

ALL INDIA SERVICES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1958

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ALL INDIA SERVICES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1958

¹1 . Vide M.H.A. Notification No. 1/4/55-A.I.S. (III), dated 18th August, 1958. In exercise of the powers conferred by sub-section (1) of Sec. 3 of the All India Services Act, 1951 (61 of 1951), the Central Government, after consultation with the Governments of the States concerned, hereby mates the following rules, namely:-

1. Short title and application :-

(1) These rules may be called the All India Services (Death-cum-Retirement Benefits) Rules, 1958.

(2)

(a) Subject to the provisions of Cl.. (b) of this sub-rule, they shall apply to all persons who retired from the service on or after the 29th October, 1951.

¹[(b) They do not apply to those members of the Service who were promoted to the service from the State Services or were appointed to the Service under the Indian Administrative Service (Extension to States) Scheme or Indian Police Service (Extension to States) Scheme and who, under order issued by the Central Government before the coming into force of those rules, were given an option in the matter of pension rules, by which they would be governed and who in exercise of that option, chose to be governed by the Superior Civil Services Rules, the Civil Service Regulations, or the pension rules of the State concerned, as the case may be:

²Provided further that nothing contained in these rules shall apply to the persons appointed to the service on or after the 1st day of January, 2004.

GOVERNMENT OF INDIA'S DECISIONS: (1) The Government of India decided to give option to certain categories of officers to elect the old Rules by which they were governed previously of the pension rules as applicable to officers of the Central Services Class I. The following categories of officers were accordingly given the option indicated against them. The option was to be exercised in

writing and communicated to the Accounts Officer within the stipulated time-limit. The option once exercised was final. 2. The officers who elected to be governed by the pension rules as applicable to officers of the Central Services, Class-I, were subsequently brought under these Rules after they were promulgated.

33. Promoted IPS officers who elected to be governed by rules 13 and 14 of Part A and Part B of the Superior Service Rules with effect from 16th December, 1953 shall also be decided as if they had elected to be governed by the special additional pension benefits wherever admissible or by the rules applicable to officers of the Central Services, Class 1.

44. I.P. officers who elected to be governed by rules 6 and 7 from 12-7-1958 to 11-1-1959, further extended up to 8-11-1960 in accordance with Central Services, the case of officer who had opportunity to exercise option to elect to the IPS (Recruitment) Rules, 1954 or may retire in future: and 6 months from these Rules, the State Government may cater to the case of officers who retire before 17-4-1956. sets of Rules is more favourable and the officers may be deemed to have opted for that set of Rules.

55. Officers who were elected to be governed by rules 6 and 7 from 12-7-1958 to 11-1-1959 and III by the Special Recruitment Rules prior to their appointment to the (Extension to States) IAS or by the rules Scheme and were appointed to the IAS of the Central Services Class I.

66. Members of the Service who would have been governed by the All India Service* (Death-WM) or to 21-10-1946 in Retirement Benefit*) the Indian Police but for the confirmation.

77. (i) Members of the Service who on 8-9-1961, were holding Services (Death-cum-

substantively listed (Retirement Benefit*) port* in the Indian Rule*, 1958. Civil Service, other than post in the judiciary. (ii) Members of the Service who would have been confirmed prior to 21-10-1946 in the listed post in the Indian Civil Service but for the ban on such confirmation.

8(2) The Government of India have decided that, where death-cum-retirement gratuity has been drawn under the Liberalised Pension Rule* by an officer who subsequently opted to be governed by the Old Pension Rule*, the gratuity amount shall first be set off against any arrears of pension that may become due to him consequent on opting for Old Pension Rules. The remaining amount if any, may be recovered in one of the following methods. The officer concerned may also be given the option to elect for one of these two methods :- (i) the death-cum-retirement gratuity may be recovered in one lump sum where this is possible or in such number of instalments as, in the opinion of the State Government will not put the officer to undue hardship subject to the condition that the number of such instalments does not exceed twelve. Where the amount is proposed to be recovered in instalments, a bond or other instrument may be taken from the officer binding himself and his heirs to refund the excess of death-cum-retirement gratuity recoverable from him; (ii) the death-cum-retirement gratuity may be treated as the commuted value of pension and adjusted accordingly. This method will be applicable only to those officers who have not already commuted any portion of their pension or have commuted less than the permissible limit, viz., half of the annuity. Where an officer had already commuted to the extent of one-third and becomes eligible for commuting one-half of pension consequent on opting for Old Pension Rules, he need not be subject to a further medical examination. In the case of officers, who had not commuted any portion of their pension earlier the gratuity recoverable from them should be treated as automatic commutation of pension and the revised rate of pension reduced by the pension equivalent of gratuity as on age next birth day after retirement. They need undergo medical examination only in case they desire to commute their pension further. The amount that may become admissible may then be set off against the amount of gratuity already received by the officer and the balance, if any, recovered in one instalment. (2.2) Individual cases of hardship may, however, be referred to the Government of India as and when they arise. **9**(3) It has been decided to extend these rules to officers who retired/died before 29th October, 1951, but elected or are deemed to have elected

these rules under the option given to them. It has also been decided that, in appropriate cases, provisions of article 487-A of the Civil Service Regulations may be applied, although these rules do not contain a similar provision. ¹⁰ (4) A question arose whether Indian Police Officers who elect to be governed by the All India Services (Death-cum-Retirement Benefits) Rules, 1958, had the right to retire under Premature Retirement Rules. Rule 30, has replaced only the corresponding provisions in the Superior Civil Service Rules, the Civil Services Regulations etc., and not the Premature Retirement Rules. The above category of Indian Police Officers shall, therefore, retain the right to retire under the Premature Retirement Rules. In case of retirement under Premature Retirement Rules the pension shall, however, be determined under those Rules, and not under the All India Services (Death-cum-Retirement Benefits) Rules, 1958.

1. Subs. by D.P. and A.R. order No. 31/7/72-A.I.S. (III), dated 22nd May, 1973.

2. Inserted by ALL INDIA SERVICES (DEATH-CUM-RETIREMENT BENEFITS) (2ND AMENDMENT) RULES, 2003

3. [G.I., M.H.A. letter No. 2/16/56-AIS(111), dated 1st August, 1957, read with 2/5/58-AIS(111), dated 28th November, 1958, and 2/21/60-AIS(111), dated 27th June, 1960.1

4. [G.I., M.H.A. letter No. 2/41/57-AIS(111) dated 12th July, 1958, read with letters 2/81/59-AIS(111), dated 1st March, 1960, 2/35/60 AIS(III) dated 30th July 1960 and 2/10/59-AIS(111) dated 9th August, 1960)

5. [G.I, M.H.A. letter No. 2/16/56-AIS(III) dated 1st August, 1957 read with 1/16/56-AIS(m) dated 12th July, 1958.1

6. [G.I" M.H^ . letter No. 2/11/58-AIS(110, ttated 2iKl September, 1959.)

7. [G.I" M.H.A. Notification No. 29/9/60-AIS(111), dated 13th January, 1960.1

8. [G.I., M.H.A. Letter No. 2/16/26-AIS(II) Pt. II, dated 31st March. 1958. read with 2/33/58- AIS(III), dated 8th April, 1959 and 2/43/59-AIS(III), dated 17th June, 1959.]

9. [G.I., M.H.A. letter No. 2/28/59A-AIS(III), dated 24th April, 1959, read with Letter No. 2/41/59- AIS(III). dated 24th August, 1959).

10. [G.I., M.H.A. letter No. 2/10/59-AIS-(III), dated 9th August,

1960].

2. Definition :-

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

(a) "Accounts Officer" means such officer as may be appointed by the Comptroller and Auditor General of India;

¹[(aa) "average emoluments" means the average of the emoluments drawn by a

Note.-(i) If during the test ten months* of his service, a member of the Service has been absent on leave with allowances or having been suspended, has been reinstated without forfeiture of service, his emoluments for the purpose of ascertaining the average should be taken as what they would have been had he not been absent from duty or suspended. (ii) If during the last ten months* of his service a member of the Service has been absent from duty on leave without allowances (not counting of pension) or suspended under such circumstances that the period so passed does not count as qualifying service, the period of such leave or suspension shall be disregarded in the calculation of the average, an equal period before the ten months being included. (iii) In the case of a member of Service who, while on leave preparatory to retirement is confirmed in the higher post which he held in an officiating or temporary capacity before proceeding on such leave, his substantive emoluments in the higher post, which he would have drawn had he been on duty, shall be taken into account for the purpose of calculation of his average emoluments. ²[(iii-a) the

emoluments drawn by a member of the Service during the last ten months* of his service shall count for purposes of calculation of average emoluments only if the pay drawn during the said period is- (a) in a cadre post; and (b) in an ex-cadre post if. it is fully met out of the Consolidated Fund of either the Union or the State;]

³[(iii-b) in the case of a member of the Service who was deputed to any foreign service post during the last 10 months of his service, the pay should be reckoned with reference to his entitlement in the Cadre or the pay which he would have drawn in a post under the Central Government, had he been on Central deputation. For this purpose, the certificate given by the State Government on whose cadre the member is borne regarding the pay the number would have drawn in the cadre or the certificate given by the Central Government regarding the pay he would have drawn in a post

under the Central Government, had he not gone on foreign service, would be treated as sufficient.] (iv) Except as provided in Cls. (i), (ii), (iii), (iii-a) and (iii-b) above, only emoluments actually received shall be included in the calculation. For example, where a member of the Service is allowed to count time retrospectively towards increase of pay but does not receive retrospectively the intermediate periodical increments, these intermediate increments shall not be reckoned in the calculation of average emoluments. (v) Periods of joining time which fall within the last ten months* of service of a member of the Service shall form part of the ten months for the purpose of average emoluments. (vi) Where the emoluments of a member of the Service have been reduced during the last ten months* of his service, otherwise than as a penalty, average emoluments may, at the discretion of Government, be substituted for emoluments for the purpose of calculation of the gratuity or death-cum-retirement gratuity admissible under Rule 18 or Rule 19. (vii) In the case of a member of Service, who while officiating in a higher post proceeds on leave and retires or dies while on leave, the benefit of officiating or temporary pay for purposes of this clause and clause (bb) shall be given only if it is certified that the member of the Service would have continued to hold the higher officiating or temporary appointment but for his proceeding on leave.

(b) "death-cum-retirement gratuity" means the lump sum granted to a member of the Service or his family in accordance with Rule 19;

⁴[(bb) Emoluments means the pay that a member of the service was receiving before his retirement or death, as the case may be : Provided that in the case of a member of the Service retiring from Service within ten months of the date of coming over to the revised scales of pay, the emoluments ⁵["Emoluments" for the purpose of calculation of retirement/Death Gratuity, means the pay and Dearness Allowance that a member of the service was receiving on the date of his retirement/death, as the case may be : Provided further that those who retire between the 1st day of January, 1996 and the 31st day of December, 1997 shall have an option to retain the pre-revised scales of pay and have their pension and death-cum-retirement gratuity calculated under the rules in force immediately before the 1st day of January, 1996. In such cases the term "Emoluments" shall mean the pay which the member of service was receiving before his retirement or death, as the case may be, and will include Dearness Allowance up to AICPI 1436 and

Interim Relief I and Interim Relief II : Provided also that, in case of the persons who retain pre-revised scales (i.e. prior to the 1st day of January, 1996) and retire or die in harness subsequent to the 31st December, 1997, Pension, Retirement Gratuity, Death Gratuity and Family Pension, as may be relevant, shall be calculated in terms of relevant rules as effective from the 1st January, 1996. The emoluments for calculation of pensionary benefits in their case shall be the basic pay in the pre-revised (i.e. prior to the 1st January, 1996) scale, plus Dearness Allowance as admissible up to CPI 1510 in terms of Ministry of Finance Office Memorandum No. 1(5)/96.E 11(B) dated the 20th March, 1996 appropriate to the basic pay plus two instalments of Interim Relief at the rates in force on the 31st December, 1995, appropriate to the said basic pay : Provided also that in the case of a member of service who opts for the revised scales of pay (with effect from the 1st January, 1996) and retires within ten months from the date of coming over to the revised scale, basic pay for ten months period preceding retirement shall be calculated by taking into account, pay as follows:- (i) for the period during which pay is drawn in pre-revised scale - Basic pay plus actual Dearness Allowance and Interim Reliefs I and II appropriate to the basic pay at the rates in force on the 1st January, 1996 drawn during the relevant period; and (ii) for the period during which pay is drawn in revised scale - Basic Pay in the revised scale.] in respect of any period prior to coming over to the ⁶["revised scales of pay as revised with effect from the 1st day of January, 1986."] shall include-

(i) Pay other than special pay in the ⁷["pre-revised scale of ⁸["basic pay"] prior to the 1st January, 1986."];

(ii) Dearness allowance, additional dearness allowance and ad hoc dearness allowance appropriate to pay up to Cost of Price Index 608 actually drawn during the relevant period, and

(iii) Interim relief appropriate to pay actually drawn during the relevant period;]

(c) "gratuity" means the lump sum specified in ⁹[sub-rule (1) of Rule 18] which may be granted to a person retiring from the Service before completion of 10 years of qualifying service;

¹⁰[(cc) Indian Civil Service members of the Indian Administrative Service means a person, who was initially appointed to the Civil Service of the crown in India known as the-Indian Civil Service and who subsequently became a member of the Indian Administrative Service;]

(d) "leave rules" means the All India Services (Leave) Rules, 1955;
11[(e) "leave with allowances" means leave other than extraordinary leave;]

12[(f) "Member of the Service" means a member of an All India Service as defined in section 2 of the All India Services Act, 1951 (61 of 1951);]

13[(g) Pay means the amount drawn monthly by a member of the service as pay, other than special pay, against the post held by him at the time of his retirement from service.]

(h) "pension" means the amount payable monthly under Rule 18 to a person who has retired from the service, in recognition of the services rendered by him to Government;

14[(i) * * *]

(j) "retirement benefits" includes pension or gratuity and death-cum- retirement gratuity where admissible;

15Revised scales of pay" means the scales of pay introduced with effect from 1st day of January, 1996, unless specified otherwise.

(k) "schedule" means Schedule to these rules;

[(l) * * *].

[(m) "State Government" means the State Government on whose cadre the member of the Service was borne immediately before retirement or death and in relation to a member of an All India Service borne on a joint cadre, the joint cadre Authority.]

(2) All words and expressions used in these rules and not defined therein but defined in Pensions Act; 1871 or General Clauses Act, 1897 , or in the Leave Rules shall have the meanings respectively assigned to them in the said Acts or in the said Rules.

GOVERNMENT OF INDIA'S DECISIONS: 1. Note (iii-b) below Cl. (aa) of rule 2(1) provides that in the case of a member of the Service, who was deputed to any foreign service during the last ten months of his service, the pay should be reckoned with reference to his entitlement in the cadre. For this purpose a certificate given by the State Government would be sufficient. A question has been raised whether State Government can issue such a certificate with reference to an ex-cadre post. It has been decided in consultation with the Comptroller and Auditor General of India that the State Government can issue such a certificate with reference to a cadre post only. If a State Government issues such a certificate with reference to a cadre post having regard to the seniority of the officer, its validity cannot be questioned on the ground that the officer concerned never held such a post within the cadre or that

there was no vacancy in the cadre during that period against which the certificate has been issued by the State Government. **16**2. It has been decided that the additional charge allowance granted to a member of the All India Service under rule 9-B of the IAS (Pay) Rules or the corresponding roles applicable to the IPS and IPS should be treated as pay for the purpose of calculation of pension. Rule 2 for calculating pension and gratuity*. However, there will be no change in the maximum amount of gratuity of Rs. 30,000.00 admissible under Rule 19 or in the minimum emoluments of Rs. 2,000.00 per month that could be taken into account for computing DCR gratuity, as envisaged in Note below Rule 19. The amount of dearness pay as indicated in para 2 above, will be taken into account for determining average emoluments as envisaged in sub-rule (1)(M) of rule 2 for calculating pension except as stated in para 3.2 below. In the case of officers who have already retired on or after 30th September, 1977/1st December, 1978 but within 10 months of those dates, the average emoluments will be calculated as follows: Rule 2 in the case of members of the Service who retired/retire on or after 31st January, 1982. Rule 2 for calculating pension and gratuity. It is proposed to revise the ceiling of DCR Gratuity from Rs. 30,000 to Rs. 36,000 by suitably amending Rule 19(3). However, there will be no change in the maximum emoluments of Rs. 2500 p.m. that could be taken into account for computing DCR gratuity as envisaged in the note below Rule 19. 4. The amount of dearness pay as indicated in para 2 above will be taken into account for determining average emoluments as envisaged in sub-rule (1)(a) of Rule 2 for calculating pension except as indicated in para 5 below. 5. In the case of officers who have already retired on or after 31st January 1982 or may retire hereafter, but within ten months from that date, the ultimate average emoluments will be calculated as follows: **17**(5) A case has arisen in which orders were issued by the Central Government reverting a member of an All India Service on deputation to the Central Government to his parent cadre, but instead of joining duty under the State Government, the member of the Service gave three months notice to the State Government under sub-rule (2) of Rule 16 and applied to the Central Government for grant of leave co-terminus with the period of notice. This leave was granted by the Central Government and the officer proceeded on leave preparatory to retirement and retired from service on the expiry of the leave. A question was raised as to the emoluments for this leave period which should be taken into account for computing the

average emoluments of this officer for the ten months prior to the date of his retirement from service for determining the retirement benefits admissible to him. 2. The matter has been carefully examined in consultation with the Ministry of Law (Deptt. of Legal Affairs). The emoluments for the leave period in this case which should be taken into account for the purpose of computing the average emoluments of the last ten months of the service should be determined the manner laid down in Note 1 below Rule 2(1) (aa). In the present case though the Central Government has passed orders reverting the officer to his parent cadre, yet he did not assume charge of any post under the State Government and instead proceeded on leave preparatory to retirement sanctioned by the Central Government. Therefore, for the purpose of the above note, the emoluments for the leave period should be taken as what they would have been had he not been absent from duty from the post he was holding under the Central Government before he proceeded on such leave. 3. The aforesaid Note 1 below Rule 2(1) ((aa) provides a self-regulating procedure to determine the emoluments in such cases and does not call for the issue of a certificate either by the Central Government or by the State Government as to the emoluments which should be taken into account for computing the average emoluments in the circumstances mentioned in that Note. Keeping in view the position explained above, it has been decided that in the case of a member of an All India Services on deputation of the Central Government who takes leave in continuation of the deputation and retires at the end of the leave, it may be deemed that he would have continued to officiate in the post under the Central Government which he was holding immediately before proceeding on leave but for proceeding on such leave and accordingly his average emoluments should be determined for the purpose of calculation of retirement benefits. **18**

1. Ins. by DP and AR Notification No.33/12/73-AIS(III), dated 24th January, 1975. read with Notification No. 25011/29/75-AIS (II), dated 30th January 1976 i.e. (GSR No. 196.dated 14th February, 1976 w.e.f. 31st December 1972)

2. Ins. by Notification No.25011/66/75-A.I.S. (II), dated 22nd May, 1976, i.e. G.S.R. 758, dated 5th June, 1976.

3. Subs. by G.S.R. 91 Dated, 30th January, 1989 (w.e.f.) 25th Feb 1989.

4. Subs. by G.S.R. 522 (E), dated 22nd May, 1987, (w.e.f. 1st January, 1986).

5. Inserted vide " ALL INDIA SERVICES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1958" Dt.19th December, 1997 Published in Ministry of Personnel, Public Grievances and Pensions (Deptt of Personnel and Training), Noti. No. G.S.R. 717(E), dated December 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th December, 1997, pp. 5-6, No. 501 [F. No. 25011/24/97-AIS-11-A][L]

6. Substituted for "revised scales of pay ", vide " ALL INDIA SERVICES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1958" Dt.19th December, 1997 Published in Ministry of Personnel, Public Grievances and Pensions (Deptt of Personnel and Training), Noti. No. G.S.R. 717(E), dated December 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th December, 1997, pp. 5-6, No. 501 [F. No. 25011/24/97-AIS-11-A] [L]

7. Substituted for "pre-revised scale", vide " ALL INDIA SERVICES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1958" Dt.19th December, 1997 Published in Ministry of Personnel, Public Grievances and Pensions (Deptt of Personnel and Training), Noti. No. G.S.R. 717(E), dated December 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th December, 1997, pp. 5-6, No. 501 [F. No. 25011/24/97-AIS-11-A] [L]

8. Substituted for "pay", vide " ALL INDIA SERVICES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1958" Dt.19th December, 1997 Published in Ministry of Personnel, Public Grievances and Pensions (Deptt of Personnel and Training), Noti. No. G.S.R. 717(E), dated December 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th December, 1997, pp. 5-6, No. 501 [F. No. 25011/24/97-AIS-11-A][L]

9. Subs. by D.P. and A.R. Notification. No. 25011/14/79-A.I.S.(III), dated 1st September, 1979 i.e. G.S.R. 1151, dated 15th September, 1979 (w.e.f. 31st March. 1979).

10. Ins. by D.P. and A.R. Notification No. 31/7/72-A.I.S. (III), dated 22nd May. 1973.

11. Subs. by M.H.A. Notification No.29/41/64-A.I.S.(II), dated 8th April, 1965.

12. Subs. by D.P. and A.R. Notification No.29/76/66-A.I.S.(II)-A, dated 13th December, 1966.

13. Subs. by G.S.R. 522(E), dated 22nd May, 1987, (w.e.f. 1st January, 1986).

14. Clause (i) omitted by O.S.R. 522(E), dated 22nd May, 1987 (w.e.f. 1st January, 1986).

15. Substituted for " 8 [(jj) "Revised scales of pay" means the scales of pay introduced with effect from 1st day of January, 1986."], vide " ALL INDIA SERVICES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1958" Dt.19th December, 1997 Published in Ministry of Personnel, Public Grievances and Pensions (Deptt of Personnel and Training), Noti. No. G.S.R. 717(E), dated December 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th December, 1997, pp. 5-6, No. 501 [F. No. 25011/24/97-AIS-11-A][L]

16. [DP and AR No. 25011/56/77-AIS(II), dated 16th February, 1978.]

