
Maharashtra Civil Services (Pension) Rules, 1982

[12 August 1982]

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Maharashtra Civil Services (Pension) Rules, 1982

[12 August 1982]

CHAPTER 1 GENERAL

1. Short title and commencement :-

(1) These Rules may be called the Maharashtra Civil Services (Pension) Rules, 1982.

(2) They shall come into force on the 15th day of August 1982.

2. Extent of application :-

Except where it is otherwise expressed or implied, these rules apply to all members of services and holders of posts whose conditions of service the Government of Maharashtra are competent to prescribe.

They shall also apply to-

(a) any person for whose appointment and conditions of employment special provision is made by or under any law for the time being in force.

(b) any person in respect of whose service, pay and allowances and pension or any of them special provision has been made by an agreement made with him, in respect of any matter not covered by the provisions of such law or agreement, and

(c) Government servants paid from Local Funds administered by Government, except relating to the Foreign Service.

Note 1:- As regards the amount of leave and pension, Government servants of the former States of Saurashtra, Kutch, Madhya Pradesh and Hyderabad, allocated to the State of Bombay, who have opted to be governed by the rules of the former States applicable to them before the 1st day of November 1956, in accordance with Government Resolution. Finance Department No. INT 1056-S-8, dated the 7th January 1957, as modified from time to time, will be governed by those rules. Option once exercised is final.

Note 2- Persons transferred to Government service from a Local Fund which is not administered by Government will be treated as joining a fresh post under Government and their previous service shall not count as service performed under Government. Government may, however, allow previous service in such cases to count as service performed on such terms as it thinks fit.

3. Right to interpret :-

Government reserve to themselves the right of interpreting these rules.

4. Power of relaxation :-

Where Government is satisfied that the operation of any of these rules causes or is likely to cause undue hardship in the case of any Government servant of class or Government servants, it may, by an order in writing, exempt any such Government servant or class of Government servants from any provisions of these rules or may direct that such provision shall apply to such Government servants or class of Government servants with such modifications not affecting the substance thereof as may be specified in such order.

5. Validity of terms of contract :-

The terms of a specific contract enforceable at law necessarily override the provisions of these rules.

6. Regulation of claims to pension or Family Pension :-

(I) Any claim to pension or Family pension shall be regulated by the provisions of these rules in force at the time when a Government servant retires or is retired or discharged or dies as the case may be:

Provided that, if during his service, changes disadvantageous to him are introduced in the rules, to which he became subject on entry into the service of Government, his pension shall not be less than that which would have been admissible but for the introduction of such changes.

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

Provided that in the case of a Government servant who is retired prematurely or who retires voluntarily under sub-rule (4) or (5) of rule 10 [or sub-rule (I) of rule 65 or rule 66] as the case may be, the date of retirement shall be treated as a non-working day.

6A. Manner of payment of arrears of pension or family pension or dearness relief :-

Notwithstanding anything contained in these rules the arrears of pension or family pension and dearness relief payable thereon on account of revision of pension or family pension to which any pensioner or family pensioner may be entitled in respect of any period under these rules shall be paid either in cash or by crediting the entire amount in the National Savings Scrips, or partly in Cash

and partly by Crediting in the National Savings Scrips, as the Government may from time to time, by order determine in this behalf.]

7. Exercise and delegation of powers under these rules :-

No powers may be exercised or delegated under these rules except after consultation with the Finance Department. It shall be open to that Department to prescribe, by general or special order, cases in which its consent may be presumed to have been given.

Note-For powers delegated under these rules see Appendix I

8. Reasons for concessions to be communicated to Audit Officer :-

When a competent authority, other than Government, communicates to the Audit Officer an order granting any concessions under these rules to any Government servant in cases in which it is prescribed that the reasons therefore should be recorded, he should at the same time forward to him a copy of his reasons.

CHAPTER 2 DEFINITIONS

9. Unless the context otherwise requires, the terms defined in this Chapter are used in the various sets of the Maharashtra Civil Services Rules, in the sense here explained :-

[The definitions given below are reproduced from Chapter II of the Maharashtra Civil Services (General Conditions of Services) Rules, 1981 and are only those definitions which are relevant for the purpose of the subject matter contained in this set of rules.

(2) Allotment means grant of a license to a Government servant to occupy a house owned, leased or requisitioned by Government or a portion thereof for his use as residence.

(3) Apprentice means a person deputed for training in a trade or business with a view to employment in Government service, who is paid at monthly rates by Government during such training but is not employed in or against a substantive vacancy in the cadre of a department.

(4) Audit Officer means an Audit Officer, appointed by the Comptroller and Auditor General of India whatever his official designation, in whose circle of audit a public servant is serving, or

(in respect to verification of service) has served.

(9)Competent authority, in relation to the exercise of any power, means Government, or any authority to which the power is delegated by or under these rules.

(10) Consolidated Fund of India or the State- All revenues received by the Government of India, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled " the Consolidated Fund of India". Similarly all revenues received by the Government of a State, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled "the Consolidated Fund of the State".

(12)Date of first appointment means the date the Government servant assumes the duties of his first post in Government service, or, if this be earlier, the date of his assumption of any duty which is treated, as service counting for pension.

(13)Day means the period beginning from one midnight and ending with the next midnight.

(14)Duty- Duty includes-

(a)service as a probationer;

(b)joining time;

(c)a course of the instructions or training authorized by or under the orders of Government;

(d)a course of instruction or training authorized by

(i)Director of Social Welfare in the case of the members of the staff of the Social Welfare Officer deputed to undergo a course of training in making estimates and plan drawing before their confirmation.

(ii)Director of Education in the case of teachers of the educational staff who undergo a course of training or instructions at training colleges or schools, and

(iii)Director of Agriculture in respect of staff who undergo a course in agriculture or any other training preparatory to appearing for the Sub-service Department Examination.

Note1- The time reasonably required for the journeys between the place of training and the station from which a Government servant proceeds in order to undergo training is part of the period of training.

Note2- The period spent by candidates at the Central Police

Training College, Nasik, for training and the interval between the satisfactory completion of the course and their assumption of duty should be regarded as duty for the purpose of this rule.

In the case of Military Officers and other ranks, who join the Police Force as Sub-Inspectors and whose period of probation is treated as Vocational Training under section 40 of Army Vocational Training (India), 1933, their services in the Police shall count from the dates they formally leave the Army, since until that date, the time spent on Vocational training is included in the period of their military service and they are borne on the military establishment.

Note 3- The period spent by candidates (other than candidates not already in Government service admitted on or after the 22nd April 1962) in the Prohibition and Excise Department for training and interval between the completion of the course and their assumption of duty, should be regarded as duty for the purpose of this rule.

Note-4 The period spent by the Sales Tax Inspectors in the Sales Tax Department for the training and the interval between the completion of training and their assumption of duty as Sales Tax Inspector in the regular time scale of pay should be regarded as duty for the purpose of this rule.

Note 5-When one or more holidays follow the period of training, the training period may be deemed to have been extended to cover such holidays.

(e) the period occupied-

(i) in appearing for language examination prescribed by Government at which a Government servant has been granted permission to appear;

(ii) in attending an obligatory departmental examination;

(iii) in attending an examination which a Government servant must pass to

become eligible for a higher post in any branch of the public service. including the time reasonably necessary for going to and from the place of examination.

This concession should not be allowed more than twice for each obligatory examination.

Note 1- If an examination is taken immediately before leave, the leave shall be held to have commenced from the date following that of the completion of the examination. In cases where an examination is taken in interruption of leave or immediately after leave, the time occupied in appearing for the examination, shall be treated not as duty but as leave.

Note 2- The period occupied in appearing for the Maharashtra

Accounts Clerks Examination including the time reasonably necessary for going to and from the place of examination voluntary basis should be treated as duty. This concession should not be allowed more than twice.

(f) the period for which a Government servant is required to wait compulsorily until receipt of his posting orders in the cases mentioned below:-

(i) whose orders of transfer are held in abeyance, cancelled or modified while in transit, or

(ii) who, on return from leave or deputation or on abolition of the post held by him, has to await receipt of posting orders, or

(iii) who, on arrival at the headquarters of the post to which he is posted is not in a

position to take charge of the post from the Government servant to be relieved.

The period availed of to resume duties after the receipt of posting orders shall not exceed the joining time admissible under the rules and shall be treated as continuation of the period of compulsory waiting.

(g) the period intervening between the date on which a Government servant is engaged temporarily for special or other duty and the date on which he takes over charge, provided the period does not exceed the joining time that would be permissible to a Government servant entitled to joining time;

(h) the period spent by Government servant on training mentioned below:-

(i) training in accordance with the Regulations of the Army in India Reserve of Officers.

Note- In the case of civil officers granted Commissions in the Army in India Reserve of Officers the period of training will not include the time spent in journey to and from the station at which the training is carried out. The time spent by these officers in journeying to and from the place of training should be treated as duty and acting arrangements may be made during that time.

(ii) training in the Indian Naval Fleet Reserve and on the journey to and from the place of training,

(iii) annual training courses of instruction or military service in accordance with the Regulations for the Territorial Army, 1948.

(iv) on Home Guard training or Home Guard duties with the permission of the Head of his office,

(v) in training or in the camp in accordance with the rules of the National Cadet Corps and also such period of the vacations as are

spent by National Cadet Corps Officers (Senior Division) who are Government servants holding officiating charge of units during the absence of regular Commanding Officer,

(vi) training and active service in the Army and Air Force Reserves and the India Fleet Reserve/Air defence Reserve and/on journey to and from the place of training, in

case leave in respect of their civil appointment is not availed of during training and transit period.

(vii) training at a Boy Scouts Camp

Note-No traveling or halting allowance is admissible in respect of this duty.

(i)additional leave on full pay not exceeding three weeks granted to a Government servant undergoing anti-rabic treatment, admissible under Appendix 15 of Bombay Financial Rules, 1959;

(j)the period spent by a Government servant in connection with work on the various University bodies in the Maharashtra State-

(a)as representatives of Government or ex-officio,

(b)by virtue of his official position such as Principal of a College, and

(c)for attending the meeting of a Board of Studies,

(18) First appointment means the appointment of a person who is not holding any appointment under Government, even though he may have previously held such an appointment.

(19) Foreign service means service in which a Government servant receives his pay with the sanction of Government from any source other than the Consolidated Fund of India or of a State, or of a Union Territory.

(20) A Gazetted Government servant is one who is a member of an All India or State Service or a person appointed in accordance with the terms of a contract or agreement and whose appointment is gazetted by Government. Members of the Subordinate Civil Services, whose appointments are gazetted by Heads of Departments, are Non-gazetted Government servants. Notifications investing Government servants with powers under different Acts, in order that the Courts may take judicial cognizance of them, do not constitute the persons invested with such powers as Gazetted Government servants within the meaning of this sub-rule.

Exception- Officers whose appointments to Class II services or posts are made by the Heads of Departments or Heads of Officers subordinate to them and are not published in the Gazette should be treated as Gazetted Government servants.

(21)Government, unless there is anything repugnant in the subject

or context, as respect anything done or to be done after the commencement of the Constitution, shall mean the Governor of Maharashtra.

(22) Heads of Departments- (i) This term includes the officers mentioned in Appendix II in Maharashtra Civil Services (General Conditions of Services) Rules, 1981 and any others whom Government may from time to time declare to be Heads of Departments.

(ii) Head of Office means a Gazetted Officer declared as such by Government and includes such other authority or person whom the competent authority may, by order, specify as Head of Office.

(26) Class IV service means performed by a Government servant in a post specifically classified as Class IV and such other unclassified Non-gazetted posts the maximum of the scale of which is equal to or less than Rs.435.

(28) Leave means permission to remain absent from duty granted by a competent authority under the Maharashtra Civil Services (Leave) Rules, 1981

(29) Leave salary means the monthly amount paid by Government to a Government servant on leave.

(30) Lien means the title of a Government servant to hold substantively, either immediately or on the termination of a period or periods of absence, a permanent post, including a tenure post, to which he has been appointed substantively.

(32) Local Fund means-

(a) revenues administered by bodies, which by law or rule having the force of law come under the control of Government whether in regard to proceedings generally or to specified matter, such as the sanctioning of the budgets, sanction to the creation or filling up of particular posts, or the enactment of leave, pension, or similar rules; and

(b) the revenues of any body which may be specially notified by Government as such.

(34) Month means a calendar month. In calculating a period expressed in terms of months and days complete calendar months, irrespective of the number of days in each, should first be calculated and the odd number of days calculated subsequently.

Instruction-Calculations of period expressed in terms of months and days should be made as under:-

(a) To calculate 3 months and 20 days on and from the 25th January, the following method should be adopted:-

25th January to 31st January

	y	m	d
25th January to 31st January	0	0	7
February to April	0	3	0
1st May to 13th May	0	0	13
	0	3	20

(b) The period commencing on 30th January, and ending with 2nd March should be deemed as 1month and 4days, as indicated below:-

30th January to 31st January

	y	m	d
30th January to 31st January	0	0	2
February	0	1	0
1st March to 2nd March	0	0	2
	0	1	4

(35) Officiate- A Government servant officiates in a post when he performs the duties of a post of which another person holds a lien. A competent authority, may if thinks fit, appoint a Government servant to officiate in vacant post on which no other Government servant holds a lien.

(36) Pay means the amount drawn monthly by a Government servant as-

(i) the pay (including special dearness pay) which has been sanctioned for a post held by him substantively or in an officiating capacity, or to which he is entitled by reason of his position in a cadre; and

(ii) personal pay, and special pay; and

(iii) any other emoluments which may be specially classed as pay by Government

(37) Pension includes a gratuity.

(38) Pensionable Pay means the average pay earned by a Government servant during the last ten months service.

Note1.- The officiating pay/special pay deputation (duty) allowance drawn from the Consolidated Fund of India by State Government employees on deputation to the Government of India shall be taken into account for calculating pensionable pay.

Note2- The drawn by a Government servant while on foreign service shall not count for pension. 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 while calculating pensionable pay.

(39) Pensionable Service means service which qualifies the Government servant performing it to receive a pension from the Consolidated Fund.

(40) Permanent post means a post carrying a definite rate of pay sanctioned without limit of time.

(41) Personal pay means additional pay granted to a Government servant-

(a) to save him from a loss of substantive pay in respect of a permanent post other than a tenure post due to a revision of pay or due to any reduction of such substantive pay otherwise than as a disciplinary measure; or

(b) in exceptional circumstances on other personal considerations.

(42) Presumptive pay of a post, when used with reference to any particular Government servant, the pay to which he would be entitled if he held the said post and were performing its duties, but it does not include special pay unless the Government servant performs or discharge the work or responsibility, in consideration of which special pay was sanctioned.

(43) Probationer means a Government servant employed on probation in or against a substantive or temporary vacancy in the cadre of a department.

Note1- No person appointed substantively to a permanent post in a cadre is a probationer, unless definite conditions of probation have been attached to his appointment, such as the condition that he must remain on probation pending the passing of certain examination.

Note2- A Government servant (other than one who holds substantively a permanent post) appointed on promotion to a temporary post will be treated for all purpose as a temporary Government servant.

Note 3- The status of a probationer is to be considered as having the attributes of a substantive status except where the rules prescribe otherwise.

(48) Special pay means an addition, of the nature of pay, to the emoluments of a post or of a Government servant granted in consideration of-

(a) the specially arduous nature of the duties;

(b) a specific addition to the work or responsibility.

(50) Subsistence allowance means a monthly grant made to a Government servant who is not in receipt of pay or leave-salary.

(51) Substantive pay means the pay other than special pay, personal pay or emoluments classed as pay by Government under sub-rule (36) (iii) to which a Government servant is entitled on account of a post to which he has been appointed substantively or by reasons of his substantive position in a cadre.

(52) Superior service means any kind of service which is not class IV.

(53) Temporary post means a post carrying a definite rate of pay sanctioned for a limited time.

Note-Substantive appointment to temporary posts should be made in a limited number of cases only, as for example, when posts are, to all intents and purposes, quasi-permanent or when they have been sanctioned for a period of not less than, or there is reason to believe that they will not terminate within a period of three years. In all other cases, appointments in temporary posts should be made in an officiating capacity only.

Instruction- The benefit of substantive appointments to temporary posts contemplated in the above note should not be allowed to be enjoyed by more than one person simultaneously. Therefore where Government servant has already been appointed substantively to a temporary post and there is a temporary interruption in his tenure of the post, it would not be proper to appoint another Government servant substantively to the post during such temporary interruption. For this purpose, interruptions which are likely to last for less than 3 years may be treated as temporary. It follows, therefore, that where a Government servant is already appointed substantively to a temporary post, a second Government servant should not be appointed substantively to it unless the previous holder of the post has been transferred from it permanently or unless he has been transferred temporarily and there is reason to believe that he will remain absent from the post for a period of not less than three years.

(54) Tenure post means a permanent post which an individual Government servant may not hold, for more than a limited period without reappointment.

Note-The following posts in State and Class services have been declared by Government to be tenure post:-

	Period of tenure (Years)
(1) Under Secretary to Government(when held by persons other than those promoted from the Subordinate Secretariat Service)	3
(2) Deputy Secretary (Criminal Law) in the Law and Judiciary Department	5
(3) Solicitor (Mofussil Litigation)	5
(4) Three posts of Assistant Directors of Social Welfare	3

CHAPTER 3 RETIREMENT

10. Age of retirement :-

(1) Except as provided in this rule, every Government servant, other than a Class IV servant, shall retire from service on the afternoon of the last day of the month in which he attains the age of 58 years. He may be retained in service beyond 58 years only with the previous sanction of Government on public grounds which must be recorded in writing.

(2) Subject to the provisions of sub-rule (4), a Government servant in Class IV service shall retire from service on the afternoon of the last day of the month in which he attains the age of 60 years. He may not be retained in service after that age except with the previous sanction of Government.

(3) The following rules are applicable to particular services:

(a) Holders of the posts of the Chief Judge of the Court of Small Causes, Bombay and the Administrator General and Official Trustee, Bombay, whether they are recruited directly or are promoted from subordinate posts, should ordinarily be retained in service till the age of 60 years, if they continue to be efficient upto that age, otherwise they may be required to retire at the age of 55 years or any time thereafter.

(b) The Principal Judge, Bombay City Civil and Sessions Court, Bombay, the Chief Metropolitan Magistrate, Bombay, the Coroner of Bombay and the Additional Coroner of Bombay, should be required to retire on attaining the age of 60 years.

(c) A Judge of the City Civil and Sessions Court (being a Judge appointed direct from Bar) should be required to retire on his completion of the requisite years of qualifying service or duty necessary to entitle him to get the benefit of rule 53 or on his attaining the age of 60 years, whichever is earlier, provided that such a Judge should not be required to retire before he attains the age of 55 years.

(4) Notwithstanding anything contained in sub-rules (1) and (2) of this rule, the appropriate authority, if it is of the opinion that it is in the public interest so to do, by giving [notice of three months] in writing in Form 30 or in Form 31, as the case may be, or three months pay and allowances in lieu of such notice, have the absolute right to retire-

(a) any Gazetted Government servant under the rule making control of the State Government:-

(i) if he had entered Government service under any Government in India, before attaining the age of thirty-five years, after he has attained the age of fifty years, and

(ii) in any other case, after he has attained the age of fifty-five

years; [Provided that a Government servant who holds a Class III post in a substantive capacity but is holding a Class I or Class II post in an officiating capacity, shall, in case it is decided to retire him from service while holding a Class I or Class II post, in the public interest, be allowed on his request in writing to the appropriate authority to continue in service in Class III post which he holds in a substantive capacity.]

(c) any Government servant who holds a post in Class III service of the State, either pensionable or non-pensionable, after he has attained the age of fifty-five years;

(d) any Government servant who holds a post in Class IV service of the State and who is recruited in Government service on or after the 21st September 1970, after he has attained the age of fifty-five years.

(5) Notwithstanding anything contained in sub-rules (1) and (2) of this rule, any Government servant may, by giving [notice of three months] in writing to appropriate authority, retire.

(a) in the case of a Government servant-

(i) referred to in sub-rule (4) (a) (i), after he has attained the age of fifty years.

(ii) Referred to in sub-rule (4)(a)(ii) after he has attained the age of fifty-five years;

(iii)(b) in the case of a Government servant referred to in sub-rule (4) (b) and (c), after he has attained the age of fifty-five years.

¹[Provided that where the Government servant giving notice under sub-rule (5) is under suspension or is deemed to be under suspension, it shall be open to the appropriate authority to withdraw permission, if already granted or, as the case may be, to withhold permission to such Government servant to retire voluntarily under this rule.]

(6) (a) A Government servant referred to in sub-rule (5) may make a request in writing to the appropriated authority to accept notice of voluntary retirement of less than three months giving reasons therefore;

(c) on receipt of a request under clause (a), the appropriate authority may consider such request for the curtailment of the period of notice of three months on merits and if it is satisfied that the curtailment of the period of notice will not cause any administrative inconvenience, the appropriate authority, with the concurrence of the Finance Department, may relax the requirement of notice of three months on the condition that the Government servant shall not apply for commutation of a part of his pension

before the expiry of the period of notice of three months.]

(7) A Government servant, who has elected to retire under sub-rule (5) and has given the necessary notice to that effect to the appropriate authority, shall be precluded from withdrawing his notice except with the specific approval of such authority:

²[Provided that the request for withdrawal shall be made before the intended date of his retirement.]

Explanation-For the purposes of sub-rules (4) and (5)-

(1) "appropriate authority" means the authority which has the power to make substantive appointment to the post or service from which the Government servant retires, or wants to retire;

(2) The three months notice referred to in these sub-rules may be given either before or after the Government servant attains the age of fifty, or fifty-five years provided that the retirement takes place after he has attained the age of fifty or fifty-five years, as the case may be:

(3) in computing the notice period of three months referred to in these sub-rules the date of service of notice and the date of its expiry shall be excluded.

Note1- A Government servant whose date of birth is the 1st of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the age of 58 years, or 60 years, as the case may be.

