

No. Fin(Pen)A(3)-9/2002
Government of Himachal Pradesh
Finance (Pension) Department

From

The Principal Secretary (Finance) to the
Government of Himachal Pradesh
Shimla-171002.

To

The Deputy Accountant General (A&L),
Himachal Pradesh, Shimla-171003.

Dated: Shimla-171002

18 July, 2006

Subject:

Clarification regarding transfer of family pension.

Sir,

I am directed to refer to your D.O.No. Pen-2/A-3-01-02/2728 dated nil. on the subject cited above and to say that as per provision contained in 10(ii) (3) Govt. of Himachal Pradesh Finance Department (Pension Cell) O.M. No. (Pen)A(3)196-Part-I dated 31-8-1998 (copy enclosed) for the purpose of grant of family pension, the definition of family includes Parents who were wholly dependent on the Govt. servant when he/she was alive provided the deceased employee had left behind neither a widow nor a child. Similar provision exists under Govt. of India decision No. (20) below Rule 54 of CCS(Pension) Rules, 1972 (copy enclosed). In the instant case the deceased Govt. servant had left behind a widow and family pension was originally sanctioned in her favour. Therefore, the family pension is not transferable to the mother of the deceased Govt. servant as clarified by Govt. of India Ministry of Personnel, PG&Pensions vide their letter No. 1/11/06-P&PW(L) dated 19-6-2006 (copy enclosed).

Yours faithfully,

(Dr. R.N. Batta)
Additional Secretary (Fin-Pen) to the
Government of Himachal Pradesh.

MR. K. R. 3008
23715087

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3. In view of the fact that Section 16 of the Hindu Marriage Act, 1955 as amended by Hindu Marriage Laws (Amendment) Act States "Notwithstanding that a marriage is null and void under Section 11, any child of such marriage who would have been legitimate if the marriage had been valid shall be legitimate, whether such child is born before or after the commencement of Marriage Law (Amendment) Act, 1976 and whether or not a decree of nullity is granted in respect of that marriage under this act, and whether or not the marriage is held to be void otherwise than on a petition under this act."

4. The rights of such children require to be protected and will accrue accordingly. It is therefore, clarified that pensionary benefits will be granted to children of a deceased Government servant/pensioner from such type of void marriages when their turn comes in accordance with Rule 54 (8). It may be noted that they will have no claim whatsoever to receive family pension as long as the legally wedded wife is the recipient of the same.

[G.I., Dept. of P. & P.W., O.M. No. 1/1696, P. & P.W. (P), dated the 2nd December, 1996.]

(19) Family Pension shall be at a uniform rate of 30% of pay last drawn.— Family Pension shall be calculated at a uniform rate of 30% of basic pay in all cases instead of slab system and shall be, subject to a minimum of Rs. 1,275 (Rs. 1,913 with effect from 1-4-2004) per month and a maximum of 30% of the highest pay in the Government. Rule 54 (2) relating to Family Pension, 1964 under Pension Rules shall stand modified to this extent and the existing table thereunder will be no longer operative.

The revised provisions as per these orders shall apply to Government servants who retire/die in harness on or after 1-1-1996.

[G.I., Dept. of P. & P.W., O.M. No. F. 45/8697-P. & P.W. (A), Part - I, dated the 27th October, 1997, Para. 7.1 as amended by O.M. No. 42/2/2004-P&P.W. (G), dated the 15th March, 2004.]

(20) Dependent parents and widowed/divorced daughter also included in the definition of family from 1-1-1996.— For the purpose of grant of Family Pension, the definition of Family shall also include:

- (a) Parents who were wholly dependent on the Government servant when he/she was alive, provided the deceased employee had left behind neither a widow nor a child.
- (b) Son/daughter including widowed/divorced daughter till he/she attains the age of 25 years or up to the date of his/her marriage/ remarriage, whichever is earlier.

[G.I., Dept. of P. & P.W., O.M., No. F. 45/8697-P. & P.W. (A), Part - I, dated the 27th October, 1997, Para. 7.2]

2. Income criteria:— The income criteria in respect of parents and widowed/divorced daughters will be that their earning is not more than Rs. 2,550 per month. The parents will get Family Pension at 30% of basic pay of the deceased employee, subject to a minimum of Rs. 1,275 per month. They also will have to produce an annual certificate to the effect that their earning is not more than Rs. 2,550 per month. Further, the Family Pension to

the widowed/divorced daughters will 25 years or up to the date of her re-marriage

3. It has also been decided by the recommendations of the Fifth Central Pay of this Department's O.M. No. [G printed] that the Family Pension of widowed/divorced daughter) will that the payment should be discontinued daughter starts earning a sum of Rs Government, the private sector, and that the Family Pension to the son attains 25 years of age or up to whichever is earlier. There is no admissibility of Family Pension in any disorder or disability of mind mentioned in the OM, dated 18-1-1997

4. Admissibility of Family Pension to daughter will be effective from 1-1-1996 conditions. The cases where Family Pension to daughters after 1-1-1998 held out imposition of earning condition

5. These orders issue with the consent of Expenditure, vide their O.M.

[G.I., Dept. of P. & P.W., O.M., No.]

Clarification.— ***

- (i) It is clarified that this subject to the following:
 - (a) the parents were dependent on the Government servant when he was alive.
 - (b) the Government servant was a widow, childless daughter, who was wholly dependent on the Government servant when he was alive.
 - (c) all other persons who were dependent on the Government servant when he was alive.

The family pension will be granted to the Pensioner himself/herself, his/her other dependents, wholly dependent on him/her when he/she was alive.