17. DP and AR letter No.25011/11/82-AIS(II), dated the 1st June, 1982 read with Letter No. 25011/11/82-AIS(II), dated 10th May 1982.

18. DP and AR letter No.25011/9/82.AIS(II), dated 7th May, 1983.

3. General Conditions :-

(1) Future good conduct of the pensioner is an implied condition of every grant of pension and its continuance.

(2) The Central Government may withhold or withdraw any pension or any part of it, for a specified period or indefinitely, on a reference from the State Government concerned, if after retirement a pensioner is convicted of a serious crime or be guilty of grave misconduct: ¹ [Provided that no such order shall be passed without consulting the Union Public Service Commission.]

(3) The decision of the Central Government on any question of withholding or withdrawing the whole or any part of the pension under sub-rule (2) shall be final.

1. Ins. by Notification No.25011/22/82-AIS(II), dated 16th July, 1983 i.e. G.S.R. 557, dated 30th July, 1983.

4. Limitation :-

A member of the Service cannot earn two pensions in the same office at the same time or by the same continuous service.

5. Removal, Dismissal or Resignation from Service :-

(1) No retirement benefits may be granted to a person who has been dismissed or removed from the Service or who has resigned from the Service: Provided that, if the circumstances of the case so warrant the State Government may grant to a person who has been dismissed or removed from the service a compassionate allowance not exceeding two-thirds of the retirement benefits which would have been admissible to him if he had been invalidated and not dismissed or removed from the Service.

(2) Subject to the provisions of Rule 5A, where a member of the service is required to retire or resign from the Service as a condition of his appointment under a Statutory or other body, he shall be granted the retirement benefits to which he would have been entitled if he had been invalidated from the service and not resigned or retired.

GOVERNMENT OF INDIA DECISION : In the case of P.K. Gnanasundara Mudaliar V. State of Madras, the Madras High Court has held that when a Government servant is appointed as a Member or Chairman of the Public Service Commission, he ceases thenceforth to be in the service of the Government. The Government of India have accordingly reviewed the position in the light of the judgment under reference, and in supersession of their letter No. 15/6/63-AIS(II), dated the 4th October, 1965, have decided that an officer of an All India Service on his appointment as Chairman or Member of a Public Service Commission shall cease to be a member of the Service from the date he assumes office in the Public Service Commission. His lien on the post held by him or in the cadre shall stand terminated. He shall also cease to be governed by the Rules framed under the All India Services Act in the matter of pay, leave and pension, etc., which will be regulated in accordance with the regulations framed by the President/Governor, as the case may be, in terms of Article 318 of the Constitution. In order to ensure that the officer concerned does not stand to lose benefits of pension, leave and other service benefits, which had accrued to him as a member of an All India Service, prior to his appointment to the Public Service Commission the State Government may kindly take into consideration the following suggestions, while revising the relevant regulations:- ¹

[(4) The Officer may be permitted to carry forward all the leave at his credit at the time of assumption of office in the Commission. Such leave and also the leave earned by him during his tenure in

the Commission may be availed of by the officer before his retirement from the service of the Commission. No leave may be granted so as to extend the tenure of the officer in the Commission. The State Government may, however, make a provision in the State Public Service Commission Regulations to the effect that Chairman/Member, Public Service Commission shall be paid cash equivalent of leave salary in respect of unutilised portion of earned leave at his credit at the time of demitting office, on the lines of the provisions contained in regulation 7-A of the U.P.S.C. (Members) Regulations, 1969." (5) The officer may also be permitted to contribute to the Provident Fund under the relevant rules and also to carry forward his balance in the AIS Provident Fund to the new fund account.

1. Vide MHA Letter No. 15/11/67-AIS(II), dated 26th July, 1969 read with DP and AR Letter No. 11019/9/80-AIS(III), dated 7th June, 1980.

5A. Permanent Absorption of Members of the Service in or under a Corporation, Company or body :-

[. ¹(1) Notwithstanding anything contained in Rule 5, a member of the Service, who has been permitted by the Central Government to be absorbed in service or post in or under a corporation or company wholly or substantially owned or controlled by the Central Government or in or under a body controlled or financed by the Central Government, shall be deemed to have retired from Service from the date of such absorption and shall be eligible to retirement benefits in accordance with the orders issued by the Central Government in respect of officers of Central Civil Services Group A.

²[(2) * * * * *]

¹ [(3) A member of the Service referred to in sub-rule (1) shall not be governed by the provisions of Rule 22 or Rule 22B as the case may be, if his family is entitled to family pension under the rules of the organisation in which he is permitted to get absorbed permanently.]

GOVERNMENT OF INDIA'S DECISION: It has been decided that the pay of an officer on re-employment after retirement in a public sector undertaking should be fixed in accordance with the Ministry of Finance (Bureau of Public Enterprises) O-M.No. 2(57)-68-BPE (GM), dated 23rd September, 1969.

1. Subs. by Notification No. 25011/46/76 AIS(IIA), dated 28th

March, 1978. i.e. G.S.R. 450, dated 8th April, 1978.

2. In Rule 5-A, sub-rule (2) shall be omitted by All India Service (Death-cum-Retirement Benefits) Amendment Rules, 2002, Noti. No. G.S.R. 49(E) dated January 18, 2002, published in the Gazette of India, Extra., Part II, Section 3(i), dated 18th January, 2002, page 2, No.39

6. Recovery from pension :-

[

(1) ["The Central Government reserves to itself the right of withholding a pension or gratuity, or both, either in full or in part, whether permanently or for a specified period, and of ordering recovery from a pension or gratuity"] of the whole or part of any pecuniary loss caused to the Central or a State Government, if the pensioner is found in a departmental or judicial proceedings to have been guilty of grave misconduct or to have caused pecuniary loss to the Central or a State Government by misconduct or negligence, during his service, including service rendered on re-employment after retirement : ¹[Provided that no such order shall be passed without consulting the Union Public Service Commission:] Provided further that-

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

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

(i) shall not be instituted save with the sanction of the Central Government;

(ii) shall be in respect of an event which took place not more than four years before the institution of such proceedings; and

(iii) shall be conducted by such authority and in such place or places as the Central Government may direct and in accordance with the procedure applicable to proceeding on which an order of dismissal from service may be made;

(c) such judicial proceeding, if not instituted while the pensioner was in service, whether before his retirement or during his re-

employment, shall not be instituted in respect of a cause of action which arose or an event which took place more than four years before such institution.

Explanation.- For the purpose of this rule :- (a) a departmental proceeding shall be deemed to be instituted when the charges framed against the pensioner are issued to him or, if he has been placed under suspension from an earlier date, on such date; and (b) a judicial proceeding shall be deemed to be instituted- (i) in the case of criminal proceedings, on the date on which a complaint is made or a charge-sheet is submitted to the criminal court; and (ii) in the case of civil proceedings, on the date on which the plaint is presented or, as the case may be, an application is made, to a civil court.

["Note-1- Where a part of the pension is withheld or withdrawn, the amount of such pension shall not be reduced below the amount of rupees three hundred and seventy-five per mensem. Note-2- Where Central Government decides not to withhold or withdraw pension but orders recovery of any pecuniary loss from pension, the recovery shall not ordinarily be made at a rate exceeding one-third of the pension admissible on the date of retirement of the member of the service."]

(2) Where any departmental or judicial proceeding is instituted under sub-rule (1), or where a departmental proceeding is continued under clause (a) of the proviso thereto against an officer who has retired on attaining the age of compulsory retirement or otherwise, ²[he shall be sanctioned by the Government which instituted such proceedings], during the period commencing from the date of his retirement to the date on which, upon conclusion of such proceeding, final orders are passed, a provisional pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service upto the date of retirement, 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; but no gratuity or death-cum- retirement gratuity shall be paid to him until the conclusion of such proceedings and the issue of final order thereon: ³[Provided that where disciplinary proceeding has been instituted against a member of the Service before his retirement from service under rule 10 of the All India Services (Discipline and Appeal) Rules, 1969, for imposing any of the penalties specified in Cls. (i), (ii) and (iv) of sub-rule (1) of rule 6 of the said rules and continuing such proceeding under sub-rule (1) of this rule after his retirement from service, the payment of

gratuity or Death-cum-Retirement gratuity shall not be withheld.]

(3) Payment of provisional pension made under sub-rule (2) shall be adjusted against the final retirement benefits sanctioned to the pensioner upon conclusion of the aforesaid proceeding, but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld either permanently or for a specified period.

GOVERNMENT OF INDIA'S DECISIONS⁴(1) The Government of India has decided that recovery from pension of the whole or part of any pecuniary loss caused to the Central or a State Government should not ordinarily be made at a rate exceeding one-third of the gross pension originally sanctioned, including any amount, which may have been commuted. rule 65 and S.74 of the C.C.S. (Pension) Rules, 1972 shall be sanctioned hundred per cent of the pension normally admissible to them as provisional pension vide their O.M. No. 4(1)-E (V) (A)/78, dated the 28th February, 1978, copy (annexed).⁵ 2. Under sub-rule (2) of Rule 6, the State Government is competent to sanction provisional pension to an All India Service Officer against whom departmental/judicial proceedings under sub-rule (1) of this rule, are instituted/continued by them and in cases where such proceedings are instituted/continued by the Central Government, the Central Government is the competent authority to sanction provisional pension. The State Government may like to follow the instructions contained in the Ministry of Finance O.M., dated 28th February, 1978, referred to above while granting provisional pension to All India Services Officers against whom departmental/judicial proceedings are instituted/continued by them. It has been decided that the instructions contained in the said O.M. will be applied while dealing with the cases of All India Service Officers against whom departmental/judicial proceedings are initiated/continued by the Central Government. r.65 of the C.C.S. (Pension) Rules, 1972 and S.74 of the Central Civil Services(Pension) Rules, 1972. It has been brought to the notice of this Ministry that in spite of this clarification provisional pension is not being authorised by some Heads of Offices where departmental/judicial proceedings are pending against a retiring Government servant. Since non-payment of the provisional pension causes avoidable hardship to such Government servants, and the Heads of Offices have no discretion in this matter, it is again emphasised that the provisional pension must be sanctioned in all such cases in accordance with the rules. Non-compliance with this rule will be viewed seriously by Government. 2. Rule 65 and Rule

74 inter alia provide that the provisional pension in such cases should not exceed the maximum pension which would have been admissible on the basis of the qualifying service upto the date of retirement of the Government servant. It has been reported that the discretion vested in the Heads of Offices by these rules which lay down the ceiling for provisional pension, is being used by them to pay less than hundred per cent of the admissible pension. The matter has been considered and it has been decided that even in cases covered by the above mentioned rules hundred per cent pension, which is otherwise admissible to the Government Servants should be authorised as provisional pension, as in cases of normal retirement. No gratuity shall however be paid at this stage. 3. The instructions contained in Office Memorandum No. 14(3)EV(A)/76. dated 28th February, 1976 that provisional pension will become final after six months if no otherwise finalised, will not apply to the provisional pension granted in cases where departmental or judicial proceedings are pending. In these cases the pension can be finalised only after the proceedings are concluded and decision taken in the light of these proceedings.

1. Ins. by DP and AR Notification No.25011/22/82-AIS(II), dated 16th July, 1983 i.e. G.S.R. 551, dated 30th July, 1983.

2. Subs. by Notification No. 25011/30/77-AIS(II), dated 10th July, 1978 i.e. G.S.R, 422, dated 22nd July, 1978.

3. Subs. by DP and AR Notification No.25011/22/82-AIS (II), dated 16th July, 1983 i.e. G.S.R. No. 557, dated 30th July, 1983.

4. [G.I., MHA Letter No. 2/27/60-AIS(III), dated 27th June, 1960.]

5. [DP and AR letter No. 25011/5/79-AIS(II), dated the 31st August, 1979.] [ANNEXURE TO DP and AR LETTER N05011/5/79-AIS (II), DATED 31ST AUGUST, 1979.] Copy of Ministry of Finance, Department of Expenditure O.M. No. 2, dated 28th February, 1978.

7. Compulsory Retirement as a Measure of Penalty :-

(1) A member of the Service who as a measure of penalty is compulsorily retired from the Service by the Central Government in accordance with the provisions of the All India Services (Discipline and Appeal) Rules, 1969, may be granted retirement benefits on the basis of his qualifying service on the date of Such compulsory retirement on the appropriate scales admissible under Rule 18 and

Rule 19: [Provided that, if the circumstances of the case so warrant, the Central Government after consultation with the Union Public Service Commission may direct that the retirement benefits shall be paid at such reduced scales as may not be less than two-thirds of the [retirement benefits under Rule 18 and Rule 19.]

[(2) The family of a member of the Service who is compulsorily retired from the service as a measure of penalty shall be entitled to a family pension under Rule 22, Rule 22A, or Rule 22B, as the case may be. For the purpose of Rule 22, the family pension shall be admissible for maximum period of five years from the date of compulsory retirement.]

GOVERNMENT OF INDIA'S DECISIONS ¹ The Government of India have decided that where, under Rule 7, it is proposed to pass an order, original, appellate or in exercise of powers of review, granting a pension less than the appropriate scales indicated in Rule 18, the Union Public Service Commission should by convention be consulted before the order is passed.

1. [G.I., MHA letter No. 29/20/63-AIS(II), dated 5th August, 1965.]

8. Qualifying service :-

(1) Unless provided otherwise in these rules, qualifying service of a member of the Service for purposes of these Rules begins from the date of his substantive appointment to the Service: Provided that in the case of a member of the Service appointed initially on probation the period of probation shall also count as qualifying service.

(2) Any period of service under the Central or a State Government rendered by a member of the Service prior to his appointment to the Service shall count as qualifying service under these rules to the extent to which such service would have ¹[Provided that temporary or officiating service, followed without interruption by confirmation in the same or another post, shall count in full as qualifying service except in respect of periods of temporary or officiating service in non-pensionable establishment.]

Explanation.- For the purposes of this rule- (1) Leave of any kind or suspension followed by reinstatement does not constitute a break.

(2) Service under a State Government includes the service rendered before migration into India as a result of the partition in

States which have since become part of Pakistan, breaks in service, if any, caused at the time of such migration due to reasons beyond the control of the member of the Service may be condoned by the State Government but the period of break or breaks will be ignored in determining the total length of qualifying service.

²[(2A) The period of service rendered under an autonomous body, wholly or substantially owned or controlled by the Central Government and taken over by it, by a member of the Service who left the service of that body at any time prior to its take-over by the Central Government and who later on joined Government Service with or without break, shall count as qualifying service for pension under these rules to the extent and subject to the conditions under which such service is counted as qualifying service for pension under the Central Civil Services (Pension) Rules, 1972 or under any orders issued by the Central Government in this behalf.]

³[* * *]

(4) A member of the Service who rendered ⁴[war military service,] before his appointment to an All India Service shall count that service as qualifying service to the extent to which such service is counted as qualifying for pensions under Central Civil Services (Pension) Rules, 1972 or under any orders that might be issued by the Central Government in this behalf.

⁵[(5)

(a) A member of the Service who, prior to his appointment to the Service, held a post in the General Administrative Reserve or a post under Government on a contract basis, shall have the option to count the period of his service in such post in full as qualifying for pension under these Rules. Provided that such service is otherwise continuous and that he did not draw inflated rates of pay by reason of the absence of retirement benefits.

(b) The option under Cl. (a) shall be exercised within a period of three months from the 31st December, 1962 or within three months from the date of appointment to the Service, whichever is later. The option, once exercised, shall be treated as final.

(c) Where a member of the Service exercises the option to count his previous service in the General Administrative Reserve or on contract basis, the amount of Government contributions with interest thereon standing to his credit in any ⁶[credited to the Consolidated Funds of the Constituent States, in such proportion as may be prescribed by the Joint Cadre Authority] while the amount

of his own subscriptions to that fund, if not already withdrawn, together with interest thereon, shall be transferred to his account in the All India Service Provident Fund : Provided that in a case where the Government contributions have already been paid to the member of the Service, he shall be required to refund them with interest from the date of payment to the date of final refund in a suitable number of instalments, to be prescribed by the State Government.

⁷[(6) A member of the Service who prior to his appointment to the Service held a post under Government carrying contributory provident fund benefits shall have the option to count as qualifying service the whole of the period of his service in such a post during which he actually subscribed to the contributory provident fund. The option under this sub-rule shall be exercised within a period of three months from the 31st December, 1962 or within three months of appointment to the Service, whichever is later. The option once exercised shall be final. Where a member of the Service exercises the option, the amount of Government contribution together with interest thereon standing to his credit in that fund shall be surrendered and credited to the Consolidated Fund of the State on whose cadre he is borne while the amount of his own subscriptions to that fund if not already withdrawn, together with interest thereon, shall be transferred to his account in the All India Services Provident Fund: Provided that in a case where the Government contributions have already been paid to the member of the Service, he shall be required to refund them with interest in a suitable number of instalments to be prescribed by the State Government.]

(7) Foreign service rendered by a member of the Service shall count as qualifying service provided that contributions towards the cost of retirement benefits of the member of the Service, at such rates as the Central Government may prescribe from time to time have been paid either by the foreign employer, or, failing that, by the member of the Service himself, in respect of the entire period of foreign service, unless the payment of contributions have been waived by Government.

(8) Authorised Joining Time availed of by a member of the Service shall count as qualifying service.

⁸[(8A) A member of the Service, who had participated in the national movement and who entered Government service by availing himself of the concession of relaxation of age in terms of the Ministry of Home Affairs office Memoranda No. 15/21/48-Ests,

dated the 29th November, 1948 and No. 6/1/51-NGS, dated the 14th February, 1951 or corresponding orders, if any issued by the State Government in this regard, shall be allowed to add to his qualifying service, only for superannuation pension purpose, a period not exceeding one-fourth of the length of his service or the actual period by which his age at the time of recruitment exceeds 25 years, a period of 5 years, whichever is the least.]

[(9) The qualifying service shall be calculated in six monthly periods. A fraction of less than three months shall not be taken into account and any period between three months and six months shall be treated as a six monthly period in calculating the total qualifying service.]

[NOTE.- A member of the service who was not entitled to receive the Governments share of the contribution in the Contributory Provident Fund in respect of any service rendered prior to his appointment to the Service, on the ground that he did not put in the minimum period of service under the rules of the said Fund, shall be deemed to have opted for counting that service as qualifying for pension under sub-rules (5) or (6) of this rule. But the Governments contribution to the Contributory Provident Fund, together with interest accrued thereon shall be transferred to the accounts of the State on whose cadre he is borne and that State shall bear the pensionary liability for the said service.]