Note2-For the purposes of sub-clauses (a) and (b) of sub-rule (4), the age of entry into Government service or recruitment in Government service shall be the age at which a Government servant was appointed to a full time post and not to a part time or honorary post.

1.inserted by Notification No. PEN-1088/1167/SER-4,dated 5.5.1990

2.inserted by Notification No. PEN-1088/1167/SER-4,dated 5.5.1990

11. Retirement according to the character of the post held in an officiating capacity and not the post held in a substantive capacity :-

When a Government servant holding a permanent post substantively, is officiating in another post, [sub-rules (1) and (2) of rule 10] should be applied according to the character of the post in which he is officiating and not according to the character of the

permanent post held substantively by him. Thus the date of compulsory retirement of the substantive holder of a post in Class IV service, who is officiating in a post not included in that service, is the date on which he attains the age of 58 years. If such a person would like to be governed by sub-rule (2) of rule 10, he must revert to a post in Class IV service before he attains the age of 58 years. If such a person would like to be governed by sub-rule (2) of rule 10, he must revert to a post in Class IV service before he attains the age of 58 years.

12. Extension in service beyond the age of compulsory retirement :-

Notwithstanding anything contained in sub-rule (3) of rule 10 Government may grant an extension of service to any Government servant beyond the age of retirement, on public grounds, which must be recorded in writing.

Note-Normally except in very exceptional circumstances, extension should not be granted beyond the age of 60 years.

1st[Substituted by G.N.F.D. No. MCS-1085/CR-54/SER-6,dated 18-7-1985]

13. Grant of refused leave not to be treated as an extension in service :-

The grant of leave under rule 67 of the Maharashtra Civil Services (Leave) Rules, 1981 extending beyond the date on which a Government servant must compulsorily retire, or beyond the date up to which a Government servant has been permitted to remain in service, shall not be treated as sanctioning an extension of service, for the purposes of pensionary or Contributory Provident Fund benefits or the retention of a lien. The Government servant shall retire and become eligible for all pensionary benefits as due to him on the date of retirement, or such other later date, if any extension of service is granted, from the date of expiry of such leave.

Note-See note 9 below rule 60.

14. Application of rule 10 to re-employed Government servants :-

Rule 10 is also applicable to re-employed personnel who have retired before reaching the age of Superannuation and the rules in Chapter VII are subject to conditions laid down in rule 10. Rule 158

from the nature of its concession and conditions, puts the re-employment of a person in receipt of a Superannuation and or retiring pension in a special class outside rule 10 and subject to the conditions stated in the rule itself which must be observed with every renewal of sanction.

15. Review of cases before Superannuation or expiry of extension of service :-

The case of each Government servant should be taken up for examination when he is approaching the age of Superannuation and before the expiry of each extension of service. Extensions may not be granted for any period exceeding one year at one time, the first extension being given generally up to the end of the financial year. In cases in which it is proposed to grant extension of service, reports should be made to Government at least two months before the necessity for sanction or fresh sanction arises.

16. Claim for compensation for retirement is not to be entertained :-

No claim for compensation from a Government servant who is required to retire under the provisions of rule 10 will be entertained.

17. When extension is refused, Government servant is continued till relieved by his successor :-

When a Government servant has been refused an extension of service, he may, in the absence of specific orders to the contrary be allowed to continue in service until he is relieved by his successor.

Note- In cases, however, where an extension of service has been applied for and granted and no further extension is asked for and sanctioned, the Government servant must be held to cease to be in the service of Government and to be entitled to no pay from the date of the expiration of the period for which the extension was granted. It is for the officer under whom the Government servant, to whom the extension has been given, is serving, to take timely measures to ensure, as far as in him lies, that another Government servant shall be available to take over charge from the time-expired Government servant on the date on which the extension given terminates.

18. Promotion not to be given when a Government servant

is on extension of service :-

Without the previous sanction of Government, no promotion whether officiating or substantive, and whether in a permanent or in a temporary establishment, should be given to a Government servant who is under extension. This does not debar such a Government servant from earning an increment, if the pay of the appointment held by him is on a time-scale.

19. Removal or compulsory retirement from service for misconduct, insolvency or inefficiency :-

A competent authority may remove any Government servant subject to these rules from Government service, or may require him to retire from it, on the ground of misconduct, insolvency or inefficiency:

Provided that before any such order is issued, the procedure referred to in rules 8 to 15 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979, shall be followed.

Note1. In the case of Police Officers Subordinate ranks, a competent authority in the Police Department can exercise his discretion under this rule after observing the procedure laid down in Chapter XIII of the Bombay Police Manual, 1959, Volume I and Section 26 of the Bombay Police Act, 1951.

Note 2- Except where it is expressly stated otherwise removal includes the case of a Government servant who has been asked to retire under this rule.

CHAPTER 4 GENERAL CONDITIONS

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

(1) A Government servant who is transferred permanently to a service or post to which these rules apply from a service or post to which these rules do not apply, shall become subject to these rules: Provided that it shall be open to him, within six months of the date of issue of the order of his permanent transfer or, if he is on leave on that day, then within six months of his return from leave, whichever is later, to elect to be governed by the pension rules to which he was subject immediately before the date of his transfer.

(2) The option under the proviso to sub-rule (1) shall be exercised in writing and communicated to the authority making such order of

transfer.

(3)The option once exercised shall be final.

21. Limitations on number of pensions :-

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

(2)A Government servant, who having retired on a Superannuation Pension or Retiring Pension is subsequently re-employed, shall not be entitled to a separate pension or gratuity for the period of his re-employment.

22. Admissibility of Wound and Extraordinary Family Pension :-

The rules from 85 to 98 and provisions in Appendix IV which govern the grant of Wound or Injury Pension and Extraordinary Family Pension on account of injuries or death, apply to all persons employed in a civil capacity in the service of Government whether permanently, temporarily, or even casually, and whether remunerated by fixed pay or at piece-work rates.

23. Sanction of pension in special circumstances :-

In any case in which a pension is not admissible under any specific provision of these rules, Government may sanction the grant of a pension, which shall not, save in the most exceptional circumstances, exceed the monthly minimum pension as fixed by Government from time to time, or of a gratuity not exceeding the equivalent, calculated in accordance with the table prescribed under rule 8 of Maharashtra Civil Services (Commutation of Pension) Rules,[1984] of the value of such a pension, if the grant is not inconsistent with the general spirit of the rules.

Note- Pension sanctioned under this rule need not be given any special name. It may be styled " Invalid" , "Retiring", " Superannuation", or Extraordinary", in accordance with the circumstances of each case.

24. Pension not exchangeable but gratuity may be exchanged for annuity :-

(1)A Government servant eligible for a pension is not entitled to exchange it for a gratuity.

(2)If a Government servant is eligible under these rules for a

gratuity only, Government may at its discretion, if the expectation of life of the Government servant is reported by competent medical authority to be equal to the average, convert the gratuity into an annuity. The amount of the annuity shall be calculated with reference to the table of present values prescribed by Government under rules 8 of the Maharashtra Civil Services (Commutation of Pension), Rules, [1984].

25. Inadmissibility of pension while in service of Local Fund

:-

A Government servant transferred to foreign service under a Local Fund shall not be permitted, while he remains in the service of the Fund, to receive a pension on voluntary retirement from Government service. For the purpose of this rule, retirement shall be considered to be voluntary if the Government servant is not required to retire but retires on Retiring Pension before he is compelled to retire under rule 10.

26. Pension subject to good conduct :-

(1) Future good conduct shall be an implied condition of every grant of pension. Government may, by order in writing, withhold or withdraw a pension or part thereof, whether permanently or for a specified period, if the pensioner is convicted of a serious crime or is found guilty of grave misconduct:

Provided that where a part of pension is withheld or withdrawn, the amount of remaining pension shall not be reduced below the minimum pension as fixed by Government.

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

(3) In a case not falling under sub-rule (2), if Government considers that the pensioner is prima facie guilty of grave misconduct, it shall, before passing an order under sub-rule (I), follow the procedure as laid down in rules 8 and 9 of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 for imposing a major penalty.

(4) The Maharashtra Public Service Commission shall be consulted before an order under sub-rule (I) is passed in respect of officers holding posts within their purview.

Explanation- In this rule-

(a) the expression serious crime includes a crime involving an

offence under the Official Secrets Act, 1923 (act XIX of 1923);
(b) the expression grave misconduct includes the communication or disclosure of any secret official code or pass-word or any sketch, plan, model, article, note, document or information, such as is mentioned in section 5 of the Official Secrets Act, 1923 (Act XIX of 1923) (which was obtained while holding office under the Government) so as to prejudicially affect the interests of the general public or the security of the State.

27. Right of Government to withhold or withdraw pension :-

(1) Government may, by order in writing, withhold or withdraw a pension or any part of it, whether permanently or for a specified period, and also order the recovery from such pension, the whole or part of any pecuniary loss caused to Government, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service including service rendered upon re-employment after retirement:

Provided that the Maharashtra Public Service Commission shall be consulted before any final orders are passed in respect of officers holding posts within their purview:

Provided further that where a part of pension is withheld or withdrawn, the amount of remaining pension shall not be reduced below the minimum fixed by Government.

(2) (a) The departmental proceedings referred to in sub-rule (1), if instituted while the Government servant was in service whether before his retirement or during his re-employment, shall, after the final retirement of the Government servant, be deemed to be proceedings under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service.

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

(i) shall not be instituted save with the sanction of the Government,
(ii) shall not be in respect of any event which took place more than four years before such institution, and

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

(3) No judicial proceedings, if not instituted while the Government servant 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 in respect of an event which took place, more than four years before such institution.

(4) In the case of a Government servant who has retired on attaining the age of Superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued under sub-rule (2), a provisional pension as provided in rule 130 shall be sanctioned.

(5) Where Government decides not to withhold or withdraw pension but orders recovery of pecuniary loss from pension, the recovery shall not, subject to the provision of sub-rule (I) of this rule, ordinarily be made at a rate exceeding one-third of the pension admissible on the date of retirement of a Government servant.

(6) For the purpose of this rule-

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

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

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

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

28. Grant of pension to Government servants who have served partly under Central Government and partly under Maharashtra Government :-

When a Government servant has rendered a total period of qualifying service which is sufficient to qualify for a pension under these rules but a portion of such service has been rendered under the Central Government, his pension shall consist of the total of the following:-

(a) the amount of pension which would have been payable in accordance with provisions of the rules in Section IV of Appendix 3B to the Account Code, Volume I, by the Central Government in respect of the period served under them, had the entire period of service been rendered whilst subject to the rules of the Central

Government, and

(b) the amount of pension which would have been payable in accordance with the provisions of the rules in Section IV of Appendix 3B to the Account Code, Volume I, by the Government of Maharashtra in respect of the period served under them, had the entire period of qualifying service been performed whilst subject to these rules:

Provided that the total amount of pension admissible shall in no case exceed the maximum limits prescribed in these rules:

Provided further that the amount of pension of a Government servant subject to these rules whose services are merely lent for a time to the Government of India or who is transferred temporarily to an establishment which is administered by the Government of Maharashtra as agents of the Government of India shall, in respect of his whole service, be calculated in accordance with these rules.

Note- When a Government servant is eligible to retire either under the rules of the Central Government or under these rules and when the amount of pension admissible under both the sets of rules is identical, the provisions of the above rule need not be enforced and the Government servant may be given the pension admissible as if the entire service has been rendered under the Government of Maharashtra. The incidence of pension in such cases should be worked out in accordance with the rules in Section IV of Appendix 3 B to the Account Code, Volume I.

29. Sharing of pension between Consolidated Fund and Local Fund :-

When part of the pensionable service of a Government servant qualifies for pension from the Consolidated Fund and part from a Local Fund, the amount of his pension shall be chargeable to Government and the Local Fund in proportion of the length of service. If the share of pension chargeable to one account does not exceed one rupee, no charge shall be made to that account and the share shall be borne by the account chargeable with the greatest share.

Note-Service for which pension contribution has been recovered or for which the recovery of pension contribution has been waived should be regarded as service paid by Government for purpose of this rule.

CHAPTER 5 QUALIFYING SERVICE

30. Commencement of qualifying service :-

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

Provided that at the time of retirement he shall hold substantively a permanent post in Government service or holds a suspended lien or certificate of permanency:

[Provided further that, in cases where a temporary Government servant retires, on Superannuation or on being declared permanently incapacitated for further Government service by the appropriate medical authority after having rendered temporary service of not less than ten years, or voluntarily after completion of twenty years of qualifying service, shall be eligible for grant of Superannuation, Invalid or, as the case may be, Retiring Pension; Retirement Gratuity; and Family Pension at the same scales as admissible to a permanent Government servant.]

Exception- The rules regarding grant of terminal benefits to temporary Government servants [except those mentioned in the second proviso] who retire without being confirmed in any post in Government service are embodied in Appendix II.

Note 1.- If a Government servant is holding a temporary post when the permanent post on which he holds a lien is abolished in the circumstances described in the rule 81, or if, at or very shortly after the abolition of the permanent post, he is appointed to a newly created temporary post, his service in the temporary post is pensionable service.

Note 2.- In the case of the employees of former India States who have been absorbed in Government service previous pensionable service rendered by them under the same State should it immediately followed by Government service be taken into account for purposes of pension on his final retirement from Government service. Pensionable service rendered under different States should be taken into account for purposes of pension provided that the employees were transferred or sent on deputation from one State to another under a written agreement between the Governments of the States concerned.

[The term "immediately" appearing in Note 2 above includes a break in service if it does not exceed six months, between the date on which the service was terminated and the date of his re-employment in service).

The question whether the previous service in Indian States is pensionable or not should be determined in accordance with these rules as if those rules were applicable to that service.

31. Conditions subject to which service qualifies :-

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

(2) For the purposes of sub rule (1) the expression "service" means service under Government and paid by Government from the Consolidated Fund of State or a Local Fund administered by Government but does not include service in a non-pensionable establishment unless such service is treated as qualifying service by Government.

(3) In the case of a Government servant belonging to the Central Government, who is permanently transferred to a service or post to which these rules apply, the continuous service rendered under the Central Government in an officiating or temporary capacity, if any, followed without interruption by substantive appointment, or the continuous service rendered under that Government in an officiating or temporary capacity, as the case may be, shall qualify: Provided that nothing contained in this sub-rule shall apply to any such Government servant who is appointed other wise than by deputation to a service or post to which these rules apply.

32. Age after which service counts for pension :-

Service rendered by a Government servant before attaining the age of 18 years shall not count for pension:

Provided that in the case of Government servant in Class IV service or post who held a lien or a suspended lien on a permanent pensionable post prior to the 1st April 1950, service rendered before attaining the age of 16 years shall not count for pension.

33. Service rendered under Government followed without interruption by confirmation counts in full as service qualifying for pension :-

A Government servant who holds a permanent post substantively or holds a lien or a suspended lien or a certificate of permanency on the date of his retirement, the entire temporary or officiating service rendered under Government followed without interruption

by confirmation in the same or another post, shall count in full as service qualifying for pension except the service rendered against one of the posts mentioned in rule 57.

Note- The benefit of above rule should also be extended to Government servants who have rendered service in temporary post in the former Civil Supplies Department including those re-employed after the break, provided they agree to refund the terminal gratuity, if any, received by them on their retrenchment from the former Civil Supplies Department (In order to avoid hardship, the gratuity may be refunded in monthly installments not exceeding twenty). Competent authorities are authorized to condone where necessary, breaks not exceeding 3 years. In cases where break exists, the terminal gratuity referred to above should be refunded within three months from the date of the order of the competent authority condoning the break and the right to count the service under the above rule does not accrue until the gratuity is wholly refunded. The condonation should be postponed until the Ex-Civil Supplies Department personnel actually pass the examination, if any, required for confirmation and are actually confirmed. The benefit of condonation of break should be allowed only in those cases in which breaks have occurred on account of discharge from service for want of post and not on any other ground e.g. voluntary resignation etc. and in computing the period of break the terminal leave availed of by the persons concerned, should also be taken into account. The leave salary is not, however, refundable.

34. Incidence of pension in respect of service under Local Fund :-

Service paid from a Local Fund which is administered by Government is pensionable service, but the cost of a pension earned by it will be met by the Local Fund.

35. Counting of all leave for pension :-

All leave including extra-ordinary leave during the period of continuous service shall count as qualifying service for pension.

36. Counting of service on probation :-

Service on probation against a post if followed by confirmation in the same or another post shall qualify for pension.

37. Counting of service as an apprentice :-

Service as an apprentice shall not qualify for pension.

Exception: The service rendered as an Apprentice in (a Government press) shall count towards pension.

38. Counting of service on contract :-

(I) A person who is initially engaged by Government on a contract for a specified period and is subsequently appointed to the same or another post in a substantive capacity in a pensionable establishment without interruption of duty, may opt either:-

(a) to retain the Government contribution in the Contributory Provident Fund with interest thereon including any other compensation for that service; or

(b) to agree to refund to Government the monetary benefits referred to in clause (a) or to forgo the same if they have not been paid to him and count in lieu thereof the service for which the aforesaid monetary benefits may have been payable.

(2) The option under sub-rule (1) shall be communicated to the appointing authority under intimation to the Audit Officer within a period of three months from the date of issue of the order of permanent transfer to pensionable service, or if the Government servant is on leave on that day, within three months of his return from leave, whichever is later.

(3) If no communication is received by the appointing authority within the period referred to in sub-rule (2), the Government servant shall be deemed to have opted for the retention of the monetary benefits payable or paid to him on account of service rendered on contract.

39. Counting of pre-retirement civil service in the case of re-employed Government servants :-

(I) A Government servant who having retired on Compensation Pension or Invalid Pension or compensation gratuity or invalid gratuity, is re-employed and appointed substantively to a service or post to which these rules apply, may exercise option either-

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

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

(i) the pension already drawn, and

(ii) the value received for the commutation of part of pension,
(iii) the amount of [retirement gratuity] including service gratuity, if any, and count the previous service as qualifying service:

Provided that-

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

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

(iii) the element of pension equivalent of gratuity including the element of

commuted part of pension, if any, which was taken into account for fixation of his pay shall be set-off against the amount of [retirement gratuity] and commuted value of pension and the balance, if any, shall be refunded by him.

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

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

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

(4) In the case of a Government servant who opts for clause (a) of sub-rule (I) the pension or gratuity admissible for his subsequent service is subject to the limitation that service gratuity or the capital value of the pension and [retirement gratuity] if, any, shall not be greater than the difference between the value of the pension and [retirement gratuity] if any, that would be admissible at the time of the Government servants final retirement if the two periods of service were

combined and the value of retirement benefits already granted to him for the previous service.

Note:- The capital value of pension shall be calculated in accordance with the Table prescribed by Government under rule 8

of the Maharashtra Civil Services (Commutation of Pension) Rules, [1984] applicable at the time of the second or final retirement.

4(a) A Government servant who opts for clause (b) of sub-rule (I) shall be required to refund the gratuity received in respect of his earlier service, in monthly installments not exceeding thirty-six in number, the first installment beginning from the month following the month in which he exercised the option.

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

(5) In the case of a Government servant, who, having elected to refund the gratuity, dies before the entire amount is refunded, the amount of unrefunded gratuity shall be adjusted against the [death gratuity] which may become payable to his family.

(6) In the case of Government servants who are paid at piece-work rate and whose service is treated as pensionable, the pay of the appointment which was abolished or from which he was invalided should be taken at the average earnings of the last six months or employment.

40. Counting of approved war service towards civil pension :-

Approved war service rendered during the 2nd World War by itself or in conjunction with other Military service in respect of war service candidates appointed permanently to civil posts against vacancies arising on or after the 1st April 1947, may also be allowed to count in full towards civil pension subject to the following conditions:-

(a) the Government servant concerned should not have earned a pension under the Military rules in respect of the service in question:

(b) in the case of services or posts in respect of which a minimum age is fixed for recruitment, Military or war service rendered below that age shall not be counted for pension;

(c) war service rendered in the Armed Forces of India or in similar Forces of a Commonwealth Country shall be counted alike for pension, and no contribution towards, or share, of a pension earned as a result of this concession shall be claimed from the foreign Government concerned:

(d) refund of bonus or gratuity paid in respect of the war service shall not be demanded from the Government servant concerned. If, however, the Government servant has been granted any retirement

gratuity for service covering both the war and post-war period, such gratuity shall be refundable;

(E) the break between the military/war service and the civil service shall be treated as automatically condoned provided the period of the break does not exceed one year.

Break exceeding one year but not exceeding three years, may also be condoned, in exceptional cases, under special orders of Government.

Note- Approved war service or military service should be got verified in the Form 24 prescribed in the Appendix V from the Military authorities concerned.

41. Other cases in which Military service counts as service for pension :-

In any case not covered by rule 40, a competent authority may be general or special order direct that the Military service performed by any Government servant, after attaining age of 18 years, who before entering civil employ was in Military employ but did not earn a pension in Military employ, shall be treated as service qualifying for pension. In issuing such an order the competent authority shall specify the method by which the amount of service shall be calculated and may impose any condition, which it may think fit:

Provided-

(1) that the Military service must have been pensionable under military rules;

(2) that the Military service must have been paid from Consolidated Fund of India or of State or pensionary contribution for that service must have been received by Consolidated Fund of India or of State; and

(3) that, if the service is treated as service qualifying for civil pension any bonus or gratuity received in lieu of pension on or since discharge from Military service must be refunded in not more than 36 monthly instalments from such date as the competent authority may direct.

Note I.- An order under the rule should be communicated to the Controller of Defence Accounts concerned who will be requested to calculate the exact amount to be recovered and communicate it to the Accountant General, Maharashtra, who will make the recoveries in as many instalments as may be directed in the order.

Note 2- Leave taken in Military service which was not counting under those rules before the Government servant became subject

to the civil have rules not be treated as service for purposes of this rule.

Note3-It is permissible to allow Military service interposed between two periods of civil service to count for civil pension, provided that the conditions laid down in this rule are otherwise fulfilled.

