount of the gratuity and pension is regulated as follows :

- (a) After a service of less than ten years, a gratuity not exceeding one half month's emoluments for each completed six monthly period of service. If the emoluments of the officer have been reduced during the last three years of his service otherwise than as a penalty, average emoluments may, at the discretion of the authority which has the power to sanction the gratuity, be substituted for emoluments
- (b) After a service of not less than ten years, a pension not exceeding the following amounts :
- (i) For superannuation, invalid and compensation pension :

Completed six monthly period of qualifying service	Scale of pension		Maximum limit of pension			
	(1)	(2)	(3)		(3)	
			Rs	Rs	Rs	Rs
20	10/60ths of average emoluments		2,000 a year	of 166-2/3 a month		
21	10-1/2	do	2,075	do	172-11/12	do
22	11	do	2,150	do	170-1/6	do
23	11-1/2	do	2,225	do	115-/5	do
24	12	do	2,300	do	119-2/3	do

25	12-1/2	do	2,375	do	197- 11/12	do
26	13	do	2,450	do	204- 1/6	do
27	13-1/2	do	2,525	do	210- 5/12	do
28	14	do	2,600	do	216- 2/3	do
29	14-1/2	do	2,675	do	22- 11/12	do
30	15	do	2,750	do	229- 1/6	do
31	15-1/2	do	2,825	do	235- 5/12	do
32	16	do	2,900	do	241- 2/3	do
33	16-1/2	do	2,975	do	247- 11/12	do
34	17	do	3,050	do	254- 1/16	do
35	17-1/2	do	3,125	do	260- 5/12	do
36	18	do	3,200	do	266- 2/3	do
37	18-1/2	do	3,275	do	272- 11/12	do
38	19	do	3,350	do	279- 1/6	do
39	19-1/2	do	3,425	do	285- 5/12	do
40	20	do	3,500	do	291- 2/3	do

41	20-1/2/60ths of average emoluments		3,575 a year of 297-11/12 a month			
42	21	do	3,650	do	304- 1/6	do
43	21-1/2	do	3,725	do	310- 5/12	do
44	22	do	3,800	do	316- 2/3	do
45	22-1/2	do	3,875	do	322- 11/12	do
46	23	do	3,950	do	329- 1/2	do
47	23-1/2	do	4,025	do	335- 5/12	do
48	24	do	4,100	do	341- 1/3	do
49	24-1/2	do	4,175	do	341- 11/12	do
50	30	do	4,250	do	354- 1/6	do
51	30	do	4,325	do	360- 5/12	do
52	30	do	4,400	do	366- 2/3	do
53	30	do	4,475	do	372- 11/12	do
54	30	do	4,550	do	379- 1/6	do
55	30	do	4,625	do	385- 5/12	do
56	30	do	4,700	do	391- 2/3	do

57	30	do	4,775	do	397- 11/12	do
58	30	do	4,850	do	404- 1/6	do
59	30	do	4,925	do	410- 5/12	do
60	30	do	5,000	do	416- 2/3	do

and
above

(ii) For retiring pension :

50	25/60ths of average emoluments		4,250 a year or 354-1/6 a month			
51	25-1/2	do	4,325	do	360- 11/12	do
52	26	do	4,400	do	366- 2/3	do
53	26-1/2	do	4,475	do	372- 11/12	do
54	27	do	4,550	do	379- 1/6	do
55	27-1/2	do	4,625	do	385- 6/12	do
56	28	do	4,700	do	391- 2/3	do
57	28-1/2	do	4,775	do	327- 11/12	do
58	29	do	4,850	do	404- 1/6	do
59	29-1/2	do	4,925	do	410- 5/12	do

12	...	5-1/2 month's emoluments
13	...	5-7/8 month's emoluments
14	...	6-1/4 month's emoluments
15	...	6-5/8 month's emoluments
16	...	7 month's emoluments
17	...	7-3/8 month's emoluments
18	...	7-3/4 month's emoluments
19	...	8-1/8 month's emoluments

1. Substituted by Notification No. F. M. P. 12/74/2, dated the 2nd July, 1974. The amendment is effective from 1-1-1973.

Completed six monthly period of qualifying service	Scale of gratuity or pension	Maximum pension in Rs. Per annum
(1)	(2)	(3)
B-PENSION		
20	.. 10/80ths of average emoluments	3100
21	.. 10-1/2/80ths of average emoluments	3255
22	.. 11/80ths of average emoluments	3410
23	.. 11-1/2/80ths of average emoluments	3565

24	..	12/80ths of average emoluments	3720
25	..	12-1/2/80ths of average emoluments	3875
26	..	13/80ths of average emoluments	4030
27	..	13-1/2/80ths of average emoluments	4185
28	..	14/80ths of average emoluments	4340
29	..	14-1/2/80ths of average emoluments	4495
30	..	15/80ths of average emoluments	4650
31	..	15-1/2/80ths of average emoluments	4805
32	..	16/80ths of average emoluments	4960
33	..	16-1/2/80ths of average emoluments	5115
34	..	17/80ths of average emoluments	5270
35	..	17-1/2/80ths of average emoluments	5425
36	..	18/80ths of average emoluments	5580
37	..	18-1/2/80ths of average emoluments	5735
38	..	19/80ths of average emoluments	5890
39	..	19-1/2/80ths of average emoluments	6045
40	..	20/80ths of average emoluments	6200
41	..	20-1/2/80ths of average emoluments	6355
42	..	21/80ths of average emoluments	6510
43	..	21-1/2/80ths of average emoluments	6665
44	..	22/80ths of average emoluments	6820

45	..	22-1/2/80ths of average emoluments	6975
46	..	23/80ths of average emoluments	7130
47	..	23-1/2/80ths of average emoluments	7285
48	..	24/80ths of average emoluments	7440
49	..	24-1/2/80ths of average emoluments	7595
50	..	25/80ths of average emoluments	7750
51	..	25-7/2/80ths of average emoluments	7905
52	..	26/80ths of average emoluments	8060
53	..	26-1/2/80ths of average emoluments	8215
54	..	27/80ths of average emoluments	8370
55	..	27-1/2/80ths of average emoluments	8525
56	..	28/80ths of average emoluments	8680
57	..	28-1/2/80ths of average emoluments	8835
58	..	29/80ths of average emoluments	8990
59	..	29-1/2/80ths of average emoluments	9145
60	..	30/80ths of average emoluments	9300]

Note. 1. -The above scales to officers of Class I, II and III as well as Class IV Government servants governed by Rules 17 and 18.

RETIRING PENSIONS :

Note 2. -For officers referred to in Rules 17 and 18 the scale of retiring pension shall be as laid down in Rule 101 (2).

112. Special addition pension. - The grant of special pensions to officers specified in Rule 15 shall be granted as follows :

- (1) The special addition at pension admissible under this rule is not to be given as a matter of course but only where the service rendered is approved as satisfying the standard of work and conduct required in the special conditions of the post or duty hereinafter mentioned.
- (2) Officers who have held posts in the Schedule to this rule may be granted an additional pension (a) at the rate of Rs. 300 for each completed year of effective service in any post included in the lower grade, and (b) at the rate of Rs. 500 for each completed year of effective service in any post included in the upper grade, upto a maximum of Rs. 1,500 per annum for service in lower grade appointment and Rs. 2,500 per annum for service in lower and upper grade appointments combined or in upper grade appointments alone : Provided that in the case of an officer who has earned an additional pension by service in appointments in both the upper and lower

grades, for any broken periods of a year in the upper grade may count as service in the lower grade if his pension should be thereby increased.

- (3) An officer who has held a temporary post which has been declared by the authority competent to create the post as carrying similar duties and responsibilities and which carries the same rate of pay as post listed in the Schedule, may be granted an additional pension in respect of that post at the rate and subject to the conditions prescribed in clause (2).
- (4) For the purpose of clauses (2) and (3) of this rule “effective service” includes, besides a period of duty in a post mentioned in the said clause :
 - (i) duty performed –
 - (a) in a post of corresponding rank and responsibility in a foreign service, or
 - (b) on deputation on special duty, or
 - (c) in a temporary post, or
 - (d) in a permanent post in an officiating capacity, to which an officer transferred or appointed whilst holding the post mentioned in clause (2) or (3), if, in the case an officer, who held a post mentioned in clause (2) in an officiating capacity, or of an officer who held a post mentioned in clause (3), Government certifies that he would, if he had not been so transferred,

or appointed, have continued to officiate in or hold the post concerned.

- (ii) privilege leave or leave under the Fundamental Rules corresponding to privilege leave for the purpose of calculating service for pension taken by officer during his service in a post mentioned in clauses (2) and (3) or during the period of duty covered by sub-clause (i) of this clause, if in the case of an officer who has held a post mentioned in clause (2) in an officiating capacity, who as held a post mentioned in clause (3), Government certifies that he would, if he had not proceeded on leave, have continued to officiate in the post mentioned in clause (3).

For the purpose of this sub-clause, privilege leave or under the Fundamental Rules, corresponding to privilege leave, taken by an officer immediately on vacating any of the posts mentioned in sub-rule (2) and (3) of Fundamental Rule 97 during which he is left without a lien on any permanent post, shall be regarded as leave during his service in such a post.

(5) An officer of pensionable status who has held a post in foreign service with a State-owned Railway worked by a Company, which is certified by Government to correspond in rank and responsibility with a State Railway post listed in the Schedule, may be granted an additional pension in respect of that post at the rates and subject to the conditions prescribed in clause “effective service” means duty (including privilege leave or leave under the Fundamental Rules corresponding to privilege leave for the purpose of calculating service for pension) in a foreign service post.

(6) An officer who has received under the second proviso to Fundamental Rule 30 (1) or under Fundamental Rule 113, officiating promotion to one of the posts listed in the Schedule, or to whose case Government certifies that he would have received such promotion had he not been on special duty or held a temporary post, may be granted an additional pension at the rates and subject to the conditions prescribed in clause (2) as though he had held during the period for which he officiated or would have officiated, a post listed in the Schedule.

For the purpose of this clause of the period of officiating promotion includes any privilege leave or leave under the Fundamental Rules corresponding to privilege leave for the purpose of calculating service for pension taken during the period, if Government certifies that, had the officer not been on leave, he would have continued in the same capacity.

(7) The grant of the additional pension is subject to the condition that the grantee must in event of voluntary retirement under rule 99 have completed 28 years' of qualifying service.

(8) No additional pension is admissible to an officer referred to in rule 17 or 18.

Schedule of Appointments carrying Additional Pension

A- Upper Grade

* * *

B - Lower Grade

Chief Engineer, P. W. D.

Additional Chief Engineer, P. W. D.

Inspector General of Registration.

Director of Agriculture.

Conservator of Forests.

Director of Public Instruction.

Superintending Engineer, P. W. D.

District and Sessions Judge.

Additional District Judge.

Any pensionable appointment in a Department other than those to which the appointments included in this Schedule appertain, the minimum pay of which is not less than Rs. 1,500 a month.

113. For officers referred to in rule 16 the grant of special additional pensions shall be regulated as follows:

- (1) The special additional pension admissible under this rule is not to be given as a matter of course but only where the service rendered is approved as satisfying the standard of work and conduct required in the special conditions of the posts or duty hereinafter mentioned.

- (2) Officers who have held post listed in the Schedule to this rule may be granted an additional pension – (a) at the rate of Rs. 250 for each completed year of effective service in any post included in the lower grade, and (b) at the rate of Rs. 400 for each completed year of effective service in any post included in the upper grade upto a maximum of Rs. 1,250 per annum for service in lower grade appointments and Rs. 2,000 per annum for service in lower and upper grade appointments combined or in upper grade appointments alone : Provided that in the case of an officer who has earned an additional pension by service in appointments in both the upper and lower grades, service for any broken period of a year in the upper grade may count as service in the lower grade if his pension would be thereby increased.
- (3) An officer who has held a temporary post which has been declared by the authority competent to create the post as carrying similar duties and responsibilities, and which carried the same rate of pay as a post listed in the Schedule, may be granted an additional pension in respect of that post at the rate and subject to the conditions prescribed in clause (2).
- (4) For the purpose of clauses (2) and (3) of this rule “effective service” includes, besides period of duty in a post mentioned in the said clauses –
- (i) duty performed –
- (a) in a post of corresponding rank and responsibility in foreign service, or

(b) on deputation on special duty, or

(c) in a temporary post, or

(d) in a permanent post in an officiating capacity, to which an officer is transferred or appointed whilst holding the post mentioned in clause (2) or (3), if, in the case an officer, who held a post mentioned in clause (2) in an officiating capacity or of officer who held a post mentioned in clause (3), Government certifies that he would, if he had not been so transferred or appointed, have continued, to officiate in or hold the post concerned.

(ii) Earned leave for the purpose of calculating service for pension taken by the officer during his service in a post mentioned in clauses (2) or (3) or during the period of duty covered by sub-clause, if in the case of an officer who had held a post mentioned in clause (2) in an officiating capacity or who has held a post mentioned in clause (3), Government certifies that he would if he had not proceeded on leave, have continued to officiate in the post mentioned in clause (2) or have held a post in clause (3).

For the purpose of this sub-clause, earned leave taken by an officer immediately on vacating any of the posts mentioned in sub-rules (2) and (3) of Fundamental rule 97 during which he is left without a lien on any permanent post shall be regarded as leave taken during his service in such a post.

- (5) An officer of pensionable status who had a post in service with a State-owned Railway worked by a Company, which is certified by Government to correspond in rank and responsibility to a State Railway post to which special additional pension is attached may be granted an additional pension in respect of that post at the rate and subject to the conditions prescribed in clause (2) of this rule: provided that, for the purpose of this clause “effective service” means duty (including earned leave for the purpose of calculating service for pension) in a foreign service post.
- (6) An officer who has received under the second proviso to Fundamental rule 30 (1) or under Fundamental rule 113, officiating promotion to one of the posts listed in the Schedule, or in whose case Government certifies that he would have received such promotion had he not been on special duty or held a temporary post, may be granted an additional pension at the rate and subject to the conditions prescribed in clause (2), as though he had held during the period for which he officiated or would have officiated, a post listed in the Schedule.

For the purpose of this clause the period of officiating promotion includes any earned leave for the purpose of calculating service for pension taken during the period, if Government certifies that had the officer not been on leave, he would continued in the same capacity.

- (7) No additional pension under the rule shall be granted to officers who joined service on or after 1st November 1950.
- (8) No additional pension is admissible to an officer referred to in rule 17 or 18.

Schedule of Appointments carrying Additional Pension

A- Upper Grade

* * *

B - Lower Grade

Chief Engineer, P.W.D.

Additional Chief Engineer, P.W.D.

Inspector General of Registration.

Director of Agriculture.

Conservator of Forests.

District of Public Instruction.

Superintending Engineer, P.W.D.

Director and Sessions Judge.

Additional District Judge.

