

ALL INDIA SERVICES (COMMUTATION OF PENSION) REGULATIONS, 1959

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ALL INDIA SERVICES (COMMUTATION OF PENSION) REGULATIONS, 1959

In pursuance of rule 25 of the All India Services (Death-cum-Retirement Benefits) Rules, 1958, the Central Government, after consultation with the Governments of the States concerned, hereby makes the following regulations, namely:-

1. Short title :-

These regulations may be called the All India Services (Commutation of Pension) Regulations, 1959.

2. Definitions :-

(1) In these regulations, unless the context otherwise requires,-

¹[(a) 'government' in relation to the members of the Service borne on a joint cadre, means the Joint Cadre Authority.]

(b) 'Medical Board' means a medical board set up by the Government.

(c) 'Member of the Service' means a member of ² [All India-Service as defined in Sec. 2 of the All India Services Act, 1951 (61 of 1951)].

(d) 'Retirement Benefits Rules' means the All India Services (Death-cum-Retirement Benefits) Rules, 1958.

(2) All other words and expressions used in these Regulations but not defined shall have the meanings respectively assigned to them in the Retirement Benefits Rules.

1. Subs. by M.H.A. Notification No. 13/4/71.AB (III), dated 11th January, 1972.

2. Subs. by M.H.A. Notification No. 29/76/66-AIS (II)-B, dated 13th February, 1966.

3. Limit of Commutation :-

(1) A member of the Service shall be entitled subject to the provisions of these Regulation to commute for lump payment any portion¹["not exceeding forty per cent"]to which he was entitled under the Retirement Benefits Rules: ²[Provided that a member of the Service, against whom judicial or departmental proceeding has been instituted or a pensioner against whom any such proceeding has been instituted or continued under sub-rule (1) of rule 6 of the Retirement Benefits Rules shall not be permitted to commute any part of his pension during the pendency of such proceeding.]

³Provided further that if a member of service retiring between the 1st day of January, 1996 and the 31st day of December. 1997 has opted for retaining the pre-revised scale of pay, the commutation of pension in such case shall be admissible in accordance with the rules and orders in force prior to the 1st day of January, 1996.

Explanation.- The compassionate allowance granted to a member of the Service under proviso to sub-rule (1) of rule 5 of the Retirement Benefits Rules, shall be treated as pension for the purpose of commutation under these rules.

(2) Such commutation shall be subject to the following conditions namely:-

(a) if the amount of annual pension is Rs. 2,057 or more, not less than Rs. 1,714 shall remain uncommuted,

and

(b) if the amount of annual pension is less than Rs. 2,057, not more than Rs. 343 shall be commuted, and not less than Rs. 1,371 shall remain uncommuted:

Scope of proviso-- The scope of a proviso is well settled. In Ram Narain Sons Ltd. v. Asstt. Commissioner of Sales Tax, 1955(2) S.C.R. 483, it was held ⁴. "It is a cardinal rule of interpretation that a proviso to a particular provision of statute only embraces the field which is covered by the main provision. It carves out an exception to the main provision to which it has been enacted as a proviso and to no other" ⁴ .

1. Substituted for " not exceeding one-third of the pension ", vide " ALL INDIA SERVICES (COMMUTATION OF PENSION) REGULATIONS, 1959" Dt.19th December, 1997 Published in Ministry of Personnel, Public Grievances and Pensions (Deptt. of Personnel and Training), Nott. No. G.S.R. 718(E), dated December 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th December, 1997, p. 8 [F. No. 25011/24/97-AIS-II-B] [L]

2. Ins. by G.S.R. 227 (E), dated 6th April, 1978.

3. Inserted vide " ALL INDIA SERVICES (COMMUTATION OF PENSION) REGULATIONS, 1959" Dt.19th December, 1997 Published in Ministry of Personnel, Public Grievances and Pensions (Deptt. of Personnel and Training), Nott. No. G.S.R. 718(E), dated December 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th December, 1997, p. 8 [F. No. 25011/24/97-AIS-II-B] [L]

4. State of Punjab v. Kailash Nath, 1989 (1) C.L.R. 60 at p. 64 (S.C.).

4. Communication of anticipatory pension :-

Subject to the provisions of these regulations a member of the Service shall be entitled to commute an anticipatory pension that may be granted to him under rule 27 of the Retirement Benefits Rules. The commuted value of such pension shall be paid to him only after obtaining from him a declaration in the form set forth in Schedule 'A'.

5. Application for commutation :-

(1) An application for commutation of pension shall be addressed to the Government. On receipt of an application for commutation of pension the Government shall transmit to the applicant a copy of the Account Officer's Certificate of the lumpsum payable on commutation in the event of his being reported by a medical board to be a fit subject for commutation and shall at the same time instruct him to appear for examination before the medical board within three months of its order or if he has applied for commutation in advance of the date of his retirement, within three months of that date but in no case, earlier than the actual date of retirement.

(2) The intimation for medical examination shall constitute the administrative sanction to commutation but shall lapse if the medical examination does not take place within the period prescribed in the sanctioning order. If the applicant does not appear for examination before the said medical board within the prescribed period the Government may at its discretion, renew the administrative sanction for a further period of three months without obtaining a fresh application for commutation of pension.

(3) The applicant may withdraw his application by a written notice to the Government at any time before the date of medical examination: Provided that if the medical board directs that his age for the purpose of commutation shall be assumed to be greater than the actual age, the applicant may withdraw application by written notice despatch within two weeks from the date on which he receives information of the revised sum payable on commutation or if the sum is already stated in the sanctioning order, within two weeks from the date on which he receives intimation of the finding of the medical board and if the applicant does not withdraw his application in writing within the period of two weeks prescribed above, he shall be assumed to have accepted the sum offered.