Note4-See Note below rule 40

Note5-Temporary Military service rendered by a Government servant with an interruption between the Military and Civil service shall be condoned provided the conditions prescribed in Sub-rule(I) of rule 48 are fulfilled. In such cases the pensionary liability in respect of Military service shall be borne by the Defiance authorities and the Government servant will be required to refund the service gratuity, if any, received by him in respect of Military service rendered by him, before he is allowed to count that service towards civil pension.

42. Counting of periods spent on training :-

The Government may, by order, decide whether the time spent by a Government servant under training immediately before appointment to service under it shall count as qualifying service.

43. Counting of periods of suspension :-

Time passed by a Government servant under suspension pending inquiry into conduct shall count as qualifying service where, on conclusion of such inquiry, he has been fully exonerated or the suspension is held to be wholly unjustified; in other cases, the period of suspension shall not count unless the authority competent to pass orders under the rule governing such cases expressly declares at the time that it shall count to such extent as the competent authority may declare.

Note-In the absence of specific indication to the contrary in the service record, the period of suspension shall be taken as counting towards the qualifying service.

44. Counting of past service on reinstatement :-

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

(2)The period of interruption in service between the date of dismissal, removal or compulsory retirement, as the case may be,

and the date of reinstatement, and the period of suspension, if any, shall not count as qualifying service unless regularized as duty or leave by a specific order of the authority which passed the order of reinstatement.

45. Forfeiture of service on dismissal or removal :-

Dismissal or removal of a Government servant from a service or post entails forfeiture of his past service.

46. Forfeiture of service on resignation :-

(1)Resignation from a service or a post entails forfeiture of past service.

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

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

(4)The appointing authority may consider the request of a person who had earlier resigned his post under Government, to take him back in service in the public interest on the following conditions, namely:-

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

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

© that the period of absence from duty between the date on which the resignation became effective and the date on which the person is allowed to resume duty as a result of permission to withdraw the resignation is not more than ninety day;

(d) that the post, which was vacated by the Government servant

on the acceptance of his resignation or any other comparable post, available.

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

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

47. Effect of interruption in service :-

(1) An interruption in the service of a Government servant entails forfeiture of his past service, except in the following cases:-

(a) authorized leave of absence;

(b) unauthorized absence in continuation of authorized leave of absence so long as the post held by the absentee is not filled substantively;

© suspension, where it is immediately followed by reinstatement, whether in the same or a different post, or where the Government servant dies or is permitted to retire or is retired on attaining the age of Superannuation while under suspension;

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

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

(2) Notwithstanding anything contained in sub-rule (i), the appointing authority may, by order, commute [retrospective] the periods of absence without leave as extraordinary leave.

48. Condonation of interruption in service :-

(1) The appointing authority may, by order, condone interruptions in the service of a Government servant;

Provided that-

(a) the interruptions have been caused by reasons beyond the control of the Government servant;

(b) the total service pensionary benefit in respect of which will be

lost, is not less than five years duration, excluding one or two interruption, if any; and

© the interruption including two or more interruptions if any, does not exceed one year.

(2) the period of interruption condoned under sub-rule (1) shall not count as qualifying service.

(3) In the absence of a specific indication to the contrary in the service record, an interruption between two spells of civil service rendered by a Government servant under Government, shall be treated as automatically condoned and the pre-interruption service treated as qualifying service.

(4) Nothing in sub-rule (3) shall apply to interruption caused by resignation, dismissal or removal from service or for participation in a strike.

The period of interruption referred to in sub-rule (3) shall not count as qualifying service.

49. Service on establishment paid by piece-work treated as pensionable :-

The service of a Government servant employed on a fixed establishment which is paid by piece-work may be treated as qualifying service:

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

(ii) if during the last 20 months of his actual employment he has been attached to one office uninterruptedly for 6 months or it has not been through his own choice or misconduct that he has not been so attached.

50. Period of voyage to India on compulsory recall to duty :-

If a Government servant in pensionable service is compulsorily recalled to duty before the expiry of leave taken out of India, the period spent on the voyage to India shall be treated as duty for pension.

51. Period of non-employment on non-continuous post :-

If a Government servant is serving in an establishment the duties of which are not continuous but are limited to certain fixed periods in each year, the period during which the establishment is not employed shall be treated as service qualifying for pension:

Provided that it shall not be so treated unless the Government servant is on actual duty-

(a) on the date on which the establishment is discharged prior to such period on completion of its work, and

(b) on the date on which he is re-employed after the expiry of such period.

Note-This rule does not apply to service in a Vacation Department.

52. Non-pensionable service counting for pension :-

Government may, by general or special order, permit service other than pensionable service, for performing which a Government servant is paid from State revenues or from a Local Fund, to be treated as service qualifying for pension. In issuing such an order Government shall specify the method by which the amount of qualifying service shall be calculated and may impose any condition which it thinks fit.

Note I. Temporary service on city and pot-hissa survey is allowed to count for pension but only the net pay after deducting the traveling allowance should be taken into account for purpose of pension. So also the temporary service rendered on the following establishments of the Land Records Department should be allowed to be counted for pension after confirmation of the incumbents in the posts converted into permanent ones by Government Resolution, Revenue and Forests Department No. EST-1065/58023-V, dated 19th July 1968-

(i) Khoti Survey Establishment;

(ii) Establishment for Inam village survey;

(iii) Establishment for merged State Area Survey, and

(iv) Establishment for consolidation of Holding Schemes.

Note 2- Service rendered for the period during which Government servants subscribed to the Contributory Provident Fund shall count in full towards the pension in cases of Government servants who are permanently transferred to pensionable service under Government on or after 22nd June 1963. Such Government servants will be required to exercise the option as provided in rule 28 of the Maharashtra Contributory Provident Fund Rules, and refund to Government the amount of contribution paid by Government together with interest thereon standing to their credit. This benefit of counting full Contributory Provident Fund service will also be admissible to Government servants, who had already opted for pension rules but who retired on or after 22nd June 1963.

The provisions of this Note are, however, not applicable to employees of the Ex-princely States who were absorbed in Government service after the merger of such States.

Note 3.- In the case of Peons who have rendered service as Attendants prior to conversion of the posts of Attendants into those of Peons, one-half of the previous continuous service rendered by them as Attendants shall count for pension in respect of those who retire on or after 30th June, 1982.

53. Addition to qualifying service for Superannuation pension :-

Government servants who are directly recruited from the Bar and whose pensionable service has been rendered in one or the other of the posts or service mentioned in any of the following clauses and whose qualifying service for Superannuation pension is not less than ten years, may add to their service qualifying for Superannuation pension, the years of service in the following manner, namely:-

(a)(i) Civil Judge, Junior Division and Judicial Magistrate, First Class;

(ii) Judge, Labour Court;

(iii) Junior Draftsman, Law and Judiciary Department;

the number of years by which their completed years of age on appointment exceeded twenty-five years, subject to a maximum of five years;

(b) (i) Administrator General and Official Trustee;

(ii) Principal Judge of the Bombay City Civil Court;

(iii) Judge of the Bombay City Civil Court;

(iv) District Judge (including the person initially appointed as Assistant Judge or Additional District Judge, as the case may be, for eventual appointment as District Judge);

(v) Metropolitan Magistrate;

(vi) Judge, Small Causes Court;

(vii) President of Industrial Court;

(viii) Member of Industrial Court;

(ix) Adjudicator of Industrial Tribunal;

(x) Member of Industrial Tribunal;

(xi) Deputy Charity Commissioner (in the Charity organization);

(xii) Assistant Charity Commissioner (in the Charity organization);

(xiii) Draftsman-cum-Joint Secretary, Law and Judiciary Department;

(xiv) Deputy Draftsman-cum Deputy Secretary, Law and Judiciary Department;

(xv) Assistant Draftsman-cum-Under Secretary, Law and Judiciary Department,

(xvi) Legal Advisor-cum-Joint Secretary, Law and Judiciary Department;

(xvii) Deputy Legal Advisor-cum-Deputy Secretary, Law and Judiciary Department;

(xviii) Assistant Legal Advisor-cum-Under Secretary, Law and Judiciary Department;

(xix) Deputy Secretary (legal Side), Law and Judiciary Department;

(xx) Under Secretary (Legal Side), Law and Judiciary Department;

(xxi) Commissioner for Workmens Compensation;

(xxii) Additional Commissioner for Workmens Compensation;

the number of years on a sliding scale as indicated below:-

Completed years of age on the date of Period to be added to the qualifying service initial appointment to the post mentioned above

36years	6years
37years	7years
38 years	8 years
39 years	9 years
40 years and above	10 years (maximum)

Provided that, where a person recruited to any of the posts mentioned in clause (b) is, on his initial appointment, of less than 36 completed years of age he shall be eligible for the same concession as mentioned in clause (a).

Explanation I. In computing the number of completed years of age, fraction of a year equal to six months or less shall be ignored and that of more than six months shall be treated as one full years.

Explanation2.- In the case of a holder of any of the posts mentioned in clause (a) or (b), his subsequent appointment, promotion, deputation or transfer to any of the other such posts shall not deprive him of the concession admissible to him under this rule.]

54. Condonation of deficiency and addition in service :-

Government may, for special reasons to be recorded in writing-

- (1) condone a deficiency, which may not ordinarily exceed one year, in the period of service qualifying for pension performed by a Government servant in order to qualify him to receive a Retiring Pension or to receive a pension as distinct from a gratuity; or
- (2) make an addition, which may not ordinarily exceed one year, to the period of service qualifying for pension, performed by a retiring Government servant which under the provisions of these rules may

be counted for pension

Note- The power under sub-rule (1) shall be exercised only in respect of low paid Government servants retiring on Invalid or Compensation pension.

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

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

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

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

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

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

56. Service cost recovered from third party :-

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

57. Non-pensionable service :-

As exceptions to rule 30, the following are not in pensionable service:-

(a) Government servants who are paid for work done for Government but whose whole time is not retained for the public service,

(b) Government servants who are not in receipt of pay but are

remunerated by Honoraria, ©Government servants who are paid from contingencies,

(d)Government servants holding posts which have been declared by the authority which created them to be non-pensionable.

(e)Holders of all tenure posts in the Medical Department, whether private practice is allowed to them or not, when they do not have an active or suspended lien on any other permanent posts under Government.

Note1.- In case of employees paid from contingencies who are subsequently brought on a regular pensionable establishment by conversion of their posts, one-half of their previous continuous service shall be allowed to count for pension.

Note2- In the case of persons who were holding the posts of Attendants prior to 1st April 1966, one-half of their previous continuous service as Attendants, shall be allowed to count for pension.

58. Power of Government to declare any service as non-pensionable :-

Government may declare that service in any post or establishment created after the date these rules come into force or the service of future incumbents of existing post created by it shall not be qualifying service for pension.

59. Verification of qualifying service after twenty-five years service or five years before retirement :-

(1) Where a Government servant completes (a) twenty years service-if he is a Gazetted Officer and (b), twenty-five years service if he is Non-gazetted servant, the Audit Officer in the case of a Gazetted Officer or the Head of Office in consultation with the Audit Officer in the case of a Non-gazetted Government servant, shall, in accordance with the rules for the time being in force, verify the service rendered by such a Government servant, determine the qualifying service and communicate to him in Form 22 the period of qualifying service so determined or on his being left with five years service before the date of retirement, whichever is earlier.

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

be done whenever such even occurs.

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

CHAPTER 6 PENSIONABLE PAY

60. Pensionable pay :-

(1) The "Pensionable pay" means the average pay earned by a Government servant during the last ten months service.

(2) In case of a Government servant who was in service on 1st March 1976 and retires on or after that date and where the provisions of sub-rule (1) operate disadvantageously to him, his pensionable pay shall be based on the average pay earned during the last 36 months of service.

[(3) For the purpose of sub-rules (1) and (2) above, "pay" means the pay as defined in rule 9 (36)(i)]

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

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

Note 2- If, during the last ten months of his service, a Government servant had been absent from duty on extra-ordinary leave, or had been under suspension, the period whereof does not count as service, the aforesaid period of leave for suspension shall be disregarded. In the calculation of the pensionable pay and equal period before the ten months shall be included.

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

Note 4- If a Government servant immediately before his retirement or death while in service was on leave other than extra-ordinary

leave and earned an increment which was not withheld during the first six months of the period of leave, such increment, though not actually drawn, shall form part of his pensionable pay.

Note 5- Where a Government servant immediately before his retirement or death while in service had proceeded on leave for which leave salary is payable after having held a higher appointment whether in an officiating or temporary capacity, the benefit of officiating pay drawn in such higher appointment shall be given only if it is certified that the Government servant would have continued to hold the higher appointment but for his proceeding on leave.

Note 6.- Pay drawn by a Government servant in a tenure appointment shall be treated as pay for calculation of pensionable pay.

Note 7- Pay drawn by a Government servant while on deputation to the Government of India shall be treated as pay for calculation of pensionable pay.

Note 8- The pay drawn by a Government servant while on foreign service shall not count for pension. In such a case the pay which the Government servant would have drawn under the Government had not been sent on foreign service, will alone be taken into account while calculating pensionable pay.

Note 9- In the case of a Government servant who is granted refused leave immediately after Superannuation or after the period of extension of service, if any, the period spent on such leave should be ignored while calculating the pensionable pay i.e. the last ten months/thirty-six months preceding the date on which "refused" leave begins to run shall be the period for calculating pensionable pay. In the case of a Government servant who was already in pensionable service on or before 18th June 1952, the period of refused leave shall not be ignored if it happens to be advantageous to him.

Note 10.- Where a pensioner who is re-employed in Government service, elects in terms of clause (a) of sub-rule (1) of rule 39 to retain his pension for earlier service and whose pay on re-employment has been reduced by an amount not exceeding his pension, the element of pension by which his pay is reduced shall be treated as pay for calculation of pensionable pay.

Note 11.- In case in which a piece-work employee is remunerated at different times during the last ten months of his service by fixed pay and piece rates, the average earning for the last 20 months should be taken for calculation of his pensionable pay. If during the

last 20 months, he is appointed to officiate in a vacancy the allowances drawn by him for the period calculated at fixed pay are to be taken into account in the calculation of his/her average pay. Only the piecework earnings received during the currency of the last 20 months of his service should be taken into account and divided by the number of months during which he was actually remunerated at piece-work rates only. If a piece-work employee retires on a date other than the first day of the month and broken periods of a month have consequently to be taken into account calculating pension, average pay should be calculated on the earnings of the last 20 months ending on the last day of the month immediately preceding that in which he retires from the service, the month referred to above being taken to be not necessarily the calendar month but the month for which the accounts of piece-workers earning are made out, namely, from a date in calendar month to the corresponding date of the next calendar month. In cases where leave with or without allowances of suspension occurs during the last 20 months of service, the period of leave or suspension shall be neglected, and the earnings of an equal period of duty rendered immediately before the last 20 months shall be taken into account.

61. Portion of Dearness Allowance treated as Dearness Pay for gratuity and pension :-

(1) In respect of Government servant who retired on 30th September 1977 or will retire thereafter the amount of dearness allowance treated as dearness pay by issue of specific order by Government from time to time shall count as pay for the purposes of pension and gratuity. For this purpose, before taking the average of the pay earned during the last ten months of service, the pay for each month as reckoned for the purposes of determining pensionable pay under rule 60 shall be increased by an amount equal to the dearness pay appropriate to the pay for that month.

(2) The amount of dearness pay shall not be taken into account for calculation of Family Pension admissible under rule 116.

CHAPTER 7 CLASSES OF PENSIONS AND CONDITIONS GOVERNING THEIR GRANT

62. Different classes of pensions :-

The following different classes of pension may be granted to

Government servants or their families:-

(1) Superannuation Pension, which is a pension granted a Government servant who retires from Government service at an age at which he is by rule entitled or required to retire.

(2)Retiring Pension, which is a pension granted to a Government servant who retires voluntarily on completion of 20/30 years qualifying service or who is required by the appointing authority to retire in the public interest, but before attaining the age of Superannuation.

(3)Invalid Pension, which is a pension granted to a Government servant who retires from Government service, before reaching the age of Superannuation, on account of mental or bodily infirmity.

(4)Compensation Pension, which is a pension granted to a Government servant who is discharged from Government service otherwise than on medical certificate and for no fault of his own, before earning a Retiring or Superannuation Pension.

(5)Wound or Injury Pension, which is a pension granted to a Government servant wounded or injured while in Government service.

(6)Compassionate Pension, which is a pension granted to a Government servant who is removed or required to retire from, Government service for misconduct, insolvency, or inefficiency.

(7)Family Pension means Family Pension, 1964 admissible under rule 116 and includes Family Pension, 1950 admissible under rule 117 to the family of deceased Government servant.

(8)Extraordinary Family Pension, which is a pension granted to the family of deceased Government servant under rules in Appendix IV.

(1)SUPERANNUATION PENSION

63. Superannuation Pension :-

A Government servant who retires on his attaining age of Superannuation fixed by the relevant sub-rule of rule 10 shall be granted a Superannuation Pension.

(2) RETIRING PENSION

64. Retiring Pension :-

(1) A Retiring Pension shall be granted to a Government servant who retires, or is retired, in advance of the age of Superannuation in accordance with the provisions of rule 10 or rules 65 to 67 of

these rules.

(2) A Government servant who is made to retire or who retires under the provisions of [sub-clause (ii) of clause (a) and clause (b) of sub-rules (4) so far as it relates to a class III Government servant, and clause (b) of sub-rule (5) of rule 10] shall draw a Retiring Pension subject to the proviso that in the case of those Government servants who were in service on 11th February 1963, (i.e. the date on which the age of Superannuation was raised from 55 to 58 years), the amount of pension shall not be less than what he would have been entitled to "as Superannuation Pension" on reaching the age of 55 years, but for the raising of the age of Superannuation to 58 years, the pay drawn and the service rendered after reaching the age of 55 years, being omitted from the calculations for both the qualifying service and pensionable pay i.e. restoring strictly the status quo ante.

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

(1) At any time after a Government servant has completed thirty years qualifying service, he may retire from service, or he may be required by the appointing authority to retire in the public interest: Provided that-

(a) a Government servant shall give a notice in writing to the appointing authority[] three months before the date on which he wishes to retire; or

(b) the appointing authority shall give a notice in writing [in Form 32] to a Government servant[] three months before the date on which he is required to retire in the public interest, on three months pay and allowances in lieu of such notice;

[Provided further that where the Government servant who gives notice under clause (a) of the preceding proviso is under suspension, it shall be open to the appointing authority to withhold permission to such Government servant to retire under this rule:

Provided also that where a Government servant giving notice under clause (a) of the first proviso to this rule is placed under suspension after he has given notice of retirement as above, it shall be open to the appointing authority to withdraw permission, if already granted or, as the case may be, to withhold permission to such Government servant to retire voluntarily under this rule.]

[2(a) A Government servant referred to in clause (a) of the proviso to sub-rule (1) may make a request in writing to the appointing

authority to accept notice of voluntary retirement of less than three months giving reasons therefore;

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

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

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

66. Retirement on completion of 20 years qualifying service

:-

(1) At any time after a Government servant has completed twenty years qualifying service, he may, by giving notice of [] three months in writing to the appointing authority, retire from service.

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

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

(3) []

Provided that the total qualifying service after allowing the increase under this sub-rule, shall not exceed the qualifying service which the Government servant would have had, if he had retired voluntarily at the lowest age limit for voluntary retirement prescribed under sub-rule (5) of rule 10.

(4)(a) [A Government servant referred to in sub-rule (1) may make a] request in writing the appointing authority to accept notice of voluntary retirement of less than three months giving reasons therefore;

(b) On receipt of a request under clause (a), the appointing

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

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

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

(6) The pension and [retirement gratuity] of the Government servant retiring under this rule shall be based on the pay as defined under rules 60 and 61 and the increase not exceeding five years in his qualifying service shall not entitle him to any notional fixation of pay for purposes of calculating pension and gratuity.

(7) This rule shall not apply to a Government servant who-

(a) retires when he is declared surplus

(b) retires from Government service for being absorbed permanently in an Autonomous Body or a Public Sector Undertaking to which he is on deputation at the time of seeking voluntary retirement.

Explanation- For the purpose of this rule the expression "Appointing authority" shall mean the authority which is competent to make appointments to the service or post from which the Government servant seeks voluntary retirement.

66A. Addition to qualifying service on voluntary retirement :-

(1) The qualifying service as on the date of intended retirement of a Government servant retiring under sub-rule (5) of rule 10, clause (a) of the proviso to sub-rule (1) of rule 65 or, as the case may be, sub-rule (I) of rule 66 shall be increased by a period not exceeding five years, subject to the condition that the total qualifying service rendered by the Government servant does not in any case exceed thirty-three years and it does not take him beyond the date of Superannuation.

(2) The weightage of five years under sub-rule (1) shall not be

admissible in cases of those Government servants who are prematurely retired by the Government in the public interest under sub-rule (4) of rule 10 or, as the case may be, clause (b) of the proviso to sub-rule (1) of rule 65].

67. Pension on absorption in or under a Corporation, Autonomous Body or a Local Authority :-

A permanent Government servant who while on deputation is 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 an Autonomous Body or a Local Authority 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 and shall be eligible to receive retirement benefits which he may have elected or deemed to have elected from the date from which the pro-rata pension, gratuity, etc, would be disburseable as under :-

(a) The pro-rata pension and [retirement gratuity] shall be based on the length of his qualifying service under Government till the date of absorption. The pension will be calculated on the basis of pensionable pay for ten months preceding the date of absorption and the [retirement gratuity] on the basis of the pay immediately before absorption.

(b) In cases where a Government servant at the time of absorption has less than 10 years service and is not entitled to pension; he will only be eligible for proportionate service gratuity in lieu of pension and to [retirement gratuity] on the basis of the pay immediately before absorption.

© The amount of pension/gratuity and the [retirement gratuity] would be concurrently worked out and will be intimated to the Government servant as well as to the concerned organization as and when the Government servant is absorbed.