Section III - Allowances Reckoned for Pension

114. Emoluments and average emoluments. - (1) The term 'Emoluments' as used in this Part of the rules, means the

emoluments which the officer was receiving immediately before his retirement and includes –

- (a) substantive pay in respect of a permanent post other than a tenure post, held in a substantive capacity;
- (b) personal allowance which is granted in lieu of substantive pay in respect of a permanent post other than a tenure post;
- (c) fees or commission if they are authorised emoluments of an appointment and are in addition to pay. In this case “emoluments” means the average earning for the last six months of service;
- (d) special pay attached to a permanent post, when the special pay has been sanctioned permanently and the post is held in a substantive capacity;
- (e) dearness pay, if any, declared by the Government for the purpose of pension from time to time;
- (g) Save as otherwise provided in clause (2) below, one half of
 - (i) the difference between the substantive pay and the pay actually drawn in higher officiating or temporary appointment;
 - (ii) special pay other than referred to in clause (b) above;
 - (iii) personal allowance other than that referred to in clause (b) above;

- (iv) the difference between the substantive pay and the pay actually drawn in higher tenure appointment's whether held in substantive or officiating capacity, provided that service in the tenure appointments does not qualify for the grant of a special additional pension.
- (3) (a) If an officer holding a permanent post in substantive capacity –
- (i) Officiates in a higher permanent post (other than a tenure post) or holds higher temporary post (other than a tenure post) borne on a cadre which includes permanent posts on the same time-scale as the temporary post, continuously for not less than three years and retires or dies while so officiating or holding the higher post; or
 - (ii) is confirmed in such higher permanent post at any time during the last three years of his service after having officiated in that post continuously for three years or more.

His emoluments for pension in respect of the higher post for any period beyond three years' continuous service in that post shall be determined under clause (i) above as if he held, in substantive capacity, a permanent post on a time-scale identical with that of the higher post.

(b) For computing the length of continuous service in respect of the higher post under sub-clause (a) above all kinds leave that qualify for pension, all periods during which an officer officiated in a permanent post or held a temporary post on an

identical or higher scale, and the time spent on deputation and foreign service shall be included; provided that it is certified that but for his proceeding on leave or serving in other post (s) or going on deputation or foreign service, as the case may be, the officer concerned would have officiated in or held the higher post.

Note 1. - If immediately before his retirement or death an officer has been absent from duty on leave with allowance, his emoluments for the purpose of calculating service gratuity and/or death-cum-retirement gratuity should be taken as what he would have been had he not been absent from duty: provided that the amount of gratuity is not increased on account of increase in pay not actually drawn and that benefit of a higher officiating or temporary pay is given only if it is certified that he would have continued to hold the higher officiating or temporary appointments but for his proceeding on leave.

Note 2. - An officer whose lien has been suspended under F. R. 14 (b) counts his service under rule 40 in respect of the permanent post and his *locum tenens* who has been made provisional in his place is treated as permanent for all practical purposes except for pension. The increased remuneration of officers whose appointments are thus made provisionally substantive in the resulting chain of vacancies shall not, therefore, reckon as substantive pay for the purpose of calculation of emoluments under clause (1) (a) of above rule.

Note 3. - The definition of the term 'emoluments' as used in clause (1) (c) applies to the case of gratuity only and

not to pension. In case where fees or commission are drawn in addition to pay, pension should be calculated on average emoluments as defined in rule 15.

Note 4. - In the case of section -writers whose service has been allowed to count for pension under special orders of the Governor and of Press employees whose services qualifying under rule 42, 'Emoluments' means average earnings of the last six months of service.

Note 5. - Special pay including Duty allowance and Deputation (Duty) Allowances count for purpose of pension as part of an officers' emoluments during long leave if there is no doubt that he would have drawn the allowances, had he remained on duty and the Head of Department makes a declaration to that effect.

Note 6. - Pay drawn on foreign service is not taken into account for the purpose of pension.

114-A. Notwithstanding anything contained in rule 114, for persons retiring from service on or after 1st April, 1971, the term "Emoluments" as used in this Part of the rules means pay as defined in F. R. 9 (21).

Comment

Note. - Rule 114-A has been inserted as new rule after Note 6 below Rule 114 (2) vide Notification No. F. M. P. 1-4/71/67, dated 25th January, 1975 and the amendment has come into force from 1st April, 1971.

NOTIFICATION
Government of Assam
Finance (APF) Department Pension Branch
Notification No. FMP 14/71/59.
Dated Shillong, the 6th November, 1971

Office Memorandum

Subject: Change in the term, “Emoluments” for the calculation of Pension / gratuity.

The question of simplifying the pension rules as also extending further benefit to the State Government employees in the matter of continuing various kinds of pay as emoluments for the purpose of calculation of pension, has been, for time past, engaging the attention of the Government. After careful consideration, the Governor of Assam is pleased to order that the officiating pay, special pay and all other kinds of ‘pay’ as defined in Rule 9 (21) of the Fundamental Rules, which the officer was receiving immediately before his retirement will count as emolument for the purpose of pension and gratuity under Rule 14, Sections III, Chapter VI of the Assam Services (Pension) Rules, 1969.

These orders shall apply in respect of officers retiring from service on or after 1st April, 1971.

It is, however, clarified that as provided under the existing rules, the emoluments drawn by a Government servant while on foreign service will not count for pension and gratuity. In such a case the pay which the Government servant would have drawn

under the Government, had he not been sent on foreign service will alone be taken into account.

Necessary formal amendment, to the Assam Services (Pension) Rules, 1969 is being issued separately.

115. Except as otherwise provided in rule 116 the term 'Average Emoluments' means the average calculated upon the last three years of service.

Note 1. — If during the last three years of his services an officers has been absent from duty on leave with allowances or having been suspended has been reinstated without forfeiture of service, his emoluments, for the purpose of ascertaining the average should be taken at what they would have been had he not been absent from duty or suspended: provided always that his pension must not be increased on account of increase in pay not actually drawn. But if his departmental or recess leave is reckoned as service under rule 57, only the allowance, if any, actually received during such leave should be taken into account: provided that the average emoluments of the subordinates in the Assam Survey Department who happen to be on departmental leave shall be calculated on the pay last earned on duty.

Note 2. — If during the last three years of service an officer has been absent from duty on leave without allowance (not accounting for pension), or suspended under such circumstances that the period of suspension does not count as service, the periods so passed should be disregarded in the calculation of the average, an equal period before the three years being included.

Note 3. — In the case of a Military Officer, departmental officer, warrant or non-commissioned officer or soldier who was in civil employ on 7th June, 1937 and was or may be granted a pension under military rules on or after 30th May, 1933 and whose pay has been reduced under rule 173 (b) of emoluments for the purpose of ascertaining the average shall be taken at what they would have been had the pay not been reduced.

Note 4. — A Government servant who takes under the Fundamental Rules during last three years of his service and who is promoted in a substantive or provisionally substantive capacity to a higher post carrying a higher rate of pay or earns an increment which is not withheld the currency of the leave on average pay not exceeding four months or the first four months of any period of leave on average pay exceeding four months is entitled in respect of the period of his leave to count the pay, which he would have drawn had he remained on duty, as emoluments for the purpose of rule 115 even though the increase in pay due to increment or promotion is not actually drawn during such leave.

Note 5. — Excepting as provided in Notes 1, 2, 3 and 4, only emoluments actually received shall be included in the calculation. For example, when an officer is allowed to count time retrospectively the intermediate periodical increments, these intermediate increments are not reckoned in the calculation.

116. In case of section writers whose services have been allowed to count for pension and of Press employees whose services qualify

for pension under rule 42 'Average Emoluments' means the average earning of the last seventy two months.

Note 1. — This rule applies in the case of a Press employee remunerated at a fixed rate of pay if his pay is met from the grant for piece-work.

Note 2. — Overtime earnings of Press employees paid at piece-work rates may be taken into account in calculating average emoluments under this rule; but such earning must be excluded in reckoning the average emoluments of Press employees, who draw pay at fixed rates.

Note 3. — If during the last 72 months of service a Press employee has been for some period on fixed pay and for other periods has worked as a piece-work employee, overtime earning may be taken into account in calculating pension only for periods during which he was remunerated at piece-work rates.

Note 4. — In cases where leave without allowances or suspension occurs during the last 72 months' service, an equal period of qualifying service rendered immediately before the period shall be taken into account.

117. Allowances which do not count .— An officer cannot the following allowances :

- (1) Local allowances and deputation (local) allowances;
- (2) 'House rent allowance' or estimated value of three quarters;
- (3) Tour or other allowances;
- (4) Compensation for dearness of provisions.

118. Net emoluments taken. — Any part of officer's or emoluments which is specially intended to provide for expenses incidental to his duty must be excluded —

- (1) When an officer's pay is intended partly to cover the expense of his providing or keeping a horse (except in a case covered by Note 2 below rule 5), his pay shall be taken only at what it would be if it was not intended to cover such expense. Where a water-carrier's pay includes provision for a bullock his pay shall be taken at what it would be if he was not required to keep a bullock.
- (2) Where a consolidated pay specially includes tentage, traveling allowances and house allowance, these shall be deducted.
- (3) Where an officer's pay is fixed at two rates, i.e., a smaller rate during statutory duty and a higher rate during periods passed on tour or traveling, the former rate alone shall be the basis of the calculation.

119. Except as allowances are allowed to count as emoluments under Rule 114, where service on temporary duty counts for pension under Rule 40 the pay of the permanent appointment held by the officer, and not that drawn in respect of the temporary duty, shall be taken into consideration.

120. The provisions of rule 119 shall not apply to an officer deputed on abolition of his appointment to special duty (rule 41) or to an officer who, when his appointment was abolished, was on special duty. In these cases, full allowances shall be counted.

121. Combination of appointments. - If an officer has held more than one appointment, in respect of each of which, if he had held it separately and alone, pension would have been admissible to him, the pension admissible to him is the sum of the several pensions which would have been admissible to him if he had held each office separately and alone. The consolidated pension thus admissible is subject to the limitations prescribed in rules 108 to 111.

122. An officer is not entitled for service in an office conjointly with another office to any pension which would not have been admissible to him if he had held the office separately and alone.

CHAPTER VII
Special rules for the Police

Section I - Extent of Application

123. Government Police. - The rules in this Chapter apply to members of Police-Forces constituted under the Police Act, 1861 (Act V of 1861).

124. Municipal Police and Police supported by District and Regional Councils. — (a) The Government shall have no pensionary liability in respect of the police of a town or a Municipality or of a village or town of a District or Regional Council which is wholly supported by them and under their control.

(b) But if the Government, being interested in the efficiency of a Police Force, paid wholly or partly by a Municipality or from the District or Regional Council Fund or from Cantonment Funds, or from the Consolidated Fund of the State of Assam subsidised by a contribution from a Municipality or from the District or Regional Council Fund or from Cantonment Funds, undertakes the organisation and control of the force as connected with and auxiliary to the Civil Constabulary, service in such a force qualifies.

125. Railway Police. - The service of members of the Railway Police, appointed and controlled by Government, qualifies, though they may be either wholly or partly paid by the Railways.

Section II – Qualifying Service

126. Service in the Police Force mentioned in rule 123 qualifies.

127. Police officers deputed to the State Finger Print Bureau for a course of training will be treated as on duty qualifying for pension during the period of training.

128. Hospital leave granted under subsidiary Rule 122 which is not debited against the leave account will count as duty towards pension. Leave granted to patients suffering from illness caused by irregular or intemperate habits, such as venereal disease, is not hospital leave.

129. Service before Enlistment. - In the following cases service rendered before enlistment in the civil constabulary qualifies:

- (a) service in superior grades in any other Department qualifies.
- (b) a Subedar or Jamadar of the Bengal or Assam Military Police, recruited from the Army or from a local corps, counts service as follows :
 - (i) A man recruited from the Army will be eligible for pension under the civil rules (counting both his past Military and Police Service) on completion of ten years' service in the Military Police. If he retired with less than ten years' service in the Police, he will be granted pension on the military scale according to his rank for the whole period of his service including service in the Police.
 - (ii) A man recruited from a local corps may count half his service in such corps towards civil pension.

Note. - Pensions granted to men who count Army Service under the foregoing rule are, if their Military service was sufficient to entitle them to pension if discharged without fault, a Military charge, otherwise they are civil charge.

130. The previous services of the discharged rifleman or sepoy of the Assam Rifles who is re-employed in the civil police will count for pension; any interruption of service in such a case shall be held to be automatically condoned; and if the discharge rifle-man or sepoy received a pension or gratuity prior to his discharge, the rules for the re-employment of pensioners in Chapter X shall apply.

Section III - Amount of Pension

131. The pension admissible to police constables shall be determined according to the rules contained in Chapters IV to VI for the calculation of pensions.

132. The pension admissible to an officer than a police constable shall be determined by the rule which apply to ordinary service.

Note. - If the officer was promoted from the rank of police constable and loses by promotion any benefit as to pension which he would have enjoyed had he retired as a police constable, his pension may be regulated as if he had not received the promotion.

133. Previous Class IV service. - If part of an officer's continuous service qualifies for pension under the general rules but does not qualify under the rules in this Chapter, he may elect to receive, in lieu of the pension admissible under this Chapter, such pension as is admissible to him under the general rules.

CHAPTER VIII
Liberalised Pension Rules

Section I— Extent of Application

134. (a) For officers mentioned in Rule 17 the rules in this Chapter, excluding the provisions under the Family Pension Scheme, 1964 in Section IV, shall apply subject to other rules in this Part to the extent they are not inconsistent with the rules in this Chapter.

(b) For officers mentioned in Rule 18 the rules in this Chapter, excluding the rules for Family Pension, 1954 in Section III, shall apply subject to other rules in this Part to the extent they are not inconsistent with the rules in this Chapter.

Section II - Death-cum-retirement Gratuity

135. (1) An officer who has completed five years' qualifying service may be granted an additional gratuity not exceeding the amount specified in sub-rule (3), when he retires from service and is eligible for gratuity or pension under Rules 101 and 111.

(2) If an officer who has completed 5 years' qualifying service dies while in service, a gratuity not exceeding the amount specified in sub-rule (3) may be paid to the person or persons on whom the right to receive the gratuity is conferred under Rule 136, or, if there is no such person, it may be paid in the manner indicated below :-

- (i) If there are one or more surviving members of the family as in items (i), (ii) and (iv) of sub-rule (1) Rule 136, it may

be paid to all such members other than any such member who is a widowed daughter, in equal shares.

- (ii) If there are no such surviving members of the family as at (i) above, but there are one or more surviving widowed daughters and/or one or more surviving members of the family as in items (v), (vi) and (vii) of sub-rule (1) of Rule 136, the gratuity may be paid to all such members, in equal shares.

(3) The amount of gratuity will be one-fourth of the 'emolument's of an officer for each completed six monthly period of qualifying service subject to a maximum of 15 times the emolument. In the event of death of an officer while in service, the gratuity will be subject to a minimum of 12 times the emoluments of the officer at the times of his death. In no case, however, amount of gratuity shall exceed Rs. 24,000.