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3. In view of the fact that Section 16 of the Hindu Marriage Act, 1955 as amended by Hindu Marriage Laws (Amendment) Act States "Notwithstanding that a marriage is null and void under Section 11, any child of such marriage who would have been legitimate if the marriage had been valid shall be legitimate, whether such child is born before or after the commencement of Marriage Law (Amendment) Act, 1976 and whether or not a decree of nullity is granted in respect of that marriage under this act, and whether or not the marriage is held to be void otherwise than on a petition under this act."

4. The rights of such children require to be protected and will accrue accordingly. It is therefore, clarified that pensionary benefits will be granted to children of a deceased Government servant/pensioner from such type of void marriages when their turn comes in accordance with Rule 54 (8). It may be noted that they will have no claim whatsoever to receive family pension as long as the legally wedded wife is the recipient of the same.

[G.I., Dept. of P. & P.W., O.M. No. 1/1696, P. & P.W. (P), dated the 2nd December, 1996.]

(19) Family Pension shall be at a uniform rate of 30% of pay last drawn.— Family Pension shall be calculated at a uniform rate of 30% of basic pay in all cases instead of slab system and shall be, subject to a minimum of Rs. 1,275 (Rs. 1,913 with effect from 1-4-2004) per month and a maximum of 30% of the highest pay in the Government. Rule 54 (2) relating to Family Pension, 1964 under Pension Rules shall stand modified to this extent and the existing table thereunder will be no longer operative.

The revised provisions as per these orders shall apply to Government servants who retire/die in harness on or after 1-1-1996.

[G.I., Dept. of P. & P.W., O.M. No. F. 45/86/97-P. & P.W. (A), Part - I, dated the 27th October, 1997, Para. 7.1 as amended by O.M. No. 42/2/2004-P&PW (G), dated the 15th March, 2004]

(20) Dependent parents and widowed/divorced daughter also included in the definition of family from 1-1-1996.— For the purpose of grant of Family Pension, the definition of Family shall also include:

(a) Parents who were wholly dependent on the Government servant when he/she was alive, provided the deceased employee had left behind neither a widow nor a child.

(b) Son/daughter including widowed/divorced daughter till he/she attains the age of 25 years or up to the date of his/her marriage/ remarriage, whichever is earlier.

[G.I., Dept. of P. & P.W., O.M., No. F. 45/86/97-P. & P.W. (A), Part - I, dated the 27th October, 1997, Para. 7.2]

2. **Income criteria:**— The income criteria in respect of parents and widowed/divorced daughters will be that their earning is not more than Rs. 2,550 per month. The parents will get Family Pension at 30% of basic pay of the deceased employee, subject to a minimum of Rs. 1,275 per month. They also will have to produce an annual certificate to the effect that their earning is not more than Rs. 2,550 per month. Further, the Family Pension to

the widowed/ divorced daughter 25 years or up to the date of her

3. It has also been decided in recommendations of the Fifth Central Pay Commission (as printed) that the Family Pension (widowed/divorced daughter) that the payment should be the daughter starts earning a sum Government, the private sector that the Family Pension to be attained 25 years of age or up to whichever is earlier. There is no admissibility of Family Pension in any disorder or disability of the mentioned in the OM, dated 18

4. Admissibility of Family Pension to daughter will be effective from 1-1-1998. The cases where sons/daughters after 1-1-1998 out imposition of earning condition

5. These orders issue with the sanction of Expenditure, vide their

[G.I., Dept. of P. & P.W., O.M.

Clarification.—

(i) It is clarified that the Family Pension shall be subject to the following conditions:

(a) the parents were wholly dependent on the Government servant when he/she was alive, provided the deceased employee had left behind neither a widow nor a child.

(b) the Government servant's son/daughter, including widowed/divorced daughter, till he/she attains the age of 25 years or up to the date of his/her marriage/ remarriage, whichever is earlier.

(c) all other persons who are dependent on the Government servant at the time of his/her death.

The family Pension shall be granted to the widow, widower, eligible daughter, who is dependent on the Government servant at the time of his/her death. The Family Pension shall be granted to the dependent parents, other than the Government servant, who were wholly dependent on the Government servant at the time of his/her death.

No. 1/11/06-P&PW (E)
Government of India
Ministry of Personnel, P.G. & Pensions
Department of Pension & Pensioners' Welfare

L.N. Bhawan, Khan Market
New Delhi -110003
Date: 19/5 May, 2006
S.O.

To,

The Additional Secretary (Fin-Pen)
Government of Himachal Pradesh
Finance (Pension) Department
Shimla.

RECEIVED
FINANCE DEPARTMENT
GOVT. OF HIMACHAL PRADESH
SHIMLA
21-6-2006

Subject: Clarification regarding transfer of family pension.

Sir,

I am directed to refer to your Letter No.Fin(Pen)A(3)-9/2002 dated 14th June, 2006 on the subject mentioned above and to clarify that as per Government of India decision No.20 (Copy enclosed), for the purpose of grant of family pension, the definition of family shall include parents who are wholly dependent on the Government servant when he/she was alive, provided the deceased employee had left behind neither a widow nor a child. In the instant case, the Government servant had left behind a widow. As such, the family pension would not be transferable to the parents as per the Government of India decision quoted above. Government of Himachal Pradesh may kindly take further action accordingly.

Yours faithfully

(Geetha Nair)

Under Secretary to the Government of India
Tel. No. 24623107

21/6/06
D.O. (Pension)
Shimla

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