(4) If the applicant requests within the prescribed period that the amount to be commuted might be reduced, this request is tantamount to a withdrawal of his application for commutation; such a request shall be treated as a new application.

(5) Subject to the provision contained in Rg.8 and to the withdrawal of an application under the proviso to sub-regulation (3), the commutation shall become absolute, (i.e. ¹[* * *] the title to receive the commuted value shall accrue), on the date on which the medical board signs the medical certificate.

² [Note.- A pensioner whose application for the commutation of a portion of his pension is expressed as a percentage or fraction of the total pension admissible to him and is allowed in the first instance to commute such percentage or fraction of his anticipatory or provisional pension shall, in event of his final pension being more than his anticipatory or Provisional pension, be allowed to commute a further sum, without producing a fresh certificate of medical examination so as to make the commuted amount equal to the specified percentage or fraction of the amount of pension as finally sanctioned. In such cases, commutation as finally sanctioned shall also take effect from the date of original commutation of the anticipatory or provisional pension and the amount of residual pension shall also be readjusted from the same date.]

GOVERNMENT OF INDIA'S DECISION: A pensioner ~~not~~ required to apply afresh for commutation of the difference between the percentage or fraction of the final pension and the anticipatory Pension. However, as the commutation in such case is payable in two instalments one out of the anticipatory pension and the other after final assessment of pension the report from the Audit officer will have to be called for in the prescribed form for commutation of pension twice. A fresh sanction of the administrative authority for the difference of the commuted value i.e., the maximum value accrued minus value commuted provisionally, will also be necessary. [G.I., MHA letter No. 28/2/60-AIS(II), dated 15-9-1960.]

1. Certain words omitted by Notification No. 11025/1/77-A.I.S. (II), dated 30th August, 1977, i.e. G.S.R. 1197, dated 17th September, 1977, (w.e.f. 11th July, 1975).
2. Ins. by M.H.A. Notification No. 1/3/59-A.I.S. (III), dated 10th February, 1959.

6. Second medical examination :-

Where a pensioner who applied for commutation has once been rejected on the recommendation of the medical board as not being a fit subject for commutation or after he has once declined to accept commutation on the basis of an addition of years to his actual age recommended by such board, he may be allowed to present himself once more before a medical board of medical examination with a view to the revision of the original finding at his own cost, provided that an interval of not less than one year shall elapse between the date of the first medical examination and the date of such subsequent examination. The medical board shall in such a case be furnished with a copy of the report of the medical board which had previously examined the pensioner.

7. Payment of commuted value :-

¹[(1) Payment of the commuted value shall be made to the applicant as expeditiously as possible, but in the case of a member of the service (hereinafter referred to as impaired members) in whose case the medical board

² [(2) The lump sum payable on commutation shall be calculated in accordance with the table given in Schedule B.]

Explanation.- For the purpose of this Regulation the age in the case of the impaired member shall be assumed to be such age not being less than the actual age, as the medical board may direct.

(3) In the event of the table of present values applicable to an applicant having been modified between and the date on which the communication is due to become absolute payment shall be made in accordance with the modified table but it shall be open to the applicant if the modified table is less favourable to him than that previously in force to withdraw his application by notice in writing despatched within fourteen days of the date on which he receives notice the date of administrative sanction to commutation of the modification.

(4) If the pensioner dies on or after the date on which the commutation became absolute but before receiving the commutation value, this value shall be paid to his legal heirs.

1. Subs. by Notification No. 11025/1/77-A.I.S.(II), dated 30th August, 1977 i.e. G.S.R. 1197, dated 17th September, 1977, (w.e.f. 11th July, 1975).
2. Subs. by M.H.A. Notification No. 28/2/62-A.I.S. (II), dated 25th June, 1973.

7A. Special provision for commutation :-

(1) Notwithstanding anything contained in Rg.5 and Rg.6, if a pensioner, who-

¹ [(a) retired under sub-rules (1), (2) and (2A) of rule 16 of the Retirement Benefits Rule,] or

(b) is retired by Central Government under sub-rule (3) of rule 16 of the Retirement Benefits Rules, or

(c) retired under sub-rule (1) of rule 5A of the Retirement Benefits Rules and elected for monthly pension and retirement gratuity,

(2) The provisions contained in sub-regulations (1) to (4) of Rg.7 shall apply mutatis mutandis to commutation of pension under sub-regulation (1) of this regulation.

(3) A pensioner shall have no option to withdraw the application made under sub-regulation (1).

1. Subs. by M.H.A. Notification No. 28/2/62-A.I.S. (II), dated 25th June, 1973.

8. Cancellation of sanction for commutation in certain cases :-

If the applicant makes any statement found to be false within his knowledge or wilfully suppresses any material fact in answer, to any question, written or oral, put to him in connection with his medical examination, the Government may cancel the sanction at any time before payment is actually made and such a statement or suppression may be treated as grave misconduct for the purpose of rule 3 of the Retirement Benefits Rules.

on nte of mterest of 4.75% per annum and the improvement in the mortality late as indicated by the experience 'of Postal Life Insurance Policy holders. Introduced vide DP and AS. notification No. 28/1/71-AIS-11 dated 5th February, 1972. AIS (II), dated 25th June, 1963 and No. M.H.A. Notification 28/1/63-AIS(11), dated 1st April 1964) and amended vfe M.H.A. Name of the member of the Services : Designation: Date of birth: Date of appointment: Details of the members of my funily * as on