(4) If any officer who has become eligible for a pension or gratuity under Rules 101 and 111, dies after he has retired from service and the sums actually received by him at the time of death on account of such gratuity or pension together with the gratuity under sub-rule (1) and the commuted value of any portion of pension commuted by him are less than an amount equal to 12 times his 'emoluments', a gratuity equal to the deficiency may be granted to the person or persons specified in sub-rule (2).

Note 1.— The term 'pension' includes temporary increase in pension, if any, sanctioned by the State Government for the purpose of determining the amount of residuary gratuity payable under this sub-rules.

Note 2. - The residuary gratuity is admissible only if death of Government servant takes place within five years from the death or his retirement.

(5) The 'emoluments' for the purpose of this Section shall be subject to a maximum of ¹[Rs. 2,000] per mensem, and reckoned in accordance with Rule 114: provided that if the emoluments of an officer have been reduced during last three years of his service, otherwise than as a penalty, "average emoluments" as defined in Rule 115 at the direction of the authority which has power to sanction the gratuity under this Section, be treated as the 'emoluments'.

Note 1. - In the case of a Government servant who has been granted leave preparatory to retirement under the Fundamental Rule and who during the currency of the leave on average pay not exceeding four months or the first four months of any period of leave on average pay exceeding four months earns an increment which is not withheld the Government servant is entitled to count the pay which he, would have drawn had he remained on duty as 'emoluments' for the purpose of calculation of death-cum-retirement gratuity under this sub-rule even though the increase in pay is not actually drawn during the leave under the Fundamental Rules corresponding to privilege leave.

Note 2. - The Procedure for application sanction and payment of death-cum-retirement gratuity will be as follows :

- (i) When the death-cum-retirement gratuity is payable to a Government servant on his retirement the same procedure as in the case of ordinary gratuity payable under Rules 108 to 111 (see Rules 188 and 192)

- (ii) When the death-cum-retirement gratuity/residuary gratuity is payable to the nominee or members of the family of the Government servant/pensioner, who dies while in service or within five years of retirement —
- (a) if the Government servant has executed a nomination in the prescribed form under Rules 136 and nomination subsists, the Head of the Office/Department shall on receipt of the death-report of the Government servant/pensioner, send an intimation in Form No. 5 (Pension) to the nominee (s) asking for a formal claim for the grant of death-cum-retirement gratuity / residuary gratuity to be submitted in Form No. 3 (Pension). On receipt of such a claim, the Head of the Office/Department shall draw up a statement of service of the Government servant in the second page of Form No 3 (Pension) in the case of death-cum-retirement gratuity. In the case of residuary gratuity under sub-rule (4) of the above rule, this is not necessary as the procedure has already been gone through before sanctioning the death-cum-retirement gratuity to the officer. If there is no nomination, or if the nomination does not subsist, the intimation shall be sent in Form No. 6 (Pension) to all the adult members of the family about whom information may be available with the administrative authority. The payment of the share of the minor members of the family shall be made to the natural guardian, which in the case of Hindus, Buddhist, Jains, Sikhs and Christians is the father and after him the mother, and in the case of Mohammedans, the father. The natural guardian, if any, should be addressed on

behalf of the minors also and no separate claim from or on behalf of the latter need be called for. Where there is natural guardian, payment is to be made to the legal guardian who may be left to prefer the claim himself. After the history of the services on the officer has been drawn up in second page of Form No. 3 and the columns under "Remarks by the Receiving Authority" have been filled up, the Head of Office/Department, as the case may be shall, if he is not the pension sanctioning authority, forward the application together with necessary documents to the sanctioning authority (and also Service Book and nomination form in cases of non-Gazetted officer). The sanctioning authority shall forward the pension papers together with his orders on the third page of the application for death-cum-Retirement Gratuity in Form No. 3 to the Accountant General, Assam. If the Authority receiving the application is also the authority competent to sanction pension he shall follow the same procedure mentioned above and forward the application to the Accountant General. The sanction should indicate name(s), address, relationship to the deceased Government servant of the person and persons to whom the gratuity is to be paid and the amount or amounts to be paid to each of them. The Accountant General will record his audit enforcement and then arrange for the disbursal of the amount in the same way as General Provident Fund balances.

Note. 3 – Payment of death-cum-retirement gratuity to the extent of Rs. 5,000 (or the first Rs. 5,000 where the amounts payable exceeds Rs. 5,000) in favour of a minor may be made

to his/her guardian in the absence of a natural guardian, without the production of a formal guardianship certificate but subject to the production of an indemnity bond with suitable sureties to the satisfaction of the sanctioning authority. The balance in excess of Rs. 5,000 if any, would become payable on the production of a certificate of guardianship.

It is essential, however that there should be adequate prima facie grounds for making payment to the person claiming it. Such ground can exist only if he is shown by a sworn declaration to be a de facto guardian and bona fides have been ascertained. The authorities making the payment should satisfy themselves that the person claiming on behalf of the minor is incharge of the property of the minor and is looking after it or that if the minor has property other than the authority, the minor is in his custody and care. The affidavit is to be produced in addition to the indemnity bond with suitable sureties. A model form of Indemnity Bond is in Form No. 17.

136. Nomination. - (1) (a) 'Family' for the purposes of this rule will include the following relatives of the officer :

- (i) Wife in the case of a male officer.
- (ii) Husband in the case of a female officer.
- (iii) Sons.
- (iv) Unmarried and widowed daughters.
- (v) Brothers below the age of 18 years and unmarried or widowed sisters.
- (vi) Father.
- (vii) Mother.

Note . - (iii) and (iv) will include step-children and adopted children.

(b) 'Person' for the purpose of this rule shall include any company or association or body of individuals whether incorporated or not.

(2) An officer shall, as soon as he is confirmed or completes five years qualifying service, make a nomination conferring on one or more persons the rights to receive any gratuity that may be sanctioned under sub-rules (2) and (4) of Rule 135 and any gratuity which having become admissible to him under sub-rule (1) of that rule and rule 111 has been paid to him before death ;

Provided that if at the time of making the nomination the officer has a family, the nomination shall not be in favour of any person or persons other than the members of his family.

Note. - The Head of Office/Department will ensure that as soon as a Government servant is confirmed in a pensionable post nominations in terms of clause (2) above are duly made by such officer.

(3) If an officer nominates more than one persons under sub-rule (2) he shall specify in the nomination the amount of share payable to each of the nominees in such a manner as to cover the whole amount of the gratuity.

(4) An officer may provide in a nomination —

(a) In respect of any specified nominee, that in the event of his predeceasing the officer the right conferred upon that nominee shall pass to such other person or persons as may be specified in the nomination :

provided that if at the time of making the nomination the officer has a family consisting of more than one member, the person or persons so specified shall not be other than a member or members of his family.

(b) That the nomination shall become invalid in the event of a contingency specified therein.

(5) The nomination made by an officer who has no family at the time of making it, or a provision made in a nomination under clause (a) of sub-rule (4) by an officer whose family consists, at the date of making the nomination of only one member, shall become invalid in the event of the officer subsequently acquiring a family or an additional member in the family, as the case may be.

(6) (a) Every nomination shall be in such one of the Forms No. 12, 13, 14 and 15 (Pension) as may be appropriate in the circumstances of the case.

(b) An officer may at any time cancel a nomination by sending a notice in writing to the appropriate authority provided that the officer shall, along with such notice, send a fresh nomination made in accordance with this rule.

(7) Immediately on the death of a nominee in respect of whom no special provision has been made in the nomination under clause (a) of sub-rule (4) or on the occurrence of any event by reason of which the nomination becomes invalid in pursuance of clause (b) of that sub-rule or sub-rule (5), the officer shall send to the appropriate authority a notice in writing formally canceling the nomination, together with a fresh nomination made in accordance with this rule.

Note . - While a nomination as also any change therein will normally be made by an officer during his service, he may be allowed to make a fresh nomination or change his earlier nomination after retirement if such a contingency arises.

(8) Every nomination made and every notice of cancellation given by an officer under this rule shall be sent by the officer to his Accounts Officer in the case of a Gazetted officer and to the head of his office in the case of a non-Gazetted officer. Immediately on receipt of a nomination from a non-Gazetted officer the head of the office shall countersign indicating the date of receipt and keep it under his custody.

9. Every nomination made, and every notice of cancellation given, by an officer 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 (8).

Note 1. - In the event of an officer having no family as defined in sub-rule (1), the nomination can be made in favour of any one or more persons under sub-rule (2) or of a body of persons, corporate or otherwise. Similarly, when the officer has one member in his family, in whose favour the original nomination has been made, an alternate nomination can be made in favour of any person who is not a member of his family or in favour of a body of persons corporate or otherwise, to cover contingency of the nominee predeceasing the Officer.

Note 2. - An acknowledgement to the Government servant concerned confirming that the nominations made by him and the related notices have been duly received and placed on record should invariably be sent to every officer making

nomination by the Accounts Officer in the case of permanent Gazetted officers and the Head of Office in the case of all non-Gazetted officers and officiating Gazetted Officers. The Government servants should also in the interest of their nominees preserve copies of the nomination made by them and of the related acknowledgements either to their personal custody or in the safe deposit along with their important personal documents, etc., from where these may be expected to come into possession of the beneficiaries in the event of death.

Section III - Rules for Family Pension, 1954

137. (1) A family pension, not exceeding the amount specified in the sub-rule (2), may be granted to the family of an officer mentioned in Rule 17 who dies while in service on or after retirement after completion of not less than 20 years qualifying service, for a period of ten years from the date following that on which the officer dies :

Provided that the period of payment of family pension will in no case extend beyond a period of 5 years from the date on which deceased officer retired or on which he would have retired on a superannuation pension in the normal course, according as the death takes place after retirement or while the officer is in service.

Note 1. - (i) In the case of an officer who dies while on extension of service, the expression “date on which he would have retired on superannuation pension in the normal course” in the above proviso shall mean the date up to which extension of service had been sanctioned to him before his death.

(ii) In the case of a person governed by F. R. 56 in the matter of age or compulsory retirement, the expression “date on which he would have retired on superannuation pension in the normal course” in the above proviso means the date on which he would have attained the age of 55 years in case death takes place before the officer attained that age and the date upto which his continuance in service had been sanctioned at the time of his death, if the death takes place while in service at any time after attaining the age of 55 years.

(2) An amount of family pension will be —

- (a) In the event of death while in service, one half of the superannuation pension which would be admissible to the officer had he retired on the date of following the date of his death;
- (b) In the event of death after retirement, half the pension sanctioned for him at the time of retirement:

Provided that the amount of family pension will be subject to a maximum of ¹[Rs. 200] per mensem and a minimum of ²[Rs. 40] per mensem subject to the further condition that the minimum pension will not in any case exceed the fully amount of the pension sanctioned to the deceased Government servant at the time of his retirement or, in case he dies while in service, the pension that would have been admissible to him if he had retired on a superannuation pension on the date following the date of his death.

In case where an officer mentioned in clause (b) had commuted a part of his pension before his death the uncommuted value of

that part of pension will be deducted from the family pension calculated as above.

1. Subs. By Notification No. F. M. P. 12/74/2, dated the 2nd July, 1974
2. Ibid.

(3) 'Family' for the purpose of this Section will be as defined in sub-rule (1) (a) of Rule 136.

(4) No pension will be payable under this rule -

(a) to persons mentioned in clause (b) of sub-rule (5) without production of reasonable proof that such person was dependent on the deceased officer for support;

(b) to an unmarried female member of an officer's family, in the event of her marriage;

(c) to a widowed female member of an officer's family, in the event of her remarriage;

(d) to a brother of an officer on his attaining the age of 18 years;

(e) to a person who is not a member of an officer's family.

(5) Except as may be provided by a nomination under sub-rule (6) -

(a) a pension sanctioned under this section will be allowed –

(i) to the eldest surviving widow, if the deceased is a male officer or to the husband, if the deceased is a female officer;

(ii) failing a widow or husband, as the case may be , to the eldest surviving son;

(iii) failing (i) and (ii) , to the eldest surviving unmarried daughter ;

(b) in the event of no pension becoming payable under clause (a) the pension may be granted –

(i) to the father;

(ii) failing the father, to the mother;

(iii) failing the father, and the mother, to the eldest surviving brother below the age of 18 years;

(iv) these failing, to the eldest surviving unmarried sister;

(v) failing (i) to (iv), to the eldest surviving widowed sister.

Note. 1 - The expression ‘eldest surviving widow’ occurring in clause (a) (i) above should be construed with reference to the seniority according to the date of marriage with the officer and not with reference to the age of the surviving widows.

(6) Permanent Government servants may, at any time after their confirmation in Government service, make a nomination in Form No. 16 (Pension), indicating the order in which a pension sanctioned under this section should be paid to the members of his family; and., to the extent that it is valid, the pension shall be payable in accordance with such nomination, provided the persons concerned are eligible, on the date from which the pension may fall due, to receive the pension under the provisions of sub-rule (4). In case the person concerned does not satisfy the requirements of the said sub-rules, the pension shall be granted to the person next lower in the order. The provisions of sub-rule (6) (b), (8) and (9) of Rule 136 will apply in respect of nominations under this sub-rule.

(7) (a) A pension awarded under this Section will not be payable to more than one members of an officer's family at the same time.

(b) If a pension awarded under this Section ceases to be payable before the expiry of the period mentioned in sub-rule (1) on account of death or marriage of the recipient to the next lower in the order mentioned in sub-rule (5) or to the person next lower in the order shown in the nomination made under sub-rule (6), as the case may be, who satisfies the other provisions of this section.

(8) A pension sanctioned under this section will be tenable in addition to any extraordinary pension or gratuity or compensation that may be granted to the members of an officer's family under the existing Rules or Acts No additional family pension under the rules in Section IV will, however, be admissible.

(9) As in the case of the grant of an ordinary pension, future good conduct of the recipient is an implied condition of every grant of a pension under this Section, Government reserve to themselves

the right of withholding or withdrawing such a pension or any part of it, if the recipient is convicted of serious crime or is guilty of grave misconduct and Government decision in such matters will be final.