(d) The pro-rata pension, gratuity, etc,, admissible in respect of the service rendered under Government would be disburseable either from the earliest date from which the Government servant could have been retired voluntarily under the rules applicable to him or from the date of absorption in the concerned organization, whichever is later.

(d) Every Government servant will exercise an option, within six months of his absorption for either of the alternatives indicated below:-

(i)receiving the monthly pension and [retirement gratuity] already worked out, under (a) above.

(ii)receiving the [retirement 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 Government servant will automatically be governed by alternative (ii) above. Option once exercised shall be final. The option shall be exercised in writing and communicated by the Government servant concerned to the concerned Undertaking, Department and Audit.

(f)Where a Government servant elects alternative (e) (ii),he shall, in addition to the [retirement gratuity] be granted-

(i)on an application made in this behalf, a lump sum amount not exceeding the commuted value of one-third of his pension as may be admissible to him in accordance with the provisions of Chapter III of the Maharashtra Civil Services (Commutation of Pension) Rules, [1984] and

(ii)terminal benefits equal to the commuted value of the balance amount of pension left after commuting one-third of pension referred to in clause (i) in accordance with provisions of Chapter IV of the Maharashtra Civil Services (Commutation of Pension) Rules, [1984] subject to the condition that the Government servant surrenders his right of drawing two-third of his pension.

(g)Notwithstanding anything contained in (f) above, where any lump sum amount in addition to the [retirement gratuity] had been paid at any time between the period commencing on 28th April 1981 and ending with the commencement of these rules, to any Government servant who had elected the alternative of receiving the [retirement gratuity] and a lump sum amount in lieu of pension, such payment shall be deemed to have been made in accordance with this clause if the requirements of this rule have been satisfied.

(h)The total gratuity admissible in respect of service rendered under the Government and that under the concerned organization should not 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 concerned organization.

(i)(i) The benefit of Family Pension, 1964 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 the

organization referred to in this rule. This benefit will not be admissible to the families of those who got only the service gratuity. Family Pensions will, however, also be admissible to the families of those Government servants absorbed in the organizations referred to in this rule, who draw the lump sum amount in lieu of monthly pension on their absorption 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 lump sum amount has not become payable and is disbursable from the earliest date of voluntary retirement but the person dies before that date without receiving these benefits.

(ii) Family Pension will be admissible from only one source either from the State Government or the organization referred to in this rule in case such organization has a similar scheme for payment of Family Pension. The beneficiary may be given option to choose either of the two schemes.

(iii) Grant of Family Pension, 1964, will be subject to other conditions specified in rule

116;

(j) Any further liberalization of pension rules decided upon by Government after the permanent absorption of a Government servant in a concerned organization would not be extended to him.

(k) In cases where the Government servant has opted to receive pension as at (e) (i) 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 absorption/voluntary retirement.

(3) INVALID PENSION

68. Conditions for grant of Invalid Pension :-

An Invalid Pension shall be granted to a Government servant, who is permitted to retire from Government service before reaching the age of Superannuation, on production of a medical certificate in the form prescribed in rule 72 to the effect that he is by mental or bodily infirmity incapacitated for Government service or for the particular branch of Government service to which he belongs.

69. Non-admissibility of Invalid Pension when discharged on grounds other than infirmity :-

A Government servant discharged from Government service on

grounds other than grounds of infirmity is not eligible for an Invalid Pension, although he may be able to produce medical evidence of incapacity for Government service.

70. Non-admissibility of Invalid Pension if incapacity is due to irregular or intemperate habits :-

An Invalid Pension shall not be granted to a Government servant whose incapacity is directly due to irregular or intemperate habits. If incapacity has not been directly caused by such habits but has been accelerated or aggravated by them, the authority granting the pension shall decide the reduction in the amount of the pension which shall be made on this account.

71. Submission of medical certificate for Invalid Pension :-

An application for an Invalid Pension from a Government servant who is less than 60 years of age if he is in Class IV service of 58 years of age in other cases should be supported by the requisite medical certificate, but, if omission has been made in this respect the Head of Office may accept a certificate bearing a later date.

72. Form of medical certificate of unfitness for further service :-

(1) A medical certificate of unfitness for further service produced by a Government servant shall be accompanied, if possible by a succinct statement of the medical case and of the treatment adopted and, except as provided in sub-rule (2) of this rule, shall be in the following form:-

"Certified that I/We have carefully examined Shri/Smt/Kum-----

of the -----

Department-----

service. His/Her age is by his/her own statement-----

years and by appearance about-----

years. I/We consider Shri/Smt./Kum -----

---to be completely a permanently incapacitated for further service of any kind in the

department to which he/she belongs in consequence of -----

His/Her incapacity

appears to me/us to have been-

(a) directly caused, or

(b) accelerated or aggravated though not directly caused, or

© neither directly caused, nor accelerated nor aggravated by irregular or intemperate habits."

(2) If the incapacity does not appear to be complete and permanent, the certificate shall be modified accordingly, and given in the following form, if justified by the facts of the case :-

"I am/We are of opinion that Shri/Smt/Kumari-----
is fit after resting-----

-- months be fit for service of a less laborious character than that which he/she has been performing."

(3) The object of the certificate prescribed in sub-rule (I) to the effect that the Government servant is completely and permanently incapacitated for further service in the department to which he belongs or of the alternative certificate (of partial incapacity), in the foregoing sub-rules ins that a Government servant 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 even on lower pay, then he may be admitted to Invalid Pension; but should be considered whether in view of his capacity for partially earning a living, it is necessary to grant him the full pension admissible under the rule.

(4) If the certifying medical authority although unable to discover any specific disease in the applicant, considers him to be incapacitated for further service by general debility while still under the age of fifty-eight/sixty years, it shall give detailed reasons for its opinion, and in that case a second medical opinion shall, if possible, be obtained.

(5) A simple certificate that inefficiency is due to old age or to natural decay from advancing years, shall not be sufficient in the case of an applicant whose recorded age is less than fifty-eight/sixty years but a medical authority may, when certifying that an applicant is incapacitated for further service by general debility, state its reasons for believing the age to be understated.

73. Authorities empowered to sign the medical certificate of incapacity for further service :-

A medical certificate of incapacity for further service shall, if granted in India, be signed by a Medical Board, constituted under

rules 34, 35 and 36 of the Maharashtra Civil Services (Leave) Rules, 1981:

Provided that in the following circumstances the certificate of Medical Officer-in-charge of a Civil Station or the Superintendents of J.J. Group of Hospitals, St. Georges Hospital and G.T. Hospital, Greater Bombay, as the case may be, shall suffice-

(a) in the case of those Non-gazetted Government servants whose pay, as defined in rule [9(36)(i)] does not exceed Rs. [2,200] per mensem

(b) when in the opinion of a Medical Officer-in-charge of a Civil Station or the Superintendents of J.J. Group of Hospitals, St. Georges Hospital and G.T. Hospital, Greater Bombay, as the case may be, which shall be recorded in writing with reasons therefore, and shall be countersigned by the Director of Health Services, the applicant cannot without grave risk of serious injury to his health, present himself before a Medical Board.

Note I-The following officers exercise the powers of a Medical Officer-in-charge of a Civil Station or of the Superintendents of J.J. Group of Hospitals, St. Georges Hospitals and G.T. Hospital, Greater Bombay:-

(1) Police Surgeon	In respect of the members of the City and Railway Police in Bombay
(2) Superintendent of a Mental Hospital	In respect of Government servants who are suffering from mental disease.
(3) M.M. &HS. (Class I and Class II)	In respect of Non-gazetted Government servants serving in the Jail Department.
(4) The Superintendent, Hospital for the diseases of the chest, Camp Aundh, Pune	In respect of the members of the staff in the Hospital
(5) The Medical Officers-in-charge of Government Hospitals.	

74. Decision to be communicated to the Government servant retired on Invalid Pension and giving him an opportunity to appeal to be Medical Appeal Board :-

(I) If a competent authority comes to the conclusion on the report of a Medical Officer or any of the Standing Medical Boards that a Government servant should be retired on Invalid Pension, it shall

inform the Government servant that he has been declared to be completely and permanently incapacitated for further service and that it is proposed to invalidate him. Except where it is clear that the Government servant himself desires to be invalidated, or where it is obvious from the nature of the disability that no useful purpose will be served by an appeal, if he so desires, he may, within one month, submit to the said authority a request to be examined by a Medical Appeal Board, supported by-

- (a) prima facie evidence that good ground for an appeal exists, and
- (b) accompanied by a treasury receipt for Rs. 48

The Government servant shall be informed that the appeal cannot be claimed as of right but that, if an application as above be made, it will be considered. The Government servant concerned should also be informed of the arrangements regarding the cost of the Appeal Board set forth in rule 75 below, but he should not be informed of the reasons, which led the Medical Officer or the Standing Medical Board to recommend his invalidation.

(2) Appeals presented within the prescribed period should be forwarded to Government in the Department concerned, and if the Department after consultation with the Director of Health Services and the Urban Development and Public Health Department holds that a sufficiently strong case for review has not been made out, the application for hearing the appeal should be rejected. If, however, the Department after such consultation, holds that a prima facie case for review by an Appeal Board has been made out, the appeal shall be referred to an Appeal Board.

75. Ad-hoc Board to hear appeals :-

(1) In the case of Government servants in the Class III or Class IV services when the appeal is from a decision of a Civil Surgeon or the Superintendents J. J. Group of Hospitals, St. Georges Hospital and G.T. Hospital, Greater Bombay, as the case may be the Government servant concerned shall be placed before a Standing Medical Board constituted under rule 34 of the Maharashtra Civil Services (Leave) Rules, 1981. The Civil Surgeon from whose decision the appeal is made shall not be the President or a member of the Board.

(2) In the case of the State Service Officers a special Ad-hoc Board shall be constituted which shall hear an appeal from a decision of any of the Standing Medical Boards at each Revenue Division.

Instruction- No Medical Officer who first recommended the

Government servants invalidation or who sat either as Chairman or as member of the Standing Medical Board shall be a member of the Medical Board or of the Ad-hoc Board, as the case may be, to which the appeal is referred. The Director of Health Services shall not be a member of the Ad-hoc Board and Government in the urban Development and Public Health Department will decide in each case who should constitute the Board

Note- The entire expenditure in assembling an Appeal Board will be borne by the Medical Department. The sum of Rs. 48 forwarded by the applicant with his request for the setting up of an Appeal Board will be forfeited if the request is rejected. In the event of an Appeal Board being set up each of the honorary Medical Officers will be paid 25 per cent of the fee of Rs. 48- The balance of the fee will be refunded to the applicant if he is declared fit and credited to Government if declared unfit.

76. Constitution of Medical Board for Invalid Pension for Government servant while on leave out of India :-

When a Government servant on leave out of India applies for Invalid Pension his medical examination shall be arranged through the Indian Missions abroad. The examination should be done by a Medical Board consisting of a Physician, a Surgeon and an Ophthalmologist, each of them having the status of a consultant. The services of doctors approved for the officers and staff of the Mission concerned shall be utilized for this purpose provided they fulfill above conditions. A lady doctor shall be included as a member of the Medical Board whenever a woman candidate is to be examined.

77. Medical certificate of incapacity not to be issued without the knowledge of the Head of Office. :-

Serious illness of a Government servant may be an excuse for placing him under treatment but not for giving him a certificate of a permanent incapacity for further service without the knowledge of the Head of the Office and without having received authority from the Department/Office to which the Government servant belongs-

78. Conditions subject to which medical certificate of incapacity accepted on refusal of Government servant to undergo an operation :-

A medical certificate of incapacity for further service in consequence of rupture or some such disease, for which the examining Medical Officer recommends an operation, but the Government servant does not submit to an operation, should not be accepted without question. In such cases the medical report should state the finding 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?
- (d) In the ordinary acceptance of the term, would the operation be dangerous?

Note- It is not entirely equitable to deprive men, whose ignorance leads them to reject the relief they might derive from an operation of the whole pension which they have already earned, but the amount of pension to be granted should be varied in accordance with the medical report. Men of this class will thus be offered a further inducement to submit to an operation and should not be retired until they have had an opportunity of considering the alternatives, which confront them.

79. Authorization from Head of Office for examining the Government servant for incapacity :-

A medical certificate of incapacity for further service shall not be granted in India unless the applicant produces a letter showing that the Head of his Office or Department is aware of his intention to appear before the medical authority. That authority shall be supplied by the Head of the Office or Department with a statement of the applicants age as it appears from his service book or from other official records.

80. Cessation of duty on production of a medical certificate of incapacity :-

A Government servant who has submitted under rule 71 a medical certificate of incapacity for further service shall if he is on duty, be invalidated from service from the date of relief from his duties, which should be arranged without delay on receipt of the medical certificate, or, if he is granted leave under rule 43 of Maharashtra Civil Services (Leave) Rules, 1981 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 the rule 43 of Maharashtra Civil Services (Leave) Rules, 1981

Note- The period allowed for arranging the relief of a Government servant on duty who is incapacitated for further service of any kind should not exceed seven days from the date of the medical certificate. A departure from this rule should not be made without every special reasons. Which must be reported to Government for approval. Without special orders from Government, service rendered after the period of seven days from the date of such medical certificate, will not count for pension.

(4) COMPENSATION PENSION

81. Conditions for grant of Compensation Pension :-

If a Government servant is selected for discharge owing to the abolition of his permanent post or owing to a change in the nature of the duties of that 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 for the service he has already rendered, or

(b) of accepting another appointment or transfer to another establishment even on a lower pay, if offered, and continuing to count his previous service for pension

Note- When a Government servant holding a post the pay of which has been fixed with reference to the cost of living in a particular locality is transferred with his post to another locality on a rate of pay appropriate to the cost of living in the later locality, he should, for the purpose of this rule, be deemed to be selected for discharge and appointed to another post the conditions of which are equal to those of his own.

Instruction- Before a pension is granted to a Government servant under this rule, it should be carefully considered whether he cannot be provided for in another post the conditions of which are deemed to be equal to those of his own, and it is found impossible to do so the reasons therefore should be recorded in writing.

82. Drawal of Compensation Pension in foreign service :-

A Government servant in foreign service shall be held to have lost

his lien in Government service from the date on which the post held by him in Government service is abolished, and no contributions shall be received after that date. He shall be regarded as having retired from Government service from that date, and he shall thereafter be permitted to draw the Compensation Pension to which he is entitled in addition to the pay which he receives at the time from his foreign employer.

83. Additional gratuity in addition to Compensation Pension when notice of discharge is not given :-

(1) If in any case three months notice of his intended discharge has not been given to a Government servant discharged from Government service in the circumstances described in rule 81, he may be granted in addition to the Compensation Pension or gratuity admissible under the rules, an additional gratuity not exceeding his emoluments for the period by which the notice given to him falls short of three months. In this rule, emoluments mean the pay or leave salary, or both, which the Government servant would have received during the period in question, had notice not been given to him.

(2) If an additional gratuity is granted to a Government servant under sub-rule (I) of this rule, his Compensation Pension shall not become payable until the expiry of the period covered by the gratuity.

84. Final pension not to be less than the Compensation Pension :-

If a Government servant, who is entitled to Compensation Pension, but ceases to draw any part of pension and counts his previous service for pension, accepts in its place another post in Government service and subsequently becomes entitled to receive a pension of any class, the amount of such pension shall not be less than that of the Compensation Pension which he could have claimed if he had not accepted the post.

(5) WOUND OR INJURY PENSION

85. Procedure for Wound or Injury Pension :-

(1) When an application for Wound or Injury Pension is received, the Head of the Department or Office, in which the applicant is employed shall hold a formal inquiry taking evidence as to the

circumstances in which the wound or injury was received.

(2) He shall then submit the application in Form 25 through his official superior to the authority competent to sanction it together with a statement of circumstances of the case and his one recommendation.

(3) The Head of Department/Office, shall then arrange for the examination of the applicant by a Medical Board or a competent authority mentioned in rule 73 and shall refer the case to such Board or authority with a full statement of the points on which a report from the Medical Board is desired.

(4) On receipt of the report of the Medical Board the authority competent to sanction pension shall, if it considers that pension should be granted, forward the application to the Audit Officer.

86. Conditions for grant of production of medical certificate for Wound or Injury Pension :-

A Wound of Injury Pension may be granted on the production of a medical certificate in Form 26 or on the production of a certificate from a competent authority mentioned in rule 73, that the wound or injury is so severe as to justify the grant of pension even though the Government servant concerned may not be permanently incapacitated for further service as a result of wound or injury.

87. Temporary grant of Wound or Injury Pension and its subsequent extension :-

A Wound or Injury Pension shall be granted not necessarily for the lifetime of the pensioner but for such period as Government may direct. If granted temporarily in the first instance, it may subsequently be extended for such further period as may be considered necessary depending upon the continuance of the disability and its severity.

88. Wound or Injury Pension depends on the continuance of disability :-

A Wound or Injury Pension, sanctioned under rule 97 would, except when it is sanctioned for life, be dependent on the continuance of the disability. The payment shall be subject to the production of a medical certificate, once in three years, from the Civil Surgeon, or a Medical Board in accordance with the provisions of rule 86,. Where the disability has disappeared or become less, Government may

pass such orders regarding its continuance as are deemed fit.

89. Conditions for grant of Wound or Injury Pension :-

Government may sanction the grant of a Wound or Injury Pension to a Government servant who is wounded or injured under any of the following conditions:-

Government may sanction the grant of a Wound or Injury Pension to a Government servant who is wounded or injured under any of the following conditions:-

(a) while serving in a civil capacity in circumstances justifying his presence with a military force, if his presence with the force can reasonably be held to be wholly or in part due to the fact that he is at the time Government servant in civil employ.

(b) while serving in a military capacity with a military force, either because he has been called out on actual military service as a member of the Territorial Army or in other circumstances justifying his presence with the force.

© while performing any particular duty which has the effect of increasing his liability to injury beyond the ordinary risk of the post which he holds.

Note 1. The performance by a Medical Officer of an operation of a venereal or septicaemic patient, or the attendance by a nurse or a medical subordinate upon such a patient, or the employment of a Magistrate or Police Officer in the suppression of a riot or disturbance, is duly involving extraordinary bodily risk for the purpose of this rule.

Note 2- Government do not recognize a claim on account of an injury resulting from an ordinary accident met with by a Government servant on duty.

Note 3- No award shall be made in respect of Civilian Officer who is deputed on foreign service under the U.N. Bodies on or after 1st January 1958 and who is allowed to join the U.N. Joint Staff Pension Fund as an Associate Member.

90. Exceptional cases for grant of Wound or Injury Pension :-

Government may, in exceptional cases when the conditions of rule 89© are not strictly fulfilled, sanction the grant of a Wound or Injury Pension to a Government servant who-

(a) is injured in or in consequence of the due performance of his official duties or because of his official position, or

(b)sustains serious injury to his health in the execution of the official duties.

91. Admissibility of other pension in addition to Wound or Injury Pension :-

If a Government servant is permanently incapacitated for Government service by a wound, injury or disability, in respect of which a Wound or Injury Pension or gratuity is granted to him under these rules, he shall be granted on retirement in addition to such pension or gratuity any other pension or gratuity for which he is eligible under the rules.

92. Amount of Wound or Injury Pension :-

If a Wound or Injury Pensioners granted under rule 89(a) to a Government servant on account of a wound or injury, received while serving in a civil capacity with a military force, its amount shall be regulated as follows:-

(1) if the wound or injury involves the loss of an eye or limb, or of the use of a limb, or other incapacity equivalent in its effects of the loss of limb, the Government servant shall receive a pension at the rate of one-third of his pay subject to a maximum of Rs.150 per mensem and if he be wholly incapacitated from earning a living to a minimum of Rs.20 per mensem, separate pension on this scale may be granted for each eye or limb of which he has lost the use;

(2) if the wound or injury be not of the nature described in sub-rule (1) of this rule, the Government servant shall receive such pension or gratuity not exceeding the equivalent of one-fifth of his pay subject to a maximum of Rs.75 per mensem as Govern on a consideration of all the circumstances, may fix;

Provided that if the Government servant was drawing a pay of Rs.500 per mensem or more, Government may sanction to him a pension, exceeding the maximum limit mentioned above, but limited to half of pay last drawn of Rs.300 whichever is less

93. Amount of Wound or Injury Pension while serving in Military capacity. :-

(1) If a Wound or Injury Pension is granted under rule 89(b) to a Government servant on account of a wound or injury received while serving in military capacity with a military force, its amount shall be regulated either by the provisions of Articles 740-743 of the Civil

Service Regulations or by the military regulations governing his employment in military service according as the Government servant, may, at any time during such service or after it, elect.

(2) If the Government servant elects to be treated according to the provisions of Articles 740-743 of the Civil Service Regulations, his pay for the purpose of those rules shall be taken to be that which he would have drawn had he remained in civil employ.

94. Maximum amount of Wound or Injury Pension :-

If a Wound or Injury Pension is granted under rule 89© to a Government servant on account of a wound or injury received while performing a duty which has the effect of increasing his liability to injury beyond the ordinary risk of the post which he holds, its amount shall be regulated as prescribed in rule 92.

95. Amount of Wound or Injury Pension not to exceed pension granted under rule 92 :-

If a Wound or Injury Pension is granted under rule 90 to a Government servant who is injured in or in consequence of the due performance of his official duties or because of his official position, its amount shall be fixed by Government in consideration of all the circumstances of the case, provided that it shall not exceed the maximum pension admissible under rule 92 or a gratuity equivalent to such maximum pension.

96. Amount of Wound or Injury Pension not to exceed maximum pension granted under rule 90 :-

If a Wound or Injury Pension is granted under rule 90(b) to a Government servant who sustains serious injury to his health in the execution of his official duties, its amount shall be fixed by Government, subject to a maximum limit of Rs. 50 a month, or, if it be a gratuity, of the equivalent of Rs.50 a month or Rs.2, 000 whichever is greater:

Provided that if a Government servant was drawing a pay of Rs. 250 per mensem, or more, Government may sanction to him a pension or gratuity exceeding the maximum limit mentioned above, but limited to 1/2 of pay last drawn of Rs.300 whichever is less.

