No.14/8/64-Fin(R&E)
Government of Himachal Pradesh
Finance(Regulation)Department
Vitt(Viniyam)Vibhag

Simla-171002, the 8th July,1976

(3)

OFFICE MEMORANDUM

Subject:- Permanent transfer of Government servants to autonomous bodies/public sector undertakings-Grant of retirement benefits.

The undersigned is directed to state that need has been for some time past of consolidating at one place, the instructions/orders issued from time to time by the Government of India, and applied to employees in Himachal Pradesh, and those issued by the State Govt., which are still in force, on the subject mentioned above. Accordingly, it has been decided, in supersession of all the orders issued in regard to extending retirement benefits to State Govt. employees on their permanent absorption in public sector undertakings/autonomous bodies owned or or controlled by the Pradesh Government, to bring out the salient features of the existing instructions in this office Memorandum. This may please be brought to the notice of all Administrative authorities in or under the Administrative Department etc. for information/guidance and compliance.

2. The under-mentioned terms regulate the payment of retirement benefits to Government serants who are permanently absorbed in public sector undertakings/autonomous bodies, on or after 16th June,1967:-

(i) A permanent Government servant on absorption in a public sector undertaking/autonomous body is eligible for pro-rata pension and Death-cum-Retirement Gratuity based on the length of his qualifying service under Government till the date of absorption. The pension will be calculated on the basis of average emoluments for three years preceding the date of absorption and the Death-cum-Retirement Gratuity on the basis of the emoluments immediately before absorption.

(ii) In cases where a Government servant at the time of absorption has less than ten years' service and is not entitled to pension, the question of proportionate pension will not arise; he will only be eligible to propor-tionate service gratuity in lieu of pension and D.C.R. Gratuity based on length of service.

(iii) The amounts of pension/gratuity and the D.C.R. Gratuity would be concurrently worked out and will be intimated to the Government servant concerned as well as to the undertaking/body as and when an employee is absorbed.

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(iv) Every Government servant is to exercise an option, within six months of his 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.

(b) Receiving the gratuity and a lump-sum amount in lieu of pension worked out with reference to commutation tables obtaining on the date from which the pro-rata pension, gratuity, etc. would be disbursable.

Where no option is exercised within the prescribed period, the employee will automatically be governed by alternative (b) above. Option once exercised shall be final. The option shall be exercised in writing and communicated by the Government servant concerned to the undertaking/autonomous body.

(v) Cases of resignation from a public sector undertaking/autonomous body will, for the purpose of these orders, be treated as resignation from Government service, entailing forefeiture of earlier service under Government and loss of the pensionary benefits under these orders.

(vi) For the period of service rendered in a public sector undertaking/autonomous body, the absorbed employees will be entitled to all the benefits admissible to other corresponding employees of the organisation.

(vii) The total gratuity admissible in respect of the service rendered under the Govt. and that under the ~~Government and that under~~ the public sector undertaking /autonomous body would not be exceed the amount that would have been admissible had the Government servant continued in Government service and retired on the same pay which he drew on retirement from the public sector undertaking/autonomous body.

(viii) Any further liberalisation of pension ... decided upon by Government after the permanent absorption of a Government servant in a public sector undertaking/autonomous body would not be extended to him. However, the benefit of further liberalisation in pension shall also be allowed to a Government servant after his permanent absorption if, in any case, such liberalisation is sanctioned retrospectively with effect from a date prior to the date of such absorption.

(ix) In cases where an employee has opted to receive pension as 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 commutation of his pension.

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The decisions contained in sub paras(i)to (ix) above will apply only where the permanent transfer from Government service to a public sector undertaking/autonomous body is in the public interest. In all other cases, Government will not accept liability to pay any retirement benefits for the period of service rendered by the Government servant before his transfer.

4. In respect of the aforesaid category of employees, i.e. deputationists who opt for absorption in any statutory body or autonomous organisation owned or controlled by Government, such body or organisation should take over the liability in re-regard to Earned Leave that the optee has to his credit at the time of leaving Government service and in return Government shall pay to the statutory body/autonomous organisation a lump sum equal to leave salary for the Earned Leave due to the Government on the date of his permanent absorption in such body/organisation While issuing the final sanction for the absorption of the optee in the autonomous organisation , the Administrative Deptt./ authority controlling the cadre concerned should also incorporate the provision with regard to payment of lump sum equal to leave salary by Government. This benefit will be available only in cases where the permanent transfer from Govt. service to a statutory body/autonomous organisation is in public interest. These orders take effect from 20th February,1971, but cases already decided otherwise will not be reopened.

5. The pay of the Govt. servant permanently absorbed in a statutory body/autonomous organisation will be refixed as re-employed pensioner with effect from the date from which he becomes entitled to draw the pro-rata retirement benefits.