Note 1. - The procedure for application, sanction and payment of family pension, will be as follows :

Two types of cases may arise in connection with family pension, namely cases where the pension is payable in accordance with the nomination executed by the Government servant / pensioner under sub-rule (6) and cases where it is payable to the person mentioned in sub-rule (5) above. Where the pension is payable in the order mentioned in the nomination under sub-rule (6), on receipt of the death report of the Government servant / pensioner, the Head of the Office/Department shall send an intimation in Form No. 7 (Pension) to the nominees, to submit an application in Form No. 4 (Pension). In cases where no nomination exists, intimation relating to family pension should as a rule be sent in Form No. 8 (Pension) to the known top ranking relatives in the gradation given in sub-rule (5). If there is no such nominee and application is received from the person mentioned in sub-rule (5) the Head of Office/Department may make such enquiries as may be necessary to ascertain that the pension is not payable to any other person mentioned in sub-rule (5). If the applicant is a person mentioned in clause (b) of sub-rule (5), the Head of Office/Department shall satisfy himself that the applicant was dependent on the Government servant pensioner for support after

making such enquiries as may be necessary. On receipt of the application in First page of Form No. 4 for family pension the Head of Office/Department will draw up a statement of the services of the deceased officer in second page of Form 4 and fill up the columns under Remarks by the "Receiving Authority" in third page of the Form. The authority receiving the application shall then, if he is not competent to sanction the pension, forward the application to the pension sanctioning authority, together with other relevant documents (and also Service Book and Nomination Form, if any, in case of non-Gazetted officers). The sanctioning authority, or the authority receiving the application if he is competent to sanction pension, shall record his orders on the third page of the application Form No. 4 and forward the same to the Accountant General, Assam together with other relevant documents (and the Service Book and the Nomination Form, if any, in case of non-Gazetted officers). The sanction should indicate the name, address and the relationship to the deceased Government servant of the person to whom the pension is payable. After due verification the Accountant General will record his audit enforcement and thereafter issue the Pension Payment Order for specified period indicating the event, if any, on the happening of which the payment should be stopped. In all other aspects the procedure applicable to ordinary pensions shall be followed. If the person to whom a family pension has been sanctioned dies or becomes ineligible for the pension before the expiry of the period for which the pension is otherwise admissible, the pension may be regranted to the next person eligible to

receive it for the unexpired portion of that period subject to observance of the same procedure. If a family pension is payable to a minor and at the time of sanctioning the pension, he has a regularly appointed guardian, the pension, may be sanctioned as payable through such guardian, and in such cases a descriptive roll in duplicate of the person, who may be authorise to receive payment should accompany the application in Form No. 4 (Pension).

Section IV - Family Pension Scheme, 1964

138. The rules in this Section, in substitution of rules for Family Pension, 1954 in Section III, apply to all officers to whom the Liberalised Pension Rules in this Chapter apply under rule 18.

139. The rules in this Section shall have effect from 1st January , 1964 and are applicable to all regular employees, both temporary or permanent, on pensionable establishments :

Provided that the provisions of rule 142 shall have effect from 1st January, 1967.

140. Except as otherwise provided in rule 142 a family pension not exceeding the rate mentioned in rule 141 will be admissible in case of death of an officer while in service or after 1st January, 1964, if at the time of death the retired officer was in receipt of a compensation, invalid, retiring or superannuation pension. In case of death while in service, the Government servant should have completed a minimum period of one year of service.

Note 1. - The term "one year of service" mentioned in above rule does not include broken periods of service. The service' for this purpose should be continuous.

Note 2. - For the purpose of computing the minimum period of completed one year of continuous service, 'boy service' and periods of extraordinary leave, if any, shall be excluded.

141. The rate of family pension rule 140 will be as follows :

Sl. No.	Pay of the Government servant	Monthly pension of widow/children
(1)	(2)	(3)
1.	Below Rs. 200 -- --	30% of pay subject to a minimum of Rs. 40.
2.	Rs. 200 and above but below Rs. 800.	15% of pay subject to a minimum of Rs. 60.
3.	Rs. 800 and above --	12% of pay subject to a minimum of Rs. 120 and a maximum of Rs. 200.

The revised rates shown above shall be uniformly applicable to all family pension case cover the family pension scheme of 1964.

Note 1. - 'Pay' for the purpose of this rule means the pay, as defined in rule 9 (21) of the Fundamental Rules, which the persons was drawing on the date of his death while in service or immediately before his retirement. If on the date of his death while in service or immediately before his retirement a person had been absent from duty on leave (including extraordinary leave) or suspension, 'Pay' means the pay which he drew immediately before proceeding on such leave or suspension.

Note 2. - The Scheme does not debar a Government servant/pensioner from drawing pension in addition to his/her pay or pension. In the event of death of the father and the mother who were both Government employees, the minor children will be eligible to draw two family pensions, subject to a total of Rs. 150 per mensem provided both the employees were governed by the Family Pension Scheme, 1964.

142. Notwithstanding the provisions of rules 140 and 141 above, if a Government servant after rendering minimum of 7 (seven) years' continuous service dies while in service, the family of such Government servant may be granted a pension at the rates and conditions mentioned below :

- (i) For a period of 7 (seven) years from the date following the date of death or till the date on which the officer would have reached the normal age or superannuation had he remained alive, whichever period is shorter, the pension payable under this section will be at 50 (fifty) per cent of the basic pay last drawn, subject to a maximum of twice the pension admissible under rule 141 above.
- (ii) The pension payable thereafter will be at the rate laid down in rule 141 above.
- (iii) The provisions of this rule will not be applicable if the Government servant had put in less than 7 (seven) year's continuous service prior to his death.

<p>1. Substituted by Notification No. FMP 12/74/2, dated the 2nd July, 1974.</p>

(iv) The other provisions in this Section will continue to operate.

(v) This rule will have effect from 1st January, 1967.

Note 1. - In case of widows/widowers governed by the provisions of the Assam Services (Extraordinary Pension) Rules, 1963, the child allowance, if any, will be paid in addition.

Note 2. - In the case of person who dies while on extension of service, the date up to which the extension of service had sanctioned to him before his death will be deemed to be the normal date of superannuation.

143. (i) Family for the purpose of rules in this Section will include the following relatives of the officer –

- (a) wife, in the case of a male officer;
- (b) husband, in the case of a female officer;
- (c) minor sons; and
- (d) unmarried minor daughters.

Note 1. - (c) and (d) will include children adopted legally before retirement.

Note 2. - Marriage after retirement will not be recognized for purposes of rules in this Section.

(ii) The pension will be admissible -

- (a) in the case of widow/widower up to the date of her/his death or re-marriage whichever is earlier.

- (b) In the case of minor son, until he attains the age of 18 years.
- (c) In the case of an unmarried daughter, until he attains the age of 21 years or marriage whichever is earlier.

Note. - In cases where there are two or more widows, pension will be payable to the next surviving widow, if any. The term 'eldest' would mean seniority with reference to the date of marriage.

(iii) Pension awarded under the rules in this Section will not be payable to more than one member of an officer's family at the same time. It will first be admissible to the widow/widower and thereafter to the minor children.

(iv) In the event of re-marriage or death of the widow/widower, the pension will be granted to the minor children through their natural guardian. In disputed cases, however, payments will be made through a legal guardian.

(v) The temporary increases granted on pension will not be admissible on the Family Pension granted under the Scheme in this Section.

[* * *]

Notification No. FMP 179/77/5, dated the 19th July, 1978
Office Memorandum, dated 19th July, 1978

Subject : Discontinuance of deduction of two months' emoluments from Death-cum-Retirement Gratuity payable by retiring Government servant as contribution.

No. FMP 179/77/7. — The undersigned is directed to refer to rule 144 and Note 11 thereunder of Assam Service (Pension) Rules, 1979 which provides that every employee eligible to the benefits of Family Pension Scheme, 1964 will be required to surrender a portion of gratuity where admissible equal to his two month's emoluments subject to a maximum of Rs. 3,000. The Governor of Assam after careful consideration and also falling in line with the Government of India, is pleased to decide that no deduction should be made from the death-cum-retirement gratuity as aforesaid as a contribution towards Family Pension. The relevant provision of the Assam Services (Pension) Rules, 1969, may be deemed to have been modified accordingly. The necessary amendments to the relevant rules will be issued in due course.¹

These order will take effect from the date of issue of this office memorandum.

145. Widows/widower of such Government servants as are governed by this Section will to be entitled to family pension under any other rule. Family Pension to the families of Government servants governed by this Section as well as the Assam Services (Extraordinary Pension) Rules, 1963, who die as a result of "risk of office" or "special risk of office" as defined in the aforesaid rules, 1963, would be paid under the Assam Services (Extraordinary Pension) Rules, 1963, and not under the Family Pension Scheme, 1964 in this Section except to the extent mentioned in the Scheme. In other words they will not be entitled to benefits under the Family Pension Scheme, 1964, in this Section in addition except as indicated in Note 1 below sub-rule (v) of rule 142.

146. Family Pension under the rules in this Section is not admissible in respect of —

- (a) persons who retired before the 1st January, 1964 but may be re-employed on that date or thereafter;
- (b) persons paid from contingencies;

1. Rule 144 and Note 1 thereunder deleted w.e.f. 19th July, 1978 vide Notification No. FMP 179/77/5, dated the 19th July, 1978

Rule 144 and Note 1 read as follows :

“144. Every employee eligible to the benefits of this section will be required to surrender a portion of gratuity, where admissible equal to his two months’ emoluments subject to the maximum of Rs. 3,600.00. Where an officer governed by this section retires as a bachelor who has not adopted any child, no deduction from his gratuity will be made. In cases where the gratuity admissible is less than two months’ pay, the same will be resumed by the Government against the gratuity pension benefits admissible under this section.

Note 1. - In the case of Government servant retiring without a wife/husband or minor children including, adopted children, the deduction of two month’s emoluments from the gratuity will not be as in the case of bachelor. Similarly, no deduction of emoluments shall be made in the case of Government servants who die while in service leaving behind no beneficiary for family pension.”

- (c) work-charged staff;
- (d) casual labour;
- (e) contract officers;

- (f) persons who die after removal or dismissal for service and were/are granted Compassionate Allowance.

147. (1) As in the case of the grant of an ordinary pension, future good conduct of the receipt is an implied condition of every grant of a pension under this Section. Government reserve to themselves the right of withholding such a pension or any part of it if the recipient be convicted of serious crime or be guilty of grave misconduct and Government decision in such matters will be final.

(2) If a Government servant dies after retirement, whether before or after his pension has been sanctioned, and any fact come to light after his retirement whether before or after his death which, had they come to the notice of the Government before his retirement or death, would in the normal course have ended with his dismissal or removal from service, or reduction in rank or withholding or withdrawing of pension, or would have resulted in institution of criminal prosecution under a charge which provides for imprisonment of 7 years or more severe punishment, the family pension under this Scheme may not be granted or may be withdrawn or may be reduced to such extent as the Government may deem fit.

(3) If a Government servant dies while in service and some facts come, to the notice of the Government after his death that the officer was, while in service, engaged in anti-State activity or was guilty of misconduct, negligence, fraud, etc., which, had it come to the notice of the Government before his death, would have ended with his dismissal or removal from his service or reduction in rank or withholding or withdrawing pension had he retired on the date of death, the family pension “under this Scheme may not be granted or may be withheld or withdrawn or may be reduced to such extent as may be deemed fit by the Government.

Procedure

148. Furnishing of 'Family' details. —The following procedures are to be followed in respect of claims arising out of the Scheme in this Section —

- (i) All non Gazetted employees entitled to the benefit of this Scheme shall be required to furnish details of their 'Family' as defined in clause (i) of rule 143, i.e., the date of birth of each member, with his/her relationship with the Government servant. This statement shall be countersigned by the Head of Office and pasted in the Service Book of the Government servant. Government servants will thereafter be required to keep this statement up-to-date. Additions and alterations in this statement will be made by the Head of Office from time to time on receipt of information from the Government servants concerned.
- (ii) All Gazetted officers will furnish the details of their 'family' to their respective Accounts Officer. It will be their responsibility to keep these particulars up-to-date. The Accounts Officers will be required to acknowledge the receipt of these communications.
- (iii) Cases where death occurs while in service – On receiving information of death of an officer while in service, the administrative authority will send a letter as prescribed in Form No. 9 (Pension) to the family of the deceased and ask for the necessary formal application in Form No. 10 (Pension) and the documents mentioned therein.

- (iv) On receiving the documents referred to in sub-rule (iii) above the pension sanctioning authority will sanction family pension as in Form No. 11 (Pension) and send all these documents along with the Service Book of the Government servant to the Audit Officer concerned who will then issue the pension payment order to the beneficiary.
- (v) Cases where death occurs after retirement. – In order to facilitate quick payment of family Pension to the widow of the pensioner, the same Pension Payment Order under which the pensioner was drawing his pension will provide for the admissibility of the family pension to her. While applying for the grant of pension, the Government servant should furnish three copies of his joint photograph with wife; one of which will after having been stated by the pension sanctioning authority, be pasted in the Pension Payment Order—pensioner's portion. The amount of family pension admissible will be mentioned in the Pension Payment Order. The Treasury Officer will start paying family pension to the widow/ widower on receipt of death certificate of the pensioner and the Form of Application (Form No. 10) for the grant of family pension to her/him, under intimation to the Audit Officer concerned. If the widow/ widower is also not there and the family pension is payable to the minor children through their natural guardian, the guardian will apply on behalf of the children with three copies of his photographs and other necessary documents to the administrative authorities on surrendering the first Pension Payment Order. Fresh

Pension Payment Order will require to be issued in such cases.

Grant to Minor Children on Remarriage of Widow

(vi) In the event of remarriage of the widow, the family pension will be granted to minor children through their natural guardian [of rule 143 (iv)]. The widow while applying for family pension on behalf of the minor children in her capacity as natural guardian, should furnish;

(a) the date of her remarriage,

(b) name of Treasury or Sub-Treasury at which payment is desired; and

(c) her full address.

in the application for family pension. It is not necessary to furnish a fresh application in Form No. 10 nor the documents mentioned in Form No. 9 as they are already available with the pension papers on which family pension was originally admitted to her.

[Ref. O. M. No. F.M.P. 10/64/153 , dated 16-3-1970 and Notification No. F.M.P. 27/70/14, dated 2-11-1970].

Comments

The new sub-clause (vi) of clause (1) of rule 148 has been inserted vide Notification No. F.M.P. 27/70/14, dated 24-11-1970 and the amendment has come into force from the date of notification.

Section V - Miscellaneous

149. Recovery from a gratuity or pension sanctioned under Sections II and III of this Chapter may be effected in the same

circumstances as recoveries from an ordinary pension under rule 21. This shall apply also in the case of officers who entered in service before 1st April, 1939.

Note. - This does not apply to recovery of Government dues which can be effected from the gratuity without consent of the gratuity or the members of the family vide Note 3 below rule 20.

150. No gratuity or pension may be granted under Sections II and III of this Chapter if the officer was dismissed or removed for misconduct, insolvency or inefficiency, Compassionate grants may be made under these Sections in accordance with rule 24.

151. A gratuity or pension shall be sanctioned under Sections II and III after giving due regard to the provisions of rule 106.

CHAPTER IX

Special Provisions - Temporary Contingent and other Staff

152. Temporary Government servants. – (i) A temporary employee who retires on superannuation or is discharged on account of retirement or is declared invalid for further service will be eligible for a gratuity at the rate of half month's pay for each completed year of service, provided that he had completed not less than 5 (five) years' continuous service at the time of retirement/discharge / invalidation.

Note. - 'Pay' for the purpose of determining the amount of gratuity will mean only basic pay and also dearness pay, if any, at the time of relinquishing service. It will not include special pay, personal pay, and other emoluments classed as "Pay". In case the person concerned was on leave with or without allowance immediately, before retirement/discharge/invalidation, pay for this purpose will be that which he would have drawn had he not proceeded on such leave.

(ii) The grant of gratuity under clause (i) above will be subject to the service rendered by the employee concerned being held by the authority competent to appoint him to be approved and satisfactory.