GOVERNMENT OF INDIAS DECISIONS⁹(1) The Government of India have decided that the rates of position contributions, in respect of officers of the All India Services on foreign service in or out of India, shall be the same as those applicable to officers of the Central Services, Class 1, viz., the rates which are laid down in Appendix 11-A in Volume-II of the A.G.P. and T's Compilation of the Fundamental and Supplementary Rules. ¹⁰(2) It has been decided to extend the period within which option under sub-rules (5) and (6) should be exercised, upto 31st October, 1963. ¹¹(3) A member of the Service, prior to his joining the Service, was serving in the Ministry of Defence on contract basis, according to the terms of which he was entitled to bonus. It was decided in his case that his previous service might be treated as temporary contract service, although he was not entitled, to any contributory provident fund benefits for the same, and counted as qualifying service to the extent of [half] under sub-rules (2) and (5) subject to his refunding to Government the bonus that he had drawn, together with interest thereon from the date of payment to the date of final refund. The position has since been modified to the extent indicated in the

revised sub-rule (2-A) (a) of Rule 8. **12**(4) These rules do not contain any provision corresponding to article 423 of the Civil Service Regulations. Deficiencies in qualifying service of members of the Service cannot, therefore, be condoned. [(v) * * * *]

13(5.2) The Government of India have also decided that in case where an officer is entitled in respect of the "war service" rendered between 3rd September, 1939, and 1st April, 1946, to the concession on under Art. 357-C or Art. 357-D of the Civil Service Regulations, he may either avail himself of the concession under paragraph 1 above in respect of the whole of his military service, including War Service or count the service rendered during the war period for civil pension under Article 357-C or Article 357-D as the case may be, and the remaining service rendered before or after the war period to the extent of one-half of that service. If, however, in the latter case the officer concerned has rendered any military service pensionable under the military rules and satisfying the condition laid down in Article 356 of the Civil Service Regulations, before or after the war period, but did not earn a pension by his War Service in conjunction with his military service, he shall be allowed to count it in full on his refunding an amount of gratuity which shall bear the same proportion to the total amount of gratuity received in lieu of pension as the period deal with under article 356 bears to the total period of military service including the period of war service. **14**(6.2) As regards sub-rule (2), it would apply to military service as distinguished from and not rendered in conjunction with, war service, to which sub-rules (3) and (4) apply. In the case of military service, that counts as qualifying service under sub-rule (2), the conditions of such service being continuous cannot be relaxed. **15**(7) A question arose whether the previous qualifying service of Uttar Pradesh State Services Officers, who were promoted to the Indian Administrative Services, should be regulated by sub-rule (2) or sub-rule (6), in view of the fact that they held pensionable posts under the State Government carrying Contributory Provident Fund benefits. It was decided in the case that their previous pensionable service automatically counted as qualifying service under sub-rule (2) and as such it was not necessary to invoke the provisions of sub-rule (6). **16**(8.2) The continuity referred to in sub-rule (2) is not continuity within State Service but continuity between State Service and the Indian Administrative/Police Service. Breaks within State Service, to which the rules do not apply, can, therefore, be condoned, provided State

Pension Rules permit condonation of such breaks. **17**(9) The I.N.A. Service, which has been recognised by the Ministry of Defence for the purpose Of pension and gratuity shall be treated as Military Service/War Service and shall count as qualifying service to the extent and subject to the conditions stipulated in sub-rule (4). **18**(10.2) Sub-rule (4) does not make any distinction between the war service in military capacity and civil capacity. In view of this, the Government of India have decided that even the service of a civilian officer paid from Defence Estimates, which has been declared as war service in certain circumstances should be regulated under sub-rule (4). **19**(11) Under sub-rule (2), the service rendered by an officer under the Central or a State Government shall count as qualifying service for purposes of pension etc. to the extent admissible under the rules applicable to him prior to his appointment to the Indian Administrative/Police Service, as they stand on the date of his retirement from the Service. In other words, the service rendered by him prior to his appointment to the Indian Administrative/Police Service shall be treated according to the Pension Rules of the Central or the State Government, as the case may be which were applicable to him prior to such appointment and as arc in force at the time when he retires from service. **20**(12) The Government of India have held that the proviso to sub-rule (2) of Rule 8 applies also to a case where an AIS officer befort his appointment to the Service, had held one or more posts in a temporary capacity including service as a probationer (without being confirmed in any of them) followed by his appointment to the IAS/IPS and eventual confirmation in it. This is subject to the other conditions laid down in the said proviso. **21**(13) The Government of India have held that "War Service Candidates are persons who had rendered during the World War II satisfactory paid wholtime enlisted or Commissioned "War Service" between the 3rd September, 1939 and the 1st April, 1946 by itself or in conjunction with other military service in the Armed Forces of India or similar forces of a Commonwealth country which did not earn a service pension under the Military, Naval or Air Force Rules. Service in the Civil Defence Department during World War II has also been treated as "War Service" vide Ministry of Finance OM No. F. 3(8)- EVA/62, dated 18th May, 1962. **22**(14) The Government of India held that under sub-rule (2) of Rule 8, the service rendered by an officer under the Central or State Oovernment shall count as qualifying service for purposes of pension etc., to the extent

admissible under the rules applicable to him prior to his appointment to the Indian Administrative Service/Indian Police Service. In other words, the services rendered by him prior to his appointment to the IAS/IPS shall be treated according to the Pension Rules of the Central or the State Government concerned as the case may be, which were applicable to him prior to such appointment and as are in force at the time when he retires from service. **23**(15) The Government of India have decided that the orders contained in the Ministry of Finance O.M. No. F. 3(29)-EV(A)/64, dated the 3rd June, 1965 (Annexure-A) will apply to the All India Services Officers governed by the AIS (DCRB) Rules, 1958 by virtue of Rule 8(4). **24**(16) It has been decided that the temporary or officiating service including service as a probationer mentioned in the Government of India Decision No. 12 below Rule 8 refers not only to service under the State Government but also to service under the Central Government. **25**(17) In partial modification of the instructions contained in Department of Personnel and AR letters No. 25011/48/78-AIS (II), dated the 6th November, 1978 and 26th April, 1979 it has been decided to lay down the following procedure for verifying the service rendered by a member of an All India Service on completion of 20 years of service:- (i) States where accounts have not been separated from Audit or the simplified procedure of payment of salaries to Gazetted Officers, as in Central Government has not been introduced.- It will be the responsibility of the Accountant General to verify the service rendered by a member of an All India Service on completion of 20 years of Service and communicate the result of verification to the officer concerned. (a) In States where Accounts have been transferred from Audit or where accounts have not been transferred, but the simplified procedure of payment of salaries to Gazetted Officers, as in the Central Government, have been introduced.- It will be the responsibilities of the State Government/Union Territory Administration to verify the service rendered by a member of the service on completion of 20 years of service, in consultation with the Accountant General concerned, if found necessary and communicate the result of verification to the officer concerned. **26**(18) According to the provisions contained in sub-rules (2) to (6) of Rule 8, service rendered by a member of an All India Service before his appointment to the service under the Central Government or a State Government will count as qualifying service for pension subject to the fulfilment of the conditions laid

down therein. Requests have been received from a few members of the Indian Administrative Service for counting the service rendered by them under the Central Government and/or a State Government before their appointment to the IAS as qualifying service for pension. Under Rule 8 approval of the Central Government is not necessary for counting the previous service rendered by a member of the service as qualifying service for pension, provided the conditions laid down therein are satisfied. In such cases the Government of the State on whose cadre the officer is borne/the Accountant General concerned, will have to take necessary action in consultation with the Central Ministry/Department or the State Government concerned, if the officer had worked under the Central Government or another State Government, as the case may be, before joining the All India Service, to count such service as qualifying service for pension under Rule 8 . The State Governments were, requested that in future requests made by members of All India Services for counting the previous service rendered by them as qualifying service under Rule 8 need not be forwarded to the Central Government; the State Government themselves may process such cases in consultation with the authorities concerned and issue necessary orders. If any clarification is required or condonation of break in service is involved a reference may be made to the Department of Personnel and ARS in the case of members of the Indian Administrative Service, the Police Division of the Ministry of Home Affairs in the case of members of the Indian Police Service and the Department of Agriculture in the case of members of the Indian Forest Service.

27(19) It has been provided in the Department of Personnel and AR letter No. 13/27/74-AIS (II), dated 17th January, 1975 (copy annexed) that the terms of deputation of a member of an All India Service who is serving in connection with the affairs of a State and who is deputed to public sector undertakings etc. controlled by the Central Government should be issued by the Ministry/Department of the Central Government which is administratively concerned with that organisation in consultation with the State Government or Joint Cadre Authority on whose cadre the officer is borne. A doubt was raised whether in such cases the pension/leave salary contributions in respect of the officer should be paid by the organisation to the Central Government or to the State Government on whose cadre the officer is borne. It has. been clarified that in all cases where a member of an All India Service is deputed for foreign service under a public sector undertaking etc. owned or controlled

by the Central Government, the pension/leave salary contributions should be paid to the State Government on whose cadre the officer is borne. the All India Services (Leave) Rules, 1955, the All India Services (Conduct) Rules, 1968 and the All India Services (Discipline and Appeal) Rules, 1969 provide that a member of an All India Services whose services are placed at the disposal of a company, corporation etc. by the Central Government or the Government of a State shall, for the purpose of these rules, be deemed to be a member of the Service serving in connection with the affairs of the Union or in connection with the affairs of that State, as the case may be. By virtue of the provision contained in these rules, if the terms of deputation of a member of an All India Service, deputed to a public sector undertaking controlled by the Central Government are issued by a State Government, Government in his case will be the State Government concerned. It is, however, only proper that such a member of the Service should be under the control of the Central Government for the purposes of these Rules. In view of this, the terms of deputation of a member of an All India Service who is serving in connection with the affairs of a State and who is deputed to a public sector undertaking etc. controlled by the Central Government should be issued by the Ministry/Department of the Central Government which is administratively concerned with that organisation in consultation with the State Government or Joint Cadre Authority on whose cadre the officer is borne. ²⁸(20) Requests from members of Indian Administrative Service for counting the service rendered by them under the Ministry of Railways before their appointment to the Indian Administrative Service as qualifying service for pension were hitherto being processed in his Department. Recently, when such case was referred to the Ministry of Railways, (Railway Board) for verifying the service rendered by the officer in the Railways, that Ministry advised that particulars of service rendered by a Railway Service Probationer, who is subsequently appointed to an All India Service, might be got verified from the Railway concerned direct by the State Government. Such service with the Railways could be counted as qualifying service for pension without consulting the Ministry of Railways (Railway Board). In view of this, it is requested that in future, the requests made by All India Service officers for counting the service rendered by them in the Railways before their appointment to the All India Services as qualifying service for pension need not be referred to the Central Government. In such cases the State Government may request the Railway concerned to

verify the service rendered by the officer in the railways and if the railway certifies that the service rendered by the officer under it would have counted as qualifying service for pension under the Railway Service Rules applicable to him prior to his appointment to the All India Services, such service may be reckoned, as qualifying service for pension under rule 8(2) provided there is no break in his service. In case there is a break in his Railway Service or if there is any doubt whether or not a particular spell of service will qualify for pension, then a reference may be made to this Department in the case of members of the Indian Administrative Service, Police Division of the Ministry of Home Affairs in the case of members of the Indian Police Service and Department of Agriculture in the case of members of the Indian Forest Service. ²⁹(21) The question of regulating the period of foreign service of members of All India Services, who are permitted to go on foreign service to the developing countries of Asia, Africa, and Latin America, for the purpose of pension, has been under the consideration of this Department. It has been decided that members of All India Services who are permitted to go on deputation to these countries by registering their names in the Foreign Assignment Section of the Department of Personnel and A.R. will be governed by the orders contained in the Ministry of Finance OM No. 1(14)-E.III(B)/71, dated, the 13th December, 1971, the 7th January, 1974 and No. 1(14)-E. 111(B)/76, dated the 7th December, 1976. The period of foreign service rendered by members of the service who are deputed for assignment to developing countries under the Indian Technical and Economic Cooperation Programme of the Ministry of External Affairs will be regulated for the purpose of pension, in accordance with the orders issued by the Ministry of External Affairs. Members of All India Services, who are deputed for service under the International Organisations like the I.M.F., I.B.R.D., etc., or the Commonwealth and the U.N. Secretariat or other United Nations Bodies, such as Secretariat, will be governed by the orders contained in the Department of Personnel and A.R. Letters No. 25011/4/75-AIS (II), dated the 26th September, 1975 and No. 25011/52/76-AIS(II), dated the 2nd March, 1977. ³⁰(2) In the case of officers who opted for cl. (b) of rule 1 and who rejoin Government on the expiry of the foreign service with the United Nations Organisations the retirement benefits sanctioned by the United Nations will not be payable concurrently with the salary from the Government but will be credited to the revenues of the Government of the State concerned, under intimation to the

concerned Accounts Officer, so that suitable record could be kept in the service record of the officer, of the amounts received from the United Nations authorities. This amount will be paid to the officer concerned along with other pensionary benefits when he finally retires from the service of the Government. For the purpose a provision should be made for such payments under the relevant head of account, for the respective year. ³¹(23) In continuation of the Department of Personnel and A.R. letter No.25011/4/75-AIS (II), dated the 26th September, 1975 reproduced as Government of India Decision No. 22 below Rule 8. It has been decided, in consultation with the Ministry of Finance (Deptt. of Expenditure), that the decision contained in their O.M. No. 8(5)-E 111/79, dated the 8th April, 1981 (copy annexed), dated the 8th April, 1981 will also apply to members of All India Services sent on deputation to U.N. Bodies and the Commonwealth Secretariat. ³²(24) The manner in which the period of foreign service of members of All India Services with International Organisations like U.N. Secretariat, etc., or Commonwealth Secretariat, for a period of less than five years, should be regulated for the purpose of pension, has been under the consideration of the Central Government. It has been decided that the orders contained in the Ministry of Finance OM No.1(4)-E. III(B)/76, dated the 20th November, 1976 should apply to members of All India Services also. Art.29 of the Regulations and Rules of the United Nations Joint Staff Pension Fund, retirement benefits shall be payable to a participant whose age on separation is sixty years or more and whose contributory service was five years or longer. Under Art. 30 of the said Regulations and Rules, an earlier retirement benefits shall also be payable to a participant whose age on separation is at least 55 but less than 60 years and whose contributory service was five years or longer. Under Article 31 a deferred retirement benefits shall be payable to a participant whose age on separation is less than sixty years and whose contributory service was five years or longer. It will be observed from the aforesaid provisions that a contributory service of five years or longer is a sine qua non for eligibility for retirement benefits under the aforesaid Regulations and Rules. Accordingly R.31 of the Central Civil Service (Pension) Rules, 1972 as amended by the C.C.S. (Pension) (Sixth Amendment) Rules, 1975 provides that 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 pay the pension contribution in respect of his foreign service and count such service as qualifying for pension under C.C.S. (Pension) Rules, 1972 or avail of the retirement benefits admissible under the rules of the aforesaid Organisations and not count such services as qualifying for pension under C.C.S.(Pension) Rules, 1972. If the Government servant opts to avail of the retirement benefits under the rules of the aforesaid Organisations the retirement benefits shall be payable to him in India in rupees in accordance with the provisions of this Ministry's Office Memorandum No, P. 1(16)-E.III(B)/66 dated 5th November, 1966. 3. The question of regulating the cases of Government servants deputed on foreign service to the Organisations mentioned in the preceding paragraph for one year or more but less than five years has been considered in this Ministry in the light of the provisions of Article 32 of the Regulations and Rules of the United Nations Joint Staff Pension Fund under which a withdrawal settlement would be admissible to a participant whose age on separation is less than sixty years or if he is sixty or more on separation but is not entitled to a retirement benefits under Articles 29, 30 and 31 referred to in para 2 above. This withdrawal settlement consists of his own contributions if the contributory service of the participants was less than five years. The President is pleased to decide, in partial modification of this Ministry's Office Memorandum No. F. 1(16)-E.III(B)/66 (Part II) dated the 4th June, 1971 that a Government servant who is deputed on a foreign service for a period of one year or more but less than five years to the United Nations Secretariat or other United Nations Bodies, the International Monetary Fund, the International Bank for Reconstruction and Development, the Asian Development Bank or the Commonwealth Secretariat and who will not be entitled to retirement benefits under the Regulations and Rules of the aforesaid Organisations, will pay pension contributions monthly to the Government of India at the rates prescribed from time to time by the President under F.R. 116. On conclusion of foreign service, he may be allowed to receive from the foreign employer withdrawal benefits as may be admissible under their Rules. 4. While what has been stated in para 3 above would apply to officers who are entitled to only "withdrawal" benefits (as opposed to full retirement benefits) those who would be entitled to full retirement benefits under the Rules and Regulations of these organisations would be governed by R.31 of the C.C.S.(Pension)

Rules, 1972. In case they opt for availing of the retirement benefits admissible under the Rules and Regulations of the International Organisations (in which case their service in that Organisation will not qualify for pension under Government) the payment of the retirement benefits in case they return to Government service will be governed by the orders of 5th November, 1966. Pension contributions, if any, made to Government of India by officer, will be refunded to him. 5. These orders will also apply to officers who are already on deputation to the aforesaid Organisations. They will, however, have the option of paying pension contributions to Government to count the period of foreign service for the purposes of pension or to continue on their existing terms under which they are not required to pay pension contributions. The officers would be required to exercise options within three months from the date of issue of these orders and those who opt to pay pensions contribution for the past period can be allowed to pay pension contributions for the said period in monthly instalments not exceeding 12 along with contribution for the current period. 6. In so far as the persons serving in the Indian Audit and Accounts Department are concerned, these orders are issued after consultation with the Comptroller and Auditor General of India. Copy of Office Memorandum No. F. 1(16)-E.II(B)/66, dated the 5th November, 1966, Ministry of Finance, Department of Expenditure. SUBJECT :-Deputation of Central Government Servants on foreign service with United Nations Bodies-Participation in the U.N. Pension Fund Scheme. According to the Ministry of Home Affairs Office Memorandum No. 2/52/53-AIS(I), dated the 24th August, 1953, read with this Ministry's Office Memorandum No. 1(47)-E.IV (A)/60, dated the 18th October, 1960, officers of All India Services and Central Services deputed on foreign service to International Organisations like the United Nations Secretariat/Food and Agriculture Organisation/International Labour Organisation, etc., are eligible to join the United Nations Joint Staff Pension Fund only as Associate Participants where the period of foreign service is one year or more but less than five years. They are not allowed to become full members, when the period of foreign service exceeds five years. The question of permitting such officers to become full members has been under the consideration of Government. The President is now pleased to decide as follows :- 2. Officers of Central Services deputed on foreign service to United Nations Secretariat and other United Nations Bodies shall be allowed to join the United Nations Joint Staff Pension Fund as full members. During

the period of foreign, service, no payment of pension contributions will be made to the Government of India by or on behalf of the officer. This period will not count for purposes of calculation of pension under the Government. The officers will be eligible for the benefits due to him from the Organisation concerned under their rules for the period in question. In case the officer does not rejoin Government but retires from Government service while serving with the United Nations Organisation, his pension under the Government rules will be calculated on the basis of service rendered by him under Government. In case he rejoins and serves for another spell under Government, the pension admissible under Government rules will be calculated on the basis of the total of his earlier and later periods of service under Government. 3. The retirement benefits accruing under the United Nations rules will be payable to the officers in Rupees in India. In the case of officers who rejoin Government on the expiry of the foreign service with United Nations Organisations the retirement benefits sanctioned by the United Nations will not be payable concurrently with the salary from the Government but will be credited to the revenues of the Government of India by credit to "XLVIII-Contributions and recoveries towards pension and other Retirement Benefits" under intimation to the Accounts Officer in the case of Gazetted Officers, and to the Heads of the Department in the case of non-gazetted officers, so that a note could be kept in the service records of the officers concerned of the amount received from the United Nations authorities. This amount will be paid to the officer concerned along with his other pensionary benefits when he finally retires from the service of the Government of India, the provisions in the year concerned being made for the payment of this amount under 65 Pensions and Other Retirement Benefits etc. 4. Orders contained in this Ministry's Office Memorandum dated the 18th October, 1960 referred to in the opening para will continue to apply in respect of associate participants. 5. Separate orders will be issued in respect of All India Services Officers. 6. In so far as the persons serving in the Indian Audit and Accounts Department are concerned, these orders are issued after consultation with the Comptroller and Auditor General of India. ANNEXURE A The Government of India for some time past have had under consideration the question of counting the service rendered in the Indian National Army towards civil pension by persons now holding civilian posts. They fall into the following three categories):- (1) Persons who were holding civil posts before joining the Indian National Army and have been

reinstated in the same post. (2) Persons who were holding civil posts or were members of the regular Indian Armed Force before joining the Indian National Army and have been re-employed in some other civil posts, (3) Persons who joined the Indian National Army from the general public or from the Armed Forces and have subsequently been absorbed in civil posts. The president has been pleased to decide that the service rendered in the Indian National Army by the persons of the aforesaid categories may be treated as war-service for the purpose of counting it towards civil pension in terms of Article 357-C and 357-D of the Civil Service Regulations and this Ministry's Office Memorandum No. F.11(15)/EV/56, dated the 5th August, 1958 as amended from time to time. 2. The service in the Indian National Army referred to in the preceding para will be admitted on the basis of a certificate issued by the administrative authorities to the effect that the claim is genuine and correct. The administrative authorities will give such certificates after verification of documents or collateral evidence etc., produced by the persons concerned. In the case of persons belonging to category (iii) the production of adequate proof like documents relating to their enrolment in the Indian National Army should be insisted upon along with the collateral evidence for their having been in that Army. 3. In so far as the persons serving in the Indian Audit and Accounts Department are concerned, these orders have been issued after consultation with the Comptroller and Auditor General of India. ³³ (25) In accordance with the instructions contained in Ministry of Defence's letter No. 5324/Gen/Org. 3 (Records (d)/411D (Pension/Service), dated the 19th January, 1963, the verification of war/military services of All India Services officers has to be done by the State Governments from the appropriate military authorities. The result of the verification, along with the relevant particulars of the case, should then be forwarded to the Accountant General concerned for making necessary entries in the History of Service. Wherever, there is doubt whether or not a particular period of war/military service rendered by an All India Service officer counts for pension a reference should be made to the Ministry of Home Affairs.

1. Subs. by MHA Notification No.29/7/60-AIS (II), dated 31st December, 1962.

2. Subs. by Notification No. 25011/41/80-AIS (II), dated 15th May, 1981 i.e. G.S.R. No. 705. dated 18 August, 1971.

3. Omitted by MHA Notification No.29/81/66-AIS (II), dated 20th

June, 1968.

4. Subs. by Omitted by MHA Notification No. 29/81/66-AIS (II), dated 20th June, 1968.

5. Subs, by MHA Notification No.29/7/60-AIS(II), dated 31st December, 1962.

6. Subs. by DP and AR Notification No.13/4/71-AIS (II), dated 11th January, 1972.

7. Subs. by MHA Notification No.29/7/60.AIS (II), dated 31st December, 1962.

8. Ins. by Notification No.25011/21/76-AIS (II) dated 21st April, 1977 i.e. G.S.R. No. 579, dated 7th May 1979 (w.e.f. 11th July 1975).

9. [G.I., M.H.A. letter No.10/9/66-AIS(II), dated 31st July, 1956.]

10. [G.I., MHA Letter No.29/48/63-AIS(II), dated 3rd September, 1963.]

11. [G.I., MHA letter No. 2/39/59-AIS(III), dated 1st December, 1959.]

12. [G.I., M.H.A. Letter No. 2/106/59-AIS(III), dated 8th December, 1959.]

13. [G.I., MHA Letter No. 2/108/59-AIS(III), dated 11th December, 1959, read with DP and AR Letter No.25011/2/79-AIS(II), dated 14th December, 1979.]

14. [G.I., MHA letter No. 2/107/59-AIS(III), dated 29th December, 1959.]

15. [G.I., MHA letter No. 2/110/59-AIS(III), dated 11th March, 1960.]

16. [G.I., MHA letter No. 2/5/60-AIS (III), dated 14th May, 1960.]

17. [G.I., MHA letter No. 29/1/60-AIS(II), dated 13th October, 1960.]

18. [G.I., MHA letter No. 29/63/60-AIS(II), dated 24th December, 1960.]

19. [G.I., MHA letter No. 29/68/61-AIS(II), dated 7th April, 1962.]

20. [G.I., MHA letter No. F. 29/29/63-AIS(II), dated 14th February, 1964.]