97. Maximum amount of Injury Pension :-

If a Wound or Injury Pension is granted under rule 89 or 90 to a

Government servant who at grave personal risk to himself, including probability of serious personal injury or death, perseveres in the performance of his public duties and actually suffers serious injuries,

its amount shall be equal to seventy-five percent of the substantive pay of the injured Government servant, subject to a maximum of Rs.500 per mensem. Where the pay drawn at the time of injury is not substantive pay, lowest pay (other than leave salary) drawn during the twelve months immediately before the injury, may be deemed as the substantive pay.

98. Exchange of invalid gratuity for Wound or Injury Pension :-

If the service qualifying for pension of a Government servant who is granted a Wound or Injury Pension or gratuity renders him eligible for an invalid gratuity and not for an Invalid Pension, he may at his option exchange his invalid gratuity for a pension calculated as follows:-

(a) at the rate of 1/66th of his pensionable pay for each six monthly period of qualifying service including any service performed with a military force in either a civil or a military capacity.

(b) in calculating pensionable pay for the purpose of clause (a) of this rule in the case of a Government servant serving in a military capacity with a military force, the pay taken into account shall be the pay which he would have earned had he remained in civil employ.

99. Grant of pension to whom Workmens Compensation Act, 1923 applies :-

In the case of a pension to whom the Workmens Compensation Act, 1923, applies:-

(a) a pension or gratuity shall be paid under the provisions of rules 98 and rules in Appendix IV only if Government consider that the compensation payable under the Act is in the particular case inadequate; and

(b) the amount of pension or gratuity paid to any such person shall not exceed the difference between the amount otherwise admissible under these rules and the amount of compensation payable under the Act.

(6) COMPASSIONATE PENSION

100. Grant of Compassionate Pension :-

(1) A Government servant who is removed or required to retire from Government service for misconduct or insolvency shall be granted no pension other than a Compassionate Pension.

(2) A Government servant who is removed or required to retire from Government service on the ground of inefficiency, shall, if he be eligible for a Superannuation, or retiring pension, be granted such pension. If he is not eligible for a Superannuation or retiring pension he shall be granted no pension other than a Compassionate Pension.

101. Grant of Compassionate Pension in deserving cases by Government :-

When a Government servant is removed or required to retire from Government service for misconduct or insolvency or is removed or required to retire from Government service on grounds of inefficiency before he is eligible for a Retiring or Superannuation Pension, Government may, if the case is considered deserving of special treatment, sanction the grant to him of a Compassionate Pension.

(2) A dismissed Government servant is not eligible for Compassionate Pension

102. Amount of Compassionate Pension to be fixed by Government in each case :-

The amount of Compassionate Pension granted to a Government servant under rule 101 shall be such as Government may fix in each case:

Provided that:-

(a) When a Government servant is removed from Government service of insolvency, inefficiency or misconduct, it shall not exceed two-thirds of the invalid pension which would have been admissible to him had he retired on a medical certificate; and

(b) When a Government servant is required to retire from service for insolvency, inefficiency or misconduct, it shall be at a rate not less than two-thirds of and not more than full invalid pension admissible to him on the date of his compulsory retirement.

Note-The pension sanctioned under this rule should not be reduced below the minimum pension as fixed by Government

103. Rules regulating the grant of Compassionate Gratuities

:-

The rules regulating the grant of Compassionate Gratuities to a family of a Government servant left in indigent circumstances through the premature death of the person upon whom they depended for support are embodied in Appendix III

Instruction-Each application for a grant for the Compassionate Gratuity should be accompanied by the particulars in Section A and Section B of Appendix III.

Instruction:- Each applicant for a grant for the Compassionate Gratuity should be accompanied by the particulars in Section A and Section B of Appendix III.

CHAPTER 8 REGULATION OF AMOUNTS OF PENSIONS OF PRE-1950 ENTRANTS

104. Scope :-

The provisions of this Chapter shall apply to a Government servant who on the 31st March 1950 held a lien or a suspended lien on a permanent pensionable post under the Government or a Local Fund administered by the Government and had opted for:

(a) continuing under the rules applicable to him as contained in Chapter XI of the Bombay Civil Services Rules, 1959, Volume I, 1st Edition, but for the introduction of the

Revised Pension Rules, 1950 printed in Appendix XIV-C of the Bombay Civil Services Rules, 1959, Volume II, 1st Edition;

(b) drawing pension, under the rules applicable to him but for the introduction of the Revised Pension Rules, 1950 reduced by Pension equivalent of the gratuity admissible under the Revised Pension Rules, 1950 and receiving in lieu of this reduction the death- cum- retirement gratuity and Family Pension, 1950 as provided thereunder.

105. Retirement on completion of 30 years of total service or 25 years of duty :-

A retiring pension shall be granted to a Government servant who is permitted to retire from pensionable service after completing 25 years of duty and 30 years of total service reckoned from the date of first appointment.

106. Regulation of amounts of pension :-

The amount of Superannuation, Retiring, Invalid or Compensation Pension shall be regulated as follows viz:-

Completed years of duty	Scale of pension	Maximum pension per annum
(1)	(2)	(3)
25 and above	24/48 of pensionable pay.	Rs.5,000

107. Pensionable pay :-

The expression "Pensionable Pay" use in col. (2) above is rule 106 means the average pay earned by a Government servant during the last 36 months of service. For the purpose of this definition, pay means and includes-

(a) substantive pay in respect of a permanent post; including pay in respect of a provisionally substantive appointment to permanent post;

(b) personal pay given in the circumstances described in rule 9(4);

© special pay, as defined in rule 9 (48), if it is permanently attached to the post in which duty is performed;

(d) officiating pay drawn by a Government servant who is appointed in an officiating capacity to a permanent post which is substantively vacant or to a permanent post which is temporarily vacant in consequence of the absence of the permanent incumbent on foreign service.

If the Government servant has, during any portion of the last three years of service, been absent on leave, other than extraordinary leave, or on joining time under rule 10 (2) of the Maharashtra Civil Service (Joining Times, Foreign Service and Payments during Suspension, Dismissal, Removal) Rules, 1981, his pay during such leave or joining time shall be taken to be the pay, falling under any of the clauses (a) to (d) above which he would have drawn had he been on duty at any time during the first six months of the period of leave and joining time.

108. Eligibility to [retirement gratuity/death gratuity] and Family Pension :-

(1) A Government servant who has opted for the provisions contained in rule 104 (b) shall be eligible for the [retirement gratuity/death gratuity] as admissible under rule 111 and Family Pension admissible under rule 116 or 117, as the case may be.

CHAPTER 9 REGULATION OF AMOUNTS OF PENSIONS OF POST-1950 ENTRANTS

109. Scope :-

Except the provisions contained in rules 104 to 108 of Chapter VIII, the provisions of all other rules contained in various Chapters of these rules, shall apply to a Government servant-

(a) who on the 31st March 1950 held a lien or a suspended lien on a permanent pensionable post under the Government or a Local Fund administered by the Government and did not opt for the provisions relating to pension and gratuity as specified in clause

(a) or clause (b) of rule 104:

(b) who entered Government service on or after the 1st April 1950 or having entered Government service before that date did not hold a lien or a suspended lien on a permanent pensionable post before that:

© who on allocation to the Bilingual Bombay State on 1st November 1956 had opted for the Revised Pension Rules, 1950 contained in Appendix XVI-C of Bombay Civil Services Rules, 1959, Volume II in accordance with G.R. F.D. No. INT-1056/S-8, dated the 7th January 1957, as modified from time to time.

110. Amount of pension :-

(I) In the case of a Government servant retiring on Superannuation, Retiring, Invalid or Compensation Pension before completing qualifying service of ten years, the amount of service gratuity shall be calculated at the rate of half months pay for every completed six monthly period of qualifying service.

(2) (a) In the case of a Government servant retiring on Superannuation, Retiring, Invalid or Compensation Pension in accordance with the provisions of these rules after completing qualifying service of not less than thirty-three years, the amount of pension shall be calculated at fifty percent of the " Pensionable Pay" subject to a maximum of Rs.4,000 per month]

(b) In the case of a Government servant retiring on Superannuation, Retiring, Invalid or Compensation Pension in accordance with the provisions of these rules before completing qualifying service of thirty-three years but after completing qualifying service of the amount of pension shall be proportionate to the amount of pension admissible under clause (a) and in no case the amount of pension admissible under clause (a) and in no

case the amount of pension shall be less than [rupees three hundred and seventy five]per mensem.

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

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

111. Retirement Gratuity/Death Gratuity :-

(I) A Government servant, who has completed five years qualifying service and has become eligible for service gratuity or pension under rule 110, shall, on his retirement, be granted retirement gratuity equal to one-fourth of his pay for each completed six monthly period of qualifying service, subject to a maximum of 16.5 times of pay.

(2) If a Government servant dies while in service, the death gratuity shall be paid to his family in the manner indicated in sub-rule (I) of rule 112 at the rates given in the Table below, namely:-

Length of qualifying service	Rate of death gratuity
(i) Less than one year	2 times of pay
(ii) One year or more but less than 5 years.	6 times of pay.
(iii) 5 years or more but less than 20 years.	12 times of pay
(iv) 20 years or more	Half of pay for every completed six monthly periods of qualifying service, subject to a maximum of 33 times of pay

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

Provided further that where the amount of retirement or death gratuity as finally calculated contains a fraction of a rupee, it shall be rounded off to the next higher rupee]

(3)If a Government servant, who has become eligible for a service gratuity or pension, dies within five years from the date of his retirement from service including compulsory retirement as a penalty and the sums actually received by him at the time of his death on account of such gratuity or pension including temporary increase in pension and relief in any, together with the [retirement gratuity] admissible under sub-rule (I) and the commuted value of any portion of pension commuted by him, are less than the amount equal to 12 times of his pay, a residuary gratuity equal to the deficiency may be granted to his family in the manner indicated in sub-rule (I) of rule 112.

(4)The pay for the purpose of gratuity admissible under this rule shall be reckoned

in accordance with rule 9 (36) (i):

Provided that if the pay of a Government servant has been reduced during the last ten months of his service otherwise than as a penalty pensionable pay as referred to in rule 60 shall be treated as pay

(5) For the purpose of this rule and rules 112,114 and 115 "family", in relation to a Government servant, means-

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

(ii)husband, including judicially separated husband in case of a female Government servant,

(iii)sons including step sons and adopted sons,

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

(v)widowed daughter including step daughters and adopted daughter (vi) father,

(vi) mother,

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

(viii)brothers below the age of eighteen years including step brothers,

(ix)unmarried sisters and widowed sisters including step sisters,

(x)married daughters, and

(xi)children of a pre-deceased son.

112. Persons to whom gratuity is payable :-

(1) (a) The gratuity payable under rule 111 shall be paid to the person or persons on whom the right to receive the gratuity is conferred by means of a nomination under rule 115.

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

(f)if there are one or more surviving members of the family as in clauses (i),(ii),(iii) and (iv) of sub-rule (5) of the 111 to all such members in equal shares;

(ii) if there are no such surviving members of the family as in sub-clause (i) above, but there are one or more members as in clauses(v), (vi), (vii),(viii), (ix) and (xi) of sub-rule 111 to all such members in equal shares.

(2)If a Government servant dies after retirement without receiving the gratuity admissible under sub-rule (I) of rule 111 the gratuity shall be disbursed to the family in the manner indicated sub-rule (1).

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

(4)Where gratuity is granted under rule 111 to a minor member of the family of the deceased Government servant, it shall be payable

to the guardian on behalf of the minor after the guardian executes an indemnity bond in Form 28 and furnishes an affidavit about guardianship

Note- Hindu or a Christian mother shall not be required to execute and indemnity bond or affidavit being natural guardian.

113. Debarring a person from receiving gratuity :-

(1) If a person who in the event of death of a Government servant while in service is eligible to receive gratuity in terms of rule 112 is charged with the offence of murdering the Government servant or for abetting in the commission of such an offence, his claim to receive his share of gratuity shall remain suspended till the conclusion of the criminal proceedings instituted against him,

(2) If on the conclusion of the criminal proceedings referred to in sub-rule (1), the person concerned-

(a) is convicted for the murder or abetting in the commission of the murder of the Government servant, he shall be debarred from receiving his share of gratuity which shall be payable to other eligible members of the family, if any,

(b) is acquitted of the charge of murdering or abetting in the commission of the murder of the Government servant, his share of gratuity shall be payable to him.

(3) The provisions of sub-rule (1) and sub-rule (2) shall also apply to the undisbursed gratuity referred to in sub-rule (2) of rule 112.

114. Lapse of retirement gratuity/death gratuity :-

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

(a) had made no nomination, or

(b) the nomination made does not subsist, the amount of [retirement gratuity/death gratuity] payable in respect of such Government servant. [Under rule 111 shall lapse to the Government: provided that the amount of death gratuity/retirement gratuity, shall be payable to the person in whose favour a Succession Certificate in respect of the gratuity in question has been granted by a Court of Law."]

115. Nominations :-

(1) A Government servant shall, on his initial confirmation in a

service or post, make a nomination in Form 1 or Form 2, as may be appropriate in the circumstances of the case, conferring on one or more persons the right to receive the [retirement gratuity/death gratuity] payable under rule 111.

Provided that if at the time of making the nomination-

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

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

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

(3) A Government servant may provide in the nomination_

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

Provided that if at the time of making the nomination the Government servant has a family consisting of more than one member, the person so specified shall not be a person other than a member of his family:>

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

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

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

(5) A Government servant may, at any time, cancel a nomination by sending a notice in writing to the Head of Office:

Provided that he shall along with such notice, send a fresh

nomination made in accordance with this rule.

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

(7)(a) Every nomination made (including every notice of cancellation, if any, given) by a Government servant under this rule shall be sent-

(i) in case the Government servant is a permanent Gazetted Government servant other than a Gazetted Government servant whose pay and allowances are

drawn by the Head of Office on the establishment bill, to the Audit Officer concerned: and

(ii) in any other case, including that of a Gazetted Government servant referred to in sub-rule (7)(a)(i), to the Head of Office.

(b) The Audit Officer or the Head of Office, as the case may be shall immediately on receipt of the nomination referred to in clause (a) countersign it indicating the date of receipt and keep it under his custody.

©(i) The Head of Office may authorize his subordinate Gazetted Officer to countersign the nomination forms of Non-gazetted Government servants.

(ii) Suitable entry regarding receipt of nomination shall be made in the service book of the Non-gazetted Government servant.

(8) Every nomination made, and every notice of cancellation given, by a Government servant shall, to the extent that it is valid, take effect from the date on which it is received by the Head of Office.

(5) A Government servant may, at any time, cancel a nomination by sending a notice in writing to the Head of Office :

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

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

(7)(a) Every nomination made (including every notice of

cancellation, if any, given) by a Government servant under this rule shall be sent-

(i) in case the Government servant is a permanent Gazetted Government servant other than a Gazetted Government servant whose pay and allowances are drawn by the Head of Office on the establishment bill, to the Audit Officer concerned : and

(ii) in any other case, including that of a Gazetted Government servant referred to in sub-rule(7) (a) (i), to the Head of Office.

(b) The Audit Officer or the Head of Office, as the case may be shall, immediately on receipt of the nomination referred to in clause(a), countersign it indicating the date of receipt and keep it under his custody.

(c) (i) The Head of Office may authorise his subordinate Gazetted Officer to countersign the nomination forms of Non-gazetted Government servants.

(ii) Suitable entry regarding receipt of nomination shall be made in the service book of the Non-gazetted Government servant.

(8) Every nomination made, and every notice of cancellation given, by a Government servant shall, to the extent that it is valid, take effect from the date on which it is received by the Head of Office.

116. Family Pension 1964 :-

(1) The provisions of this rule shall apply-

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

(b) to a Government servant who was in service on the 31st December 1963 and came to

be governed by the provisions of the Family Pension Scheme, 1964, contained in the Government Resolution, Finance Department, No.PEN 1464/3/64/X, dated 8th May, 1964.

¹ (Note - The provisions of this rule shall also extend, from 1st October 1977, to Government servants on pensionable establishment who retired /died before 31st December 1963 as also to those who were alive on 31st December 1963 but had opted out of the 19 64 scheme)

(2) Without prejudice to the provisions contained in sub-rule(4), where a Government servant dies-

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

(b) before completion of one year continuous service provided the deceased Government servant concerned immediately prior to his appointment to the service or post was examined by the

appropriate medical authority and declared fit by that authority for Government service : or

(c) after retirement from service and was, in receipt of pension on the date of death,
the family of the deceased shall be entitled to Family Pension, the amount of which shall be determined in accordance with the table below:-

2(TABLE)

Pay of Government servant	Amount of monthly Family Pension
(i) Not exceeding Rs.1,500	30 per cent of basic pay subject to a minimum of Rs.375.
(ii) Exceeding Rs.1,500 but not Exceeding Rs.3,000	20 percent of basis pay subject to a minimum of Rs.450
(iii) Exceeding Rs.3000	15 per cent of basic pay subject to a minimum of Rs.600 and a maximum of Rs.1,200)

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

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

Provided that in no case a Family Pension in excess of the maximum determined under this rule shall be allowed.

(4)(a) (i) Where a Government servant, who is not governed by the Workmens Compensation Act, 1923 (8 of 1923), dies while in service after having rendered not less than seven years continuous service, the rate of family pension payable to the family shall be equal to 50 per cent of the pay last drawn or twice the family pension admissible under sub-rule (2), whichever is less, and the amount so admissible shall be payable from the date following the date of death of the Government servant, for a period of seven years, or for a period up to the date on which the deceased Government servant would have attained the age of 65 years had he survived, whichever period is less ;

(ii) In the event of death of a Government servant after retirement, the family pension as determined under sub-clause (i) shall be payable for a period of seven years, or for a period up to the date on which the retired deceased Government servant would have attained the age of 65 years had he survived, whichever is less:

Provided that in no case the amount of Family Pension determined under sub-clause (ii) of this clause shall exceed the pension authorised on retirement from Government service:

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

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

(b) (i) Where a Government servant, who is governed by the Workmens

Compensation Act, 1923 (8 of 1923), dies while in service after having rendered not less than seven years continuous service, the rate of family pension payable to the family shall be equal to 50 percent of the pay last drawn or one and a half times the family pension admissible under sub-rule (2), whichever is less.

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

Provided that where a compensation is not payable under the aforesaid Act, the Head of Office shall send a certificate to the Audit Officer to the effect that the family of the deceased Government servant is not eligible for any compensation under the aforesaid act and the family shall be paid family pension on the scale, and for the period, mentioned in clause (a)

(c) After the expiry of the period referred to in clause (a), the family in receipt of Family Pension under that clause or clause (b), shall be entitled to Family Pension at the rate admissible under sub-rule (2).

5. The period for which family pension is payable shall be as follows:-

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

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

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

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

(i) if such son or daughter is one among two or more children of the Government servant, the family pension shall be initially payable to the minor children in the order set out in

clause (iii) of sub-rule (7) of this rule until the last minor child attains the age of twenty- one or twenty-four, as the case may be, and thereafter the Family Pension shall be resumed in favour of the son or daughter suffering from disorder or disability of mind or who is physically crippled or disabled and shall be payable to him/her for life ;

³{(ii) if there are more than one such children suffering from disorder or disability of mind or who are physically crippled or disabled, the family pension shall be paid, in the order of their birth and the younger of them will get the family pension only after the elder immediately above him/her ceases to be eligible :

Provided that, where the family pension is payable to such twin children it shall be paid in the manner set out in clause (d) of sub-rule (6) of this rule.}

⁴(iii) the Family Pension shall be paid to such son or daughter through the guardian as if he or she were a minor except in the case of the physically crippled or disabled son/daughter who has attained the age of majority :}

(iv) before allowing the Family Pension for life to any such son or daughter, the sanctioning authority shall satisfy itself that the handicap is of such a nature as to prevent him or her from earning his or her livelihood and the same shall be evidenced by a certificate obtained from a Medical Officer not below the rank of a Civil Surgeon setting out, as far as possible, the exact mental or physical condition of the child ;

(v) the person receiving the Family Pension as guardian of such son or daughter

⁵(or such son or daughter not receiving the Family Pension through a guardian.) shall produce every three years a certificate from a Medical Officer not below the rank of a Civil Surgeon to the effect that he or she continues to suffer from disorder or disability of mind or continues to be physically crippled or disabled.

Explanation -

(a)⁶()

(b) A daughter shall become ineligible for Family Pension under this sub-rule from the date she gets married.

(c) The Family Pension payable to such a son or daughter shall be stopped if he or she starts earning his/her livelihood.

(d) In such cases it shall be the duty of the guardian ⁵{or such a son or daughter,} to furnish a certificate to the Treasury or Bank, as the case may be, every month that (i) he or she has not started earning his/her livelihood ; (ii) in case of daughter, that she has not yet married.

(6) (a) (i) Where that Family Pension is payable to more widows than one, the Family Pension shall be paid to the widows in equal shares ;
on the death of a widow, her share of the Family Pension shall become payable to her eligible child :

⁷(Provided that if the widow is not survived by any child, her share of the family pension shall not lapse but shall be payable to the other widows in equal shares, or if there is only one such other widow, in full, to her.)

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

⁸{provided that on the share or shares of family pension payable to such a child or children or to a widow or widows ceasing to be payable, such share or shares shall not lapse but shall be payable to the other widow or widows and or to other child or children otherwise eligible, in equal shares, or if there is only one widow or child, in full, to such widow or child}.