(iii) No gratuity will be admissible —

(a) in the case where the employee concerned resigns his post or is removed or dismissed from public service.

- (b) to a probationer or other Government servant discharged for failure to pass the prescribed test or examination,
- (c) to a re-employed pensioner,
- (d) to one paid from contingency or one belonging to a work-charged establishment or any other service governed by separate rules or orders,
- (e) to one in contract service unless there is any specific stipulation in the contract-deed.
- (f) to one entitled to benefit of Contributory Provident Fund or similar other benefits.

153. Contingency and other non-pensionable staff. -

(1) The Governor of Assam may, at his discretion and subject to such condition as he may think fit to impose, grant gratuity not exceeding six month's pay to a person who retires, after rendering many years of satisfactory service as a contingency employee, or in Government Porter Crops, or in any other non-pensionable service (other than members of the work charged establishment); provided that no retirement benefit is otherwise admissible to such person under any other specific rule or order applicable to him.

Note. - Though service in a work-charged establishment is non-pensionable, members of such establishment may, on retirement, be entitled to gratuity under Rule 329 (2) of the Assam Financial Rules, Second Edition. Such staff will not be entitled to any gratuity under above rule in addition to

the gratuity admissible under rule 323 of the Assam Financial Rules.

Extract of rule 329 of the Assam Financial Rules: -

“329. (i) The following rules and orders are applicable to the members of the work-charged establishment in the matter of pay, increment, leave, traveling, allowance, etc.

(2) Pension and Gratuity. - Members of the work-charged establishment are not ordinarily entitled to any pension or gratuities. Wound or Extraordinary Pensions and Gratuities are, however, in certain cases admissible in accordance with the pension rules.

All members of the work-charged establishment, who are not entitled to any pension on their retirement, may be granted gratuity on the following scales:

Years of completed service		Amount of gratuity
10 years' service	...	3 months' pay
11-20 years' service	...	6 months' pay
21-30 years' service	...	1 year's pay
31 years' and above	...	1 year's pay plus one month's pay for each completed year above 30 subject to a maximum of 6 months' pay.

CHAPTER X

Re-employment of Pensioners

Section I - General

154. No officer, Civil or Military, may retire with the view of being re-employed and drawing pension to pay, whether in the general service or in the service of any Local Fund.

155. When a person who was formerly in the Civil or Military employment of the Government of India obtains re-employment whether temporarily in Government service or in the service of a Local Fund, it shall be incumbent on him to declare the appointing authority the amount of any bonus, gratuity or/and pension granted to him in respect of the pervious employment. The authority re-appointing him shall specifically state in the order of re-appointment whether any deduction is to be made from pension or salary as required by the rules of this Chapter and shall communicate a copy of the order to the Audit Officer.

Note 1. - The principle of this rule applies in the case of continued employment on retirement from Government service. The amount of the pension to be declared is that sanctioned originally, i.e., it shall be inclusive of any amount that may have been commuted (vide rules 167 and 168). If any amount of pension is commuted by the pensioner during re-employment this should also be intimated to the re-employing authority to enable such authority to re-fix his pay where necessary.

Note 2. - The method to be adopted for the purpose of calculating the pension equivalent of the retiring service gratuity to an officer is the same applied in the case of

death-cum-retirement gratuity, i.e., the pension equivalent is to be determined by applying the current Table of Commutation value of pensions as applicable to him at the time of retirement, his age being taken as the age on the next birthday after retirement from Government service.

156. The attention of every officer who is re-employed should be specifically called to the provisions of this Chapter by the authority re-employing him, and whether he becomes aware of such an appointment, by the Audit Officer, but the failure of such authority to do this will not be admitted a ground for condoning any breach of the rules contained in this Chapter.

157. Notwithstanding anything contained in the rules in this Chapter, a wound or other extraordinary pension sanctioned under the Assam Services (Extraordinary Pension) Rules, 1963, and a wound or injury or disability pension or a disability addition to pension awarded under the military rules shall continue to be drawn by a retired Government servant, civil or military, during re-employment or continued employment, and shall be subject only to the conditions of its awards. The amount of such pension or addition to pension shall not be taken into account when fixing the pay during re-employment or continued employment.

Note. - Where the military pension is consolidated, and service and disability elements are not explicitly differentiated, the total pension may be split up in the following manner. The service portion of the pension will be represented by the service pension earned or, if no service pension has been earned by the proportionate service pension calculated with reference to the minimum ordinary pension admissible for the rank and the actual length of service rendered, in calculating this service element, an

amount of fifty paise and over shall be taken a whole rupee, amounts of less than fifty paise being ignored. The disability portion of the pension will be the balance.

Section II—Civil Pensioners

158. Re-employment after compensation gratuity. – An officer who has obtained a compensation gratuity, if re-employed in qualifying service, may either retain his gratuity, in which case his former service will not count for future pension or refund it and count his former service.

159. The intention to refund must be stated immediately on re-employment; but the refund may be made monthly instalments of not less than one-third of the officer's salary, and not less than the whole gratuity divided by the number of months which have elapsed since the end of the service for which the gratuity was given. The right to count previous service does not revive till the whole amount is refunded.

Note. - The equity of this rule is based upon the consideration that so long as the refund of the gratuity is postponed, the officer avoids the risk and the State loses the possibility of the gratuity lapsing absolutely to the public treasury by the death or dismissal of the officer. A subsequent refund to a gratuity, even with compound interest, does not compensate the State for the loss of this possibility meanwhile.

160. After Compensation Pension. – (a) An officer who has obtained a compensation pension, if re-employed, may retain his pension in addition to his pay, provided that, if he is re-employed in a post paid from the Consolidated Fund of the State, the pension shall remain wholly or partly in abeyance if the sum of the pension (including commuted portion of pension, if any, and

pension equivalent of death-cum-retirement gratuity, where admissible) equal to his substantive pay at the time of his discharge. Once the amount of the pension has been fixed in conformity with the above condition, the officer shall be entitled to receive the benefits of increments in his new scale or promotion to another scale or posts without a further corresponding reduction in pension; not shall the amount of pension so fixed be varied during leave.

Note 1 - This rule applies to re-employment on all establishments paid from the Consolidated Fund of the State, whether paid by fixed salary or by fluctuating monthly allowances; but it does not apply to pensioners employed on work on daily wages.

Note 2 - In case of re-employment under a Local Fund, no deduction may be made from a compensation pension.

Note 3 - The Governor may permit an officer, who has obtained a compensation and is afterwards re-employed in a permanent or temporary appointment duly sanctioned by competent authority, to draw his full pension in addition to the pay and allowances of the appointment, irrespective of the period of such re-employment.

Note 4 - The Governor may delegate his power under this rule to Administrative Departments in respect of pensioners whose re-employment they are authorised to order.

Note 5 - The restrictions in this rule do not apply to ex-Policemen whose pension does to exceed Rs. 15 a month.

(b) If his re-employment is in qualifying service, he may either retain his pension (subject to the proviso stated above) in

which case his former service will not count for future pension, or cases to draw any part of his pension and count his previous service. Pension immediately drawn need not be refunded.

Note - An officer counts his previous service under clause (b) if on re-employment his pension remains wholly in abeyance under the proviso to clause (a).

161. In the case of a Section-Writer whose services have been allowed to qualify for pension under special orders of the Governor or of a Press employee (see rule 42) who has been re-employed, the substantive pay at the time of discharge is taken at the average earnings of the last six months of employment.

162. If an officer does not, within three months from the date of his re-employment exercise the option conceded by rule 160 of ceasing to draw pension and counting his former service he may not thereafter do so without the permission of the Governor.

163. After Invalid Pension. - There is no bar to re-employment of an officer who has regained health after obtaining invalid pension; or if an officer is invalid as being incapacitated for employment in some other branch of the service, to his re-employment in some other branch of the service. The rules in such a case as to refunding gratuity, drawing pension and counting service are the same as in the case of re-employment after Compensation Pension.

164. After superannuation or retiring pension. - An Officer who is in receipt of a superannuation or retiring pension and/or gratuity shall not be re-employed or continued to be employed in service paid from the Consolidated Fund of the State or from a Local Fund, except on public grounds. Subject to the

conditions prescribed in rule 165, sanction to re-employment or extension of the terms of employment may be given—

- (i) by the Governor;
- (ii) by any authority to whom the Governor may delegate his powers under this rule in respect of pensioners re-employed in establishment under the control of such authority.

Note 1. - Subject to the condition mentioned in Note 1 below rule 165 the Governor has been pleased to delegate powers under clause (ii) of this rule to the Administrative Department of the government to sanction re-employment, in public interest, of pensioners in establishment under their control. This power should be exercised subject to any general procedure of re-employment and instruction issued by the Government from time to time in this regard.

Note 2. - The Governor is competent to sanction under this rule re-employment of retired officers, previously under the rule making control of the Secretary of State, to posts created by him under his own power.

Note 3. - The Governor may declare that the restrictions contained in this rule shall not apply to the particular class or that they shall apply, subject to such modifications as he may direct.

165. The authority competent to fix the pay and allowances of the post in which the pensioner is re-employed shall determine whether his pension shall be held wholly or in part in abeyance. If the pension is drawn wholly or in part such authority shall take the fact into account in fixing the pay to be allowed to him.

Note 1. - The Administrative Department who are competent to sanction re-employment under powers delegated to them in Note 1 below rule 164 may fix pay and allowances of all re-employed pensioners under them when the pay on re-employment together with pension, where allowed to be drawn separately, including the commuted portion of pension and pension equivalent of gratuity and /or death-cum-retirement gratuity if any, does not exceed the last pay drawn by office immediately before retirement :

Provided that the pay so fixed shall not be less than the minimum of the scale attached to the post to which the officer is re-employed.

The term last pay drawn should be taken to mean only the substantive pay last drawn before retirement. Pay drawn in an officiating appointment may also be taken into account if it was drawn continuously for at least one year before retirement.

Note 2. —Where the employment is in service paid from a local fund, the authority determining whether the pension shall be wholly or partly held in abeyance shall be either –

(i) the authority administering the local fund, if so empowered by the Governor by special or general orders in this behalf; or

(ii) in any other case, the Governor or such other authority as he may prescribe.

Note 3. - The restriction in this rule does not apply to expolicemen whose pension does not exceed Rs. 15 a month.

166. Exception. - The foregoing rules do not apply to pensioners re-employed under the Court of Wards.

167. In case of commutation of pension. - In the case of a pensioner who is re-employed in Government service of a local fund and who commutes a portion of his pension after such re-employment, the amount of pensions which the pensioners is entitled to draw under the rules in this Section shall be the amount of which he would have been entitled had there been no communitation, less the amount commuted.

168. A pensioner who, foregoing his former pension, is re-employed and has commuted a portion of his pension before retirement, shall be required to refund the full amount of commutation value. This amount will be that originally paid to him and not the amount due according to calculation at than present rates. The refund may be made by monthly instalment of not less than one-third of his pay and the right to count former service as pensionable shall not revive until the full amount of the commutation value has been repaid.

169. In the case of a pensioner whose pension is held wholly in abeyance during such re-employment and who commutes a portion of his pension during this period, his pay during re-employment shall be reduced by the amount of pension commuted with effect from the date on which the commutation becomes absolute. In the case of a pensioner whose pension is held partly in abeyance during such re-employment, and who during this period commutes a portion of his pension in excess of the portion actually drawn, his pay during re-employment shall be reduced, with effect from the date on which the commutation becomes absolute, by an amount representing the difference

between the portion of pension commuted and the portion of pension drawn until the commutation.

The pensioner shall, as soon as he commutes any portion of pension during re-employment, intimate this fact to the re-employing authority for re-fixation of his pay contemplated in this rule.

Note. - Application for such commutation during re-employment shall be submitted through the authority under whom the pensioner is re-employed.

170. In the case of pensioner, a portion of whose pension has been commuted before re-employment, the regional amount of the pension should be taken into consideration in fixing the total receipts during re-employment of continued employment and not merely the uncommuted portion.

171. After Death-cum-Retirement Gratuity. - The term pension or gratuity used in this Chapter includes the death-cum-retirement gratuity which an officer receives or is entitled to receive on retirement under the Liberalised Pension Rules in Chapter VIII. The pension equivalent of death-cum-retirement gratuity should, therefore, be taken into account for the purpose of determining the officer's pay during re-employment. The pension equivalent of the lump sum gratuity should be determined by applying the current Table of Commutation Value of pensions, the age of the person concerned being taken as the age on the next birth-day after retirement from Government service. If, however, the pension case of the re-employed pensioner has not been finalised and the pensionary equivalent of death-cum-retirement gratuity cannot be calculated, a written undertaking should be obtained from the re-employed official to the effect that he would have no objection to

the pensionary equivalent of death-cum-retirement gratuity over paid to him being made from his pension or gratuity amount. If the re-employment is in qualifying services the pensioner shall refund the death-cum-retirement gratuity in the same manner as in the case of re-employment in qualifying service after compensation gratuity if he wishes to count his former service. The pension equivalent of retiring service gratuity of an officer may also be determined by applying the same principle as in this rule] vide Note 2 below rule 155].

Section III - Military Pensioners

172. Except where it is otherwise expressly provided, the rules in Section II of this Chapter do not apply to a military officer, departmental officer, warrant or non-commissioned officer, or soldier who is taken into or allowed to continue in civil employ after he has been granted a pension under military rules.

Note. - A wound or injury pension shall be reduced or terminated only by virtue of the conditions of its award and shall not be affected by the re-employment of the pensioner in Government service.

173. (a) When a person formerly in military service obtains employment in the civil department after having been granted a military pension, he shall continue to draw his military pension, but the authority competent to fix the pay and allowances of the post in which he is re-employed shall have, in fixing his pay and allowances in the post in which he is re-employed, the power to take into account the amount of pension, including such portion of it as may have been commuted.

(b) A military officer, departmental officer, warrant or non-commissioned officer or soldier who is granted a pension under

military rules while he is in civil employ, shall draw such pension while he is in civil employ, but the authority competent to fix the pay and allowances of the post in civil employ may, with effect from the date from which the pension is granted, reduce such pay and allowances with reference to such officer or soldier by any amount not exceeding the amount of such pension.

Note 1. - If the military pension of a person does not exceed Rs. 15 a month, it shall not be taken into account, in fixing his pay and allowances in the Civil Department.

Note 2. - Clause (b) of this rule does not apply to a military officer of the Indian Political Service.

Note 3. - In the case of all Military Officers in Civil employ granted leave under Fundamental Rule 86, the payment of military pension shall be suspended until the officer is finally retired from the civil employ.

174. The pension of the heir of an Indian Military Officer or non-commissioned Officer or soldier, or the heir of a medical subordinate, will during employment in any Civil Department, merge in his salary.

Section IV - Pension for New Service

175. Unless in any case it be otherwise distinctly provided in this Chapter, a Government servant who has received a pension on retirement shall not, if re-employed in Government service, be permitted to count his new service as qualifying for a second pension. If the new service is pensionable it must be combined for the purpose of calculating pension with the service previously rendered and the whole treated as one service.