21. G.I., MHA letter No. 29/51/63-AIS(II), dated 16th August, 1963.]
22. G.I., MHA letter No. 29/66/61-AIS (II), dated 7th April, 1962.]
23. [G.I., MHA letter No. 29/51/65-AIS(II), dated 22nd December, 1965.]
24. [MHA No. 32/42/73-AIS (II), dated 11th January, 1974.]
25. [D.P. and A.R. letter No. 25011/48/78-AIS (III), dated the 18th September, 1979.]
26. [DP and AR letter No. 25011/43/80-AIS(II), dated the 9th January, 1981.]
27. [D.P. and A.R. letter No. 25011/8/81-AIS (II), dated the 22nd May, 1981.] ANNEXURE TO DP and AR LETTER No. 25011/8/81-AIS (II), DATED THE 22ND MAY, 1981.] Copy of letter No. 13/27/74-AIS (II), dated 17th January, 1975.
28. [DP and AR letter No. 25011/37/77-AIS(II), dated 7th October, 1978.]
29. [DP and AR letter No. 25011/15/78-AIS(II), dated 20th May, 1978.]
30. [DP and AR letter No. 25011/4/75-AIS(II), dated 26th September, 1975.]
31. [DP and AR letter No. 25011/16/81-AIS(II), dated the 5th November, 1981]. ANNEXURE TO DP and AR LETTER No. 25011/16/81-AIS (II), DATED 5TH NOVEMBER, 1981. Copy of Ministry of Finance Department of Expenditure O.M. No. 8(5)-E.III/79, dated 8th April, 1981.
32. [DP and AR letter No. 25011/52/76-AIS(II), dated 2nd March, 1977.] Copy of Ministry of Finance OM. No. I(4)-E.III(B)/76, dated 20th November, 1976.
33. [G.I., MHA letter No. 29/36/65-AIS(II), dated 29-9-1966.]

8A. Addition to qualifying service on voluntary retirement :-

[

(1) The qualifying service as on the date of intended retirement of a member of the Service retiring under sub-rule (2) or sub-rule (2-A) of Rule 16 shall be increased by the period not exceeding 5 years subject to the condition that the total qualifying service rendered by him does not in any case exceed 33 years and it does

not take him beyond the age of superannuation.

(2) The weightage upto 5 years under sub-rule (1) shall not be admissible in the case of a member of the Service who is retired from Service in public interest by the Central Government under sub-rule (3) of Rule 16.

9. Counting of periods of leave as qualifying service :-

¹ [(1) All periods of leave with allowances and extraordinary leave granted on the basis of medical certificate shall count as qualifying service : Provided that the Central Government may, in any case in which it is satisfied that the extraordinary leave was taken by a member of the Service for any cause beyond the control of such member or for prosecuting higher scientific and technical studies, direct that such extraordinary leave shall be counted as qualifying service.]

(2) Leave granted by foreign employer to a member of the Service while on foreign service out of India under sub-rule (1) of rule 27 of the Leave Rules shall be treated as leave and not as duty and shall qualify for pension subject to the provision of sub-rule (1).

1. Subs. by D.P. and A.R. Notification No. 25/11/22/82-A.I.S. (II), dated 16th July, 1983 i.e. G.S.R. 557 dated 30th July, 1983.

10. Counting of period of deputation or leave outside India for purposes of qualifying service :-

(1) Where a member of the Service is deputed out of India on duty, the whole period of his absence from India on such deputation shall count as qualifying service.

(2) Where a member of the Service on leave out of India is employed, or is detained on duty out of India after the termination of his leave, the period of such employment or detention shall count as qualifying service : Provided that the periods of deputation converted into leave shall count for purposes of qualifying service as leave and not as deputation.-

(3) Time spent on journey to India by a member of the Service who is recalled to duty before the expiry of any duty sanctioned leave out of India counts as qualifying service.

11. Periods not qualifying as service for pension :-

The following periods of service of a member of the Service do not count as qualifying service for pension :-

¹ [(1) Time passed by a member of the Service under suspension unless, on conclusion of the disciplinary proceedings, he has been fully exonerated or the suspension is held to be wholly unjustified : Provided that where a member of the Service has not been fully exonerated in the disciplinary proceedings or the suspension has not been held to be wholly unjustified, the period of suspension shall count as qualifying service only to such extent and in accordance with such directions as the competent authority may issue under Rule 5, rule 5A or 5B of the All India Services (Discipline and Appeal) Rules, 1969.

(2) Leave other than leave which counts as qualifying service under rule 9.

(3) Unauthorised absence in continuation of authorised leave of absence or joining time.

1. Subs. by D.P. and A.R. Notification No.25011/22/81-AIS (II), dated 16th July, 1983 i.e. O.S.R. 557, dated 30th July, 1983.

12. Condonation of Interruption in service :-

[

(1) In the absence of a specific indication to the contrary in the service records of a member of the Service, an interruption between two spells of service, rendered by him after his appointment to the service shall be treated as automatically condoned and the pre-interruption service treated as qualifying service except in a case where interruption is caused by resignation, dismissal or removal from service.

(2) In a case falling under sub-rule (2), (5) or (6) of Rule 8, where service rendered by a member of the Service under a State Government or or the Central Government prior to his appointment to the Service is counted as qualifying service under the said rule and an interruption in service is inevitable due to the two appointments being at different stations, such interruption not exceeding the joining time permissible under the rules of transfer, shall be treated as automatically condoned.

(3) In a case where war or military service is counted as qualifying service for pension under sub-rule (4) of Rule 8, the interruption if any, in such service as well as any interruption between such service and subsequent civil service shall be treated as

automatically condoned.

(4) The period or periods of interruptions referred to in sub-rules (1) to (3) shall not count as qualifying service.]

13. Invalid gratuity or pension :-

(1) Where the Government has reason to believe that a member of the Service is suffering from

(a) a contagious disease; or

(b) a physical or mental disability which in its opinion interferes with the efficient discharge of his duties,

(2) An invalid gratuity or pension and death-cum-retirement gratuity where admissible shall be granted to a member of the Service who having appeared under the direction of the Government or on his own application before a duly constituted Medical Board, is certified that Medical Board, by bodily or mental infirmity, to be permanently incapacitated for further service. ¹[The family of a member of the service who retires or is retired under this rule shall be entitled to the benefits of the family pension as laid down in Rule 22 or Rule 22B].

²[(2A) Notwithstanding anything contained in sub-rule (2), relief against rise in the cost of living index shall be granted to every such member of the Service at such scales and in such manner as may be prescribed by the Central Government from time to time for officers of the Central Civil Services, Class-1.]

(3) The medical certificate of incapacity shall be attested :

(a) if the member of the Service is on leave out of India, by a Medical Board to be convened for the purpose by the Indian Mission in the country in which the member of the Service is on leave;

(b) in other cases, by the Medical Board to be convened by the Chief Administrative Medical Officer of the State in which the member of the Service is on duty or on leave. The Chief Administrative Officer, shall, wherever practicable, preside over such a Board.

(4) Save where he is on leave out of India no member of Service shall apply for a medical certificate of incapacity and no such certificate shall be granted unless-

(a) the applicant produces evidence to show that the Government is aware of his intention to appear before the Chief Administrative Medical Officer; and

(b) the Chief Administrative Medical Officer is informed about the

age of the applicant as recorded in his history of services and is supplied with a statement of the leave taken by him during the three years immediately

(5) If the Medical Board, although unable to discover any specific disease in the member of the Service, considers him incapacitated for further service by general debility while still under the age of ³ [fifty eight years], it shall give detailed reasons for its opinion. Wherever possible a second medical opinion shall in such cases be obtained.

NOTE.- In a case of this kind statement giving the grounds on which it is proposed to invalid a member of the Service shall be forwarded to the Medical Board by the Government under whom he is serving.

(6) A certificate that inefficiency is due to old age or natural decay from advancing years shall not be deemed to be sufficient for retiring a member of the Service on invalid gratuity or pension.

(7) The Medical Certificate shall be in the form set forth in Schedule C.

1. Ins. by MHA Notification No.29/11/65-AIS(II), dated 5th February, 1966, (w.e.f. 1st January, 1966).

2. Ins. by Notification No. 33/20/73-AIS(II), dated 31st May, 1975, (w.e.f. 1st January, 1975).

3. Subs. for Fifty Five Years by MHA Notification No. 29/47/61-AIS(II), dated 25th May, 1963.

14. Restrictions on the grant of invalid gratuity or pension

:-

(1) A member of the Service who is discharged from the Service on ground other than those specified in rule 13 shall have no claim in invalid gratuity or pension or death-cum-retirement gratuity even though he produces medical evidence of incapacity for Service. ¹ [Nor will his family, be entitled to the benefits of the family pension.]

(2) If the incapacity is directly due to irregular or intemperate habits, no invalid gratuity or pension or death-cum-retirement gratuity shall be granted to a member of the Service. If it has not been directly caused by such habits but has been accelerated or aggravated by them it shall be for the Central Government to decide what reduction, if any, shall be made on this account in the

retirement benefits otherwise admissible.

NOTE.- (1) The mere fact that a member of the Service has suffered from syphilis, taken by itself, is not sufficient to bring his case under the operation of this rule. (2) Unsoundness of mind caused by drug habits shall be taken as sufficient to bring his case under the operation of this rule.

(3) The expression "irregular or intemperate habits" occurring in this rule refers to incapacity on account of drug habits or on account of disease resulting from moral habits. Cases where incapacity was due to other causes e.g. work at irregular hours during war and after, due to exigencies of service and not due to own volition, do not come under the purview of this rule.

1. Ins. by MHA Notification No. 29/11/ AIS(II), dated 5th February, 1966, (w.e.f. 1st January, 1964).

15. Retirement from service of a member of the service in certain cases and grant of leave :-

(1) A member of the Service who has been declared by a Medical Board to be permanently incapacitated for further service shall, if he is on duty, be invalided from service from the date of relief which shall be arranged without delay on receipt of the report of the Medical Board or, if he is granted leave under sub-rule (2), on the expiry of such leave: Provided that if he is on leave at the time of receipt of the report of the Medical Board, he shall be invalided from service on the expiry of that leave or extension of leave, if any, granted to him under sub-rule (2).

(2) A member of the Service in respect of whom a Medical Board has reported that there is no reasonable prospect of his ever being fit to return to duty, may not be granted leave except as follows :-

(a) If the Medical Board is unable to say with certainty that the member of the Service will never again be fit for service, leave not exceeding 12 months in all may be granted to him. Such leave shall not be extended without further reference to a Medical Board.

(b) If a member of the Service has been declared by the Medical Board to be completely and permanently incapacitated for further service, leave or an extension of leave may be granted to him after the report of the Medical Board has been received, provided that the amount of leave so granted, together with any period of duty beyond the date on which the Medical Board signed their report, shall not exceed six months.

1 GOVERNMENT OF INDIA'S DECISIONS : It has been held that retirement of a member of an All India Service on invalid pension is not automatic on the expiry of six months from the date on which the Medical Board signed the certificate declaring him to be permanently incapacitated for further service; Government will have to issue an order retiring such an officer from service on invalid pension and the order cannot have retrospective application.

1. [Law Ministry's advice in MHA File No. 13/11/75-Pers. II.]

16. Superannuation gratuity or pension :-

3(1) A member of the Service shall retire from the service with effect from the afternoon of the last day of the month in which he attains the age of sixty years: Provided that a member of the Service whose date of birth is the first day of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the age of sixty years: Provided further that a member of the Service dealing with budget work or working as a full-time member of a Committee which is to be wound up within a short period may be given extension of service for a period not exceeding three months in public interest, with the prior approval of the Central Government. **97** Provided also that a Member of the Services Holding the Post of Chief Secretary to a State Government may be given extension of service for a period not exceeding six months on the recommendations made by the concerned State Government with full justification and in public interest, with the prior approval of the Central Government.

4[Explanation.-For the purposes of this sub-rule, a member of the Service whose date of birth falls on the 1st day of any month shall have attained the age of fifty-eight years on the afternoon of the last day of the preceding month:]

99100["Provided also that a member of the Service who has attained the age of fifty-eight years on or before the first day of May, 1998 and is on extension in service, shall retire from the service on the expiry of his extended period of service or on the expiry of any further extension granted by the Central Government in public interest, and that no such extension in service shall be granted beyond the age of sixty years."] **101**(1A) Notwithstanding anything contained in sub-rule (1), the Central Government may, if it considers necessary in the public interest so to do, give extension in service to the Cabinet Secretary in the Central Government for

such period as it may deem proper, subject to the condition that the total term of the incumbent of the post of the Cabinet Secretary, who is given such extension in service, does not exceed two years.

102[(2) A member of the Service may, after giving at least three months previous notice in writing, to the State Government concerned, retire from service on the date on which such member completes thirty years of qualifying service or attains fifty years of age or on any date thereafter to be specified in the notice : Provided that no member of the Service under suspension shall retire from service except with the specific approval of the State Government concerned.]

103[(2A) A member of the Service may, after giving three months previous notice in writing to the State Government concerned, retire from service on the date on which he completes 20 years of qualifying service or any date thereafter to be specified in the notice : Provided that a notice of retirement given by a member of the Service shall require acceptance by the State Government concerned if the date of retirement on the expiry of the period of notice would be earlier than the date on which the member of the Service could have retired from service under sub-rule (2): Provided further that a member of the Service, who is on deputation to a corporation or company wholly or substantially owned or controlled by the Government or to a body controlled or financed by the Government, shall not be eligible to retire from service under this rule for getting himself permanently absorbed in such corporation, company, or body.]

104[(3) The Central Government may, in consultation with the State Government concerned and after giving a member of the Service at least three months previous notice in writing, **105**[or three months pay and allowances in lieu of such notice] require that member to retire in public interest from service on the date on which such member completes thirty years of qualifying service or attains fifty years of age or on any date thereafter to be specified in the notice.

106[NOTE 1 : In computing the period of three months notice referred to in sub-rules (2), (2-A) and (3) the date of service of the notice and the date of its expiry shall be excluded.

NOTE 2 : In the case of a member of the Service, who retires under sub-rule (2) or (2- A) or who is retired under sub-rule (3), the date of retirement shall be treated as a non-working day.]

107[(4) A superannuation gratuity or pension shall be granted to a member of the Service who is required to retire under sub-rule (1) of this rule.]

GOVERNMENT OF INDIA'S DECISIONS : (1) A question was raised whether under rule 16(3) the State Government have no power to initiate action for retirement of an AIS officer who has completed 30 years of qualifying service or has attained the age of 50 years. The Government of India have held that the State Governments are free to initiate action and suggest the compulsory retirement in public interest of AIS officers who have put up 30 years **108**(1.2) According to rule 16(3), the orders in each case would need to be issued by the Central Government but the formal Notification giving effect to the above orders would be issued by the State Government. **109**(2) It has been decided that a notice under sub-rule (2) of Rule 16, addressed to the Central Government can be treated as valid as defect in the notice is only formal, and in the absence of a prescribed form, endorsing a copy of the notice amounts to addressing the notice. **110**(3) It has been decided that Government can serve notice of retirement of a member of an All India Service even before he attains the age of 50 years or has completed 30 years of qualifying service subject to the condition that the actual retirement takes place after he has attained age of 50 or has completed 30 years of qualifying service. **111**(4) It has been held that there is no bar to issue orders under rule 16(1) granting extension of service to a member of the Service with retrospective effect. **112**(5) Under sub-rule (2) of rule 16 retirement of a member of the Service becomes effective on the expiry of three months notice given by him, unless he is under suspension. Once the notice period begins to run, it may not be open to the Government a unilateral act of suspension to prevent the running of the three months period. In other words, a member of the Service, who has given notice for voluntary retirement under the aforesaid rule will retire from service on the expiry of the period of the prescribed three months even if he is placed under suspension after he gave notice. However, as provided in the Explanation below rule 6(1) a departmental proceedings in terms of the aforesaid rule shall also be deemed to have been instituted against the pensioner on the date he was placed under suspension. In view of this, if a member of the Service is placed under suspension after he gives notice for retiring from service voluntarily, the benefit of the limitation contained in Cl. (b) (ii) of

the proviso to rule 6(1) will not be available to him, and departmental proceeding under this rule for reduction of his pensionary benefits can be initiated against him, even after the date of his retirement, for a misconduct committed by him while in service, although such proceeding may be in respect of an event which took place more than four years before the institution of such proceedings. **113**(6) It has been decided to lay down the following procedure for processing proposals for the grant of extension of service/re-employment to members of All India Services beyond the age of superannuation:-

Extension of Service.-The Ministry/Department of the Government of India, which proposes to grant extension of service to an All India Service officer beyond the age of superannuation, should obtain concurrence of the Government of the State on whose cadre the officer is borne (Joint Cadre Authority if the officer is borne on a Joint Cadre) and the Cadre Controlling Authority, namely, Department of Personnel and A.R. in the case of IAS Officer, Police Division of the Ministry of Home Affairs in the case of IPS officers and the Department of Agriculture in the case of IFS officers, before submitting the proposal to the Appointments Committee of the Cabinet. After obtaining approval of the A.C.C. the administrative Ministry/Department should request the State Government concerned, under intimation to the Cadre Controlling Authority to issue orders under proviso to rule 16(1) of All India Service (D.C.R.B.) Rules, 1958, extending the service of the member of the service concerned, which the State Government alone are competent to issue.

Re-employment.- The Ministry/Department of the Government of India, which proposes to re-employ a retired All India Service officer should consult the Government of the State on whose Cadre the officer is borne (Joint Cadre Authority if the officer is borne on a Joint Cadre). Thereafter, the administrative Ministry should refer the proposal to the Cadre Controlling Authority for its concurrence before submitting the case to the A.C.C. Subject to the above, the grant of extension in service/re-employment to All India Service officers beyond the age of superannuation will be governed by the criteria and procedure laid down in the Department of Personnel and A.Rs OM No. 26011/1/77-Est. B, dated 18th May, 1978. **114**(7) The criteria and procedure laid down in the Ministry of Home Affairs O.M. No. 26/11/68-Est. B, dated the 17th June, 1969 (since replaced by the DP and AR OM No. 26011/1/77-Estt. B, dated the 18th May, 1978) are strictly followed while granting re-employment/extension of service to All India Service officers under

the Central Government . It is suggested that these instructions may be kept in mind by the State Government while deciding cases of re-employment/extension of service to All India Service officers under them. rule 16 of the All India Service (Death-cum-retirement Benefits) Rules, 1958 for the information and guidance of the State Governments :- (i) A notice of voluntary retirement given by a member of the Service may be withdrawn by him, after it is accepted by the State Government , only with the approval of the State Government concerned provided the request for such withdrawal is made before the expiry of the period of notice. (ii) In cases where disciplinary proceedings are pending or contemplated against a member of the Service for the imposition of a major penalty and the disciplinary authority having regard to the circumstances of the case, is of the view that the imposition of the major penalty of removal or dismissal from service would be warranted, the notice of voluntary retirement given by the officer concerned may not ordinarily be accepted. (iii) In cases where prosecution is contemplated or may have been launched in a court of law against a member of the Service, the notice of voluntary retirement given by him may not ordinarily be accepted. **115**(iv) The notice of voluntary retirement given by a member of the Service, who is on study leave or who has but not completed a minimum service of 3 years on completion of study leave, may not ordinarily be accepted. **116** (9) The first proviso to sub-rule (1) of rule 16 of AIS (DCRB) Rules. 1958. provides that a member of an All India Service may be retained in service after the last day of the month in which he attains the age of 58 years on public grounds for an aggregate period not exceeding six months by the State Government concerned and for any period beyond six months with the sanction of the Central Government. Details regarding extension in service granted to members of All India Service are frequently required by the Central Government for answering Parliament question etc. Since State Governments are competent to sanction extension of service to members of All India Services upto six months without consulting the Central Government, the Central Government finds it difficult to compile complete information about extension of service granted to members of All India Services. The State Governments have, therefore, been requested that copies of orders/notifications issued by the State Governments granting extension of service to members of All India Services, may be endorsed to this Department (All India Services Division) in the case of members of the Indian Administrative Service, the Ministry

of Home Affairs (Police Division) in the case of members of the Indian Police Service and the Department of Agriculture and Cooperation in the case of members of the Indian Forest Service.

[14]Substituted for " (1) A member of the Service shall be required compulsorily to retire from the service with effect from the 1 [afternoon of] the last day of the month in which he attains the age of 2 [58 years]: Provided that he may be retained in service after the last day of the month in which he attains the age of 58 years on public grounds which shall be recorded in writing- 9 (a) for an aggregate period not exceeding six months (i) by the State Government, if the officer is working in connection with the affairs of the State Government; and (ii) by the Central Government, if the officer is working in connection with the affairs of the Union or a State other than the State on whose cadre he is borne; 10 (b) for any period beyond six months (i) by the State Government with the prior sanction of the Central Government, if the officer is working in connection with the affairs of the State; and (ii) by the Central Government, if the officer is working in connection with the affairs of the Union or a State other than the State on whose cadre he is borne. Provided further that a member of the Service shall not be retained in service beyond the age of 60 years except in very special circumstances. ", vide " ALL INDIASERVICES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1958" Dt.13th May, 1998 Published in Ministry of Personnel, Public Grievances and Pensions (Deptt. of Personnel and Training), Noti. No. G.S.R.249(E), dated May 13, 1998, published in the Gazette of India, Extra., Part II, Section 3(i), dated 13th May, 1998, pp. 2-3, No. 166 [F. No. 25011/8/97-AIS. II] [L]

In the All India Services (Death-cum-Retirement Benefits) Rules, 1958 in Rule 16, sub-rule (1), the following proviso may be inserted below second proviso:- "Provided also that a Member of the Services holding the post of Chief Secretary to a State Government may be given extension of service for a period not exceeding six months on the recommendations made by the concerned State Government with full justification and in public interest, with the prior approval of the Central Government.". by the All India Services Act, 1951 (61 of 1951).

[15]Inserted vide " ALL INDIA SERVICES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1958" Dt.19th June, 1993 Published in Ministry of Personnel, P.G. and Pensions (Deptt. of Personnel and Training), Noti. No. G.S.R. 308, dated May 26, 1993, published in the Gazette of India, Part II, Section 3(i), dated 19th June, 1993, p. 1037, SI. No. 25 [No. 2501 1/19/91/AIS (11)] [C] [A] [L]

In Rule 16, after sub-rule (1), sub-rule (1A) shall be inserted, by All India Services (Death-cum-Retirement Benefits) Amendment

Rules, 2001. Ministry of Personnel, Public Grievances and Pensions (Deptt. of Personnel and Training), dated July 11, 2001, published in the Gazette of India, Extra., Part II, Section 3(i), dated 11th July, 2001, pp. 2-3, No. 357

Subs by DP and AR Notification No.28/8/72-AIS, dated 30th September, 1972.