⁹{(c) Where the deceased Government servant or pensioner is survived by a widow but has left behind eligible child or children from a divorced wife or wives, the eligible child or children shall be entitled to the share of Family Pension which the mother would have received at the time of the death of the Government servant or pensioner had she not been so divorced.}

¹⁰(provided that on the share or shares of family pension payable to such a child or children or to a widow or widows ceasing to be payable, such share or shares shall not lapse but shall be payable to be other widow or widows and or/to other child or children otherwise eligible, in equal shares, or if there is only one widow or child, in full, to such widow or child)

¹¹.{(d) Where the family pension is payable to twin children it shall be paid to such children in equal shares :

Provided that, when one such child ceases to be eligible his / her share shall revert to the other child and when both of them cease to be eligible, the family pension shall be payable to the next eligible single child or twin children, as the case may be.}

(7) (i) Except as provided in sub-rule(6), the Family Pension shall not be payable to more than one member of the family at the same time ;

(ii) If a deceased Government servant or pensioner leaves behind a widow or widower, the Family Pension shall become payable to the widow or widower, failing which to the eligible child :

¹²{(iii) Family pension to the children shall be payable, in the order of their birth and the younger of them will not be eligible for family pension unless the elder immediately above him/her has become ineligible for the grant of the family pension :

Provided that, where the family pension is payable to twin children it shall be paid in the manner set out in clause (d) of sub-rule (6) of this rule.)

(8) Where a deceased Government servant or pensioner leaves behind more children than one, the eldest eligible child shall be entitled to the family pension for the period mentioned in clause(ii) or clause (iii) of sub-rule (5) as the case may be, and after the expiry of that period the next child shall become eligible for the grant of Family Pension.

(9) Where Family Pension is granted under this rule to a minor, it shall be payable to the guardian on behalf of the minor, after the guardian executes an indemnity bond in Form 29 and furnishes an affidavit about guardianship.

Note- Hindu or a Christian mother shall not be required to execute an indemnity bond or affidavit being a natural guardian.

(10) In case both wife and husband are Government servants and are governed by the provisions of this rule, and one of them dies while in service or after retirement, the family pension in respect of the deceased shall become payable to the surviving husband or wife and in the event of death of the husband or wife, the surviving child or children shall be granted the two family pensions in respect to the deceased parents, subject to the limits specified below, namely ;-

(a) (i) if the surviving child or children is or are eligible to draw two family pensions at the rate mentioned in sub-rule (4), the amount of both the pensions shall be limited to ¹³(two thousand four hundred rupees) per mensem

(ii) if one of the family pensions ceases to be payable at the rate mentioned in sub-rule (4) , and in lieu thereof the pension at the rate mentioned in sub-rule (2) becomes payable, the amount of both the pensions shall also be limited to ¹³(two thousand four hundred rupees) per mensem :

(b) If both the family pensions are payable at the rates mentioned in sub-rule (2), the amount of two pensions shall be limited to ¹³(one thousand two hundred rupees) per mensem.

(11) Where a female Government servant or male Government servant dies leaving behind a judicially separated husband or wife and no child or children, the Family Pension in respect of deceased shall be payable to the person surviving :

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

(12) (a) Where a female Government servant or male Government servant dies leaving behind a judicially separated husband or wife with a child or children, the Family Pension payable in respect of the deceased shall be payable to the surviving person provided he or she is the guardian of such child or children.

(b) where the surviving person has ceased to be the guardian of such child or children, such Family Pension shall be payable to the person who is the actual guardian of such child or children.

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

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

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

(ii) is acquitted of the charge of murder or abetting in the commission of the murder of the Government servant, the Family Pension, shall be payable to such a person from the date of death of the Government servant.

(c) The provision of clause (a) and clause(b) shall also apply for the Family Pension becoming payable on the death of a Government servant after his retirement.

(14) (a) (i) As soon as the Government servant enters Government service, he shall give details of his family in Form 3 to the Audit Officer, if he is a Gazetted Government servant other than a Gazetted Government servant whose pay and allowances are drawn by the Head of Office on the establishment bills or to the Head of Office if he is a Non-gazetted Government servant or a Gazetted Officer whose pay and allowances are drawn by Head of Office on the establishment bills

:

Provided that a Government servant holding a lien or a suspended lien on a non-

gazetted service or post and holding a gazetted service or post in a temporary or officiating capacity shall furnish the details of his family in Form 3 to Head of Office: (ii) if the Government servant had no family, he shall furnish the details in Form 3 as soon as he acquires family.

(b) The Government servant shall communicate to the Audit Officer or Head of Office, as the case may be, any subsequent change in the size of his family, including the fact of marriage of his female child.

(c) The Audit Officer shall, on receipt of the said Form 3, keep it in safe custody and acknowledge receipt of the said Form 3 and all further communications received from the Government servant in this behalf.

14 { (d) As and when the disability referred to in the proviso to sub-rule (5) manifests itself in a child which makes him/her unable to earn his/her living, the fact should be brought to the notice of Head of Office/Audit Officer duly supported by a medical certificate from a Medical Officer, not below the rank of a civil Surgeon. This may be indicated in Form 3 by the Head of Office/Audit Officer. As and when the claim for family pension arises, the legal guardian of the child should make an application supported by a fresh medical certificate from a Medical Officer, not below the rank of Civil Surgeon, that the child still suffers from the disability. }

(e) The Head of Office shall, on receipt of the said Form 3, paste it in the service book of the Government servant concerned and acknowledge receipt of the said Form 3 and all further communications received from the Government servant in this behalf.

(f) The Audit Officer or the Head of Office, as the case may be, on receipt of communication from the Government servant regarding any change in the size of family shall incorporate such a change in Form 3.

(15) The temporary increase in pension, and relief sanctioned by Government from time to time shall be payable to the family in receipt of a family pension under this rule.

(16) For the purposes of this rule-

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

(i) period of suspension, if any, and

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

(iii) "family", in relation to a Government servant means-

(i) wife in the case of a male Government servant, or husband in the case of a female Government servant **15** [].

(ii) a judicially separated wife or husband, such separation not being granted on the ground of adultery **15** [] and the person surviving was not held guilty of committing adultery ;

(iii) son who has not attained the age of twenty one years and unmarried daughter who has not attained the age of twenty four years, including such son and daughter adopted legally before retirement **15** [].

(c) Pay means-

(i) the pay as specified in rule **16** (9(36) (i) , or

(ii) the pensionable pay as referred to in rule 60 if the pay of the deceased Government servant has been reduced during the last ten months of his service otherwise than as penalty :

Provided that the element of dearness allowance which has been treated as dearness pay under rule 6) shall not be treated as pay for the purpose of this rule.

(17) Nothing contained in this rule shall apply to -

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

(i) civil service on Retiring Pension or Superannuation Pension, or

(ii) Military service on Retiring Pension, service pension of Invalid Pension and who, on the date of re-employment, had attained the age of superannuation applicable to the post in which he is re-employed;

(b) a military pensioner who has retired/retires from military service on or after

the 1st January, 1964, or retires from such service on Retiring Pension, service or Invalid Pension and is re-employed in a civil service or post before attaining the age of superannuation :

Provided that for the grant of ordinary Family Pension such Government servant is governed by Army Instruction 2/5/64, as amended from time to time, or corresponding Navy or Air Force Instructions:

(c) a Government servant referred to in rule 67, who on absorption in a corporation or company wholly or substantially owned or controlled by the Government, or any other body, incorporated or not, is governed by the provisions of the family pension scheme of the corporation or company or body, as the case may be.

(18) Notwithstanding anything contained in clause (b) of sub-rule (17), a military pensioner referred to in the aforesaid clause, who dies while holding a civil post in a temporary capacity, in the course of re-employment, his family may be allowed to opt for the Family Pension admissible under this rule or the Family Pension authorised at the time of his retirement or discharge from the military under Army Instruction 2/5/64 or the of corresponding Navy or Air Force Instructions.

1.Inserted by Notification No.PEN-1088/1167/SER-4,dated 5.5.1990

2.Substituted w.e.f.1.1.1986 by Notification NO.PEN-1088/1167/SER-4,dated 5.5.1990.

3.Substituted by Notification No.PEN -1090/254/ser-4, dated 1-7-1991

4.Substituted by Notification No.PEN-1089/519/ser-4, dated 14-12-1990

5.Substituted by Notification NO.PEN-1089/519/SER-4, dated 14-12-1990

6.Deleted by Notification No.PEN-1090/254/SER-4,dated 1-7-1991

7.Substituted by Notification No.PEN-1089/519/SER-4, dated 7-12-1990

8.Inserted by Notification NO.PEN-1089/519/SER-4, dated 7-12-1991.

9.Inserted w.e.f.15-1-1990 by Notification No.PEN-1089/519/SER-4dated 14-12-1990.

10.Inserted by Notification No.PEN-1091/142/SER-4,dated 7-12-1991.

11.Inserted by Notification No.PEN-1090/254/SER-4, dated 1-7-1991.

12.Substituted by Notification No.PEN-1090/254/SER-4, dated 1-7-1991.

13. Substituted w.e.f.1-1-1986 by Notification No.PEN-1088/1167/SER-4,dated5-5-1990

14. Substituted by Notification No.PEN-1088/1167/SER-4, dated 5-5-1990.

15.Deleted vide Notification No.PEN-1090/254/SER-4,dated 1-7-1991.

16.Substituted w.e.f. 1-1-1986 by Notification No.PEN-1088/1167/SER-4,dated 5-5-1990.

117. Family Pension,1950 :-

(1)The provisions of this rule shall apply to a Government servant who was in service on the 31st December, 1963 and had specifically opted for the scheme of family pension (here in after in this rule referred to as Family Pension, 1950), admissible under the Revised Pension Rules, 1950 in Appendix XIV-C, Bombay Civil Services Rule, 1959, Volume II, 1st Edition, as amended from time to time.

(2)A Family Pension shall be granted for a period not exceeding ten years to the family of a Government servant who dies while in service after completion of not less than twenty years qualifying service :

Provided that the Government may, in exceptional circumstances grant such pension to the family of a Government servant who dies while in service after completion of not less than ten years qualifying services ;

Provided further that the period of payment shall, in no case, extend beyond a period of five years from the date on which the Government servant would have retired in the normal course on Superannuation pension.

Explanation - Where a Government servant dies while on extension of service, the date up to which extension of service had been granted to him before his death shall be construed as the date on which the Government servant would have retired on Superannuation Pension.

(3)A Government servant who, at the time of his retirement, including compulsory retirement as a penalty, had rendered qualifying service of not less than twenty years and dies within five years of the death of his retirement, Family Pension shall be granted to his family for the un expired portion of five years from the date of his retirement.

(4)(a) The amount of Family Pension payable under sub-rule (2)

shall be one-half of the Superannuation Pension which would have been admissible to the Government servant had he retired on the date following the date of his death.

(b) The amount of Family Pension payable under sub-rule (3) shall be one-half of the pension sanctioned to the Government servant at the time of his retirement and if the pensioner had before his death, commuted a part of the pension, the commuted part of his pension shall be deducted from the amount of Family Pension.

Provided that the amount of Family Pension payable under clause (a) or clause (b) shall be subject to a maximum of one hundred and fifty rupees per month and a minimum of fifty rupees per month.

(5) No family pension shall be payable under this rule -

(a) to a person mentioned in clause (b) of sub-rule (6), without production of reasonable proof that such person was dependent on the deceased Government servant for support ;

(b) to an unmarried female member of Government servants family, in the event of her marriage ;

(c) to a widowed female member of a Government servants family, in the event of her re-marriage; and

(d) to a brother of a Government servant, on his attaining the age of eighteen years.

(6) (a) Except as may be provided by nomination under sub-rule (7), the Family Pension sanctioned under this rule shall be payable -

(i) to the widow , and if there are more widows than one, to the eldest surviving widow, if the deceased was a male Government servant, or to the husband, if the deceased was a female Government servant ;

Explanation - The expression " eldest surviving widow " shall be construed with reference to the seniority according to the date of the marriages of the surviving widows and not with reference to their age ;

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

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

(iv) failing (i) (ii) and (iii) above to the eldest surviving widowed daughter.

(b) If there are no surviving members of the family as in clause (a), the family pension may be granted-

(i) to the father ;

(ii) failing (i) above , to the mother ;

(iii) failing (i) and (ii) above, to the eldest surviving brother below the age of eighteen years ;

(iv) failing (i), (ii) and (iii) above, to the eldest surviving unmarried sister ;

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

(7) (a) A Government servant shall on his confirmation in a service or post, make a nomination in Form 4 indicating the order in which a Family Pension should be paid to the members of his family and , to the extent it is valid, the Family Pension shall be payable in accordance with such nomination ;

Provided that the persons concerned satisfy the requirements of sub-rule (5) on the date from which such pension may fall due,

(b) In case the person concerned does not satisfy the requirements of sub-rule (5), the family pension shall be granted to the person next lower in the order shown in the nomination.

(c) The provisions of sub-rules (5), (7) and (8) of rule 115 shall apply in respect of nominations made under this sub-rule.

(8) (a) A Family Pension granted under this rule shall not be payable to more than one member of a Government servants family at the same time.

(b) If the Family Pension granted under this rule ceases to be payable on account of death or marriage of the recipient or other causes, it shall be regranted to the person next lower in the order mentioned in sub-rule (6) or to the person next lower in the order shown in the nomination made under sub-rule (7) as the case may be, who satisfies the other provisions of this rule.

(9) A Family Pension sanctioned under this rule shall be tenable in addition to any Extra- ordinary Family Pension under rule 4 in Appendix IV or gratuity or compensation that may be granted to the members of a Government servants family.

(10) Where Family Pension is granted under this rule to a minor member of the family of the deceased Government servant, it shall be payable to the guardian on behalf of the minor.

(11) For the purposes of this rule, the expression family in relation to a Government servant means, the family as defined in clauses (i) to (viii) of sub-rule (5) of rule 111.

CHAPTER 10 DETERMINATION AND AUTHORISATION OF THE AMOUNTS OF PENSION AND GRATUITY.

118. Preparation of list of Government servant due for retirement :-

(1) Every Head of Department shall have a list prepared every six months, that is, on the 1st July each year of all Government servants who are due to retire within the next 24 to 30 months of that date.

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

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

(4) A copy of the intimation sent by the Head of Office to the Audit Officer under sub-rule (3) shall also be endorsed to the Executive Engineer concerned if the Government servant concerned is an allottee of Government accommodation.

119. Intimation to the Executive Engineer concerned regarding issue of No demand certificate :-

(1) The Head of Office shall write to the Executive Engineer concerned at least two years before the anticipated date of retirement of the Government servant who is in occupation of a Government accommodation, (hereinafter referred to as allottee) for the issue of a No demand certificate, in respect of the period preceding eight months of the retirement of the allottee.

(2) On receipt of the intimation under sub-rule (1) the Executive Engineer concerned shall take further action as provided in rule 133.

120. Preparation of pension papers :-

(1) Every Head of Office shall undertake the work of preparation of pension papers in Form 6 in respect of Non-gazetted Government servant as well as Gazetted Government servant, whose pay and allowances are drawn by him on establishment bills, two years before the date on which they are due to retire on superannuation ; or on the date on which they proceed on leave preparatory to retirement, whichever is earlier.

(2) The Audit Officer shall undertake the work of preparation of pension papers in Form 6, two years before the date on which a Gazetted Government servant, other than mentioned in sub-rule (1) above who is due to retire on superannuation or on the date on which he proceeds on leave preparatory to retirement, whichever is

earlier.

(3) The time schedule and procedure prescribed in these rules shall be followed by the Audit Officer on whom the responsibility for preparation of pension papers in respect of Gazetted Government servants under sub-rule (2) has been entrusted.

(4) In the case of a Government servant holding a lien or a suspended lien on a Non-gazetted post and holding a Gazetted post in a temporary or officiating capacity at the time of retirement and whose pay and allowances are not drawn by the Head of Office on establishment bills, the Head of Office shall send the service book of the Government servant concerned to the Audit Officer two years in advance of the date of retirement of such Government servant or as soon as possible if such Government servant is promoted to officiate in a Gazetted post only during the last year of his service, after verifying that the certificate of verification relating to non-gazetted service has been recorded and that the service book is complete in all respects.

121. Stages for the completion of pension papers :-

(1) The Head of Office shall divide the period of preparatory work of two years referred to in rule 120 in the following three stages :-

(a) First Stage- Verification of service :- (i) The Head of Office shall go through the service book of the Government servant and satisfy himself as to whether the certificates of verification for the entire service are recorded therein.

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

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

(iv) If any portion of service rendered by a Government servant is not capable of being verified in the manner specified in sub-clause (i), or sub-clause (ii), or sub-clause (iii), the Government servant shall be asked to file a written statement on plain paper stating that he had in fact rendered that period of service, and shall, at

the foot of the statement, make and subscribe to a declaration as to the truth of that statement, and shall, in support of such declaration, produce all documentary evidence and furnish all information which is in his power to produce or furnish.

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

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

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

(ii) Every effort shall be made to complete the verification of service, as in clause (a) and to make good omissions, imperfections or deficiencies referred to in sub-clause (i) of this clause. Any omissions, imperfections or deficiencies including the portion of service shown as unverified in the service book which it has not been possible to verify in accordance with the procedure laid down in clause (a) shall be ignored and service qualifying for pension shall be determined on the basis of the entries in the service book.

(iii) Calculation of Pensionable Pay :- For the purpose of calculation of pensionable pay, the Head of Office shall verify from the service book the correctness of the pay drawn or to be drawn during the last ten months of service. In order to ensure that the pay during the last ten months of service has been correctly shown in the service book, the Head of Office may verify the correctness of pay for the period of twenty-four months only, preceding the date of retirement of a Government servant, and not for any period prior to that date.

(C) Third Stage - Obtaining Form 5 by the Head of Office :- Eight months prior to the date of retirement of the Government servant, the Head of Office shall obtain Form 5 from the Government servant, duly completed.

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

122. Completion of pension papers :-

The Head of Office shall complete Part I ¹(and Part-III) of Form 6 not later than six months before the date of retirement of the Government servant.

1. Inserted by Notification No.PEN-1088-1167-SER-4, dated 5-5-1990.

123. Forwarding of pension papers to Audit Officer :-

(1) After complying with the requirement of rules 121 and 122, the Head of Office shall forward to the Audit Officer Form 5 and Form 6 duly completed with a covering letter in Form 7 along with service book of the Government servant duly completed, upto- date, and any other documents relied upon for the verification of service.

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

(3) Where the payment is desired in another audit circle, the Head of Office shall send Form 6 in duplicate to the Audit Officer.

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

¹{(5) The Head of Office shall also prepare a pension calculation sheet, in triplicate, in the Form prescribed in Part III of Form 6 in Appendix V and after certifying the same he shall forward the same to the Audit Officer along with the pension papers.}

1. Inserted w.e.f. 1.1.1986 by Notification No.PEN-1088/1167/SER-4, dated 5-5-1990.

124. Intimation to Audit Officer regarding any event having bearing on pension :-

If, after the pension papers have been forwarded to the Audit Officer within the period specified in sub-rule(4) of rule 123, 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 Head of Office.

125. Intimation of the particulars of Government dues to the Audit Officer :-

(1) The Head of Office after ascertaining and assessing the

Government dues as in rule 132, shall furnish the particulars thereof to the Audit Officer at least two months before the date of retirement of a Government servant so that the dues are recovered out of the gratuity before its payment is authorised.

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

126. Provisional pension and gratuity :-

(1) The various stages of action laid down in rule 121 shall be strictly followed by the Head of Office. There may be an isolated case where, in spite of following the procedure laid down in rule 121, it may not be possible for the Head of Office to forward the pension papers.

referred to in rule 123 to the Audit Officer within the period prescribed in sub-rule (4) of that rule, or where the pension papers have been forwarded to the Audit Officer within the prescribed period but the Audit Officer may have returned the pension papers to the Head of Office for eliciting further information before issue of pension payment order and order for the payment of gratuity. If the Head of Office in such a case is of the opinion that a Gazetted or Non-gazetted Government servant is likely to retire before his pension and gratuity or both, can be finally assessed and settled in accordance with the provisions of these rules, he shall without delay, take steps to determine the qualifying years of service and the pay qualifying for pension after the most careful summary investigations that may be made.

For this purpose, he shall-

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

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

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

(3) The Head of Office shall thereafter determine the qualifying years of service and the pay qualifying for pension in accordance with the information available in the official records and the

information obtained from the retiring Government servant under sub- rule (1). He shall, than, determine the amount of provisional pension and the amount of provisional ¹(retirement gratuity).

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

(a) He shall issue a sanction letter addressed to the Government servant endorsing a copy thereof to the Audit Officer authorizing -

(i) 100 per cent of pension as determined under sub-rule (3) as provisional pension for a period not a exceeding six months to be reckoned from the date of retirement of the Government servant ; and

(ii)100 per cent of the gratuity as provisional gratuity s determined under sub-rule (3) withholding ten per cent of gratuity or one thousand rupees, whichever is less.

(b) He shall indicate in the sanction letter the amount recoverable from the gratuity under sub-rule (1) of rule 125. After issue of the sanction letter he shall draw-

(i)the amount of provisional pension ; and

(ii)the amount of provisional gratuity after deducting there from the amount mentioned in sub-clause (ii) of clause (a) and the dues, if any, mentioned in rule 132.

In the same manner as pay and allowances of the establishment are drawn by him in Form 21.

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

(6) (a) The payment of provisional pension shall not continue beyond a period of six months from the date of retirement of the Government servant.- ²(In cases where it is not possible for the Head of Office to get the amount of final pension payable to the Government servant determined from the Audit Officer within a period of six months from the date of his retirement, the said period of six months for payment of provisional pension shall be extended by the Head Office, in consultation with the Audit Officer, by another six months.)

If the amount of final pension and the amount of final gratuity had been determined by the Head of Office in consultation with the Audit Officer before the expiry of the said period of six months, the Audit Officer shall -

(i)issue the pension payment order, and

(ii)direct the Head of Office to draw and disburse the difference

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

(b) If the amount of provisional pension disbursed to a Government servant under sub-rule (4) is on its final assessment found to be in excess of the final pension assessed by the Audit Officer, it shall be open to the Audit Officer to adjust the excess amount of pension out of gratuity withheld under sub-clause (ii) of clause (a) of sub-rule (4) or recover the excess amount of pension in installments by making short payments of the pension payable in future by an amount not exceeding one third of the pension.