176. The provisions of the above rule do not apply to a Government servant who is taken into or allowed to continue in civil employ after earning a pension in military employ. Such a Government servant may, if he is not permitted or does not desire to count the duty performed in military employ as duty qualifying for pension, draw his military pension in addition to pay in civil employ, but the authority competent to fix the pay and allowances of the post in which he is re-employed shall have in fixing his allowances in the post in which he is re-employed, the power to take into account of pension, including such portion of it as may have been commuted. If his service in such employ has been pensionable, he may (on retirement from civil employment be granted any pension or gratuity earned by it in addition to his military pension. When, such a Government servant earns a pension under military rules while he is in civil employ, the military pension shall not be granted for so long as he continues in civil employ.

177. If an officer who has obtained a compensation or invalid pension is re-employed in pensionable service and retains the pension under rule 160, the pension or gratuity admissible for his subsequent service is subject to the following limitation, namely, that the gratuity or the capital value of the pension shall not be greater than difference between the value of the pension that would be admissible at the time of the officer's final retirement if the two periods of service were combined, and the value of pension already granted for the previous service.

178. (a) If a gratuity received for the earlier service has not been refunded, gratuity received for the earlier service has not been refunded, or pension (as the case may be) allowed for the subsequent service on condition that the amount of such pension plus the amount of the previous gratuity shall not exceed that

amount of gratuity or the present value of the pension that would have been admissible had the gratuity received for the earlier service been refunded.

(b) If the amount of such gratuity or the present value of such pension plus the amount of the previous gratuity, exceed the amount of gratuity, or the present value of the pension that would have been admissible if the gratuity received for the earlier service had been refunded, the excess must be disallowed.

Note. - For the purpose of rules 177 and 178 the benefit of Death-cum-Retirement Gratuity, if any, admissible under Section II of Chapter VIII should also be taken into consideration.

179. For the purpose of rules 177 and 178 the capital or present value of a pension shall be calculated in accordance with the table prescribed by the Assam Services (Commutation of Pension) Rules, 1965.

Section V - Commercial Employment after Retirement

180. (a) If a pensioner who immediately before retirement held a Gazetted post under the rule making control of the Governor wishes to accept any commercial employment before the expiry of two years from the date of his retirement, he should obtain the previous sanction of the Governor to such acceptance. No pension shall be payable to pensioner who accepts a commercial employment without such sanction, in respect of any period for which he is so employed or such longer period as the Governor may direct.

(b) In this rule, "commercial employment" includes employment under a local authority, an industrial concern and means

employment in any capacity including that of an agent under a company, firm or individual engaged in commercial or industrial business and includes also a directorship of such company and a partnership of such firm but shall not include employment under a body corporate owned or controlled by Government.

181. Employment under a Government outside India after retirement. - (1) If a pensioner who immediately before retirement held a Gazetted post under the rule making control of the Governor of Assam wishes to accept the employment under a Government outside India, he should obtain the previous sanction of the Governor of Assam to such acceptance. 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 Governor of Assam may direct:

Provided that a Government servant permitted by the appropriate authority to take a particular form of employment under a 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.

(b) For the purpose of this rule "employment under a Government outside India" shall include employment under a local authority or corporation or any other institution or organisation which functions under the supervision or control of a Government outside India ¹[or an employment under an International Organisation of which the Government of India is not a member].

Note. - The restriction shall not apply in relation to employment referred to above accepted by such pensioner before 26th July, 1949.

PART III
PROCEDURE RELATIGN TO PENSIONS

CHAPTER XI
Applications for and grant of Pensions

Section I - General

182. The rules in this Chapter shall apply to all officers applying for pension under these rules.

183. All authorities dealing with applications for pension under these rules should bear in mind that the delay in the payment of pensions involves hardship. It is essential to ensure, therefore, that an officer begins to receive his pension on the day on which it becomes due.

Note. - Annual superannuation statement (vide rule 95) should be checked at least quarterly to see if any officer due to retire within one year not yet submitted his pension application. Attention of such officer should be drawn to rule 184 and they should be reminded to submit their formal application.

184. Every officer shall submit a formal application for pension in Form No. 1 (Pension). An officer should, in his own interest, submit his pension application for pension to the authority certified in rule 188 or 192, as the case may be, one year in advance of the date of his actual or anticipated retirement.

Provided that —

- (i) in a case in which the date of retirement cannot be foreseen one year in advance, the application shall be submitted immediately after the date of retirement is settled; and
- (ii) an officer proceeding on leave preparatory to retirement on excess of one year, when admissible, shall submit the application at the time of proceeding on such leave.

1. Ins. by Notification No. FMP 2/70/32 dated 15-6-1971.

Note 1. - This rule is intended to obviate delay in the settlement of claims for pension and to ensure that an officer may not retire under the misapprehension that he has earned a pension which is subsequently found to be inadmissible. There is no limitation on the period after retirement within which an application for pension or gratuity may be submitted, but in the absence of special orders, a pension applied for after the officer has retired begins from the date of application (see also rule 205).

Note 2. - Procedure when Government dues are outstanding -

Sanctions to pension are frequently delayed pending recovery of may outstanding Government dues e.g., over-issue of pay, allowance or leave salary, outstanding recoveries on account of house rent, advances for conveyance, house building or other purpose and any other dues the precise amount of which is yet to be assessed.

Authorities sanctioning pension should therefore ensure that these outstanding sums are brought to the notice of the

officer concerned, with the least possible delay, and that he is requested to pay up the dues before formally sanctioning the final pension. This does not, however, modify the provision contained in Notes 2 and 3 below rule 20 to the effect that dues of this kind could be recovered from pension with the pensioner's consent but is intended to obviate any possible difficulty in effecting recoveries otherwise than from pension i.e., by taking recourse to Court of law.

In case of any dues remaining unassessed or unrealised for any reason, any of the following courses may be adopted :

- (i) The retiring Government servant may be asked to furnish a surety of a suitable permanent Government servant in Form No. 18. If the surety furnished by him is found acceptable the payment of his pension or his gratuity or his last claim for pay, etc., and the issue of last pay certificate should not be withheld.
- (ii) If the retiring Government servant is unable or unwilling to furnish a surety, a suitable cash deposit may be taken or such portion of the gratuity, where admissible, as may be considered sufficient may, be held over till the outstanding dues are assessed and adjusted.

The following principles should be observed by all concerned authorities in this regard:—

- (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 25 per cent, thereof. If case where it is not possible to estimate the approximate amount recoverable from the retired Government servant, the deposit

to be taken or the portion of gratuity to be withheld should be limited to 10 per cent, of the amount of death-cum-retirement gratuity or Rs. 1,000 whichever is less.

(b) Efforts should be made to assess and adjust the recoverable due within a period of 3 months from the date of retirement of the Government servant concerned. In any case cash deposit taken or the amount withheld from gratuity should not be held back or the surety bond over beyond a period of two years after retirement of the Government servant. After lapse of the period of two years, the dues assessed up to that time should be adjusted against the cash deposit taken or the amount withheld from gratuity, if any, and the balance released to the pensioner. Similarly, in cases where the pensioner had furnished a surety the surety should be released after lapse of a period of two years from the date of retirement of the Government servant concerned after recovering the dues assessed up to that time.

(c) If some dues recoverable from a retired Government servant come to light more than two years after his retirement by which time normally the surety would have been released, or the cash deposit or the amount withheld from gratuity would have been refunded, the question whether recovery of the irrecoverable amount should be waived or the recovery made from the Government servant responsible for the assessing and effecting the recovery in time should be considered on merits.

185. The Audit Officer shall send to every Gazetted Officer a copy of rules 148 to 188 one year in advance of the date by which the Officer attains the age of superannuation or as soon as

possible before the date from which he has formally sought permission to retire if earlier, with the remark that there is likely to be delay in the commencement of his pension if he does not submit a formal application as soon as the rules permit.

186. Questions affecting the pension or pensionable service of an officer which for their decision depend on circumstances known at the time shall be considered as soon as they arise.

Any question which for decision depends on possible circumstances that may arise in future or on hypothetical conditions may be raised or discussed as soon as the permissible period for submission of formal application for pension under rule 184 begins.

187. Except in cases covered by the first sentence of rule 186 or in individual cases under specific order of the Government, an Audit Officer may not give advice upon any question connected with the claim of an officer to pension until the permissible period prescribed in rule 184 for the submission of formal application for pension begins.

Section II - Application and Sanction

A - Gazetted Officers

188. A Gazetted Officer shall submit a formal application for pension in Form No. 1 (Pension) to the Head of Department. If the officer is himself the head of the Department, he shall submit the application in Form No. 2 (Pension) direct to the Administrative Department of the Government along with a formal application in Form No. 1 (Pension).

189. (i) The authority receiving the formal application in Form No. 1 (Pension) shall immediately draw up the application in Form No. 2 (Pension). Even where the formal application has not been received, the Head of the Department shall draw up the application in Form No. 2 (Pension) as soon as it becomes known that an officer is due to retire within one year or has proceeded on leave preparatory to retirement and shall not delay it till the officer has actually submitted the formal application for pension. In the latter case entries against Items 14, 16, 17 and 18 on the First Page of Form No. 2 (Pension) shall not be filled up at the initial stage. The relevant entries shall be made soon after the formal application is received. However, if by the time the formal application in Form No. 2 has already been sent to the Audit Officer, the formal application shall immediately be forwarded to the Audit Officer who will complete the necessary entries.

(ii) He shall certify on page three of the Form N. 2 whether the character, conduct and past services of the applicant are such as to entitle him to the favourable consideration on the Government. He shall also record there his own opinion as to whether the service claimed has been established and should be admitted or not.

(iii) All periods of leave, suspension, etc., which are not reckoned as service should be carefully recorded on the form.

(iv) If the application is for invalid pension, the requisite medical certificate shall be attached to the application.

Note. - If the medical examination of the applicant was not conducted on the date on which he ceased to perform duty, the authority competent to sanction the pension may accept a medical certificate bearing a later date.

190. (a) After completing the application in the manner prescribed in rule 189 it shall be forwarded along with the necessary documents to the Accountant General through the authority empowered to sanction the pension.

(b) To the extent applicable, the following documents should also be forwarded along with the pension application in Form No. 2 namely :

- (i) Last Pay Certificate if the applicant is not longer in service.
- (ii) Invalid certificate from the appropriate medical authority if the application is for invalid pension.
- (iii) Memorandum of average emoluments.
- (iv) Two specimen signatures, duly attested or in the case of persons not literate enough to sign their names, two slips bearing the left hand thumb and fingers impressions, duly attested.
- (v) (a) Three copies of passport size photograph duly attested;
or
(b) Three copies of passport size joint photograph with wife/husband (in case of officers mentioned in rule 18 who are governed by the Family Pension Scheme, 1964 in Section IV of Chapter VIII); and
(c) Details of 'family' as defined in the Family Pension Scheme, 1964, i.e., date of birth of each member with his/her relationship with the Government servant.
- (vi) Two slips each showing particulars of height and identification marks duly attested.
- (vii) Formal application for pension in Form No. 1.
- (viii) Declaration from the pensioner regarding grant of anticipatory pension required under rule 199 if some delay is anticipated in the verification of his service and in finally assessing and setting the pension.

(ix) In the case of an officer, a part of whose service has been rendered in non-Gazetted posts, the Service Book and the statement of non-Gazetted service in Second Page of Form No. 2 shall also accompany the pension paper sent to the Audit Officer.

191. Sanction. - (a) The Administrative Department of the Government, the head of the Department, or any authority competent to fill the post vacated by the retiring officer shall be competent to sanction pension. Such authority shall, after due consideration of fact of the case and having due regard to the provision of rule 106 record on the application his order as to whether the service has been satisfactory and is approved for grant of the full pension admissible under the rules and if otherwise what reduction should for that reason be made from the full pension or/and gratuity admissible under the rules. The pension sanctioning authority shall keep a copy of the application before forwarding the same to the Audit Officer.

(b) The pension sanctioning authority has the special responsibility of ensuring that the application in Form No. 2 with his orders is sent to the Audit Officer in time so as to enable him to issue the pension payment order not later than the date on which the officer is due to retire.

Note 1. - A State Government officer who retires from service while holding temporarily a post under the Central Government reverts to his State on retirement and his pension shall be sanctioned accordingly by the appropriate authority.

Note 2. - A list of officers who are authorised to make appointments is in Appendix 12 of Assam Fundamental Rules and Subsidiary Rules.

B —Non-Gazetted Officers

192. Verification of service. – A non-Gazetted officer shall submit a formal application for pension in Form No. 1 (Pension) to the Head of Office.

193. On receipt of the formal application in Form No. 1 (Pension), the Head of Office shall immediately prepare the statement of the applicant's service in the Second Page of Form No. 2 (Pension), and arrange to verify them according to the following procedure :

- (a) He shall go through the Service Book and the Service Roll, if any, and satisfy himself whether the amount that annual certificates of verification for entire service are recorded therein. In respect of the unverified portion(s) of service he shall arrange to verify it or them , as the case may be, with reference to pay bills acquittance rolls or other relevant records and record the necessary certificates in the Service Book or Service Roll, as the case may be.
- (b) If the service for any period is not capable of being verified in the manner specified in clause (a), that period of service having been rendered by the officer in another officer or department, a reference shall be made to the head of that office, as the case may be of that department, in which the officer is shown to have served during the period for the purpose of verification.
- (c) If any portion of service rendered by an officer is not capable of being verified in the manner specified in clauses (a) and (b), the officer shall file an affidavit in plain paper stating

that he had in fact rendered that period of service and shall also furnish all relevant details and evidence in support of the same. The authority competent to sanction pension of that officer shall admit that portion of service after taking into consideration the statements in the affidavit and evidence produced by that officer in support of the same, if that authority is satisfied that the officer had really rendered that portion of service.

194. Notwithstanding anything contained in rule 193 the preparation of the service statement and the verification of service in the manner set out in the preceding rule, shall be undertaken by the head of the Office one year before the date on which an officer is due to retire on superannuation or on the date of which he proceeds on leave preparatory to retirement, whichever is earlier and shall not be delayed till the officer has actually submitted the formal application for pension.

195. (a) (i) After completing the verification in the manner indicated in rule 193, the Head of the Office shall draw up the application in Form No. 2 (Pension). This should be done irrespective of the fact whether a formal application for pension has been received from the officer or not. If at the time application in Form No. 2 is drawn up, a formal application from the officer has not yet been received, entries against items 14, 16, 17 and 18 on the First page of Form No. 2 shall not be filled up at that stage. The relevant entries shall be made soon after the formal application is received. However, if by the time the formal application in Form No. 1 is received, the application in Form No. 2 has already been sent to the Audit Officer, the formal application shall immediately be forwarded to the Audit Officer who will complete the necessary entries.

(ii) The Head of the Office shall also follow directions contained in clauses (ii) to (iv) of rule 189.

(iii) In any case in which it become necessary to resort the procedure prescribed in clause (c) of rule 193 he shall record on the application the exact nature of the investigation made and the conclusion arrived at.