6. Permanent transfer of Government servants who apply in response to a Press advertisement etc. For posts in public sector undertakings, autonomous bodies, whether incorporated or not, which are wholly or substantially owned by the State Govt. is not treated as in the public interest, and the Government has no liability to pay any retirement benefits or for carry forward of leave for the period of service rendered under the Govt. However, on reviewing the position, it was decided by the Govt. that a permanent Government servant who has been appointed in a public sector undertaking or in an autonomous body financed wholly or substantially by the State on the basis of his own application shall, on his permanent absorption in such body with effect from 21st April,1972, or thereafter, be entitled to the same retirement benefits in respect of his past service under the Govt. as are admissible to a permanent Government servant going on deputation to an autonomous body and getting absorbed therein, except carry forward of leave.

7. In all such cases of grant of pro-rata retirement benefits to State Government employees, under the orders quoted in the preceding paragraphs, the Administrative Departments are required to consult the Finance Deptt(Regulation Section). before orders are issued in each individual case.

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8. While a person is on deputation, leave/pension contributions are recovered by the Government from the undertaking/autonomous body or the person concerned. Retrospective absorption may lead to claim for refund on non-payment of such contributions which cannot be withheld or refunded under the rules. In view of this, it has been decided not to allow retrospective absorption of the employees on deputation to the public sector undertakings /autonomous bodies.

9.(i) The families of Government servants permanently absorbed in the public sector undertakings/autonomous bodies with effect from 16th June,1967 onwards will also be eligible for family pension under Rules 54 and 55 of the Centrl Civil Services (Pension)Rules,1972, which apply to State Government employees in Himachal Pradesh.

(ii) The benefit of family pension will be admissible only to the families of those who were/are actually in receipt of pension from the State Government after their absorption in autonomous body/public sector undertaking. This benefit will not be admissible to the families of those who got only the service gratuity i.e. who were/are absorbed before rendering ten years qualifying service under the Government. Family pensions will , however, also be admissible to the families of those Government servants absorbed in the public sector undertakings/autonomous bodies who draw the lumpsum amount in lieu of monthly pension on their absoption on the date of its becoming due and thus do not draw any monthly pension on the date of death. Similarly Family Pension will also be payable to the families of those whose monthly pension or lumpsum amount has not become payable and is disburseable from the earliest date of voluntary retirement but the person dies before that date without receiving these benefits.

(iii) The benefit will also be admissible to the families of such Government servants as have been ap pointed in the autonomous bodies financed wholly or substantially by Government on the basis of their own applications and granted retirement benefits on their permanent absorption therein in respect of the past service under the State Government, as provided in para 6 above.

(iv) Grant of family pension will be subject to the usual contribution of two months emoluments of the Government servant at the time of permanent absorption in an autonomous body/undertaking. Persons who have already drawn the pension and other benefits on absorption should deposit their two months contribution within six months from 9th February,1976. The amount is creditable to head "066-CONTRIBUTIONS AND RECOVERIES TOWARDS PENSIONS AND OTHER BENEFITS".

(v) Family pension will be admissible from only one source, i.e. either from the State Government or the public sector undertaking/autonomous body, in case such organisation has a similar scheme for payment of family pension. The beneficiary may be given option to choose either of the two schemes.

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It will be the responsibility of the pension sanctioning authority to process the claim for family pension forwarding to the audit office for issue of authority after satisfying itself that no such claim exists in the public sector undertaking/autonomous body or that the undertaking or autonomous body has not extended its family pension scheme to the person concerned.

(vii) The above orders will apply automatically to the cases in which necessary Government sanction has already been issued. Therefore, it is not necessary to issue formal amendments to the relevant sanction letters. Suitable provisions will, however, be incorporated in the relevant sanctions to be issued hereafter.

10. In all cases where a Government servant is to be absorbed permanently by the public sector undertaking/autonomous body it would be incumbent to consult the parent Department before issuing order absorbing the Government servant permanently in its service. The orders of permanent absorption should be issued only after the issue of the communication permitting the employee being absorbed in the service of the organisation.

11. With the coming into force of the Central Civil Services (Pension) Rules, 1972, which apply to State Govt. employees as well, obtaining of formal resignation is not necessary for permitting a Government servant for being absorbed in a public sector undertaking/autonomous body. To fulfill the requirement of rule 37 of these Rules, there should be an actual order of absorption and the Government servant should also consent to such absorption being satisfied.