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

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

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

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

1. Substituted by Notification No.PEN-1088/1167/SER-4, dated 5-5-1990.

2. Inserted by Notification No.PEN-1088/1167/SER-4 dated 5-5-

1990.

127. Authorisation of pension and gratuity by the Audit Officer :-

(1) (a) On receipt of pension papers referred to in rule 123, the Audit Officer shall apply the requisite checks, record the account encasement in part II of Form 6 and assess the amount of pension and gratuity and issue the pension payment order not later than one month in advance of the date of the retirement of the government servant if the pension is payable in his Audit circle. ¹(He shall also countersign the pension calculation sheet in Part III of Form 6 as certified by the Head of Office, retain one copy out of the three copies received from the Head of Office and forward the second copy as countersigned by him to the pensioner along with the Pension Payment Order. The third certified copy of the pension calculation sheet as countersigned by him shall be passed on to the concerned treasury officer for record.)

(b) If the pension is payable in another Audit circle, the Audit Officer shall send the pension payment order along with a copy of Form 6 and the accounts encasement to the Audit Officer of the Audit circle for arranging payment.

(2) The amount of gratuity as determined by the Audit Officer under clause (a) or sub-rule (1) shall be intimated to the Head of Office with the remarks that the amount of the gratuity may be drawn and disbursed by the Head of Office to the retired Government servant after adjusting the Government dues, if any, referred to in rule 132.

(3) The amount of gratuity withheld under sub-rule (5) of rule 133 shall be adjusted by the Head of Office against the outstanding licence fee intimated by the Executive Engineer concerned and the balance, if any, refunded to the retired Government servant.

1. Inserted by Notification No.PEN-1088/1167/SER-4, dated 5-5-1990.

128. Payment of provisional pension and gratuity through money order :-

If the provisional pension or gratuity or both sanctioned under sub-rule (4) of rule 126, is desired to be paid by the pensioner through money order or bank draft, the same shall be remitted to him

through money order or bank draft at his cost :

Provided that in the case of any pensioner who has been authorised payment of provisional pension not exceeding one hundred and fifty rupees per mensem (inclusive of the amount of relief on pension) that amount shall, at the request of the pensioner, be remitted to him by money order at Government expense.

129. Government servants on deputation :-

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

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

129A. Interest on delayed payment of gratuity :-

¹[129-A. Interest on delayed payment of gratuity-

(1) If the payment of gratuity has been authorised after three months from the date when its payment become due and it is clearly established that the delay in payment was attributable to administrative lapse, interest at the following rate on the amount of gratuity in respect of the period beyond three months shall be paid :-

(i) beyond 3 months and upto one year 7 % per annum (ii) beyond one year 10 % per annum)

²(Provided that no interest shall be payable if the delay in payment of gratuity was attributable to the failure on the part of the Government servant to comply with the procedure laid down in this Chapter :

Provided further that no interest shall be payable in the case in which a provisional gratuity is sanctioned.)

(2) 2 (On an application made by the pensioner the concerned Administrative Department in Mantralaya shall consider the request for payment of interest) and where the Department is satisfied that the delay in the payment of gratuity was caused on account of administrative lapse, that Department shall make a

recommendation to the Finance Department for the payment of interest.]

(3) If the recommendation of the Department made under sub-rule (2) is accepted by the Finance Department, the Department concerned shall issue Government sanction for the payment of interest.

(4) In all cases where the payment of interest has been authorised with the concurrence of the Finance

Department, the Department concerned shall fix the responsibility and take disciplinary action against the Government servant or servants concerned who are found responsible) ³(for the delay in the payment of gratuity and recover the amount of interest required to be paid from the Government servant, or servants concerned, including the concerned officer, who are found responsible for the delay in the payment of gratuity.)

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

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

Or

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

1. Inserted w.e.f. 1.5.1986 by Notification No. PEN-1085/CR-1845/SER-4, dated 23-6-1986.

2. Substituted by Notification No. PEN-1088/1167/SER-4 dated 5-5-1990.

3. Substituted w.e.f. 1-5-1986 by Notification No. PEN-1088/1167/SER-4, dated 5-5-1990.

129B. Interest on delayed payment of Pension :-

¹[129-B. Interest on delayed payment of Pension-

(1) If the payment of pension has been authorised after six months from the date when its payment became due and it is clearly established that the delay in payment was attributable to administrative lapse, interest at the rate of 10 per cent per annum in respect of the period beyond six months shall be paid on the amount of pension:

Provided that, no interest shall be payable if the delay in payment of pension was attributable to the failure on the part of the Government servant to comply with the procedure laid down in this Chapter .

Provided further that, no interest shall be payable for the period for which a provisional pension is sanctioned. In case of Government Servant to whom provisional pension is sanctioned an interest as provided shall be paid after a period of six months from the cessation of provisional pension till the final pension is authorised.]

(2) On an application made by the pensioner the concerned Administrative Department in Mantralaya shall consider the request for payment of interest and where the Department is satisfied that the delay in the payment of pension was caused on account of administrative lapse, that Department shall make a recommendation to the Finance Department for the payment of interest.

(3) If the recommendation of the Department made under sub-rule (2) is accepted by the

Finance Department, the Department concerned shall issue Government sanction for the payment of interest.

(4) In all cases where the payment of interest has been authorised with the concurrence of the Finance Department, the Department concerned shall fix the responsibility and take disciplinary action against the Government servant or servants concerned who are found responsible for the delay in the payment of pension and recover the amount of interest required to be paid from the Government servant, or servants concerned, including the concerned officer, who are found responsible for the delay in the payment of pension.

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

(a) grant of pay higher than the pay on which pension, already paid, was determined; or

(b) liberalization in the provisions of these rules from a date prior to the date of retirement of the Government servant concerned, no interest on the arrears of pension shall be paid."}

1. Inserted w.e.f. 1-8-1986 by Notification No. PEN-1088/1167/SER-4, dated 5-5-1990.

130. Provisional pension where departmental or judicial proceedings may be pending :-

(1) (a) In respect of a Gazetted or Non-gazetted Government servant referred to in sub- rule (4) of rule 27 the Head of Office shall authorise the provisional pension equal to the maximum pension which would have been admissible on the basis of qualifying service upto the date of retirement of the Government servant, or if he was under suspension on the date of retirement upto the date immediately preceding the date on which he was placed under suspension.

(b) The provisional pension shall be authorised by the Head of Office for a period of six months during the period commencing from the date of retirement unless the period is extended by the Audit Officer and such provisional pension shall be continued upto and including the date on which, after the conclusion of departmental or judicial proceedings, final orders are passed by the competent authority.

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

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

131. Revision of pension after authorization :-

(1) Subject to the provisions of rules 26 and 27 , pension once authorised after final assessment shall not be revised to the disadvantage of the Government servant, unless such revision becomes necessary on account of detection of a clerical error subsequently :

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

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

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

132. Recovery and adjustment of Government dues :-

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

(2) The Government dues as ascertained and assessed by the Head of Office which remain outstanding till the date of retirement of the Government servant, shall be adjusted against the amount of the ¹(retirement gratuity) becoming payable.

(3) The expression Government dues includes-

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

;

(b) dues other than those pertaining to Government accommodation, namely, balance of house building or conveyance or any other advance, overpayment of pay and allowances or leave salary and arrears of income-tax deduction at source under the Income Tax Act, 1961 (43 of 1961).

1. Substituted by Notification No.PEN-1088/1167/SER-4, dated 5-5-1990.

133. Adjustment and recovery of dues pertaining to Government accommodation :-

(1) The Executive Engineer concerned on receipt of intimation from the Head of Office under sub-rule (1) of rule 119 regarding the issue of No demand certificate shall scrutinize his records and inform the Head of Office eight months before the date of retirement of the allottee, if any licence fee was recoverable from him in respect of the period prior to eight months of his retirement. If no intimation in regard to recovery of outstanding licence fee is received by the Head of Office by the stipulated date, it shall be presumed that no licence fee was recoverable, from the allottee in respect of the period preceding eight months of his retirement.

(2) The Head of Office shall ensure that licence fee for the next eight months, that is upto the date of retirement of the allottee is

recovered every month from the pay and allowances of the allottee. (3) Where the Executive Engineer concerned intimates the amount of licence fee recoverable in respect of the period mentioned in sub-rule (1), the Head of Office shall ensure that outstanding licence fee is recovered in installments from the current pay and allowances of the allottee and where the entire amount is not recovered from the pay and

allowances, the balance shall be recovered out of the gratuity before its payment is authorised.

(4) The Executive Engineer concerned shall also inform the Head of Office the amount of licence fee for the retention of Government accommodation for the permissible period of one month beyond the date of retirement of the allottee. The Head of Office shall adjust the amount of that licence fee from the amount of the gratuity together with the un-recovered licence fee, if any, mentioned in sub-rule (3)

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

(6) The recovery of licence fee for the occupation of the Government accommodation beyond the permissible period of one month after the date of retirement of the allottee shall be responsibility of the Executive Engineer concerned.

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

134. Adjustment and recovery of dues other than dues pertaining to Government accommodation :-

(1) For the dues other than the dues pertaining to occupation of Government accommodation as referred to in clause (b) of sub-rule (3) of rule 132, the Head of Office shall take steps to assess the dues two years before the date on which a Government servant is due to retire on superannuation ; or on the date on which he proceeds on leave preparatory to retirement, whichever is earlier.

(2) The assessment of Government dues referred to in sub-rule (1) shall be completed by the Head of Office eight months prior to the date of the retirement of the Government servant.

(3) The dues as assessed under sub-rule (2) including those dues

which come to notice subsequently and which remain outstanding till the date of retirement of the Government servant, shall be adjusted against the amount of ¹(retirement gratuity) becoming payable to the Government servant on his retirement.

1.Substituted w.e.f.1-1-1986 by Notification No.PEN-1088/1167/SER-4 dated 5-5-1990

134A. Recovery and adjustment of excess amount paid :-

¹[134-A-Recovery and adjustment of excess amount paid -

If in the case of a Government servant, who has retired or has been allowed to retire, it is found that due to any reason whatsoever an excess amount has been paid to him during the period of his service including] Service rendered upon re-employment after retirement or any amount is found to be payable by the pensioner during such period and which has not been paid by , or recovered from him, then the excess amount so paid or the amount so found payable shall be recovered from the amount of pension sanctioned to him:

Provided that, the Government shall give a reasonable opportunity to the pensioner to show cause as to why the amount due should not be recovered from him :

Provided further that, the amount found due may be recovered from the pensioner in installment so that the amount of pension is not reduced below the minimum fixed by Government.)

1.Inserted by Notification No.PEN-1088/1167/SER-4, dated 5-5-1990.

135. Date of retirement to be notified :-

When a Government servant retires from service-

(a)a notification in the official Gazette in the case of a Gazetted Government servant, and

(b)an office order in the case of a Non-gazetted Government servant, shall be issued specifying the date of retirement within a week of such date and a copy of every such notification or office order, as the case may be, shall be forwarded immediately to the Audit Officer :

Provided that where a notification in the official Gazette or an office order, as the case may be, regarding the grant of leave preparatory to retirement to a Government servant is issued, a further

notification or office order that the Government servant has actually retired on the expiry of such leave shall not be necessary unless the leave is curtailed and the retirement is for any reason ante-dated or postponed.

CHAPTER 11 DETERMINATION AND AUTHORISATION OF THE AMOUNT OF FAMILY PENSION AND 1(DEATH GRATUITY) IN RESPECT OF GOVERNMENT SERVANTS DYING WHILE IN SERVICE

136. Obtaining of claims for Family Pension and death gratuity :-

136. Obtaining of claims for Family Pension and ¹(death gratuity)

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

(2)(a) Where the family of the deceased Government servant is eligible for the 1(death gratuity) under rule 111, the Head of Office shall ascertain-

if the deceased Government servant had nominated any person or persons to receive the gratuity ; and

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

(b) The Head of Office shall, then, address the person concerned in Form 8 or Form 9, as may be appropriate, for making a claim in Form 10.

(3) Where the family of the deceased Government servant is eligible under rule 116 for the Family Pension, 1964-

(a) the Head of Office shall address the widow or widower in Form 11 for making a claim in Form 12 ; and

(b) where the deceased Government servant is survived only by a child or children, the guardian of such child or children may submit a claim in Form 12 to the Head of Office :

Provided that the guardian shall not be required to submit a claim in the said Form on behalf of a child if the child has attained the age of eighteen years and such child may himself or herself submit a claim in the said Form

(4) (a) Where the family of the deceased Government servant is eligible Family Pension, 1950 under rule 117, the Head of Office shall ascertain -

(i) if the deceased Government servant had nominated a member of

his family to receive the payment of Family Pension , 1950 : and (ii) where the deceased Government servant had not made any nomination or the nomination made does not subsist, the person to whom the Family Pension, 1950 may be payable.

(b) The Head of Office, shall, then, address the person concerned in Form 13 or Form 14, as may be appropriate, for making a claim in Form 15.

(5) If on the date of death, the Government servant was an allottee of Government accommodation, the Head of Office shall address the Executive Engineer concerned for the issue of No demand certificate in accordance with the provisions of sub-rule (1) of rule 142.

1. Substituted by Notification No.PEN-1088/1167/SER-4, dated 5-5-1990.

137. Completion of Form 16 :-

(1) (a) The Head of Office while taking action to obtain claim or claims from the family in accordance with the provisions of rule 136 shall simultaneously undertake the completion of Form 16. The work shall be completed within one month of the date on which intimation regarding the date of death of the Government servant has been received.

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

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

(2) (a) For the purpose of determination of pay for Family Pension and 1(death gratuity) the Head of Office shall confine the verification of the correctness of pay for a maximum period of one year preceding the date of death of the Government servant.

(b) In case the Government servant was on extraordinary leave on the date of death, the correctness of the pay for a maximum period

of one year which he drew preceding the date of the commencement of the extraordinary leave, shall be verified.

(3) The process of determination of qualifying service and qualifying pay shall be completed within one month of the receipt of intimation regarding the date of death of the Government servant and the amount of family pension and ¹(death gratuity) shall also be calculated accordingly.

1. Substituted by Notification No.PEN-1088/1167/SER-4, dated 5-5-1990.

138. Determination of the amount of Family Pension and gratuity where service records are incomplete :-

According to the existing instructions, there should not be any case where service book has not been maintained properly. If, in any particular case, the service book has not been maintained properly despite the Governments orders on the subject, and it is not possible for the Head of Office to accept the unverified portion of service as verified on the basis of entries in the service book, the Head of Office shall not proceed with the verification of the entire spell of service. The verification of service in such a case shall be confined to the following spells of service :-

(a) For the purpose of Family Pension, 1964-

(i) If the deceased Government servant on the date of death had rendered more than one years of service but less than seven years of service, the service and pay for the last year of service shall be verified and accepted by the Head of Office and the amount of Family Pension, 1964 determined under sub-rule (2) and sub-rule (3) of rule 116.

(ii) If the deceased Government servant on the date of his death had rendered more than seven years of service, the service for the last seven years and pay for service rendered in the last year shall be verified and accepted by the Head of Office and the amount of Family Pension, 1964 and the period for which it is payable shall be determined in accordance with the provisions of sub-rule (4) of rule 116.

(iii) If the deceased Government servant at the time of death had rendered more than seven years of service and the service of last seven years is not capable of being verified and accepted by the Head of Office but the service rendered during the last year is capable of being verified and accepted, the Head of Office, pending

the verification of service for seven years, shall calculate the amount of Family Pension in accordance with the provisions of sub-rule (2) and sub-rule (3) of rule 116.

(iv) The service for the last seven years shall be verified and accepted within the next two months and the amount of Family Pension, the enhanced rate and the period for which it is payable, shall be determined in accordance with the provisions of sub-rule (4) of rule 116.

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

(b) For the purpose of 1 (death gratuity)

¹((i) If the deceased Government servant had on the date of his death rendered more than 5 years of qualifying service but less than 20 years of qualifying service, and the spell of last 5 years has been verified and accepted by the Head of Office under clause (a) the amount of death gratuity shall be equal to 12 times of his pay as indicated in item (iii) of the Table in sub-rule (2) of rule 111. Where the verified and accepted service is less than 5 years, the amount of death gratuity shall be the amount as indicated in item (i) or item (ii) in the Table in sub-rule (2) of rule 111 as may be applicable.)

(ii) If the deceased Government servant had rendered more than ²(twenty years of service and the entire service is not capable of being verified and accepted, but the service for the last five years has been verified and accepted under sub-clause (i), the family of the deceased Government servant shall be allowed, on provisional basis, the 1 (death gratuity) equal to 12 times of the pay. Final amount of the gratuity shall be determined by the Head of Office on the acceptance and verification of the entire spell of service Which shall be done by the Head of Office within a period of six months from the date on which the authority for the payment of provisional gratuity was issued. The balance, if any, becoming payable as a result of determination of the final amount of ³(death gratuity) shall then be authorised to the beneficiaries.

(c) For the purpose of Family Pension, 1950-

Since the Family Pension, 1950 is related to Superannuation Pension, it shall be necessary to verify the entire spell of service by following the procedure laid down in Chapter VIII of these rules.

1088/1167/SER-4,dated 5-5-1990

2. Substituted by Notification No.PEN-1088/1167/SER-4, dated 5-5-1990.

3. Substituted by Notification NO.PEN-1088/1167/SER-4, dated 5-5-1990

139. Forwarding the papers to the Audit Officer :-

(1)On receipt of claim or claims, the Head of Office shall complete items 22,23,24,25 and 26 of Form 16 and send the said Form in original to the Audit Officer with a covering letter in Form 17 along with the Government servants service book duly completed up- to-date and any other documents relied upon for the verification of the service claimed. This shall be done not later than one month of the receipt of claim by the Head of Office.

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

(3)If the payment is desired in another Audit Circle, Form 16 shall be sent in duplicate to the Audit Officer.

(4)The Head of Office shall draw the attention of the Audit Officer to the details of Government dues outstanding against the deceased Government servant, namely :-

(a)Government dues as ascertained and assessed in term of rule 142 and recoverable out of the gratuity before payment is authorised.

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

(c) the maximum amount of gratuity to be held over for the purpose of clause (b) shall be limited to ten per cent of the amount of gratuity or rupees one thousand, whichever is less.

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

(1) As soon as the intimation about the death of a Government servant while in service is received by the Head of Office, he shall sanction, draw and disburse provisional Family Pension not exceeding the maximum family pension and hundred per cent of the gratuity as determined in accordance with the provisions of this

Chapter, before forwarding the documents referred to in rule 139 to the Audit Officer. For this purpose the Head of Office shall adopt the following procedure, namely :-

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

(b) he shall indicate in the sanction letter the amount recoverable out of the gratuity under sub-rule (3) of rule 139;

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

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

(ii) the amount of hundred per cent of the gratuity after deducting there from the dues mentioned in clause (b) in the same manner as pay and allowance of the establishment are drawn by him in Form 21.

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

(3) The payment of provisional family pension shall continue for a period of six months from the date following the date of death of the Government servant unless the period is extended by the Audit Officer under the provision to sub-rule (1) of rule 141.

(4) The Head of Office shall inform the Audit Officer-

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

(b) as soon as the provisional family pension has been paid for a period of six months or for the period extended under proviso to sub-rule (1) of rule 141, as the case may be.

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

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

141. Authorisation of final pension and balance of the gratuity by the Audit Officer :-

(1) On receipt of the documents referred to in sub-rule (1) of rule

139, the Audit Officer shall, apply the requisite checks and complete Section I of Part II of Form 16 and assess the amount of Family Pension and gratuity ;

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

(2) (a) If the family pension is payable in his Audit circle, the Audit Officer shall prepare the pension payment order.

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

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

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

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

(c) The amount of gratuity withheld under clause (b) of sub-rule (1) of rule 142 shall be adjusted by the Head of Office against the outstanding licence fee mentioned in clause (viii) of sub-rule (1) of rule 142 and the balance, if any, refunded to the person or persons to whom gratuity has been paid.

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

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

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

(b) The Head of Office shall ensure that chances of disbursing the

amount of gratuity in excess of the amount actually admissible are minimized and the official or officials responsible for the excess payment shall be accountable for the over-payment.

142. Adjustment of Government dues :-

(1) Dues pertaining to Government accommodation :-

(i) If on the date of death, the Government servant was an allottee of Government accommodation, the Head Office on receipt of intimation regarding the death of the Government servant shall within seven days of the receipt of such intimation, write to the Executive Engineer concerned for the issue of No demand certificate so that

authorization of Family Pension and ¹(death gratuity) is not delayed. While addressing the Executive Engineer concerned for the issue of No demand certificate, the Head of Office shall also supply the following information in duplicate (one copy marked to the Rent Wing and the second the Allotment Wing):-

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

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

(c) date of death of Government servant.

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

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

(f) the period upto which licence fee had been recovered from the pay and allowances of the deceased Government servant and the monthly rate of recovery and particulars of the pay bill under which last recovery was made ;

(g) if the licence fee had not been recovered upto the date of death and the family intends to retain Government accommodation for the permissible period of one month from the date of death of the Government servant, details of -

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

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

(C) the amount of licence fee for the retention of Government accommodation by the family of the deceased Government servant for the concessional period of one month beyond the date of death of the Government servant to be determined on the basis of standard rent bill ;

(D)the amount of licence fee mentioned at (B) and (C) proposed to be recovered out of ¹(death gratuity).

(E) details of any previous reference from the Executive Engineer concerned having bearing on the recovery of licence fee outstanding against the allottee and action taken thereon.

(ii) The Head of Office shall recover form the ²(death gratuity) the amount of licence fee as intimated to the Executive Engineer concerned under clause (i)

(iii) The recovery of licence fee for the occupation of Government accommodation beyond the permissible period of one month shall be the responsibility of the Executive Engineer concerned.