(b) (i) The Head of Office shall then arrange, with the application, all the documents relied upon for the verification of the service claimed in such manner that they can be conveniently consulted and forward them together with the officer's Service Book of Service Roll, as the case may be, and the Statement of the Service in Second page of Form No. 2 duly completed up-to-date through the authority empowered to sanction the pension to the Audit Officer.

(ii) To the extent applicable, the Head of the Office shall also forward, alongwith the pension application Form No. 2, necessary connected documents mentioned in sub-clauses (i) to (ix) of clause (b) of Rule 190.

(c) The competent authority mentioned in Rule 119 shall sanction the pension in the manner prescribed therein.

196. Death-cum-retirement Gratuity in Section II and/or Family Pension in Section III of Chapter VIII in case of death of Government servant pensioner. – On receipt of a formal application from the proper pension in First Page of Form No. 3 for death-cum-retirement gratuity/residuary gratuity and in Firm Page of Form No. 4 for family pension, the Head of Office /Department shall draw up a statement of the services of the deceased officer in the Second Page of Form No. 3 or 4 as the case

may be. He shall then fill up the columns under "Remarks by the Receiving Authority" on the Third Page of the Form. The application shall then, alongwith the orders of the pension sanctioning authority on the Third Page of the Form and other relevant documents, forwarded to the Audit Officer. In case of residuary gratuity and or family pension after retirement the statement of services of the deceased before sanctioning the death-cum-retirement gratuity and it would not be necessary to go through this procedure again.

Note 1. - For detailed procedure regarding grant of death-cum-retirement gratuity and family pension, see Note 2 below rule 135 (5) and Note 1 below sub-rule (9) of rule 137 in Chapter VIII.

Note 2. - Family Pension Scheme. - The procedure to be followed in respect of claims arising out of Family Pension Scheme, 1964 in Section IV of Chapter VIII are laid down in rule 148.

197. Audit Check. - (1) On receipt of the pension papers passed on to him under the provisions of Rule 190 or 195, the Audit Officer shall apply the requisite checks and record his audit enfacement on the Forth page of the application in Form No. 2, showing the period of qualifying service which has been verified and accepted for the grant of pension or and gratuity the amount and the date from which it/ they is/are admissible, etc. If the pension is payable in his circle of audit, he shall thereafter prepare the Pension Payment Order on the basis of the orders of the pension sanctioning authority and the audit enfacement, but shall not issue it more than a forth-night in advance of the date on which the officer is due to retire. The fact of issue of the Pension Payment Order shall be promptly reported to the pension

sanctioning authority, and the pension papers which are no longer required returned to him. The application in Form No. 2 shall be retained for record in the Audit Office.

(2) Similarly on receipt of pension paper passed on to him under rule 196, the Audit Officer shall after due verification, record his audit enfacement on the Fourth Page of the Form and authorities the payment of the amount of death-cum-retirement gratuity/residuary gratuity and or issue the family pension payment order for specified period on the authority of the orders recorded by the pension sanctioning authority and his audit enfacement and indicate the event, if any, on the happening of which the payment should be stopped.

(3) If the pension is to be paid in another circle of audit, the Audit Officer shall send a copy of the pension application with the orders of the sanctioning authority and his audit enfacement along with the last pay certificate, if received, to the Audit Officer of that circle who shall prepare the necessary Pension Payment Order and take further action indicated in clause (1).

Note. - If the pension papers are plainly incorrect or incomplete, the Audit Officer shall return them promptly for correction or explanation.

(4) The Audit Officer shall record briefly in the Second Page of Form his reasons for disallowing any service claimed. Any other disallowances should be recorded in the Audit Enfacement on the Fourth Page with reasons therefore.

198. (1) Should the amount of pension granted to an officer be afterwards found to be in excess of that to which he is entitled under the rules, he shall be called upon to refund such

excess. For this purpose, the officer concerned shall be served with a notice by the pension sanctioning authority, requiring him to refund the excess payments within a period of two months from the date of receipt by him of the notice. On his failure to comply with the notice, the pension sanctioning authority shall order that such excess payment shall be adjusted by short payments of pension in future, in one or more installments, as the authority may order.

(2) (a) In cases where a portion of qualifying service at the end remained unverified at the time of issue of the pension payment order (by the Audit Officer) due to fact that the pension application was sent to the Audit Officer before his date of retirement, the Audit Officer will authorise the pension provisionally in the first instance.

(b) If after the pension application in Form No. 2 has been forwarded to the Audit Officer any event occurs which has a bearing on the amount of pension admissible, the fact shall be promptly reported to the Audit Officer by the pension sanctioning authority. If no such event has occurred, a report to that effect together with a certificate as to the satisfactory nature of service rendered by the officer after the pension application was originally forwarded, shall be sent to the Audit Officer within a week from the date on which the office re-tries. At the same time details of any Government dues outstanding against the officer, and the steps taken to safeguard the interest of the Government in this behalf shall also be intimated to the Audit Officer.

(3) When a Government servant retires from service, a notification in the Official Gazette in the case of a Gazetted officer and an order in the case of a non-Gazetted officer, specifying the actual date of retirement shall be issued within a week of such

date and a copy of every such notification or order shall be forwarded to the Accountant General immediately :

Provided that in cases where a notification in the Gazette regarding grant of leave preparatory to retirement to a Gazetted officer has been issued a further notification to the effect that the officer 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.

Note. - The object of clause (3) above is to enable the Audit Officer to arrange necessary payment of pension and gratuity. Failure or delay in issue of the notification or orders will not entitle the Government servant to remain in service beyond the date on which he is required to retire.

Section III—Anticipatory Payment

199. Pensions. - (1) When an officer is likely to retire before his pension can be finally assessed and settled in accordance with the provisions of the preceding Section of this Chapter, the Accountant General shall sanction the disbursement of pension to which, after the most careful summary investigation that he can make without delay, he believes the officer to entitled:

Provided that such disbursement shall be made only after the declaration specified below has been signed by the retiring officer -

Declaration

“ Whereas the (here state the designation of the officer sanctioning the advance)has consented provisionally to advance to me the sum of Rs. a month, in anticipation of the completion of the enquiries necessary to enable the Government to fix the amount of my

pension. I hereby acknowledge that, in subject to revision on the completion of the necessary formal enquiries, and I promise to base no objection to such revision on the ground that the provisional pension now to be paid to me exceeds the pension to which I may be eventually found entitled. I further promise to repay any amount advanced to me in excess of the pension to which I may be eventually found entitled.”

Note. - In the case anticipatory pension it is not contemplated that the entire service should be verified beforehand; but it should be seen that prima facie there is not reason to suppose that any portion of the service does not qualify for pension.

(2) The disbursement of pension under clause (1) shall be subject to revision on the completion of the detailed investigation and enquiries, if any. If the amount of pension granted to an officer under clause (1) be afterwards found to be in excess of that to which he is entitled under the rules, he shall be called upon to refund such excess. For the purpose of recovering the excess, if any, the officer concerned shall be served with a notice by the pension sanctioning authority requiring him to refund the excess payment within a period of two months from the date of receipt by him of the notice. On his failure to comply with the notice, the pension sanctioning authority shall order that excess payment shall be adjusted by short payments of pension in future, in one or more installments, as that authority may order.

200. Service Gratuity. - If the Audit Officer considers it likely that in a case contemplated in the preceding rule the officer would be entitled to gratuity only, he may sanction the disbursement of not more than three-fourth of the amount of such

probable gratuity to which after the most careful summary investigation that he can make without delay, he believes the Government servant to be entitled.

If the amount of gratuity disbursed proves to be large than the amount found actually due upon completion of the inquiries, the gratuitant shall not be required to refund any excess actually disbursed to him, except as provided in Chapter X.

201. Death-cum-retirement gratuity. - When a Government servant whose death-cum-retirement gratuity is payable in India, is likely to retire before the amount of the gratuity can be finally assessed and settled in accordance with the procedure mentioned earlier, the Audit Officer may sanction the disbursement of not more than three-fourth of the amount of gratuity to which, after the most careful summary investigation that he can make without delay, he believes the Government servant to be entitled on the basis of his continuous temporary and permanent service. In the event of death of the Government servant, similar payment of gratuity may also be authorised in the appropriate proportion to the nominee (s) or in case of no nomination, to the member (s) of his family in accordance with the relevant rule (rule 135).

202. Family Pension. - In similar circumstances, as anticipatory family pension (not exceeding three-fourths of the amount admissible on the basis of service verified up to the date of sanction) may also be paid when the Audit Officer on verification, is satisfied that such family pension is admissible.

203. The payment of anticipatory pension and gratuity shall be so arranged that it is not delayed beyond the first day of the month in which it is normally due for payment.

204. They enable the Audit Officer to exercise the jurisdiction entrusted to him under rules 199, 200, 201 and 2002, the authority whose duty it is to sanction the pension shall, if he has reason to believe that the pension gratuity cannot possible be sanctioned by the date on which the officer is due to retire, furnish the Audit Officer with fullest information that can be pension, etc., unless the pension papers containing such information are already in the possession of the Audit Officer.

Note. - The Audit Officer will not insist on the production of the Last Pay Certificate before making or authorising payment of anticipatory pension, anticipatory gratuity (including death-cum-retirement gratuity) and commuted value based on anticipatory pension if a Gazette Notification or formal orders notifying intimating the fact of actual retirement of the officer from service is issued under rule 198 (3).

CHAPTER XIII

Payment of Pension

205. Except as otherwise contemplated in case of grant of family pension under Chapter VIII a pension, apart from special orders, shall be payable from the date on which the pensioner ceases to be borne on the establishment, or from the date of his application whichever is later. This rule may be relaxed by the authority sanctioning the pension when the delay is sufficiently explained.

Note 1. - A pension is to be sanctioned only on receipt of formal application from the Government servant concerned. If a Government servant dies immediately or shortly after retirement without having formally applied for pension, the authority competent to sanction a pension to the deceased Government servant had he made a formal application before death, may relax the provisions of above rule and rule 184 and sanction pension and /or gratuity to the Government servant from the date of retirement up to and inclusive of the date of his death as if he had made a formal application for the same before retirement provided that the time-lag between retirement and death does not exceed six months. Cases in which the time-lag exceeds six months should, however, be referred to Finance Department for a decision. A pension and/or gratuity sanctioned in accordance with this Note may be paid to the heirs of the deceased in accordance with the normal provision of the rules.

Note 2. - The pension of the officer who under rule 78 has received a gratuity in lieu of notice is not payable for the period in respect of which gratuity is paid

Note 3. -When a Government servant is granted/refused leave under Fundamental Rule 86 or any other set of rules, extending beyond the date of compulsory retirement or the expiry of an extension service, if granted, he shall be deemed, for purposes of pensionary benefits, to have retired from service on the date of his compulsory retirement or on the expiry of the extension of service, as the case may be, and shall become eligible for all pensionary benefits from such date.

The leave salary admissible in such cases during the period of refused leave will be same as admissible in the normal course but reduced by the amount of pension and pension equivalent to death-cum-retirement gratuity and other retirement benefits.

206. Rule 205 shall apply to ordinary, not to special cases. If under special circumstances, a pension is granted long after an officer has retired retrospective effect should not be given to it without the special orders of the Governor; in the absence of special orders such pension shall taken effect only from the date of sanction.

207. All pensions shall be payable in rupees in India :

Provided that if a pension is allowed to be drawn at a place outside India payment of pension may be made in other currency at the prescribed official rate of conversion, subject to Foreign Exchange Regulations Act, 1947; and such other conditions as may be prescribed from time to time :

Provided further that persons who are now drawing pension outside India may continue to enjoy the same concession which

they were entitled to immediately before commencement of these rules, subject to such restrictions as may be prescribed hereafter.

Note 1. - As the payment of pension outside India involves questions of foreign exchange, the Government of India Ministry of Finance (Department of Economic Affairs), shall be consulted on all questions relating to such payment of pension/gratuities outside India.

Note 2. - It has been decided by the State Government that the existing arrangements for the payment of pensions in Nepal may, until further orders, continue in respect of person retiring from the Government of Assam.

PROCEDURE IN PAYING

208. A gratuity is paid in a single sum, and not by instalments, on receipt of the Accountant General's authority.

209. A gratuity may, at the discretion of the Government or with the sanction of the Government on the application of the recipient, be converted either into a life annuity, or into a temporary life annuity, or into a temporary life annuity, or an annuity payable for a fixed number of years with the remainder to be payable to the annuitant's heirs in case of his death. The amount of the life annuity will be determined by the table prescribed under the Assam Services (Commutation of Pension) Rules, 1965, while that of the temporary life annuity will be determined in each case consultation with the Actuary to the Government of India on the assumption of the same rate of interest and mortality on which the table prescribed under Assam Services (Commutation of Pension) Rules, 1965, is based.

210. The Government shall not insist on the conversion of a gratuity into an annuity, unless the expectation of life of the officer be reported by competent medical authority to be equal to the average.

211. (1) No pension shall be paid until the paying officer has received the authorisation from the Accountant General. Such authority will be a Pension Payment Order. A pension, for which the Pension Payment Order has been issued is payable in India monthly in arrears on or after the first day of the following month under the following procedure:

- (i) Each Pension Payment Order will be accompanied by the prescribed form intended to be delivered by the Disbursing Officer to the pensioner concerned for use as a wallet for the pensioner's half of the Pension Payment Order.
- (ii) On receipt of the Pension Payment Order the disbursing Officer will deliver one-half to the pensioner, and keep the other half carefully in such manner that the pensioner shall not have access thereto.
- (iii) Each payment made is to be entered on reverse, both of the pensioner's half and of the disbursing officer's half of the Pension Payment Order, both entries being attested at the time of payment by the signature of the disbursing officer.
- (iv) With reference to rules 226 and 227 a pension shall under no circumstances, be paid for the first time in arrear for more than one year without special order of the Government.

Note. - The Government may delegate powers under this rule to Commissioner of Divisions, and to such other officers as it may desire.

(v) A pension is payable for the day on which the pensioner dies.

(vi) In regard to the liability of pensions to attachment by a Civil Court, see Section 11 of Act XXIII of 1871 which runs as follows :

“Section 11. - No pension granted or continued by Government on political considerations, or an account of past services or present infirmities or as a compassionate allowance, and no money due or become due on account of any such pension or allowance, shall be liable to seizure, attachment or sequestration by process of any Court in British India at the instance of a creditor, for any demand against the pensioner or in satisfaction of a decree or order of any such Court.

Note. - In the case of the pensioners of the Government of Assam who receive their pension at the office of the Accountant General, Bombay, pension is payable on the last working day of the month (if it is not a holiday) except in the month of March.

(2) In the case of Gurkha pensioners of the Government of Assam who reside on or near the border of Nepal and draw their pension from treasuries in West Bengal, Bihar and Uttar Pradesh, the Treasury Officer concerned shall send the pensioners' halves of the Pension Payment Orders on receipt to the concerned Recruiting

Officer for Gurkhas. The description for the identification of pensioner will be in duplicate. One set will be supplied to Recruiting Officer for his use and the other to the Treasury Officer to exercise the check required of him.