Ins. by No. 25011/34/77-AIS(II)-A, dated 2nd February, 1978. i.e. [G.S.R. No. 253, dated 18th February, 1978).

Subs. by D.P. and A.R. Notification No.28/8/72-AIS(II), dated 30th September, 1972.

Ins. by Notification No. 25011/45/75-AIS(II), dated 5th December, 1975 i.e. G.S.R. 2830, dated 20th December, 1975.

Ins. by D.P. and A.R. Notification No 25011/6/80-A.I.S.(II), dated 26th April, 1980 i.e. G.S.R. 512, dated 10th May, 1980.

Renumbered by M.H.A. Notification No.29/10/64-AIS(II), dated 1st September, 1965.

[G.I., MHA letter No. 29/10/64-AIS(II), dated 16th March, 1966.]

[File No. 288/8/72-AIS(II).]

[File No. 2/8/72-AIS(II).]

[DP and AR File No. 19/2/74-AIS(II).]

[DP and AR letter No. 25011/47/78-AIS(II), dated 16th October, 1978.]

[D.P. and A.R. O.M. No. 25011/42/78-AIS (II), dated 29th August, 1978.]

[DP and AR letter No. 15/16/74-AIS (II), dated 26th August, 1974.] Copy of Department of Personnel and A.R.O.M. No. 26011/1/77-Est. B, dated 18th May, 1978.

[DP and AR. letter No. 25011/2/80-AIS(II), dated the 16th October, 1980.]

[DP and AR letter No. 25011/21/82-AIS(II), dated the 18th September, 1982]

16A. Acceptance of date of birth :-

[

(1) For the purpose of determination of the date of superannuation

of a member of the service, such date shall be calculated with reference to the date of his birth as accepted by the Central Government under this rule.

(2) In relation of a person appointed, after the commencement of the All India Services (Death-cum-Retirement Benefits) Amendment Rules, 1971.

(a) the Indian Administrative Service under Cl. (a) or Cl (aa) of sub-rule (1) of rule 4 of the Indian Administrative Service (Recruitment) Rules, 1954; or

(b) the Indian Police Service under Cl. (a) or Cl (aa) of sub-rule (1) of rule 4 of the Indian Police Service (Recruitment) Rules, 1954; or

(c) the Indian Forest Service under Cl. (a) or Cl. (aa) of sub-rule (2) of R.4 of the Forest Service (Recruitment) Rules, 1966;

(3) In relation to a person to whom sub-rule (2) does not apply, the date of birth as recorded in the service book or other similar official document maintained by the concerned government shall be accepted by the Central Government, as the date of birth of such person.

(4) The date of birth as accepted by the Central Government shall not be subject to any alteration except where it is established that a bonafide clerical mistake has been committed in accepting the date of birth under sub-rule (2) or (3).]

17. Retiring Pension and gratuity :-

[

(1) A retiring pension and death-cum retirement gratuity shall be granted to a member of the Service who retires or is required to retire under Rule 16.

¹[(2) Notwithstanding anything contained in sub-rule (1), relief against rise in the cost of living index shall be granted to every such member of the service at such scale and in such manner as may be prescribed by the Central Government from time to time for officers of the Central Civil Services, Class I.]

GOVERNMENT OF INDIA'S DECISIONS : It was brought to the notice of the Government that an officer of the All India Services had obtained a loan from the Life Insurance Corporation and the mortgage deed executed by him he agreed inter alia that in the event of termination of his service by death, retirement or otherwise, the retirement benefits to be received will be paid towards discharging all amount under the said Mortgage Deed by way of principal. interest or otherwise, if so due at the relevant

time. He also agreed that if possible, he would appoint the Corporation as his nominee to receive the provident fund, gratuity and other retirement benefits. 1.2. The Government of India have examined the question whether the A.I.S. officers can pledge their retirement benefits to the Life Insurance Corporation. S.2 of the Pension Act, 1871 and S.3 of the Provident Fund Act, 1925 do not permit an officer to pledge his pension or provident fund in this manner. ² 1.3. As regards nominating the Life Insurance Corporation to receive the retirement benefits like gratuity, provident fund, etc., the respective rules regarding nomination do not permit such a course when the officer has family. 2. It has been decided that pension can be held in abeyance.

1. Ins. by Notification No. 33/20/73-AIS(II), dated 31st May, 1975, i.e. (G.S.R. No. 724, dated 14th June, 1975.)

2. [G.I., M.H.A. letter No. 29/53-64-AIS(II), dated 22nd March, 1965.]

18. Amount of Gratuity or Pension :-

¹ [(a) In case a member of the Service retires from service in accordance with the provisions of these rules, before completing qualifying service of ten years, gratuity shall be admissible at the rate of half months pay of each completed six monthly periods of qualifying service.]

²[(b)

(i) In case a member of the Service retires from service in accordance with the provisions of these rules, after completing qualifying service of thirty-three years or more, pension shall be admissible to him at the rate of fifty per cent of the average emoluments reckonable for pension : ³[* * *]

(ii) In case a member of the Service retires from service in accordance with the provisions of these rules after completing 10 years of qualifying service but less than 33 years of qualifying service, the pension admissible, to him shall be such proportion of the maximum pension admissible under [***]this sub-rule as the qualifying service rendered by him bears to the qualifying service of 33 years. ⁴[* * *]

⁵(iii) In case a member of the Service retires from Service between the 1st January, 1996 and the 31st December, 1997, and exercises

an option to retain the pre-revised scale of pay and draws pension and death-cum-retirement gratuity under the rules in force immediately before the 1st day of January, 1996, the pension and death-cum-retirement gratuity in such cases shall be regulated as follows:

(i) Pension shall be calculated at fifty per cent of the average emoluments. To the amount so calculated. Dearness Relief up to AICPI 1510 at the prescribed rates shall be added and the amount so arrived at shall be regarded as pension.

(ii) Death-cum-retirement gratuity shall be admissible with reference to emoluments at (0 above under the orders/rules (including that in respect of ceiling) in force immediately before coming into effect of the revised rules with effect from 1st day of January, 1996. Explanation.-In this sub-clause, emoluments means "Pay" as defined in first provision of Rule 2(l)(bb).

⁶[(1-A) * * *]

[(1-B) Deleted]

[(1-C) Deleted]

(2) An Indian Civil Service member of the Indian Administrative Service shall be entitled to receive an annuity of Rs. 13,333,33 : Provided that if any such member for the death-cum-retirement gratuity scheme, his annuity shall be reduced by the annuity equivalent of the amount of gratuity: ⁷[Provided that the amount of invalid pension shall not be less than the amount of family pension admissible under sub-rule (2) of Rule 22B.]

⁸ [NOTE : A member of the Service retired from service before 1st day of January, 1986, shall be granted such additional relief in pension as may be sanctioned by the Central Government.]

1. Subs. by G.S.R. 522(E) dated 27th May, 1987, (w.e.f. 1st January, 1986).

2. Subs. by G.S.R. 522(E) dated 27th May, 1987, (w.e.f. 1st January, 1986)

3. Deleted by O.S.R. 812 dated 6th August 1987.

4. Illustration omitted by Deleted by O.S.R. 812 dated 6th August 1987.

5. Inserted vide " ALL INDIA SERVICES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1958" Dt.19th December, 1997Published in Ministry of Personnel, Public Grievances and Pensions (Deptt of Personnel and Training), Noti. No. G.S.R. 717(E), dated December

19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th December, 1997, pp. 5-6, No. 501 [F. No. 25011/24/97-AIS-11-A][L]

6. Sub-nile(1-A) omitted by G.S.R. 522(E), dated 27th May 1987, (w.e.f. 1st January, 1986).

7. Ins. by Notification No. 33/12/73-AIS (II), dated 24th January, 1975, read with No. 25011/29/75- AIS (II), dated 30th January, 1976.

8. Ins. G.S.R. 522(E), dated 27th May, 1987 (w.e.f. 1st January, 1986).

19. Death-cum-retirement gratuity :-

(1) Subject to the provisions of Rule 14 a member of the Service who retires or is retired under rule ¹[13 or 16] and has on the date of such retirement completed 5 years qualifying service may be granted a death- cum -retirement gratuity not exceeding the amount specified in sub-rule (3).

(2) If a member of the Service ²[x x x] dies while in service, a death-cum-retirement gratuity not exceeding the amount specified in sub-rule (3) may be paid to the person or persons on whom the right to receive such gratuity is conferred under Rule 21 and, if there is no such person, it may be paid in the manner indicated below :

(i) If there are one or more surviving members of the family as in items (i), (ii) and (iii) of clause (a) of sub-rule (1) of Rule 21, it may be paid to all such members, other than any such member who is a widowed daughter, in equal shares.

(ii) If there are no such surviving members of the family as in Cl. (i) above, but there are one or more surviving widowed daughters and/or one or more surviving members of the family as in items ³[(iv) to (viii)] of Cl. (a) of sub- rule (1) of Rule 21, it may be paid to all such members, in equal shares.

³[(2A) If a member of the Service dies after retirement without receiving the gratuity admissible under these rules, the gratuity shall be disbursed to the family in the manner indicated in sub-rule (2).

(2B) The right of a female member of the family or that of a brother of the member of the Service 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 18 years after death of the member of the Service and before receiving his or her share of gratuity.

(2C) Where gratuity is granted under this rule to a minor member of the family of the deceased member of the Service, it shall be payable to the guardian on behalf of the minor.]

5[(3)

(a)

(i) A retirement gratuity equal to one-fourth of the emoluments for each completed period of six months of service shall be paid to member of the service on his retirement from service who has completed five years qualifying service, subject to a maximum of sixteen and half times of the emoluments :

67["Rupees three lakh and fifty thousand"].

(ii) In the case of death of a member of the service while in service, death gratuity shall be admissible at the following rates :-

8["rupees two lakhs and fifty thousand"].]

(b) If a member of the Service who has become eligible for gratuity or pension dies after he has retired from the Service, and the sums to which he had become entitled at the time of his death on account of such gratuity or pension together with the death-cum-retirement gratuity granted under sub-rule (1) and the commuted value of any portion of pension commuted by him are less than an amount equal to 12 times his emoluments, a gratuity equal to the deficiency may be granted to the person or persons specified in sub-rule (2).

[* * *]

GOVERNMENT OF INDIA'S DECISIONS **9**(1) Gratuity is not covered by the term Pension occurring in Pensions Act, 1871, and therefore, does not enjoy the protection, conferred by the various provisions of that Act. It is, therefore, permissible to make recovery of any amount owed by a retired officer to Government from the death-cum-retirement gratuity due in respect of him, even without obtaining his consent or that of the members of his family in the case of deceased officers, as the case may be. **10**(2) A member of the Service died while in service without making any nomination. One of the surviving members of his family, and unmarried daughter, got married subsequently before the death gratuity was paid. A question arose whether the daughter who was unmarried at the time of his death and was eligible for a share of the death gratuity, forfeited her subsequent marriage. According to sub-rule

(2)(i) the death gratuity became payable to the surviving members of the officers family mentioned in sub-clauses (i) (ii) and (iii) of rule 21(i)(a) on the date of his death. An interest in the gratuity had thus accrued to and became vested in each member of the family of the deceased at the time of death. His daughter who was since married was therefore entitled to payment of an equal share of the death gratuity along with other members of his family and her right was not forfeited on account of her subsequent marriage.

GOVERNMENT OF INDIA'S INSTRUCTIONS : The Government of India have decided to allow an option to the members of the former I.C.S. who are now members of the I.A.S., to get the benefits of death-cum-retirement gratuity by surrendering a portion of pension admissible to them under the existing rules. (1.2) The details of the Scheme for grant of death-cum-retirement gratuity as finally approved by the Government of India are given below:- (1) Amount of Gratuity Admissible : (i) Retirement gratuity.- At the rate one-fourth of the emolument of Rs. 1,800 (maximum) for each completed six monthly period of qualifying service subject to a maximum of Rs. 24,000. (ii) Death gratuity.- On death while in service gratuity as in (i) above subject to a minimum of 12 times of Rs. 1,800. (2) Amount of Pension to be surrendered.- The pension equivalent of the D.C.R. gratuity calculated on the basis of commutation table current at the time of retirement of the officer concerned. (3) Nominations.-The nominations in regard to death-cum-retirement gratuity shall be in accordance with the provisions of Rule 21. **11** (4) Commutation of Pension,- Further commutation of pension will be permissible to the extent of one third of the balance left after deducting pension equivalent of DCR gratuity. (1.3) The benefits of the D.C.R. gratuity Scheme detailed above will be admissible to all I.C.S. officers who were in service on 1st January, 1964, (1.4) The I.C.S. officers concerned, including those, who have retired on or after 1st January, 1964 had to exercise their option in the matter within six months from the date of issue of these orders 7th December 1965). The option was required to be exercised in writing and communicated to the Accountant General concerned, the option once exercised shall be final. (1.5) Those who failed to opt for the scheme within the specified period will be entitled to any benefits of this scheme, as the conditions of service of the I.C.S. officers are different in this respect as compared with those of the other services. (1.6) The officers who were in service on 1st January, 1964 but have died thereafter should be deemed to have opted for the new Scheme and their family should be allowed

benefits admissible under it.

1. Subs. by M.H.A. 29th December 1964-AIS(II), dated 1st September, 1965, for the figures and words "13-16 or 17".
2. Omitted by M.H.A. Notification No.29/5/67-AIS (II), dated 1st September, 1968.
3. Subs. by M.H.A. Notification No.29/7/60-AIS (II), dated 30th November, 1962.
5. Subs. by G.S.R. 522(E), dated 27th May, 1987, (w.e.f. 1st January, 1986.)
6. Substituted for "rupees one lakh", vide " ALL INDIA SERVICES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1958" Dt.6th July, 1996 Published in Ministry of Personnel, P.G. and Pensions (Deptt. of Personnel and Training), Noti. No. G.S.R. 271, dated June 24, 1996, published in the Gazette of India, Part II, Section 3(i), dated 6th July, 1996, p. 1394, No. 27 [F. No. 25011/22/95-AIS(II)] [L]
7. Substituted for "["rupees two lakhs and fifty thousand"]", vide " ALL INDIA SERVICES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1958" Dt.19th December, 1997 Published in Ministry of Personnel, Public Grievances and Pensions (Deptt of Personnel and Training), Noti. No. G.S.R. 717(E), dated December 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th December, 1997, pp. 5-6, No. 501 [F. No. 25011/24/97-AIS-11-A][L]
8. Substituted for "rupees one lakh", vide " ALL INDIA SERVICES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1958" Dt.6th July, 1996 Published in Ministry of Personnel, P.G. and Pensions (Deptt. of Personnel and Training), Noti. No. G.S.R. 271, dated June 24, 1996, published in the Gazette of India, Part II, Section 3(i), dated 6th July, 1996, p. 1394, No. 27 [F. No. 25011/22/95-AIS(II)] [L]
9. [G.I., MHA letter No. 2/13/59-AIS(III), dated 29th December, 1959.]
10. [G.I. MHA letter No. 2/47/60-AIS(III), dated 8th August, 1960]
11. [G.I., MHA letter No. 29/20/61-AIS(II), dated 7th December, 1965.]

19A. Interest on delayed payment of Gratuity or Death-cum-Retirement Gratuity :-

[

(1) If the payment and gratuity or death-cum-retirement gratuity has been authorised after three months from the date when its payment became due, and it is clearly established that the delay in payment was attributable to administrative lapse, ¹ [interest at the rate prescribed by the Central Government from time to time shall be paid on the amount of gratuity or death-cum-retirement gratuity in respect of the period beyond the three months.] Provided that if the cause of delay in payment was attributable to the member of the Service, no interest shall be paid.

(2) If as a result of Government's decision taken subsequent to the retirement of a member of the Service, the amount of gratuity or death-cum-retirement gratuity already paid on his retirement is enhanced on account of,-

(i) grant of emoluments higher than the emoluments on which gratuity or death-cum-retirement gratuity was determined; or

(ii) liberalisation in the provisions of these rules from a date prior to the date of retirement of the member of the service concerned,

1. Ins. by DP and AR Notification No. 25011/22/82 A.I.S.(II), dated 16th July, 1983.

19B. Deposit Linked Insurance Scheme for members of the Service :-

On the death of a member of the service, the persons entitled to receive the amount standing to his credit in the Provident Fund under the All Indias Services (Provident Fund) Rules, 1955, shall be sanctioned an additional amount equal to the average balance in the said account during the three years immediately preceding the death of such members, subject to the fulfilment of the following conditions, namely:-

(a) the balance in the said account should not have fallen below ¹[Rs. 4000] at any time during the said period of three years.

(b) the limits upto which the benefit of insurance covered will be available will be Rs. 10,000 ²[* * *]

(c) the benefit would be admissible only if the member of the service has put in at least five years service at the time of his death.]

NOTE 1.- The average balance shall be worked out on the basis of the balance at the credit of a member of the service in his provident fund account at the end of each of the 36 months preceding the month in which the death occurs. For this purpose,

as also for checking the minimum balance prescribed in Cl. (a) above- (i) the balance at the end of March, shall include the interest credited under rule 9 of the All India Services (Provident Fund) Rules, 1955; and (ii) if the last of the aforesaid 36 months is not the month of March, the balance at the end of the said last month shall include interest in respect of the period from the beginning of the financial year in which death occurs to the end of the said last month.

NOTE 2.- Payment under this scheme shall be in whole rupees. If an amount due includes a fraction of a rupee it shall be rounded to the nearest rupee, a fraction of less than 50 paise being ignored,

NOTE 3.- Any sum payable under this Scheme is in the nature of insurance money and, therefore, the statutory protection given by S.3 of the Provident Fund Act, 1925 shall not apply.

3 GOVERNMENT OF INDIA'S DECISION A question has been raised as to whose Budget (State or Central) the extra expenditure under the Deposit Linked Insurance Scheme will be debited in cases where members of the All India Services die while working under the State Government or the Central Government. It has been decided in consultation with the Ministry of Finance and C and AG that the payments has to be debited against the Budget provision made by the concerned Accountant General out of the estimate in respect of the scheme prepared by him. In respect of members of the All India Services allotted to different states, the Budget provision will be made from the States Governments Budget under an appropriate Head. When the members of the All India .Services borne on a State Cadre arc on deputation either to the Central Government or to any other State Government, the Accounts Officer who maintains the provident fund account of the office concerned shall make final payment out of the provisions of the State.

1. Subs. by Notification No.25011/37/80-AIS (II), dated 26th February, 1981, i.e. G.S.R. No. 276, dated 14th March, 1981.

2. Omitted by Notification No.25011/37/80-AIS (II), dated 26th February, 1981, i.e. G.S.R. 276, dated 14th March, 1981.

3. [DP and AR letter No. 15011/65/75-AIS(II), dated 14th November 1965.]

19C. Recovery and Adjustments of Government dues :-

[

(1) It shall be the duty of every retiring member of the service to clear all Government dues before the date of his retirement.

(2) Where a retiring member of the Service does not clear the Government dues and such dues are ascertainable,-

(a) an equivalent cash deposit may be taken from him; or

(b) an equivalent amount shall be deducted from the gratuity and the death- cum-retirement gratuity.

Explanation.- For the purpose of this rule, dues which are ascertainable shall include balance of house building or conveyance advance, arrears of rent and other charges pertaining to occupation of Government accommodation, over payment of pay and allowances and arrears of income-tax deductible at source under Income tax Act, 1961 .]

20. 20 :-

[. * * *]

21. Nominations :-

(1) For the purpose of this rule-

(a) "family" shall include the following relatives of the member of the Service:-

(i) wife or husband;

(ii) sons;

(iii) unmarried and widowed, daughters;

(iv) brothers below the age of 18 years, and unmarried or widowed sisters;

(v) father;

(vi) mother;

¹[(vii) married daughters; and

(viii) children of a pre-deceased son.]

NOTE 1.- Items (ii) and (iii) will include step children.

NOTE 2.- An adopted son or an adopted daughter may be treated as son or daughter for the purpose of this rule provided that the Accounts Officer, or if any doubt arises in the mind of the Accounts Officer, the Solicitor to the State Government is satisfied that under the personal law of the member of the Service adoption is legally recognised conferring the status of a natural child.

(b) "person" shall include any company or association or body of individuals whether incorporated or not.

(2) A member of the service shall, soon after confirmation in the

Service, make a nomination conferring on one or more persons the right to receive the death-cum- retirement gratuity that may be sanctioned under sub-rule (2) or Cl. (b) of sub-rule (3) of Rule 19 and any gratuity, which having become admissible to him under Rule 18 had not been paid to him before his death: Provided that :

(i) if at the time of making the nomination, the member of the Service has a family, the nomination shall not be in favour of any person or persons other than the members of his family; and

(ii) where the member of the Service has only one member in his family in whose favour the original nomination should be made the alternate nomination can be made in favour of any person who is not a member of his family or in favour of a body of persons corporate or incorporate.

(4) A member of the Service may provide in a nomination-

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

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

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

(6) Every nomination shall be in such one of the forms given in Schedules D to G, as may be appropriate in the circumstances of the case.

(7)

(a) A member of the Service may at any time cancel a nomination by sending a notice in writing to his Accounts Officer : Provided that the member of the Service shall along with such notice send a fresh nomination made in accordance with this rule.

(b) Immediately on the death of a nominee in respect of whom no special provision has been made in the nomination under Cl. (a) of sub-rule (4) or on the occurrence of any event by reason of which the nomination becomes invalid in pursuance of Cl. (b) of that sub-rule or sub-rule (5), a member of the Service shall send to his Accounts Officer a notice in writing formally cancelling the

nomination together with a fresh nomination made in accordance with this rule.

(8) Every nomination made and every notice of cancellation given by a member of the Service under this rule shall be sent by him to his Accounts Officer.