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

(v)Pending receipt of information under clause (iv), the Head of Office shall withhold ten per cent of the ²(death gratuity) or one thousand rupees whichever is less.

(vi)If no intimation is received by the Head of Office within the period prescribed under clause (iv) regarding recovery of licence fee, it shall be presumed that nothing was recoverable from the deceased Government servant and the amount of gratuity withheld shall be paid to the person or persons to whom the amount of ²(death gratuity) was paid.

(vii)If the Head of Office has received intimation form the Executive Engineer concerned under clause (iv) regarding licence fee outstanding against the deceased Government servant, the Head of Office shall verify from the acquittance rolls if the outstanding amount of licence fee was recovered from the pay and allowances of the deceased Government servant. If as a result of verification, it is found that the amount of licence fee shown as outstanding by the Executive Engineer

Concerned, had already been recovered, the Head of Office shall draw the attention of the Executive Engineer concerned to the pay bills under which the necessary recovery of the licence fee was made and subject to the provision of sub-rule (2) take steps to pay the amount of the gratuity withheld under clause (v) to the person

or persons to whom the ³(death gratuity) was paid.

(viii) If the outstanding amount of licence fee was not recovered from the pay and allowances of the deceased Government servant, the outstanding amount shall be adjusted against the amount of the gratuity withheld under clause (v) and the balance, if any, repaid to the person or persons to whom the amount of ³(death gratuity) was paid.

(2) Dues other than those referred to in sub-rule (1)-

The Head of Office shall within one month of the receipt of intimation regarding death of a Government servant, take steps to ascertain if any dues as referred to in rule 132 excluding the dues pertaining to the allotment of Government accommodation were recoverable from the deceased Government servant. Such ascertainable dues shall be recovered from the amount of ³(death gratuity) becoming payable to the family of the deceased Government servant.

1. Substituted by Notification No.PEN-1088/1167/SER-4, dated 5-5-1990.

2. Substituted by Notification No.PEN-1088/1167/SER-4, dated 5-5-1990.

3. Substituted by Notification No.PEN-1088/1167/SER-4, dated 5-5-1990.

143. Payment of Family Pension and death gratuity when a Government servant dies while on deputation :-

143. Payment of Family Pension and ¹(death gratuity) when a Government servant dies while on deputation

(1)In the case of a Government servant who dies while on deputation to another Department/ Office, action to authorise Family Pension and ¹(death gratuity) in accordance with the provisions of this Chapter shall be taken by the Head of Office of the borrowing Department.

(2)In the case of a Government servant who dies while on deputation to a Central Government or while on foreign service, action to authorise the payments of Family Pension and ¹(death gratuity) in accordance with the provisions of this Chapter shall be taken by the Head of Office of the cadre authority which sanctioned the deputation of the Government servant to the Central Government or to the foreign service.

1. Substituted by Notification No.PEN-1088/1167/SER-4, dated 5-5-1990.

CHAPTER 12 SANCTION OF FAMILY PENSION AND RESIDUARY GRATUITY IN RESPECT OF DECEASED PENSIONERS

144. Sanction of family Pension and residuary gratuity on the death of pensioner :-

(1) Where the Head of Office has received an intimation regarding the death of a retired Government servant who was in receipt of pension, he shall ascertain whether any Family Pension or residuary gratuity or both is or are payable in respect of the deceased pensioner:

Provided that the Head of Office, may, when he considers it necessary so to do, consult the Audit Officer.

(2) (a) (i) If the deceased pensioner is survived by a widow or widower who is eligible for the grant of Family Pension, 1964, under rule 116, the amount of Family Pension, 1964, as indicated in the pension Payment Order shall become payable to the widow or widower, as the case may be, from the day following the date of death of the Pensioner.

(ii) On receipt of ¹(a claim the Form 12) from the widow or widower, the Treasury Officer from whom the deceased pensioner has drawn his or her pension, shall authorise the payment of Family Pension, 1964 to the widow or widower, as the case may be.

(b) (i) Where the deceased pensioner is survived by child or children, the guardian of the child or children may submit a claim in Form 12 to the Head of Office for payment of Family Pension, 1964 :

Provided that the guardian shall not be required to submit a claim in the said Form on behalf of the son or unmarried daughter if he or she has attained the age of eighteen years and such a person may himself or herself submit a claim in the said Form.

(ii) On receipt of claim from the guardian, the Head of Office shall sanction the Family Pension, 1964, in Form 18.

(c) (i) Where a widow or widower in receipt of Family Pension 1964, remarries and has, at the time of remarriage, child or children from the former spouse who is or are eligible for Family Pension, 1964, the remarried individual shall be eligible to draw the Family Pension, 1964, on behalf of such child or children, if such individual continues to be the guardian of such child or children.

(ii) For the purposes of sub-clause (i) , the remarried individual shall apply to the Head of Office on plain paper furnishing the following particulars, namely :-

(a) a declaration that the applicant continues to be the guardian of such child or children ;

(b) the date of remarriage ;

(c) the name and date of birth of the child or children from the former spouse ;

(d) the Treasury from where payment of Family Pension, 1964, on behalf of such child or children is desired ;

(e) full postal address of the applicant.

(iii) If the remarried individual has, for any reason, ceased to be the guardian of such child or children, the Family Pension, 1964, shall become payable to the person entitled to act as guardian of such child or children under the law for the time being in force and such person may submit a claim in Form 12 to the Head of Office for the payment of Family Pension, 1964:

Provided that the guardian shall not be required to submit a claim in the said Form on behalf of the son or unmarried daughter if he or she has attained the age of eighteen years and such person may himself or herself submit a claim in the said Form .

(iv) On receipt of the claim referred to in sub-clause (iii) the Head of Office shall sanction Family Pension, 1964, in Form 19.

(d) (i) Where a widow or widower in receipt of Family Pension, 1964, dies and leaves behind child or children who is or are eligible for Family Pension, 1964, the guardian

may submit a claim in Form 12 to the Head of Office for the payment of Family Pension, 1964:

Provided that the guardian shall not be required to submit a claim in the said Form on behalf of the son or unmarried daughter if he or she has attained the age of eighteen years and such a person may himself or herself submit claim in the said Form.

(ii) On receipt of a claim from the guardian, the Head of Office shall sanction Family Pension, 1964, in Form 18.

(3) (a) In case the deceased pensioner who was governed by the Family Pension, 1950, and his death had taken place within five years of his retirement, the Family Pension, 1950, shall become payable to the eligible of the family of the deceased pensioner as provided in rule 117 for the un expired period of five years from the date of retirement of the deceased.

(b) On receipt of a claim in Form 15 from such member, the Head of Officer shall sanction the Family Pension, 1950, for the un

expired period aforesaid.

(4) Where on the death of a retired Government servant a residuary gratuity becomes payable to the family of the deceased under sub-rule (3) of rule 111, the Head of Office shall sanction its payment on receipt of a claim or claims in Form 20 from the person or persons eligible to receive the residuary gratuity.

1. Substituted by Notification No.PEN-1088/1167/SER-4, dated 5-5-1990.

145. Authorisation of payment by Audit Officer :-

On receipt of the sanction under rule 139 regarding the payment of Family Pension or of residuary gratuity or of both ; the Audit officer shall authorise the payment of the same.

CHAPTER 13 PAYMENT OF PENSIONS

146. Date from which pension becomes payable :-

(1) Except in the case of a Government servant to whom the provisions of rule 67 apply and subject to the provisions of rules 27 and 130 a pension other than Family Pension shall become payable from the date on which a Government servant ceases to be borne on the establishment.

(2) Pension including Family Pension, 1950 or 1964 shall be payable for the day on which its recipient dies.

147. Procedure for payment of pension to a lunatic :-

When any sum is payable in respect of pension or gratuity to any person by Government, and the person to whom the sum is payable is certified by a Magistrate to be a lunatic, the procedure laid down in section 95(1) of (the Indian) Lunacy Act, 1912(Act IV of 1912) shall be followed.

148. Date of commencement of payment of Wound or Injury Pension or Extra- ordinary Family Pension :-

A Wound or Injury Pension shall be payable from the date of the Wound or Injury and a Extra-ordinary Family Pension from the day following the death of the Government servant, provided -

- (i) that, if the grant of the pension is regulated by Army Regulations, it shall take effect from the date therein prescribed ;
- (ii) that, if considerable delay has occurred in making application for

a Wound or Injury Pension, it shall be payable from the date of report on the case by the Medical Board unless in exceptional circumstances Government otherwise direct ; and
(iii)that, if considerable delay has occurred in making application for a Extra-ordinary Family Pension, it shall be payable from such date as Government may prescribe.

149. Need for medical certificate for payment of Wound or Injury Pension :-

In the case of a Wound or Injury Pension sanctioned under rule 97, it shall be the responsibility of the officer disbursing the pension to see that the medical certificate referred to in rule 88 is produced after every three years.

150. Currency in which pension is payable :-

All pensions including gratuities admissible under these rules shall be payable in rupees in India only.

151. Manner of payment of gratuity and pension :-

- (1) Except as otherwise provided in these rules, a gratuity shall be paid in lump sum.
- (2) A pension fixed at monthly rates shall be payable monthly on or after the first day of the following month.

152. Application of Treasury Rules :-

Save as otherwise provided in these rules, the Treasury Rules of the State Government shall apply in regard to the procedure of payment-

- (i)of gratuity.
- (ii)of pension.
- (iii)of pension undrawn for more than a year, and
- (iv)of pension in respect of a deceased pensioner.

CHAPTER 14 RE-EMPLOYMENT OF PENSIONERS

153. Re-employment ordinarily not to qualify for second pension :-

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 has new service as qualifying for 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.

154. Declaration by the re-employed pensioner about amount of pension and gratuity or bonus :-

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

Note- 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 rule 158).

155. Provisions of this Chapter to be brought to the notice of the re-employed pensioner :-

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

156. Wound or Injury or Disability Pension awarded under Military rules to be continued :-

Notwithstanding anything contained in the rules in this Chapter a Wound or Injury Pension sanctioned under rules 92 to 99 and a Wound or Injury or Disability Pension or an addition to pension on account of disability 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 award. 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 50 paise and over shall be taken as a whole rupee, amounts of less than 50 paise being ignored. The disability portion of the pension will be the balance.

157. Fixation of pay of re-employed pensioner :-

(1) A person, who is in receipt of a Superannuation or Retiring Pension, shall not be re-employed or continue to be employed in service paid from Consolidated Fund of India or of State or from a Local Fund, except on public grounds and in a purely temporary capacity.

(2) The authority who is competent to re-employ a pensioner shall fix the pay on re-employment subject to the following conditions, all of which must be satisfied :-

(a) Pay on re-employment plus pension (including pension equivalent of retirement gratuity or gratuity in lieu of pension) should not exceed the substantive pay drawn before retirement, or the officiating pay, if the Government servant was continuously officiating in that post for at least one year before retirement. In cases, where the substantive / officiating pay drawn before retirement is less than the minimum of the time-scale of the post in which a pensioner is re-employed, pay on re-employment may be the minimum of the time-scale minus pension (including pension equivalent of retirement gratuity or gratuity in lieu of pension).

(b) Pay (i.e., gross pay minus pension) on re-employment should not except with the sanction of Government under rule 40 of Maharashtra Civil Services (pay) Rules, 1981 exceed the minimum of the time-scale of post in which the Government servant is re-employed.

(c) Pay on re-employment plus pension (including pension

equivalent of retirement gratuity or gratuity in lieu of pension) should not exceed the maximum of the time-scale of the post in which the Government servant is re-employed.

(d) Special pay can be drawn in addition to pay on re-employment provided -

(i) the total of pension and pay on re-employment plus special pay is restricted to the substantive pay last drawn or officiating pay, if the Government servant was continuously officiating in that post for at least one year before retirement plus special pay last drawn ; and

(ii) the special pay is attached to the post in which he is re-employed.

(3) (a) In the case of persons retiring before attaining the age of fifty-five years, the competent authority while fixing the pay under sub-rule (2) above, shall ignore :-

(i) In the case of Civil Pensioners holding Class I post at the time of retirement, first Rs. ¹(500) of pension ;

(ii) In the case of others, the entire pension.

(b) The pension for the purposes of sub-clause (a) , shall include pension equivalent of retirement gratuity or gratuity in lieu of pension.

Note 1.- Cases of Government servants who were subject to Contributory Provident Fund should be referred to Government for fixing the initial pay on re-employment.

Note 2 .-Once the pay on re-employment is fixed, the Government servant shall be entitled to receive the benefits of increments even though the total of pension including pension equivalent of retirement gratuity or gratuity in lieu of pension and pay exceeds the substantive pay drawn before retirement, or officiating pay if the Government servant was continuously officiating in that post for at least one year before retirement, but it should not exceed the maximum of the time -scale of the post in which he is re-employed.

Note 3. - When a Government servant is re-employed and his pension is shared between Maharashtra Government and another Government or Local Body, his pension should not be held in abeyance but should be drawn as separate entity.

Note 4- Where, on re-employment, pension is not held in abeyance, increments accruing after re- employment should be based on the consolidated pay, i.e., pay on re-employment plus pension (including pension equivalent of retirement gratuity or gratuity in lieu of pension).

Note 5- If the pay-scale of the post in which the Government

servant is re-employed is revised and the Government servants pension has not been held in abeyance, his existing pay for the purpose of rule 15 of Maharashtra Civil Services (pay) Rules, 1981 should be taken to be his consolidated pay i.e. pay on re-employment plus pension (including pension equivalent of the retirement gratuity or gratuity in lieu of pension).

Note 6- The upper limit, viz, substantive/ officiating pay at the time of retirement minus pension laid down in sub-rule (2) (a) above is also applicable to re-employment in a part-time post whether carrying a time-scale or an honorarium.

1.Substituted b Notification No.RES-1086/CR-52/SER-7,dated 21-11-1986.

158. Gross amount of pension to be taken into account while fixing pay :-

(1)In the case of a pensioner who is re-employed in Government service or in the service of a Local Fund and who commuted a portion of his pension after such employment, the amount of pension which the pensioner is entitled to draw under the rules in this Chapter shall be the amount to which he would have been entitled had there been no commutation, less the amount commuted.

(2)In the case of pensioner a portion of whose pension has been commuted before re- employment the original amount of the pension should be taken in to consideration in fixing the total receipts during re-employment or continued employment and not merely the un commuted pension.

(3) In the case of a re-employed 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 produced, 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.

159. Application of rule 39 to re-employed pensioner :-

Rule 39 is applicable only when the Government service previous to re-employment has been under the Government of Maharashtra.

160. Fixation of pay of re-employed pensioner drawing pension from another Government or Zilla Parishad :-

Except as provided in rules 161 & 162, when a person who is drawing his pension from another Government or from a Zilla Parishad is re-employed in the service of the Government of Maharashtra, the authority competent to fix the pay and allowances of the appointment in which the pensioner is re-employed, shall take the amount of pension into account in fixing the pay to be allowed to him and shall fix the initial pay in such a manner that the sum total of the initial pay plus pension does not exceed his substantive pay at the time of his retirement.

Instruction - See clauses (a) to (d) below sub-rule (2) of rule 157.

161. Non-application of rules to Military Warrant or non-commissioned pensioners on re-employment under Civil Service :-

Except where it is otherwise expressly provided, the rules in this Chapter do not apply to Military 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. His pension for service in the Civil Department will not be affected by his Military pension.

162. Fixation of pay of Military pensioner on re-employment in Civil Department :-

Where a pensioner formerly in Military service, obtains employment in Civil Department after having been granted a Military pension, and continues to draw his Military pension, the authority competent to fix the pay and allowances of the post in which he is re-employed shall, in fixing his pay and allowances in the post reduce his initial pay in the post by the amount of pension, including such portion of it as may have been commuted and fix the pay as under :-

(a) (i) In the case of Commissioned Officers- Pay on re-employment plus full military pension (including pension equivalent of retirement gratuity or gratuity in lieu of pension, if any) should not exceed the pay drawn before retirement (i.e. basic pay other than

allowances of any kind):

Provided that where the pay so fixed is not a stage in the time scale, it should be fixed at the stage next below that pay plus personal pay equal to the difference, and, in either case he will continue to draw that pay until such time as he would have earned an increment in the time-scale of the new post :

Provided further that where the pay so fixed is less than the minimum of the scale, it may be fixed at the minimum.

(ii) In the case of persons retiring before attaining the age of fifty-five years, the amount of pension as shown below shall be ignored in fixing their pay on re-employment :-

(A) In the case of Commissioned Officers, the first ¹(Rs. 500) of pension ;

(B) In the case of personnel below Commissioned Officers rank, the entire pension.

Note - The pension for the purpose of (a) (ii) above shall include pension equivalent of retirement gratuity or gratuity in lieu of pension, if any.

(b) In the case of Junior Commissioned Officers and below - Pay on re-employment shall be fixed at a stage in the time-scale which is equal to the last pay drawn (i.e. basic pay other than allowances of any kind) ignoring the pensionary benefits.

(c) Once the pay is fixed, he shall be allowed to draw normal increments in the time-scale of the new post.

Note - For the purpose of this rule-

(a) Commissioned Officers shall include -

1. Field Marshal,
2. General,
3. Lt-General,
4. Maj.-General,
5. Brigadier,
6. Colonel,
7. Lt.-Colonel,
8. Major,
9. Captain,
10. Lieutenant,
11. Second Lieutenant.

(b) Junior Commissioned officers and below, shall include -

1. Subedar Major and Risaldar Major,
2. Subedar and Risaldar,
3. Naib Subedar,
4. Havildars,

- 5.Dafadars,
- 6.Naiks,
- 7.Lance, Naiks,
- 8.Sepoy.

1.Substituted by Notification No.RES-1086/CR-52/SER-7, dated,21-11-1986.

163. Commercial employment after retirement :-

(1) If a pensioner who , immediately before his retirement was a member of, or held in an officiating capacity, a post belonging to a State Service, Class I, 1(Maharashtra Civil Services (Executive Branch), Upper Division,) or Maharashtra Sales Tax Service, Superintendents of Police, Deputy Commissioners of Police, Deputy Superintendents of Police, Assistant Commissioners of Police and all other pensioners who occupied posts carrying a maximum pay of Rs.1(4,000) per month, wishes to accept any commercial employment before the expiry of two years from the date of his retirement, he shall obtain the previous sanction of the Government to such acceptance ¹(by submitting an application in Form 23.)

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

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

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

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

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

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

pensioner had shown favour to such employer ;

(d)Whether the duties of the commercial employment proposed involve liaison or contact work with Government departments ;

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

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

(g)any other relevant factors.

(4) Where within a period of sixty days of the date of receipt of an application under ²(sub-rule (1)) the Government does not refuse to grant the permission applied for or does not communicate the refusal to the applicant, the Government shall be deemed to have granted the permission applied for :

³(Provided that, in any case where defective or insufficient information is furnished by the applicant and it becomes necessary for Government to seek further clarifications or information from him, the period of sixty days shall be counted from the date on which the defects have been removed or complete information has been furnished by the applicant.)

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

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

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

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

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

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

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

(8) In this rule, -

(a) the expression " commercial employment" means -

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

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

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

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

(iii) to undertake work involving liaison or contact with the offices or offices of the Government.

Explanation - For the purposes of this clause " employment under a co-operative society" includes the holding of any office, whether elective or otherwise, such as that the President, Chairman, Manager, Secretary, Treasurer and the like, by whatever name called in such society.

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

1. Substituted by Notification No. PEN-1088/1167/SER-4, dated 5-5-1990.

2.Substituted by Notification No.PEN-1088/1167/SER-4,dated 5-5-1990.

3.Inserted by Notification No.PEN-1088/1167/SER-4, dated 5-5-1990.

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

(1)If a pensioner to whom this rule applies wishes to accept any employment under any Government outside India, he shall obtain the previous permission of Government for such acceptance, and no pension shall be payable to a pensioner who accepts such an employment without proper permission in respect of any period for which he is so employed or such longer period as the Government may direct

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

(2) This rule applies to every pensioner who immediately before retirement was a member of, or held in an officiating capacity a post belonging to, a State Service Class I, Maharashtra Civil Service (Executive Branch), Upper Division or Maharashtra Sales Tax Service and to all other pensioners, who occupied posts carrying a maximum pay exceeding ¹(Rs.4,000 per month).

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

1. Substituted by Notification No.PEN-1088/1167/SER-4, dated 5-5-1990.

CHAPTER 15 REPEAL AND SAVING

165. Repeal and saving :-

(1) On the commencement of these rules, every rule, regulation or order including Government Resolutions (hereinafter referred to in this rule as the old rule) in force immediately before such commencement shall, in so far as it provides for any of the matters contained in these rules, cease to operate.

(2) Notwithstanding such ceasing of operation -

(a) (i) every nomination for the payment of death-cum-retirement gratuity, or of Family Pension, 1950; and

(ii) every form regarding the details of family of a Government servant for the purpose of Family Pension, 1964 ;

Which a Government servant had made or given under the old rule shall be deemed to have been made or given under the corresponding provisions of these rules ;

(b) any nomination for the payment of death-cum-retirement gratuity or of Family Pension, 1950 any form regarding the details of family of a Government servant for the purpose of Family Pension, 1964 required to be made or given by a Government servant under the old rule but not made or given before the commencement of these rules shall be made or given after such commencement in accordance with the provisions of these rules ;

(c) any case which pertains to the authorization of pension to a Government servant who had retired before the commencement of these rules and is pending before such commencement shall be disposed of in accordance with the provisions of the old rule as if these rules had not been made ;

(d) any case which pertains to the authorization of death-cum-retirement gratuity and Family Pension to the family of deceased Government servant or of a deceased pensioner and is pending before the commencement of these rules shall be disposed of in accordance with the provisions of the old rule as if these rules had not been made ;

(e) Subject to the provisions of clauses (c) and (d), anything done or any action taken under the old rule shall be deemed to have been done or taken under the corresponding provisions of these rules.