(3) When any sum is payable in respect of pension or gratuity to any person, who is certified by a Magistrate to be a lunatic, the procedure laid down in the Indian Lunacy Act shall be followed.

212. Identification of Pensioner. – As a rule, a pensioner must take payment in person after identification by comparison with the Pension Payment Order.

213. Three certified copies of the pensioner's photographs (three copies of joint photographs with wife/husband in case of those under the Family's Pension Scheme, 1964) in passport size shall be obtained and furnished by the Head of Officer at the cost of the pensioner to the Accountant General who will paste it on the Disbursing Officer's half of the Pension Payment Order and the Treasury Officer may make payment on the strength of the resemblance between the pensioner and his photograph pending the final reconciliation of any question which may arise about identification marks. The use of photographs as an additional means of identification does not, however, apply to pardahnashin ladies, and those pensioners who may be specially exempted by the Government.

Note. - The identification of pensioner by means of photograph will be in addition to the system of the recording the signature/thumb and finger impressions which will remain a permanent and reliable record of pensioner's identity.

214. A pensioner specially exempted by the Governor from personal appearance, a female pensioner not accustomed to appear in public, or a pensioner who is unable to appear in consequence of bodily illness or infirmity, may receive his or her pension upon the production of life certificate signed by a responsible officer of Government or by some other well known and trustworthy person.

Note. The power to grant exemption under this rule from personal appearance to draw pension may be delegated to any officer of to below the rank of Deputy Commission of a District.

215. A pensioner of any description, who produces a life certificate signed by some person exercising the powers of a Magistrate under the Criminal Procedure Code (Act V of 1898) or by any Registrar or Sub-Registrar appointed under the Indian Registration Act, 1908 (XVI of 1908) or by any pensioned officer who, before retirement, exercised the powers of a Magistrate or by any Gazetted officer or by a Munsiff, or by a police officer not below the rank of Sub-Inspector-in-charge of Police Station or by a Post Master, a Departmental Sub-postmaster, or an Inspector of Post Offices, or by the Reserve Bank of India or the State Bank of India or any other Bank approved by the Government for the purpose, is exempted from personal appearance.

216. (a) In all cases referred to in rules 214 and 215 the Disbursing Officer must take precautions to prevent impositions and must at least once a year, require proof independent of that furnished by the life certificate of the continued existence of the pensioner.

(b) For this purpose he should (save in case of exemption from personal appearance granted under rule 214) require the personal attendance and due identification of all pensioners who are not incapacitated by the bodily illness or infirmity so attending, and in all cases where such inability may be alleged, he should require proof in addition to the proof submitted of the pensioner's existence.

Note 1. -The Disbursing Officer is personally responsible for any payment wrongly made in case of doubt, he should consult the Accountant General.

Note 2. - A pensioner of rank be privately identified by the Disbursing Officer and need not be required to appear at a public office.

217. Payment of pension to police pensioners are made in accordance with the rules in this section but if the Disbusing Officer entertains doubt as to the identify of such a pensioner, he may require local Inspector of Police of identify him. The Inspector would then be responsible for the correct identification of the pensioner.

218. Payment to agents. - (a) A pensioner of any description resident in Indian is exempted from personal appearance if he draws his pension through a duly authorised agent approved by the Government, who must execute a bond to refund overpayments and produce at least once a year a life certificate singed by any of the persons authorised by rule 215 to sing such certificate.

Note. - Payment of pension from the Treasuries in India to any pensioner resident outside India or to his agent is

not allowed under Foreign Exchange Regulations Act, 1947 except with the prior special permission of the Bank of India and shall be governed by such other restrictions and procedures as may be prescribed by the Government of India in this respect. Treasury officer and other pension disbursing officers while making payment to any person whether resident or non-resident should satisfy themselves that a person is resident of India and in case of doubt should insist on production of residence certificate by the pensioner. A pensioner ordinarily residing in India is to be regarded as a resident of India.

(b) The pension of an officer drawing his pension through an agent who has executed a bond to refund overpayments should not be paid on account of a period of more than a year after the date of the life certificate last received and the Accountant General and the Disbursing Officer should be on the watch for authentic information of the demise of any such pensioner, and on receipt thereof, should promptly stop further payments.

219. Transfer of pension. - The Government or the Accountant General may, if sufficient cause be shown, permit the transfer of the payment of a pension from one treasury in India to another. This jurisdiction may be delegated by the Government to any executive authority not lower than Deputy Commissioner of a District. In case of the transfer of the payment from another State to a treasury in Assam, such transfer shall not take effect until a Pension Payment Order has been received from the Accountant General Assam, by the Officer who will make payment from the new treasury.

220. (a) A copy or any order issued by the Government or other executive authority under rule 219 should be forwarded to the Accountant General. The Deputy Commissioner of the District from which payment is to be transferred should also be instructed to return his half of the Pension Payment Order.

(b) The Accountant General will then either issue a new payment order, or enface the payment order for payment at the new treasury and forward it to be Treasury Officer who will in future pay the pension, or, if the treasury is in another State, will move the Accountant General of the State to do so.

221. The Treasury Officer may authorise payment in any of the outlying treasuries subordinate to his district treasury, of a pension payable under proper authority at his headquarters, and may transfer payment of a pension from such subordinate treasury to the district treasury or from one subordinate treasury to another in the same district.

222. Payment of pension in or transfer of pension from India to other countries. – Payment of pensions from India to other countries shall be regulated by the relevant provision in the Civil Service Regulations subject to such restrictions in the matter of foreign exchange as the President may from time to time impose. (See also rule 207 and Note below rule 218).

223. Certificate of non-employment. –(a) A pensioner drawing pension required to append to his bill certificates as follows :

CERTIFICATE

(1) I declare that I have not received any remuneration for serving in any capacity either under Government or under

a Local Fund, during the period for which the amount of pension claimed in this bill is due.

(2) I declare that I have not accepted any commercial employment.

OR

I declare that I have accepted commercial employment after obtaining the previous sanction of the Governor.

Note. - The Certificate (2) above is required to be given for a period of two years from the date of retirement by every pensioner who immediately before retirement held a Gazetted post under the Government of Assam (Vide rule 180).

(3) I declare that I have not accepted any employment under a Government outside India.

OR

I declare that I have accepted employment under a Government outside India after obtaining the previous sanctions of the Governor of Assam.

(b) In the case of a pensioner permitted under Chapter X to draw pension after re-employment, the certificate (1) should be modified according to the facts.

(c) In the case of a pensioner drawing his pension through an agent who has excluded a bond of indemnity, as required by rule 189 of the Assam Financial Rules, Second Edition, the certificate modified accordingly may be signed by the agent

provided that the pensioner shall himself furnish once a year, a certificate covering the period for which pension has been drawn on the basis of the Agent's certificates.

224. Renewal of Pension Payment Order. - When the reverse of a Pension Payment Order is filled up, or when the pensioner's half is found to be worn or torn, both halves may be renewed by the Treasury Officer.

225. If a pensioner loses his half of the Pensioner Payment Order, a new order may be issued by the Treasury Officer, who should see that no payment is made on the half alleged to have been lost by a strict observance of rule 211 (i) (iii). The necessary note should be made in remarks column of the register in Form No. T. R. 36 of the Treasury Rules.

226. Lapses and forfeitures. - If a pension remains undrawn for more than one year, the pension ceases to be payable; provided that if the pensioner afterwards appears, the Disbursing Officer may renew his payments. But if the amount is to be paid for the first time or if the amount of arrears exceeds Rs. 1,000 the arrears cannot be paid without the previous sanction of the authority by whom the pension was sanctioned, to be obtained through the Accountant General.

Note 1. - The Governments of West Bengal, Bihar and Uttar Pradesh, have delegated to the Deputy Commissioner, Darjeeling Collectors of Purnea; Darbhanga and Gorakhpur and the Deputy Commissioners of Gonda, Bahraich and Almora and Sub-Divisional Officer Pithorgarh the power to sanction without reference to the Accountant General concerned, the payment of arrears of pensions extending beyond a period of one

year in respect of the Gurkha pensioners of the Government of Assam, residing in or near the border of Nepal, who draw their pensions from the treasuries and sub-treasuries in those States.

Note 2. - The powers of the pension sanctioning authority under the above rule and rules 227, 228 and 229 shall be exercised by the following officers in respect of Gurkha Civil Pensioners who draw their pensions from the Indian Treasuries situated either in Nepal or in India in Indo-Nepal borders :

- (i) The Recruiting Officers for Gurkhas.
- (ii) The Deputy Recruiting Officers for Gurkhas.
- (iii) The Assistant Recruiting Officers for Gurkhas.
- (iv) The Military and Air Attache, Embassy of India in Nepal.
- (v) The Assistant Military and Air Attache, Embassy of India in Nepal.
- (vi) Officers-in-charge of Pension Payment Officers at Dhankuta and Pokhar.

227. If the suspension of payment is attributable to error or neglect by any public officer, the Accountant General may direct payment of the arrears without taking the orders of Government.

228. Deceased pensioner. - (a) On the death of a pensioner, payment of any arrears actually due may be made to

his heirs, provided that they apply within one year of his death. It cannot be paid thereafter without the sanction of the authority by whom the pension was sanctioned to be obtained through the Accountant General.

(b) But if the arrears do not exceed Rs. 100 and the case presents no peculiar features, the Accountant General may pass the arrears on his own authority.

(c) After payment of the arrears of pension, the Pension Payment Order should be returned to the Accountant General with a report of the date of the death of the pensioner.

229. Subject to the provision of rule 228 the arrears of pension of a deceased pensioner may be paid to the heir of the deceased without the production of the usual legal authority to the extent of Rs. 2,500 under the Deputy Commissioner or other responsible for the payment, after such enquiry into the rights and title of the claimant as may be deemed sufficient. Any excess above Rs. 2,500 may similarly be paid under the orders of the Governor on execution of an indemnity bond, with such sureties as he may require, if he is satisfied of the right and title of the claimant and considers that undue delay and hardship would be caused by insisting on the production of and letters of administration.

In any case of doubt, payment should be made only to the person producing legal authority.

Note. - The form of indemnity bond mentioned in this rule is (T.R. Form No. 16) prescribed in Financial Rule Form No. 6. The sureties accepted as joining such bonds should be of proved financial ability to meet the

obligations undertaken. Rule 136 of the Assam Financial Rules also shall apply here.

230. If an officer, other than an officer referred to in rules 17 or 18, dies before actually retiring or being discharged, his heirs have no claim to anything in respect to his pension.

Note. - In case of officers referred to in rules 17 and 18 grant of death gratuity or family pension will be regulated by rules in Chapter VIII

CHAPTER XIII

Application and Interpretation of Rules

231. An Officer's claim to pension is regulated by the rules in force at the time when the officers retires, resigns or is discharged from the service of Government.

232. Government servant on transfer from another service. – An officer transferred to a service or post to which these rules apply, from a service or post to which they do not apply, becomes subject to these pension rules, provided that it shall be open to him, within six months of the date of transfer or, if he is on leave on that date, within six months of the date of transfer or, if he is on leave on that date, within six months of his return from leave, to elect to be governed by the pension rules to which he was subject immediately before the date of transfer. The intention of exercising the option must be specifically declared to the State Government. The option once exercised shall be final.

Note.- Pension of Government servants serving under the Central and State Governments on "Agency" work;

Whether the staff employed on "Agency" work should be governed by the pension rules of the State Government under whose administrative control they are employed or by the pension rules of the Central Government shall be determined in accordance with the principle laid down by the Government of India in this respect (Cf. Government of India's decision No. (2) below Article 4-A of C.S.R. reproduced below) :

“(2) In order to determine whether the staff employed on “Agency” work should be governed by the Pension Rules of the Provincial Government under whose administrative control they are employed or by the Pension Rules of the Central Government, the staff in question may be divided into following categories –

(a) Personnel, recruited for and employed in Agency Departments whose pay, leave salary, allowances and pensions, are charged direct to the Central Government, i.e., personnel who are paid direct by the Central Government, but who are technically under the administrative control of Provincial Governments.

(b) Personnel, recruited and employed in connection with the affairs of the Provinces, whose pay, leave salary, allowances, and pensions are charged to Provincial Revenues but whom the Provincial Governments employ temporarily on Agency work. For their services the Central Government pays the Provincial Governments an agreed sum which does not always include, however, their pensionary liability. The pension liability, when it accrues, is shared between the Governments on the basis of the length of service under each.

(c) Personnel as in category (b) above, whose services are employed by the Provincial Government, part-time or casually, on performing Central Agency duties. For their services the Central Government usually pays an agreed sum to the Provincial Government includes pensionary liability.

(d) Personnel falling in either of the three categories given above who have now come under the direct control of the Central Government on resumption by them of the Administrative control over certain Agency functions.

The Government of India have considered the case of the personnel each of those categories and have decided as follows :

Category (a) . - Those officers belonging to this category who entered the service of a Provincial Government before the 31st March, 1973, would meet their share of leave and pensionary charges as calculated under those rules. In the case of those, however, who have been recruited on or after the 1st April, 1937 or may be recruited in future for employment in Agency departments the Central Government consider that it will be reasonable to bring them under the Central Rules.

Categories (b) and (c). - The officers falling under these two categories (whenever recruited) would remain under the Provincial Government Rules and the Central Government would meet their share of leave and pensionary charges and calculated under those rules.

Category (d). - The officer belonging to this category would be given the option of remaining under the pension rules to which they would have been subject had they not been transferred. If such option is not exercised specifically they would be automatically governed by the pension rules of the Central Government.

[Government of India, Finance Department letter No. F. 6 (18)-R11/38, dated 5th December, 1938].

233. Removal of doubt. - If any doubt arises as to the interpretation of any of these rules or about the applicability of any of these rules in case of any person governed by the rules in the Assam Pension Manual, Second Edition, 1939, immediately before commencement of these rules, the matter shall be referred to the State Government in the Finance Department who reserve to themselves the right of changing the rules and interpreting their meaning and whose decision thereon shall be final.

235. Where the Governor of Assam is satisfied that the operation of any of these rules causes undue hardship in any particular case, he may dispense with or relax the requirements of that rule to such extent and subject to such conditions as he may consider necessary for dealing with the case in a just and equitable manner provided that the case shall not be dealt with in a manner less favourable than that provided in these rules.

FORM No. 1
(Pension)

Formal Application for Pension/Gratuity

From
.. .. .

To

The
.. .. .

SUBJECT :- Application for Sanction of Pension/Gratuity.

Sir,

I beg to say that I am to retire from service with effect from the my date of birth being I, therefore, request that steps may kindly be taken with a view to the pension and gratuity admissible to me being sanctioned by the date of my retirement. I desire to draw my pension from Treasury.

1. I hereby declare that I have neither applied for, nor received, any pension or gratuity in respect of any portion of the service qualifying for this pension and in respect of which pension and/or gratuity is claimed herein nor shall I submit an application hereafter without quoting a reference to this application and the order's which may be passed herein.