12. In accordance with rule 37 ibid, a Government servant who has been permitted to be absorbed in a service or post in or under a corporation or company wholly or substantially owned or controlled by the Government or in or under a body controlled or financed by the Goverment shall, if such absorption is declared by the Government to be in the public interest, be deemed to have retired from service from the date of such absorption. Each such Government servant is required under the relevant orders applicable to him to exercise an option within six months of his absorption for either of the alternatives indicated below, as indicated in sub-para(iv) of para 2 above:-

(a) Receiving the monthly pension and D.C.R. Gratuity under usual Government arrangements; or

(b) Receiving the gratuity and a lump sum amount in lieu of pension worked out with reference to the commutation tables obtaining on the date from which the commuted value becomes payable.

Where no option is exercised within the prescribed period, the

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Government servant is automatically governed by alternat.

(b) A person opting for alternative(a) is entitled to commutation of a portion of the pension admissible to him in accordance with the provisions of Civil Pension(Commutation) Rules, which apply to State Government employees. It has been decided that where a Government servant elects the alternative (b) above, he should be granted -

(i) on an application made in this behalf, a lump sum amount not exceeding the commuted value of 1/3rd of his pension as may be admissible to him in accordance with the provisions of Civil Pension(Commutation) Rules; and

(ii) a terminal benefit equal to twice the amount of lump sum referred to in (i) above, subject to the condition that the Government servant surrenders his right of drawing 2/3rd of his pension.

The commuted value of 1/3rd of the pension mentioned at (i) above will be exempt from income-tax whereas the terminal benefit component mentioned at(ii) above will be chargeable to tax as the income of the year in which it is due, as has been done by the Central Government in respect of their employees. However, the recipient will be eligible for a relief in tax in respect of the said amount; such relief being calculated by spreading the amount equally over the three preceding years immediately preceding the year in which the pay-ment is received and subjecting it to tax at the average of the average rates applicable to the total income of those years after adding thereto one/third of the amount. The relief in such cases is to be granted by the Central Board of Direct Taxes and an application for such relief under Section 89(1) of the INCOME -TAX ACT should be made to the Board through the Income Tax Officer concerned.

13. In the case of Government servants who opt for or are automatically governed by the alternative(b) in para 12 above, the payment of monthly pension will commence from the due date pending their medical examination in accordance with the provisions of the CIVIL PENSIONS(COMMUTATION)RULES. The Commutation shall become absolute and the title to receive the commuted value shall accrue on the date on which the Medical Board (Authority) signs the medical certificate If the Medical Board(Authority) directs that the age of the employee for the purpose of commutation shall be assumed to be greater than his actual age, the person concerned will have the opportunity to change his option for receiving a lump sum in lieu of monthly pension by written notice despatched within two weeks from the date on which he receives intimation of the finding of the Medical Board(Authority). If the applicant does not change his option within the period to two weeks prescribed above, he shall be assumed to have accepted the findings of the Medical Board (Authority).

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14. A Government servant who is permitted to be absorbed in the public interest in a public sector undertaking or autonomous body is deemed to have retired from Government service from the date of his absorption in public sector undertakings or autonomous body and his retirement benefits are determined with reference to the length of qualifying service rendered under Government till the date of his absorption. In the case of absorption in an autonomous body from 16th June,1967 onwards or a public sector undertaking prior to 8th November,1968, retirement benefits become payable either from the earliest date from which Government servant could have retired voluntarily under the rules applicable to him or from the date of absorption in the undertaking/ corporation whichever is later.

15. As regards procedure ~~which should be~~ followed for sanctioning and authorising the payment of retirement benefits in the type of cases covered by these instructions, it is made clear that since the Government servants are deemed to have retired from Government service on the date of absorption, the procedure laid down in Chapter VIII of the CENTRAL CIVIL SERVICES(PENSION) RULES, 1972, which applies to Government servants who retire in normal course, should mutatis mutandis apply in the case of Government servants who are absorbed in the public interest in a public sector undertaking or in an autonomous body. The disbursement of the retirement benefits should be authorised from the date indicated in Government's letter allowing the Government servant to be absorbed in public sector undertaking or autonomous body.

16. In respect of employees who held non-gazetted posts before absorption, Forms 6 and 7 of the CENTRAL CIVIL SERVICES(PENSION)RULES ,1972, should be filled in by the Head of Office and forwarded to the Audit Officer for determining final amount of pension and D.C.R.Gratuity. Where the retirement benefits are payable from the date of absorption, the Head of Office should obtain the particulars required under paras 2 to 4 of Form 5 ~~and forward the~~ same to the Audit Officer alongwith the Pension Papers. The Audit Officer after applying the necessary audit checks, will inform the absorbed employee, autonomous body /public sector undertaking and the Head of Office of the amount of pension and D.C.R. Gratuity and the date from which they are payable to him. Where the retirement benefits become payable from a date subsequent to the date of absorption, the particulars required under paras 2 to 4 of Form 5 should be furnished to the Audit Officer by the absorbed employee through his employer six months before the date on which the payment of the retirement benefits is to commence to him enable to issue P.P.O./ G.P.O.