(9) Every nomination made and every notice of Cancellation given by a member of the Service shall to the extent that it is valid take effect on the date on which it is received by the Accounts Officer.

GOVERNMENT OF INDIA'S DECISION ²(1) Mr. X, a member of the Indian Administrative Service filled in two nominations on two different dates. While forwarding the second nomination to the Accountant General the first one was not cancelled. The validity of the nominations was, therefore, called in question. (1.2) The apparent intention of the officer in filling in the second nomination was that the first one shall be superseded, although it was not formally cancelled by him. In view of this, the Government of India decided that his second nomination might be treated as valid. Rule 22. ³ (2.2) All India Services (Death-cum-Retirement Benefits) Rules, 1958 are statutory rules. As such it is not necessary to rely on any High Court ruling for the definition of family. For the purpose of these rules the definition of family of a member of the Service shall be as given in this rule. Niece do not fall within the definition of the term family given in this rule and are not, therefore, entitled to any family pension.

1. Added by MHA Notification No.29/7/60-AIS (II), dated 30th November, 1962.

2. [G.I., MAH letter No. 2/27/59-AIS(III) dated 101 April, 1959]

3. G.I., MHA letter No. 2/117/59-AIS(III), dated 17th January, 1960.

22. Family Pension :-

¹[(1) This rule applies to those members of the Service who were in service on the 31st December, 1963 and who had specifically opted for the benefits of this rule under the orders issued by the Central Government.

(2)

(a) The State Government may grant a family pension to the family of a member of the Service in the event of the death of that member after he had rendered twenty years of qualifying service.

In exceptional circumstances, the Central Government may grant a family pension to the family of a member of the Service if the death of such member occurs before he has completed twenty years of qualifying service, if he has rendered not less than ten years of qualifying service.

(b) The total period for which a family pension may be paid shall be ten years : Provided that the period of payment of family pension shall in no case extend beyond a period of five years from the date on which the member of the Service actually retired, or on which he would retire, on superannuation pension in the normal course according as the death takes place after retirement or while the member of the Service was in service.]

NOTE.- In the case of a member of the Service who dies while on extension of service the expression "the date on which he would have retired on superannuation pension in the normal course" in the above proviso shall mean the date upto which extension of service has been sanctioned to him before his death.

(3) Subject to the maximum of Rs. 150 per mensem the amount of family pension shall be-

(a) in the event of death while in service, half the pension admissible to a member of the Service had he retired on a superannuation pension on the date following the date of death;

(b) in the event of death after retirement, half the pension sanctioned for him at the time of retirement.

² [(3A) The family pension admissible under this rule shall be enhanced by ad hoc increase at such scales and in such manner as the Central Government may, from time to time specify for officers of the Central Services Group A:]

(4) For the purpose of this rule- "family" shall include the followings relatives of the members of the Service :

(i) wife or husband;

(ii) sons;

(iii) unmarried and widowed daughters;

(iv) brothers, below the age of 18 years; and unmarried or widowed sisters;

(v) father; and

(vi) mother,

NOTE 1.- Items (ii) and (iii) will include step-children.

NOTE 2.- An adopted son or an adopted daughter may be treated as son or daughter for the purpose of this rule provided that the Accounts Officer, or if any doubt arise in the mind of the Accounts Officer, the Solicitor to the State Government, is satisfied that

under the personal law of the member of the Service, adoption is legally recognised as conferring the status of a natural child.

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

(a) to a person mentioned in Cl. (b) of sub-rule (6) without the production of reasonable proof that the person was dependent on the member of the Service for support;

(b) to an unmarried woman member of the family of the member of the Service, in the event of her marriage;

(c) to a widowed woman member of the family of the member of the Service in the event of her re-marriage;

(d) to a brother of a member of the Service, on the former attaining the age of 18 years; and

(e) to a person who is not member of the family of the member of the Service.

(6) Except as may otherwise be provided by a nomination under sub-rule (7)-

(a) a family pension under this rule shall be allowed-

(i) to the eldest surviving widow if the deceased was a male member of the Service or to the husband if the deceased was a woman member of the Service.

Explanation.- The expression eldest surviving widow shall be construed with reference to the seniority according to the date of the marriage with the member of the Service and not with reference to the ages of the surviving widows;

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

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

(iv) failing the above, to the eldest widowed daughter; and

(b) in the event of no family pension becoming under Cl. (a), 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 18;

(iv) failing (i) to (iii) above, to the eldest surviving unmarried sister;

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

(7) If a member of the Service who has completed ten years service desires that any family pension that may be sanctioned under this rule should be payable to any member of his family in any order to be specified by him, he may make a nomination for the purpose in the form given in Schedule H indicating the order in

which the family pension should be payable to the members of his family and to the extent that it is valid, the family pension shall be payable in accordance with such nomination provided the persons concerned satisfy the requirements of sub-rule (5) at the time of the grant of such pension. 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 that order.

NOTE.- The provisions of Cl. (a) of sub-rule (7), sub-rule (8) and sub-rule (9) of Rule 21 shall apply in respect of nomination made under this sub-rule also.

(8)

(a) A family pension sanctioned under this rule shall not be payable to more than one member of the family of the member of the Service at the same time.

(b) If a family pension sanctioned under this rule ceases to be payable before the expiry of the period mentioned in sub-rule (2) on account of the death or marriage of the recipient or other causes, it shall be re-granted for the unexpired portion of that period to a person next lower in the order shown in the nomination made under sub-rule (7) or in the absence of a nomination, to the person in the order mentioned in sub-rule (6), who satisfies the other provisions of this rule.

(9) A family pension sanctioned under this rule shall be tenable in addition to any compensation or any extraordinary pension or gratuity that may be granted to the member of the pensioners family under the existing Rules or Acts.

[(10)* * *]

GOVERNMENT OF INDIA'S DECISIONS : See Government of India's Decision (2) below Rule 21. GOVERNMENT OF INDIA'S

INSTRUCTIONS : (1) Proposals for the grant of family pension under the proviso to sub-rule (1) should be accompanied by information on the following points :- (i) The amount received or receivable by the family of the deceased officer by way of insurance, Provident Funds and death gratuity. (ii) The pay (indicating separately the officiating pay and other emoluments in the nature of Pay including dearness pay) the officer was in receipt of at the time of his death. (iii) The number of children left behind, if any, with their ages and the classes in which studying.

1. Subs by MHA Notification No.29/11/65-AIS (II), dated 5th February, 1966, (w.e.f. 1st January, 1964).

2. Subs. by DPand AR Notification No.25011/9/76-AIS (II)-A,

dated 15th June, 1977, i.e. G.S.R. 830, dated 2nd July, 1977, (w.e.f. 1st October, 1975.)

22A. Continuation of family pension benefits :-

[

(1) In respect of widows or minor children who were actually in receipt of family pension on the 31st December, 1963, or who become entitled to family pension under these rules consequent on the death on or after the 1st January, 1964, of an officer who retired as a member of the Service before that date, the period of payment of family pension shall be extended beyond the expiry of the period of which family pension is admissible under Rule 22, upto :

(a) the date of death or re-marriage, whichever is earlier, in the case of widows; and

(b) the date of attaining majority in the case of children (or, the date of marriage, if earlier, in the case of daughters).

(2) The rate of family pension for the extended period will be equal to half the family pension admissible previously subject to a minimum of Rs. 20 per mensem.

NOTE.- The benefits of the rule are subject to the general conditions laid down in sub-rules (8), (9) and (10) of Rule 22.

¹ [(3) The family pension admissible under this rule shall be enhanced by ad hoc increases at such scales and in such manner as the Central Government may, from time to time specify for officers of the Central Services Group A.]

1. Subs. by DP and AR Notification No.25011/9/76-AIS (II), dated 15th June, 1976, i.e. G.S.R. 830, dated 2nd July, 1977 (w.e.f. 1st October, 1975).

22B. Application :-

[

(1) This rule shall apply to :

(a) All the members of the Service appointed to the service on or after the 1st January, 1964.

(b) All those who were members of the Service on 31st December, 1963 and who opted or are deemed to have opted for this rule under the general or special orders issued by the Central Government.]

¹(2) Subject to the provisions of Rule 22-C, ["with effect from the 1st day of January, 1996, family pension shall in no case be less than thirty per cent of the minimum pay in the revised scale of pay introduced with effect from the 1st day of January, 1996 of the post last held by the pensioner or the deceased member of the Service, as the case may be,."]subject to the minimum of rupees One thousand two hundred and seventy five per mensem and a maximum of rupees nine thousand.

EXPLANATORY MEMORANDUM The Central Government decided to implement the decision taken on the recommendations made by the Fourth Central Pay Commission relevant to pension with effect from 1st January, 1986. All India Services (Death-cum-Retirement Benefits) Rules, 1958 are being amended accordingly with effect from 1st January, 1986. It is certified that no member of the service is likely to be adversely affected by Notification being given retrospective effect.

(3) The period for which family pension is payable shall be as follows :-

(i) in the case of a widow or widower upto the date of death or remarriage, whichever is earlier;

²(ii) in the case of a son or an unmarried, widowed or divorced daughter till such son or daughter attains the age of twenty five years or up to the date of his/her marriage/re-marriage, as case may be, whichever is earlier subject to the income criterion as prescribed by the Central Government from time to time.

³(iii) in case of parents, up to the death of both the parents.

NOTES:- 1. Only that disability which manifests itself before the retirement or death of the member of the Service while in service shall be taken into account for the purpose of grant of family pension under this sub-rule. 2. A daughter shall become ineligible for family pension under the sub-rule from the date she gets married. 3. The family pension payable to such a son or daughter shall be stopped if he/she starts earning his/her livelihood. 4. In such cases it shall be the duty of the guardian 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.

(4)

(a)

(i) Where the family pension is payable to more widows than one, the family pension shall be paid to the widows in equal shares.

(ii) On the death of a widow, her share of the family pension shall

become payable to her eligible child :

(b) The deceased member of the service 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 member of the service or pensioner.

(5)

(i) Except as provided in sub-rule (4) the family pension shall not be payable to more than one member of the family at the same time.

(ii) If a deceased member of the Service or pensioner leave behind a widow or widower, the family pension shall become payable to the widow or widower, failing which to the eligible child.

(iii) If sons and unmarried daughters are alive, unmarried daughters shall not be eligible for family pension unless the sons attain the age of 21 years and thereby become ineligible for the grant of family pension.

(6) Where a deceased member of the Service or pensioner leaves behind more children than one, the eldest eligible child shall be entitled to the family pension for the period mentioned in Cl. (ii) or Cl. (iii) of sub-rule (3) as the case may be, and after the expiry of that period the next child shall become eligible for the grant of family pension.

(7) Where family pension is granted under this rule to a minor, it shall be payable to the guardian on behalf of the minor.

(8) In case both wife and husband are members of the service 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 the death of the husband and wife, the surviving child or children shall be granted the two family pensions in respect of 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 Rule 22C, the amount of both the pensions shall be limited to five hundred rupees per mensem;

(ii) if one of the family pensions ceased to be payable at the rate mentioned in Rule 22C, and in lieu thereof the pension at the rate mentioned in sub-rule (2) of this rule becomes payable the amount

of both the pensions shall also be limited to five hundred rupees per mensem;

(b) if both the family pensions are payable at the rates mentioned in sub-rule (2) of this rule, the amount of two pensions shall be limited to two hundred and fifty rupees per mensem.

(9) Where a member of the service dies leaving behind a judicially separated husband or widow, as the case may be, and no child or children, the family pension in respect of the deceased shall be payable to the person surviving: Provided that where in a case judicial separation is granted on the ground of adultery and the death of the member of the service 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.

(10)

(a) Where a member of the Service dies leaving behind a judicially separated husband or widow as the case may be, with a child or children, the family pension payable in respect of the deceased shall be payable to the surviving persons 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.

(11)

(i) As soon as possible after joining service a member of the Service shall give details of his family in the form given in Schedule J to the Accounts Officer. If he has no family, he shall furnish the details as soon as he acquires a family.

(ii) If there is a subsequent change in the family, including the marriage of a daughter, the fact shall be intimated to the Accounts Officer, who shall make necessary entry in the form.

(iii) The Accounts Officer shall, on receipt of the form, keep it in safe custody and acknowledge receipt of the form and all further communications received from the member of the Service in this behalf.

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(i) The benefits of this rule shall not accrue to the family of a member of the Service who is dismissed or removed from service: Provided that if such a member of the service was in receipt of compassionate allowance under proviso to sub-rule (1) of Rule 5, his family shall be eligible to family pension under this rule.

(ii) Family pension under this rule shall not be admissible to the

family of a member of the Service when the family pension under the Extraordinary Pension Rules (whether made by the Central Government or the State Government) is granted to such family.

(13) The family pension admissible under this rule shall be enhanced by ad hoc increases at such scales and in such manner as the Central Government may from time to time, specify for officers of Central Services Group A.

(14) Definition of "Family":- Family for the purpose of this rule includes the following relatives of a member of the Service, namely :-

(i) Wife or husband as the case may be, provided the marriage took place before the retirement of the member of the service.

(ii) A judicially separated wife or husband such separation not being granted on the ground of adultery, provided the marriage took place before retirement of the member of the Service and the person surviving was not held guilty of committing adultery.

(iii) Son who has not attained the age of 21 years and unmarried daughter who has not attained the age of 24 years, including son and daughter adopted legally before retirement, but shall not include son or daughter born after retirement.

⁴(iv) the parents provided they were wholly dependent on the Government servant when he/she was alive and the deceased employee had left behind neither a widow nor a child subject to the dependency criteria in case of parents as prescribed by Central Government from time to time.

GOVERNMENT OF INDIA'S DECISIONS : (1) It has been decided to extend the revised scheme of family pension applicable to Central Government servants to the All India Services Officers governed by the A.I.S. (DCRB) Rules, 1958. The orders contained in the Ministry of Finance O.M. No. F. 9(16)-EV(A)/63, dated 31st December, 1963, would apply mutatis mutandis to the All India Services Officers governed by the said Rules, with effect from 1st January, 1964. A formal amendment to the AIS (DCRB) Rules, 1958 has since been made vide Rule 22B. (1.2) The officers had to exercise option for the above mentioned orders within six months from 1st January, 1964. Those who failed to opt out of the scheme within the stipulated period would be deemed to have opted for it. Those who have been appointed to the Service after 1st January, 1964 or would be appointed subsequently would automatically be covered by the revised scheme and would not be required to exercise the option. ⁵(1.3) The officers who have retired on or after 1st January, 1964 or the families of those officers who have died while in service

after this date are also eligible for the benefit of the revised scheme. In their cases the Accountant General have to work out whether the old scheme as laid down in Rule 22 or the new scheme laid down in Rule 22B is more beneficial to them. Accordingly, they should be deemed to have exercised their option for the old or the new scheme as the case may be. (1) The Government of India have decided that the modifications contained in para 1 of the Ministry of Finance OM No.F. 9(24)-EV(A)/65, dated 5th January, 1966, Annexure 1A will also apply to the officers of the All India Services and also of the Indian Civil Service. (1.2) These orders will be effective from 1st January, 1966. ⁶(1.3) Those All India Services officers who were in Service on 31st December, 1963 and had not opted to be governed by the Family Pension Scheme, 1964, but who may now desire to avail of the benefits of the present concession may be allowed to exercise by the 30th April, 1966, a fresh option in terms of paras 2 and 4 of the Ministry of Home Affairs letter No. F. 29/74/63-AIS(II), dated 25th February, 1964. ANNEXURE A Copy of office Memorandum No. F. 9(24)-EV(A)/65, dated the 5th January, 1966 from the Government of India, Ministry of Finance, Department of Expenditure addressed to All Ministries of the Government of India, etc., etc. SUBJECT : Liberalisation of the provision of the family Pension Scheme. 1964, in respect of families of Central Government Employees who die while in service. Recently there have been a number of deaths of civilian officers in harness where they have left their dependents rather badly off. Government have accordingly considered the question of making suitable provisions so as to alleviate the distress of the families who require greater assistance during the first few years after a Government servants death while still in service and in partial modification of the orders issued in this Ministry's Office Memoranda No. F. 9(16)-EV(A)/63, dated 31st December, 1963 and No. F. 19(3)-EV(A)/65, dated 9th September, 1965, the President has been pleased to decide as under: (i) For a period of 7 years from the date of death or till the date on which the officer could have reached the normal age of superannuation had he remained alive, whichever period is shorter, the pension payable under the aforesaid orders will be at 50 per cent of the basic pay last drawn, subject to a maximum of twice the pension admissible under para 4 of the Office Memorandum dated 31st December, 1963 referred to above. (ii) The pension payable thereafter will be at the rates laid down in the respective orders. (iii) These orders will not be applicable if the Government servant had put in less

than 7 years continuous service prior to his death. (iv) The other provisions in the existing orders will continue to operate. NOTE 1.- In the case of widows/widowers governed by the provisions of Office Memorandum date 9-9- 1965 referred to above, the child allowance, if any, will be paid in addition. NOTE 2.- In the case of a person who dies while on extension of service, the date upto which the extension of service had been sanctioned to him before his death will be deemed to be the normal date of superannuation. 2. These orders will have effect from 1st January, 1966. 3. Government servants who were in service on 31st December, 1963, and had opted not to be governed by the Family Pension Scheme, 1964 but who may now desire to avail of the benefits of the present concession will be allowed to exercise by the 31st March, 1966, a fresh option in terms of para 8 of this Ministry's Office Memorandum No. F. 9(16)-EV(A)/63, dated 31st December, 1963. In case of failure to exercise a fresh option within the stipulated period, the earlier option, if any, will be deemed to subsist. The option should be exercised in writing and communicated by the officer concerned to the Head of Office if he is a non-gazetted officer and to his Accounts Officer if he is a gazetted Officer. The option when received from a non-gazetted officer should be countersigned by the Head of Office and pasted in the service book of the officer concerned. It will be the responsibility of the individual concerned to ensure that the option has reached the Head of Office/Accounts Officer. 4. The administrative authorities are requested to take urgent steps to bring the contents of this Office Memorandum to the notice of all concerned persons employed under their administrative control, including those on leave or on foreign service. 5. These orders will not be applicable to cases where the deceased Government servant was not governed by the Family Pension Scheme for Central Government Employees, 1964. These orders will not also be applicable to those Government servants who are governed by the Workmens Compensation Act . 6. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders have been issued after Consultation with the Comptroller and Auditor General of India. (2) The Government of India have decided that the modifications contained in the Government of India, Ministry of Finance, OM No. F. 15(14)-EV./66, dated 19th November, 1966 (Annexure B) and No. F. 15(33)-EV/66, dated 23rd November, 1966 (Annexure C) will also apply to Officers of All India Services and the Indian Civil Service. (2.2) These modifications will be effective from the dates

of the order issued by the Ministry of Finance.⁷ (2.3) Formal amendments to the AIS (DCRB) Rules, 1958 will be issued in due course. ANNEXURE B Copy of OM No. F. 15(14)-EV/66, dated 19th November, 1966, from Shri C.K. Subramanian, Under Secretary to the Government of India, Ministry of Finance, Department of Expenditure, New Delhi, to All Ministries of the Government of India, etc., etc. SUBJECT : Family Pension for Central Government Employees, 1964-Grant of Family Pension to the widows. The President has been pleased to decide that the Note below para 6(iii) of this Ministry's Office Memorandum No. F. 9(16)-E.V.(A)/63, dated the 31st December, 1963 should be substituted as under :-

(i) Where an officer is survived by more than one widow, the pension will be paid to them in equal shares. On the death of a widow her share of the pension will become payable to her eligible minor child. If at the time of her death, a widow leaves no eligible minor child, the payment of her share of the pension will cease. (ii) Where an officer is survived by a widow but has left behind an eligible minor child from another wife, the eligible minor child will be paid the share of pension which the mother would have received if she had been alive at the time of the death of the officer. 2. In consequence of the above amendment, sub-para 6 of this Ministry's Office Memorandum No. 9(16)-E.V.(A)/63, dated the 31st December, 1963 will be substituted as follows - "Except as provided in the Note below sub-para (iii) of this para, pension awarded under this scheme will not be payable to more than one member of an Officer's family at the same time. It will first be admissible to the widow/widower and thereafter to the eligible minor children." 3. Cases which have already been settled will not be reopened; cases outstanding on the date of issue of these orders will be dealt with in terms of these orders. ANNEXURE C Copy of OM.No. F. 15(33)-E.V./66, dated 23rd November, 1966 from C. K. Subramanian, Under Secretary, Ministry of Finance, Department of Expenditure, New Delhi, to all Ministries of the Government of India, etc., etc. SUBJECT : Liberalisation of the provisions of the Family Pension Scheme. 1964 in respect of the Families of Central Government Employees who die while in service. The undersigned is directed to invite a reference to this Ministry's Office Memorandum No. F. 9(24)-E.V.(A)/65, dated the 5th January, 1966 on the above subject and to state that the existing para 1(i) therein may be substituted as under:- "For a period of 7 years from the date following the date of death or till the date on which the Officer would have reached the normal age of superannuation had he

remained alive, whichever period is shorter, the pension payable under the aforesaid orders will be at 50 per cent of the basic pay last drawn, subject to a maximum of twice the pension admissible under para 4 of the Office Memorandum dated 31st December, 1963 referred to above."