17. In respect of employees who held gazetted posts before absorption, action to fill in Form 7 should be initiated by the Audit Officer. The Audit Officer after determining the amount of pension and D.C.R. Gratuity will inform the absorbed

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employee, autonomous body/public sector under taking and Head of Office/Department of the amount of retirement benefits and the date from which they are payable to him. Where the retirement benefits are payable from the date of absorption, the Audit Officer will also obtain the particulars required under paras 2 to 4 of Form 5 through the employer of the absorbed employee before authorising payment of retirement benefits. In other cases the particulars required under paras 2 to 4 of Form 5 should be furnished to the Audit Officer by the absorption employee through his employer six months before the date on which the payment of the retirement benefit is to commence. As soon as Government orders regarding absorption of a Government servant are issued, the Head of Office will forward Form 7 duly completed to the Audit Officer and such other information as the Audit Officer may require.

18. The procedure laid down in Chapter VIII of the CENTRAL CIVIL SERVICES (PENSION) RULES, 1972, may be adopted keeping in view the position stated in these orders. The provisions Contained in Chapter. VIII for authorising payment of provisional pension for a period of six months and 3/4th of the D.C.R.G. by the Head of Office need not be observed in the case of an employee who before his absorption had held a non-gazetted post. Payment of the retirement benefits will be received by the employee concerned from the Treasury of his own choice.

19. Normally when a Government servant of another Government is absorbed in a State Government autonomous body the liability for the benefits accruing for the past service rendered by him under that Government falls on the Government concerned and should be discharged by them. However, in case that Government refuses to bear the liability, the question whether it should be taken over by the autonomous body will arise only if the absorption is considered inescapable. In such cases the autonomous body should, in their proposal relating to the initial appointment or absorption of such an employee, bring out specifically and clearly the extra expenditure involved in absorbing the employee so that this factor is given due weight by the Government before it is decided to absorb him.

20. (i) In respect of transfer of Provident Fund Balances, it is pointed out that according to Explanation III below rule 31 of the GENERAL PROVIDENT FUND (CENTRAL SERVICES) RULES, 1960 and corresponding rule 33 of the CONTRIBUTORY PROVIDENT FUND RULES (INDIA), 1962, which also apply to state Government employees in Himachal Pradesh, when a subscriber is transferred, without any break, to service under a body corporate owned or controlled by Government, the amount of subscription, together with interest thereon, shall not be paid to him but shall be transferred, with the consent of that body to his new provident fund Account under that body. In case where the corporate bodies do not have any Provident Fund Scheme or whose Provident Fund Rules do not Provide for the acceptance of blance from other Provident Funds, the amount in question is required to be finally paid to the person concerned at the time of his permanent transfer to such a body. In cases where the Provident Fund money is accepted by the corporate body subject to fulfilment of certain conditions viz. that the Government servant should complete the probationary period with them or that he

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should be confirmed in a post under them, the Provident Fund money of the persons concerned may be retained with Government till such time as it is transferred to the body concerned. In such cases the Provident Fund account of the individual concerned would Ceases to be 'alive' on the date of permanent transfer of the person concerned to such a body. In other words, no withdrawals from the provident Fund will be permitted for any purpose including payment of permium towards life insurance policies. Fresh subscription to the Fund, except recoveries in respect of outstanding advances, shall not be accepted. The Provident Fund money held by Government would continue to earn interest at the normal rate till the date of transfer of the amount to the corporate body.

(ii) In respect of the Government servants permanently absorbed in the public sector undertakings, the position is that the amount of subscriptions, together with interest thereon standing in the Provident Fund account of Government servant opting for service under an enterprise may, if he so desires, be transferred to his new Provident Fund account under the enterprise provided the concerned enterprise also agrees to such a transfer. If, however, the subscriber does* not operate a Provident Fund, the amount aforesaid shall be refunded to the subsciber. Similary in case of Contributory Provident Fund, the amount of subsciptions and the Government contribution together with interest thereon, of a subsciber opting for service under a public enterprise may, if he so desires, be transferred to his new Provident Fund Account under the enterprise if the concerned enterprise also agrees to such transfer. If, however, the subscriber does not desire the transfer or the concerned enterprise does not operate a Provident Fund, the amount aforesaid shall be refunded to the subscriber.

*not desires the transfer of the concerned enterprise

Jai Hind.

Sd-
(Anang Pal)
Vitt Sachiv
Himachal Pradesh Sarkar

To

All Administrative Secretaries of the Govt. of H.P.