1. Substituted for " 4 [(2) Subject to the provisions of rule 22C the scale of family pension admissible shall be as follows :- (i) where the pay of the member of the service is rupees three thousand or less, twenty per cent of pay subject to minimum of rupees four hundred Fifty per month, (ii) where the pay of the member of the service is more than rupees three thousand, fifteen per cent of pay subject to a minimum of rupees six hundred and maximum of rupees one thousand two hundred fifty per month.] ", vide " ALL INDIA SERVICES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1958" Dt.19th December, 1997 Published in Ministry of Personnel, Public Grievances and Pensions (Deptt of Personnel and Training), Noti. No. G.S.R. 717(E), dated December 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th December, 1997, pp. 5-6, No. 501 [F. No. 25011/24/97-AIS-11-A] [L]

2. Substituted for " (ii) in the case of son, until he attains the age of 21 years, and ", vide " ALL INDIA SERVICES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1958" Dt.19th December, 1997 Published in Ministry of Personnel, Public Grievances and Pensions (Deptt of Personnel and Training), Noti. No. G.S.R. 717(E), dated December 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th December, 1997, pp. 5-6, No. 501 [F. No. 25011/24/97-AIS-11-A][L]

3. Substituted for " (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 member of the service 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 21 years in the case of a son and 24 years in the case of a daughter, the family pension shall be payable to such son or daughter for life subject to the following conditions, namely :- (a) if such son or daughter is one among two or more children of the member of the service, the family pension shall be initially payable to the minor children in the order set out in clause (iii) of sub-rule (5) of this rule until the last minor child attains the age of 21 or 24 years, 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 or her, for life; (b) if there are more than one such son or daughter suffering from disorder or disability of mind or who are physically crippled or disabled, the family pension shall be paid in the

following order, namely :- (i) Firstly to the son, and if there are more than one son the younger of them will get the family pension only after the life time of the elder; (ii) Secondly, to the daughter, and if there are more than one daughter the younger of them will get the family pension only after the lifetime of the elder; (c) the family pension shall be paid to such son or daughter through the guardian as if he or she were a minor; (d) before allowing the family pension for life to any such son or daughter, the sanctioning authority shall satisfy 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 conditions of the child; (e) the person receiving the family pension as guardian of such son or daughter 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. ", vide " ALL INDIA SERVICES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1958" Dt.19th December, 1997 Published in Ministry of Personnel, Public Grievances and Pensions (Deptt of Personnel and Training), Noti. No. G.S.R. 717(E), dated December 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th December, 1997, pp. 5-6, No. 501 [F. No. 25011/24/97-AIS-11-A] [L]

4. Inserted vide " ALL INDIA SERVICES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1958" Dt.19th December, 1997 Published in Ministry of Personnel, Public Grievances and Pensions (Deptt of Personnel and Training), Noti. No. G.S.R. 717(E), dated December 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th December, 1997, pp. 5-6, No. 501 [F. No. 25011/24/97-AIS-11-A][L]

5. [G.I. MHA letter No. F. 29/74/63-AIS(II), dated 25th February, 1964.]

6. [G.I. MHA letter No. 29/5/56-AIS(11), dated 23rd February, 1966.]

7. [G.I MHA No. 29/5/66-ASI(III), dated 1st April, 1967.]

22C. Special provision regarding family pension in certain cases :-

[For a period of seven years from the date following the date of death or till the date on which the member of the Service would have [attained the age of 65 years] had he remained alive, whichever period is shorter, the pension payable under sub-rule (2)

of Rule 22B, shall be at 50 per cent of the basic pay last drawn subject to a maximum of twice the pension admissible under the said sub-rule : Provided that the enhanced pension will be admissible if the member of the Service has put in at least 7 years continuous service prior to his death: Provided further that in the event of death after retirement, the enhanced pension rates shall not exceed the pension sanctioned to the member of the Service at the time of the retirement inclusive of the part of the pension which the retired member of the Service may have commuted before his death.

Explanation 1.- In case a member of the Service dies while on extension of service, the date upto which the extension of service had been sanctioned before his death shall be deemed to be the normal date of superannuation.

Explanation 2.- Family Pension in the case of the death of a member of the Service after retirement shall be payable only to those members of his family who were declared as such before his retirement :

Provided that no such declaration is necessary in respect of such of the members of the Service who retire during the period between the 1st of January, 1973 and the date of publication of the All India Services (Death-cum-Retirement Benefits) Amendment Rules, 1975, in the Official Gazette.

23. 23 :-

[. deleted]

24. 24 :-

[. deleted]

25. Commutation of Pension :-

A member of the Service may commute his pension under such conditions and to such extent as may be prescribed by Regulations made in this behalf by the Central Government after consultation with the Government of the States.

26. Acceptance of employment after retirement :-

[

(1) A pensioner shall not accept any commercial employment before the expiry of two years from the date of his retirement,

except with the previous ¹["sanction of the Central Government by submitting an application in Schedule L".] If a pensioner accepts a commercial employment without such sanction, it shall be competent for the Central Government to declare by an order in writing 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:

²[Explanations.- (1) "Commercial Employment" means :

NOTE : For the purpose of this Explanation, employment under a co-operative society" includes the holding of any office, whether elective or otherwise, such as that of President, Chairman, Manager, Secretary, Treasurer and the like, by whatever name called in such society.

(2) For the purpose of this sub-rule, the expression "the date of retirement" in relation to a pensioner re-employed after retirement, without any break either in a Class I post under the Central Government, or in an equivalent post under a State Government, shall mean the date on which such pensioner finally ceases to be so re- employed in Government service.

(3) A pensioner shall not accept any employment under a Government outside India, (or under an international organization of which the Government of India is not a member) except with the previous sanction of the Central Government. No pension shall be payable to a pensioner who accepts such an employment without such sanction in respect of any period for which he is so employed or for such longer period as the Central Government may determine : Provided that a pensioner who has been permitted by the Central Government to take up a particular employment under a Government outside India during his leave preparatory to retirement shall not be required to obtain subsequent permission for continuance in such employment.

NOTE.-"Employment" under a "Government outside India" shall include employment under a local authority or corporation or any other institution or organisation which functions under the supervision or control of a Government outside India.

GOVERNMENT OF INDIA'S DECISIONS (II) These rules do not contain any provision regarding re-employment of retired Indian Administrative/Police Service officers. A question, therefore, arose by what rule their re-employment under State Government should be regulated. (1.2) Indian Administrative/Police Service Officers are treated as non-cadre officers after their retirement. Their re-employment in cadre posts shall be regulated by R.9 of Indian Administrative/Police Service (Cadre) Rules, 1954. As regards re-

employment in non-cadre posts, State Government rules will apply.

³(2) A question having arisen, it was decided that re-employment of a member of service on the administrative staff of a university, does not come within the purview of Rule 26, and no permission of the Government of India is required.

⁴(3) Re-employment under the State Government or body corporate or not, which is wholly or substantially controlled by State Government, or an Institute like the Indian Institute of Public Administration, does not come within the definition of commercial employment and permission of the Government of India is not necessary.

⁵(4) It has been decided that fixation of pay of re-employed IAS/IPS officers under the State Government will be regulated in accordance with Government of India, Ministry of Finance OM No. 8/E.II/57, dated the 25th November, 1958.

⁶(5) Recently, a State Government had referred to the Central Government a request from a retired officer of an All India Service for permission to accept commercial employment within two years after retirement. While forwarding the case, the State Government informed the Government of India that, in view of the urgency represented by the officer, the State Government had permitted him to accept the employment provisionally in anticipation of the Central Government's approval subject to the condition that he should resign the appointment if the Government of India did not approve of such re-employment. As under Rule 26(1), the responsibility of examining such cases and sanctioning permission has been cast upon the Government of India, State Governments are requested not to permit All India Services Officers to accept such commercial employment, in anticipation of Government of India's orders. As a matter of general policy, the Government of India are adverse to the acceptance of such commercial employment, by retired All India Services officer within two years of retirement.

⁷(6) It has been decided that no permission is required for acceptance of Professorship at MIT Harvard after retirement.

⁸(7) It has been decided that the acceptance of appointment as Arbitrator does not constitute commercial employment.

⁹(8) It has been decided that the reputation of the firm offering employment would also be a consideration which should be taken into account by the State Government with reference to the relevant five criteria. For instance, the fact that firm is blacklisted by Government will be one of the factors which will render the employment to be considered as not being of a thoroughly reputable kind.

¹⁰(9) Employment of All

India Service pensioner in a nationalised bank and State Bank of India and its subsidiaries will not amount to acceptance of commercial employment. Rule 26(1), has been under the consideration of this Department. It has been decided to lay down the following instructions for the information and guidance of State Government :- (1) Where the management of a private company is taken over by a public financial institution/State Governments/Central Government, the appointment of a retired member of an All India Service as Chairman/Director/Managing Director by the public financial institution or the Government should be construed as "employment under a corporation controlled by Government", as envisaged in Explanation 1 below Rule 26(1) . Such an employment will not amount to commercial employment and the officer concerned will not be required to obtain prior permission of the Central Government. **11**(2) Where a public financial institution/ Government appoints a retired member of an All India Service as Chairman/Director/ Managing Director in a company, whose management continues in private hands, such employment will technically fall in the purview of expression "commercial employment". It is, however, not necessary to treat such employment on par with normal commercial employment as it is the Government or the public financial institution, as the case may be, that seeks to protect its interest through appointment of the retired member of the service as a nominee Director. The retired officer would be an appointee of the institution or the Government though he would receive his pay or fee from the private company. In such cases, approval of the Central Government for permitting the officer to accept the appointment in question under Rule 26(1), could be presumed.

GOVERNMENT OF INDIA INSTRUCTIONS **12**(1) While forwarding applications from individual offices for permission to accept commercial employment during leave preparatory to retirement or after retirement, the State Government/Ministry may clearly specify whether they are satisfied that each of the following criteria is fulfilled, viz. (i) Has the officer while in service had any such dealing with the proposed employer as might create the suspicion that he had shown favour to the latter ? (ii) Will his commercial duties be such that his official knowledge and experience could be used to give the employer an unfair advantage ? (iii) Will his duties be such as might bring him into conflict with Government ? (iv) Is the proposed employment of a thoroughly reputable kind ? (v) Are there any exceptional circumstances which would make the refusal

of consent a real hardship ? "They may also indicate the salary which the Officer expects to receive on accepting commercial employment. **13**(2) It has been decided that an All India Service Pensioner, who wants permission to take up commercial employment, under Rule 26, will have to indicate in his application the details of posts held by him under the Central Government any time before his retirement from service. Accordingly, the form of application for permission to accept commercial employment prescribed under the Ministry of Home Affairs Letter No. 11/1/68-AIS (II), dated the 23rd January, 1968 has been slightly amended and the revised form is annexed herewith.

14 ["(3) In granting or refusing permission under sub-rule (1) or sub-rule (2) to a pensioner for taking up any employment, the Central Government shall have regard to the following factors, namely: (i) the nature of employment proposed to be taken up and the antecedents of the employer; (ii) whether his duties in the employment which he proposes to take up might be such as to bring him into conflict with Central Government and such other State Government(s) which the pensioner may have served; (iii) whether the pensioner while in service had any such dealing with the employer under whom he proposes to seek employment as it might afford a reasonable basis for the suspicion that such pensioner had shown favours to such employer; (iv) whether the duties of the employment proposed involve liaison or contact work with Central Government departments and such other State Government(s) as the pensioner may have served; (v) whether his duties in the proposed employment will be such that his previous official position or knowledge or experience under Central or State Government could be used to give the proposed employer an unfair advantage; (vi) the emoluments offered by the proposed employer; and (vii) any other relevant factor.".]

1. The word ["sanction of the central government"] substituted by All India Services (Death-cum-Retirement Benefits) Amendment Rules, 2001. Ministry of Personnel, Public Grievances and Pensions (Deptt. of Personnel and Training), Noti. No. G.S.R. 35S(E), dated May 10, 2001, published in the Gazette of India, Extra., Part II, Section 3(i), dated 14th May, 2001, pp. 8-11, No. 235 "sanction of the Central Government"

2. Subs. by Subs. by DP and AR Notification No. 25011/12/82-AIS(II), dated 16th July, 1983 i.e. (GSR No. 557. dated 30th July, 1983.

3. [F.NO. 10/7/62-AIS(II).]
4. [MHA letter No. 10/3/62-AIS(II), dated 23rd April, 1962 and F. No. 11/18/62-AIS(II).]
5. [MHA letter No. 13/19/58-AIS(III), dated 26th June, 1959 and F. No. 1/5/62-AIS(II).]
6. [G.I. MHA letter No. 11/10/63-AIS(II), dated the 16th August, 1963.]
7. [File No. 26013/4/75-AIS(II).]
8. [File No. 17/7/72-AIS(II).]
9. [G.I. DP and AR Letter No. 26013/2/75-AIS(II), dated 14th February, 1975.]
10. [DP and AR File No. 18/19/73-AIS(II).]
11. [DP and AR Letter No. 26013/17/77-AIS(II), dated 4th January, 1978.]
12. [G.I., MHA letter No. 11/20/159-AIS(11), dated 7th August, 1959.]
13. [D.P. and A.R. letter No. 26013/22/78-AIS(II), dated 16th August, 1979.] ANNEXURE TO DP and AR LETTER NO. 26013/22/78-MS(II), DATED 16TH AUGUST, 1975
14. sub-rule 3 shall be inserted by All India Services (Death-cum-Retirement Benefits) Amendment Rules, 2001. Ministry of Personnel, Public Grievances and Pensions (Deptt. of Personnel and Training), Noti. No. G.S.R. 35S(E), dated May 10, 2001, published in the Gazette of India, Extra., Part II, Section 3(i), dated 14th May, 2001, pp. 8-11, No. 235.

27. Anticipatory Payments :-

(1) Where a member of the Service is likely to retire before his pension can be finally assessed and settled in accordance with these rules, the Accounts Officer shall sanction the disbursement to him of pension to which, after the most careful summary investigation that the Accounts Officer can make without delay, he believes the member of the Service to be entitled, on the basis of his verified qualifying service, provided that such disbursement shall be made only after the declaration specified in Schedule I has been signed by the retiring member of the Service.

(2) If the Accounts Officer considers it likely that, in a case contemplated under sub-rule (1), the member of the Service would be entitled to gratuity only, one-sixth of the amount of gratuity which, after the most Careful summary investigation that the . Accounts Officer can make without delay, he believes the member of the Service to be entitled shall, upon a similar declaration, be disbursed to him monthly until the amount is finally settled or for six months, whichever period is less.

(3) The payment of the anticipatory pension or gratuity shall be so arranged that it is not delayed beyond the first of the month following the month in which the member of the Service is due to retire.

(4) If, upon the completion of regular investigation, it be found that the pension thus summarily assigned differs from the pension finally settled, the difference shall be adjusted in the first payment after such final settlement : Provided that if a gratuity summarily assigned sub-rule (2) proves to be larger than the amount finally settled, the retired member of the Service shall not be required to refund any excess actually paid to him unless otherwise decided by the State Government.

(5) Subject to the general conditions prescribed above the anticipatory payments of death-cum-retirement gratuity and family pension may also be sanctioned to the extent of 3/4ths of the amounts clearly admissible on the basis of the qualifying service as verified up to the date of sanction, and after a declaration in the form given in Schedule I has been signed by the recipient.

27A. Revision of Pension after authorisation :-

. 1 .-

(i) Subject to the provisions of Rule 3 and Rule 6, pension once authorised after final assessment shall not be revised to the disadvantage of the member of the service, unless such a 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 any Authority without the concurrence of the Department of Personnel and Training, if the clerical error is detected after a period of two years from the date of occurrence of such error.

(ii) For the purpose of sub-rule (1), the pensioner concerned shall be served with a notice by the sanctioning authority requiring him to refund the excess payment of pension within a period of two

months from the date of receipt of notice by him.

(iii) In case the pensioner fails to comply with the notice, the authority competent to sanction pension/family pension shall, by order in writing, direct that such excess payment, shall be adjusted in instalments by short payments of pension in future in one or more instalments, as such authority may direct.

1. Inserted vide " ALL INDIA SERVICES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1958" Dt.19th December, 1997 Published in Ministry of Personnel, Public Grievances and Pensions (Deptt of Personnel and Training), Noti. No. G.S.R. 717(E), dated December 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th December, 1997, pp. 5-6, No. 501 [F. No. 25011/24/97-AIS-11-A][L]

28. Miscellaneous :-

(1) The amount of pension shall be rounded off to next higher rupee.

(2) The retirement benefits under these Rules shall be drawn in rupees in India only.

(3) Application for the grant of retirement benefits under these Rules shall be made in such form as may be prescribed by the Central Government.

(4) The ¹[* *] payment of retirement benefits admissible under these Rules shall be regulated by such procedural instructions as may be issued by the Central Government.

(5) A person under these Rules shall be payable from the date on which the member of the Service quits service or from the date of his application for pension whichever is later: Provided that where satisfactory explanation is forthcoming for the delay in making an application for pension, the State Government may allow the pension to take effect from the date on which the member of the Service quits service.

(6) The claim of a member of the Service to the retirement benefits shall be regulated by the rules in force at the time when the member of the Service resigns, retires or is retired or discharged from service or where the member of the Service dies while in service immediately before death.

(7) The authorities competent to retire a member of the Service on different kinds of retirement benefits shall be those indicated in [Schedule K.]

GOVERNMENT OF INDIA'S DECISIONS ²(1) The Government of India have decided that in regard to matters specified in sub-rule (4), the procedure contained in Part X of the Civil Service Regulations, i.e. Art. 905 et se will apply, ³(2) It was decided that members of AIS non-Asiatic domicile cannot be permitted to draw pension in sterling. They will have to make their own arrangements for remittance of pension through normal banking channels. ⁴(3) Instances have come to the notice of the Government of India when State Government in exercise of their extraordinary powers of terms of Art, 282 of the Constitution, sanctioned exgratia grants to the families of AIS officers dying in harness. The Attorney General of India and the Ministry of Law, who were consulted by the Government of India, opined that though the State Governments were fully competent to determine "public purpose" within the meaning of Art. 282 and their action is not justifiable but any grant excess of those provided by the rules would, serve an individual purpose and not a public purpose. It would, therefore, be advisable that the State Governments, instead of invoking Art. 282 may, in individual cases, make recommendations to the Government of India for relaxation of D.C.R.B. Rules. ⁵(4) A clarification has been sought whether or not the provisions contained in R.32 of Central Civil Service (Pension) Rules, 1972, which lays down that when Government servant completes 25 years of service, his service should be verified and the result of the verification should be communicated to him, has been extended to All India Services. Sub-rule (4) of Rule 28 provides that the sanction and payment of retirement benefits to a member of an All India Service shall be regulated by such procedural instructions as may be issued by the Central Government. In pursuance of this rule, the Central Government have decided that when a member of an All India Service completes 20 years of service, the Audit Officer shall verify the service rendered by him in accordance with the rules in force at that time and determine the qualifying service rendered by him and communicate the same to the officer concerned. This verification is subject to final verification of qualifying service which shall be made, if found necessary, at the time of retirement of a member of the Service. ⁶(5) The Central Government have decided that the simplified procedure laid down in the Ministry of Finance OM No. 11(3)-EV(A)/76, dated the 28th February, 1976 (Annexure A) and No. 11(3)- (EV)(A)/76, dated the 6th May, 1976 (Annexure B) for the calculation of retirement benefits in the case of Central

Government servants apply mutatis mutandis to members of All India Services. ANNEXURE A CCS (Pension) Rules, 1972, and other relevant orders will come into effect from 1st March, 1976, that is, in respect of persons retiring on or after 29th February, 1976.

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

(a) The Head of Office or other authority responsible for preparing the pension papers will initiate the pension case two years before the date of retirement of the Government servant. At this stage, the work will be essentially that of assembling the information necessary for working out the qualifying service (or, at a later date, the calculation of average emoluments). As most delays in pension cases arise from gaps, deficiencies and imperfections in the service book-records, every effort should be made at this stage to remove these, while, at the same time keeping in mind that what is intended is not a total overhaul or audit of the entire service book or records, but only a scrutiny limited to the immediate purpose on hand, namely the preparation of the pension papers. This process should be completed in good time and at any rate not later than 8 months in advance of the date of retirement of the Government servant.

(b) On reaching that stage i.e. 8 months before the retirement date, the actual work of preparation of pension papers, viz. the reckoning of qualifying service and the calculation of average emoluments, should be taken up. Any deficiency or imperfection or omission which still remains in the service records will be ignored at this stage and the determination of the qualifying service will be proceeded with on the basis of entries in the service records, whatever the degree of perfection to which it might have been possible to bring them by that time.

(c) The average emoluments will be determined with reference to emoluments

drawn during the last ten complete months and not 36 months as was the practice here-to-from (While the period to be taken for average calculations has been reduced the other provisions of R.34 of the CCS (Pension) Rules, 1972. will continue to apply mutatis mutandis). This work involves not merely an arithmetical calculation of the average emoluments but also a check of the correctness of the emoluments which enter into that calculation. The correctness of the emoluments on the first date of the ten-months period would naturally depend on the correctness of the emoluments prior to this date. However, any such check of the correctness of past emoluments, whether in the office preparing the pension papers or later in the office responsible for issuing the pension payment order, should not become an occasion for an extensive examination going back into the distant past; the check should be the minimum which is absolutely necessary, and it should in any case not go back to a period earlier than a maximum of 34 months preceding the date of retirement. (d) The process of determining the qualifying service and the average emoluments and the admissible pension and gratuity should be positively completed within a period of two months, and the pension papers should be sent to the one responsible for issuing the pension payment order not later than six months before the date of retirement. That office will, after the necessary scrutiny of the papers (limited to the immediate purpose on hand as mentioned in sub-paragraphs (a) and (c) above issue the pension payment order including the order for the payment of the death-cum-retirement gratuity) not later than one month in advance of date of retirement. (e) The time-schedule and procedures, mentioned above will equally apply mutatis mutandis to those cases in which the office which is to issue the Pension Payment Order has also the responsibility for the preparation of pension papers. (f) In those cases in which the retirement of a Government servant takes place earlier than the normal date of compulsory retirement either in pursuance of the provisions of FR. 56(j) or (k) (and the corresponding provisions in CCS (Pension) Rules, 1972, or because of the deemed retirement in terms of R.37 of the CCS (Pension) Rules, 1972 on the grounds of permanent absorption in a public sector undertaking autonomous bodies, the nature of the retirement would preclude advance action in regard to the pension case. In such cases too, the pension case would have to be processed very expeditiously, and instructions in this regard will be issued separately. 3. Extraordinary Leave and Suspension (a) Under R.21 of the CCS (Pension) Rules, 1972 extraordinary

leave granted on medical certificate qualifies for pension. The appointing authority may, at the time of granting extraordinary leave, also allow the period of such leave to count as qualifying for pension if the leave is granted to a Government servant: (i) due to his inability to join or rejoin duty on account of civil commotion, or (ii) for prosecuting higher technical and scientific studies, extraordinary leave taken on other grounds is treated as non-qualifying, and therefore, a definite entry is to be made in the service records to that effect. Entries regarding service being qualifying or otherwise are required to be made simultaneously with the event. Even where this is not done, it should still be possible to rectify the omission during the period allowed for preparatory action, i.e., from two years in advance of the retirement date upto eight months before retirement. At the end of that period, however, (i.e. when the actual preparation of the pension papers is taken in hand as laid down in paragraph 2(b) above) no further inquiry into past events or check of past records should be undertaken. Specific entries in the service records regarding non-qualifying periods will be taken note of and such periods excluded from the service. All spells of extraordinary leave not covered by such specific entries will be deemed to be qualifying service. (b) Similarly, R.23 of the CCS (Pension) Rules, 1972 requires that in cases other than those in which suspension has been held to be wholly unjustified the competent authority should at the appropriate time declare whether and to what extent the period of suspension will count towards the qualifying service. Specific entries in this regard in the service book/records will be taken note of at the time of reckoning, qualifying service. In the absence of any specific entry, period of suspension shall be taken as counting towards the qualifying service.

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

5. Deputation/Foreign Service (a) There are some cases in which, in accordance with the terms of deputation/foreign service, it is the responsibility and liability of the

Government servant himself to maintain the continuity of pensionable service by the payment of pension contributions. In such cases, it will be necessary to ascertain whether the recoveries have been made, before the period of foreign service is reckoned as qualifying service. However, the Government servant is sometimes put to considerable difficulty because of defective or incomplete record maintenance by the administrative/accounts offices. In such cases, while he could be reasonably asked to show that he had indeed made the contributions, the administrative authority should show a spirit of reasonableness and accommodation in evaluating and accepting such evidence as he is able to put forward, and not insist rigidly on formal proof with reference to service or accounts records for the maintenance of which the Government servant is not responsible. (b) Where, however, the responsibility for making pension contributions is that of the borrowing organisation and where either some of the contributions have not been recovered or the records in respect of the recoveries of such contributions are incomplete, while the authorities concerned should pursue the matter with the borrowing organisation separately for appropriate action, this should have no bearing on the processing and finalization of pension papers.

6. Administrative sanction to pension and the concept of approved service (a) It has been noticed that the submission of pension papers to the Head of the Department or Appointing Authority for administrative sanction to pension with reference to a concept of approved service though this is largely a formality in the vast majority of cases, nevertheless leads to a good deal of delay in the finalization of pension cases. It has, therefore, been decided that the requirement of an administrative sanction to pension which is referred to in a number of places in CCS (Pension) Rules, 1972, should be dispensed with the determination of pension will thereafter be merely a matter of calculation in accordance with the rules, and the pension papers need not be submitted to the Head of the Department or the Appointing Authority. (b) However, the intention behind the provisions in R.6 of the CCS (Pension) Rules, 1972, under which less than the full admissible quantum of pension/gratuity can be granted after a summary procedure in a particular case on the grounds of unsatisfactory service or conduct, is not proposed to be given up. Recourse to this provision will, obviously be had only in exceptional cases and for this purpose it is not considered necessary to submit all pension cases to the Head of the Department or the Appointing Authority or subject them to a process of administrative sanction. Instead, at the time when the

preparation of pension papers is taken up, i.e. 8 months prior to the retirement date, the Head of the Office should address a separate inquiry to the Appointing Authority whether there is any intention to grant less than full pension or to institute any proceedings. (The pension papers need not be sent to that authority for this purpose). In the absence of a reply to this inquiry, the authority preparing the pension papers should assume that there is no intention to grant less than full pension/gratuity and should process the pension paper accordingly so as to transmit them by the prescribed deadline to the authority responsible for issuing the pension payment order. If, on the other hand, the appointing authority does decide that there is a case for granting less than the full admissible pension/gratuity the procedure laid down in R.6 of the CCS (Pension) Rules, 1972 should be followed, and this process should be positively completed before the deadline for sending the pension papers to the authority responsible for issuing the pension payment order is reached i.e., earlier than 6 months prior to the retirement date. (c) Where the responsibility for preparing the pension papers rests with an authority other than the Head of the Office concerned, it shall be the responsibility of the Head of the Office (or that of the next higher authority, where the pension case is that of the Head of the Office himself) to ascertain in advance from the appointing authority and communicate to the authority responsible for preparing the pension papers any intention to grant less than the full admissible pension/gratuity, not later than six months prior to the retirement date. Where no such intimation has been received the authority responsible for preparing pension papers will process the pension case on the assumption that full admissible pension and gratuity may be granted.

7. Right to withhold or withdraw pension (a) Nothing contained in para 6 above is intended to affect the provisions of CCS (Pension) Rules, 1972 which provide for the withholding or withdrawing of pension. (b) Where departmental or judicial proceeding instituted during the service of the Government servant are not likely to be finalised by the date of retirement, action to grant provisional pension in terms of Rule 65 or R.74 of the C.C.S.(Pension) Rules, 1972, should be taken so that the retiring Government servant not be put to undue hardship. The provisions of paragraph 8(c) below will not apply to provisional pensions granted in terms of R.65 of the C.C.S. (Pension) Rules, 1972 or R.74 of the CCS (Pension) Rules, 1972. (c) If, after the pension papers have been forwarded to the office

responsible for issuing the Pension Payment Order in accordance with the Provisions of paragraph 2(d) above, any event occurs which has a bearing on the amount of pension admissible, the fact shall be promptly reported to the office responsible for issuing the Pension and Gratuity Payment Orders.

8. Payment of Provisional Pension and Gratuity (a) The time table laid down in paragraph 2 above is intended to be followed strictly. If however, for any special reasons it has not been found possible to complete and forward the pension papers to the office responsible for issuing the Pension Payment Orders within the prescribed time Schedule in a particular case, or if the pension papers have been sent late to that office and/or that office has either returned the papers to the Head of Office for eliciting further information or has not been able to issue the Pension Payment Order before one month prior to the date of retirement of the Government servant, steps shall be taken by the Head of Office to authorize the payment of provisional pension and gratuity by the first of the month in which it is due. For this purposes, such information as is available in the official records may be used, and further, the Head of Office should ask the retiring Government servant, for a simple statement giving his total length of service (from the date of joining duty to the date of retirement indicating the period of breaks, if any) and also the emoluments during the last ten months of service. The retiring Government servant may also be asked to certify that the facts stated by him are correct to the best of his knowledge and belief. If complete information in regard to the emoluments drawn during the last ten months is not available either with the Head of Office or with the Government servant, the emoluments last drawn should be taken provisionally as average emoluments. The Head of Office shall sanction 100% of the pension calculated with references to the information so obtained as a provisional pension. The death-cum-retirement gratuity should similarly be determined. The provisional pension and gratuity will be drawn and disbursed by the Head of Office in respect of non-gazetted Government servants. Before disbursing the provisional gratuity, all known dues such as long-term advances still outstanding, over-payment of pay and allowance etc. and other recoveries due, shall be adjusted. Where no such adjustments are due, a deduction of 10% of the gratuity of Rs. 1,000 whichever is less, shall be made partly to cover unassessed dues if any, and partly as margin for adjustment in the light of the final determination of the gratuity. (b) At present, in respect of gazetted Government servants it is the Accounts Office

which issues an Anticipatory Pension Payment Order where the final pension has not been determined. In modification of this it has been decided that in these cases, too, if the final pension payment order has not been issued by the Accounts Officer one month before the retirement date, the Government servants may ask the Head of Office for the drawal and disbursement of a provisional pension and gratuity. For this purpose, the procedure laid down in Cl. (a) will equally apply. (c) Provisional Pension to become final after six months.- The provisional pension is not intended to be continued on provisional basis beyond a period of six months from the date of retirement. If the Office responsible for issuing the Pension Payment Order has not finalised the pension case by that time, the provisional pension shall be deemed to have become final and it will be obligatory for the Office concerned to issue the final Pension Payment Order for the amount of pension and gratuity already calculated on a provisional basis : and the deduction made from the gratuity as per sub-paragraph (a) above shall also be released subject to the provisions of paragraphs 9 and 10 below.

9. Last Pay Certificate The issue of a Last Pay Certificate should not be insisted upon before the payment of provisional pension. During the period of six months after retirement which has been provided for various purposes above, it should be possible for the Head of Office or other office concerned to issue the Last Pay Certificate to a Government servant. In cases in which the Last Pay Certificate has not been issued by the time the formal Pension/Gratuity Payments Orders are received (whether this happens prior to the retirement of the Government servant as per paragraph 2(d) above, or after his retirement and after the grant of a provisional pension), the Gratuity Payment Order will in any case include a provision for the withholding 10% of the gratuity or Rs. 1,000 whichever is less, pending the production of the Last Pay Certificate.

10. Adjustment of Government dues (a) Dues pertaining to Government accommodation.- The existing procedures for the issue of No Demand Certificates by the Directorate or Estates and the adjusted of dues pertaining to the continued occupation of Government accommodation after retirement will for the present continue. The question of the elimination of delays arising from these procedures is separately under consideration. (b) Dues other than those pertaining to Government accommodation.- In respect of other Government dues steps should be taken to ascertain or assess the outstanding dues when the processing of pension papers is taken up two years prior to the retirement date. As the next stage of the

actual preparation of pension papers is reached only after a year and four months, there is ample time for ascertaining all kinds of government dues. Once that stage is reached i.e., eight months before the retirement of the Government servant, any further probing of records for recoveries due shall cover only a limited period i.e., not more than two years before the date of retirement. It should thus be quite possible for the Head of Office, or the Office which is to issue the Pension Payment Order, as the case may be, to ascertain or assess all the dues, particularly those pertaining to long-term advances such as house- building or conveyance advances, over-payments of pay and allowances, and such other dues, prior to the prescribed deadline for the issue of the Pension Payment/Gratuity payment orders or the Provisional pension/gratuity order. The pension papers should clearly indicate the total amount of outstanding dues which should be recovered out of the death-cum-retirement gratuity before authority for the payment of gratuity (whether final or provisional) is issued, and if, after the pension papers have been transmitted to the office responsible for issuing the Pension Payment Order, additional recoveries to be made from the gratuity come to notice, the fact shall be promptly reported to that office. In a case where no major recoveries are due, 10% of the gratuity or Rs. 1,000 has been withheld because there might be unassessed Government dues, or because the gratuity has been provisionally paid as per paragraph 8(a) above, or because Last Pay Certificate has not been received (see paragraph 9 above), the withheld amount shall automatically become payable on the expiry of the six months after retirement. The Head of Office (or the office issuing the pension and gratuity payment orders) shall indicate in the orders granting a provisional gratuity (or the final Gratuity Payment Order) itself the amount of gratuity withheld and add further that the withheld amount shall be released by the Office disbursing the pension without further instructions on the expiry of the period of six months from the date of retirement, unless instructions for the recovery of a specified sum or sums from the withheld amount are issued within the aforesaid period.

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

procedures the presumption will be in favour of the Government servant if the records are incomplete or deficient in any manner underlines the importance of ensuring the proper, regular and timely completion of all the service and accounts records by the offices concerned, so as to minimise the occasion for making such presumptions. It has accordingly, been decided that if, in future, service records are found to be incomplete or imperfect at the time of processing and finalising pension cases, those cases will not be delayed but the officials responsible for the maintenance of the records will be held accountable for any deficiencies, failure or omissions therein, and action will be initiated against them. The Heads of Department will ensure that these directions are complied with.

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

13. The Pension Rules etc., may be deemed to stand amended by the order contained herein. Formal amendments will be issued in due course.

814. In so far as persons working in the Indian Audit and Accounts Department are concerned these orders have been issued after consultation with the Comptroller and Auditor General of India. C.C.S. (Pension) Rules, 1972, required advance action in regard to pension cases to be initiated one year ahead of the date of the retirement, vide Rule 62, Rule 63 and Rule 66; from July 75 onwards the advance action was to be initiated two years prior to the date of retirement, vide this Ministry's notification No. F 11(1)-EV(A)/73, dated the 14th July, 1975. Moreover, even prior to the issue of the O.M. dated 28th February, 1976, the procedures in force were designed to facilitate the commencement of the payment of pension on the first of the month in which it is due; the P.M. of 28th February, 1976 merely sought to reinforce those intentions and objectives. In the light of the above, it has been decided that all pending pension cases of those who retired before 29th February, 1976 should be processed and finalised (where this has not been done already) strictly in accordance with the following instructions: (i) Where pension and death-cum-retirement gratuity have not yet been released even on a provisional basis, action to draw and disburse provisional pension and provisional death-cum-retirement gratuity should be taken forthwith and the payments should commence not later than 1st June, 1976. For this purpose, recourse may be had, if necessary, to the summary procedures laid down in paragraph 8(a) and (b) of the O.M. dated 28th February,

1976. (ii) A flat period of six months at the maximum (four months for the Head of Office and two months for the office which is to issue (PPO/GPO) will be allowed for the final determination of pension and gratuity; the issue of the LPC, the ascertainment and adjustment of recoverable balance of loans and advances and other Government dues, etc. Whatever the progress of work upto 29th February, 1976, the pension cases should be positively completed during the period of six months from 1st March, 1976, fully in conformity with the spirit of the O.M. dated 28th February, 1976; and the final pension and gratuity payment orders should be issued not later than 31st August, 1976. If the final PPO/GPO has not been issued by that date in any case, the provisions of paragraphs 8(c), 9 and 10 should be fully applicable. After 1st September, 1976, there should be no pending pension cases relating to any Government servant who retired prior to 29th February, 1976 (except those in which disciplinary proceedings are in progress). It shall be the responsibility of Heads of Departments to ensure that the dates laid down above are adhered to.

3. Cases of retirement on or after 29th February, 1976 in which the two-year time table is not feasible. (i) Some Government servants might have already retired on or after 29th February, 1976 and others might be due to retire on varying dates in the future but with less than two years to go. However, as already mentioned, the rules and orders in force prior to the issue of the O.M. dated 28th February, 1976 did require advance action to be taken to initiate pension cases one year prior to the date of retirement; and this was changed to two years by this Ministry's notification No. 11(1)-EV(A)/73, dated 14th July, 1975, There should, therefore, be no difficulty in processing the pension and gratuity in accordance with the time-table laid down in paragraph 2(a) of the O.M. dated 28th February, 76, at least in all those cases in which the Government servants are due to retire in July, 77 or later (i.e., two years after the issue of the notification of 14th July, 1975 referred to above). (ii) In respect of Government servants who are due for retirement before July, 1977, it has to be presumed that in pursuance of the extant rules and orders, preparatory work on pension cases, must have started one year prior to the date of retirement. In cases where the preparatory work was not taken in hand, the work should be taken in hand immediately. To the extent that the two-year period envisaged in Cl. (a) of para 2 of the O.M. dated 28th February, 1976 is not fully available, the abridgement of the time table should take place essentially by a reduction of the time allotted to the first stage

envisaged in the aforesaid clause, the other stages remaining unaltered; and the actual work of preparation of pension papers, viz. the reckoning of qualifying service and average emoluments should be taken in hand eight months before the date of retirement and the rest of the time-table applied accordingly. (iii) In respect of Government servants who are due to retire in the very near future (say within the next ten months) and in whose cases the preparatory work on the processing of the pension cases has not been taken in hand, the provision of the O.M. dated 28th February, 1976 would be fully applicable subject only to the practical limitation that the four separate stages envisaged in subparagraphs (a), (b), (c) and (d) of paragraph 2 of the O.M. would get compressed into one stage. The grant of provisional pension and provisional gratuity on the first of the month in which pension is due and the final settlement of the pension case and all related matters within a period of six months from the date of retirement in terms of paragraphs 8, 9 and 10 of the O.M. dated 28th February, 1976, would, of course, be mandatory.

4. Retirement ahead of the age of superannuation.- In case of retirement on a retiring pension under d. (j) or (k) under F.R. S6 or under R.48 of the CCS (Pension) Rules, 1972, or retirements on invalid pension or compensation pension under Rule 38 and Rule 39 respectively of CCS (Pension) Rules, 1972, or retirement on absorption in or under a Corporation, Company or body under rule 37 of those rules, it is not possible to anticipate the date of retirement and consequently it is not feasible to initiate advance action in accordance with the two-year time table laid down in the O.M. dated 28th February, 1976. Nevertheless, this does not detract from the principle that the pension case had to be finalised as quickly as possible in such cases also. Action should be commenced immediately after the fact of the impending retirement of the government servant is known and the pension case and all other related matters and formalities should be fully completed not later than six months from the date of retirement. In such cases also, a provisional pension and death-cum-retirement gratuity should be drawn and disbursed on the first of the month in which the payment of pension falls due. For this purpose, the summary procedures laid down in Cl. (a) and (b) of paragraph 8 of the O.M. should be followed: and the provisions of Cl. (c) of that paragraph and paragraphs 9 and 10 would be equally applicable.

5. In so far as the persons working in the Indian Audit and Accounts Department are concerned, these orders have been issued after consultation with the Comptroller and Auditor General

of India. 6. The orders contained in the Ministry of Finance Office Memorandum No. 199(1)-EV(A)/65, dated the 7th October, 1965, No. F 23(1)-EV(A)/73, dated 18th June, 1973 and No. F. 23(1)-EV(A)/73, dated 17th June, 1975, regarding grant of ex-gratia payments to the families of Government servants travelling by Service Aircrafts or other Government aircrafts on duty and dying as a result of accident to the aircrafts were made applicable to the members of the All India Services with effect from 24th November, 1972 vide Department of Personnel and A.R. letter No. 25011/32/75-AIS(II), dated 4th October, 1975 (copy annexed).

97. The quantum of ex-gratia payment to the families of Central Government servants covered by the Ministry of Finance O.M. No. 23(1)-EV(A)/73, dated 18th June, 1973 and dated 17th June, 1975 has been enhanced from Rs. 40,000 to 1 lakh with effect from 1st November, 1977, vide Ministry of Finance (Department of Expenditure) O.M. No. 23(5)-EV(A)/78, dated 28th August, 1978 and the Department of Personnel and Administrative Reforms OM No. 23(15)-AB(A) 178, dated 12th March, 1980 (copies annexed). It has been decided that the orders contained in these two office Memoranda will apply mutatis mutandis to members of All India Services also with effect from the dates mentioned therein, namely 1st November, 1977 and 28th August, 1978. . **108.** The orders regarding grant of ex-gratia payment to the families of the Central Government servants travelling by Service Aircrafts or other Government aircrafts on duty and dying as a result of accident to the aircrafts contained in the Ministry of Finance O.M. No. 23(1)-EV(A)/73, dated 18th June, 1973 and dated 17th June, 1975 were extended to the members of the All India Services vide DP and ARs letter No. 25011/32/75-AIS(11), dated 4th October, 1975 (copy annexed). The quantum of ex-gratia payment to the families of Central Government servants covered by the Ministry of Finance O.M., dated 18th June, 1973 and dated 17th June, 1975 has been enhanced from Rs. 40,000 to 1,00,000 with effect from 1st November, 1977 vide Ministry of Finance (Department of Expenditure) O.M. No. 23(15)-EV(A)/78, dated 28th August, 1978 and the Department of Personnel and Administrative Reforms O.M. No. 23(15)-EB(A)/78, dated 12th March, 1980 (copies annexed). It has been decided that the orders contained in these two office Memoranda will apply mutatis mutandis to members of All India Services also with effect from the dates mentioned therein, namely 1st November, 1977 and 28th August, 1978. **11** The undersigned is directed to refer to the Ministry of Finance Office Memorandum No.

23(5)- EV(A)/78, dated the 28th August, 1978 on the above subject and to say that the bracket and the words "(other than those paid out of the Defence Services Estimates)" in Para I of the aforesaid O.M. will stand omitted with effect from the 28th August, 1978. **123.** In so far as the persons serving in the Indian Audit and Accounts Department are concerned, these orders have been issued after consultation with the Comptroller and Auditor General of India. **133.** It is also clarified that ex-gratia payments in terms of the orders referred to in paragraph I above can be made even if the journeys are undertaken by aircraft belonging to the State Governments. **143.** In so far as person serving in the Indian Audit and Accounts Department are concerned, this issues with the concurrence of the Comptroller and Auditor General of India. **158.** In connection with the procedure to be followed for regulating payment of retirement benefits under sub-rule (4) of Rule 28, it has been clarified that a Secretary to the State Government is not competent to authenticate any document in the name of the President of India unless he has been specifically authorised to do so under the Authentication (Orders and other Instruments) Rules, 1958. In view of this, wherever the various forms etc. prescribed under the Central Civil Services (Pension) Rules, 1972 are used by the State Government in the case of members of All India Services, the expression "on behalf of President of India" used in such form etc. may be substituted by the expression on behalf of Governor". **16** 2. In so far as members of Indian Forest Service borne on the Union Territories Cadre are concerned instructions will be issued separately.

1. Omitted by Notification No. 25011/13/80-A.I.S.(II), dated 11th September, 1980 i.e. G.S.R. 978, dated 27th September, 1980.

2. [G.L. MHA letter No. 20/10/16-AIS(II), dated 21st February, 1961.]

3. [G.I., MHA F. No. 29/36/62-AIS(II).]

4. [G.I., MHA F. No. 29/52/60-AIS(II) and No. 29/30/62-AIS(III).]

5. [DP and AR letter No. 25011/48/78-AIS(II), dated 6th November, 1978.]

6. [DP and AR File No. 11024/4/76-AIS(II).]

7. Copy of Ministry of Finance Office Memorandum No. 11(3)-E.V.

(A)/76, dated the 28th February, 1976.

8. Copy of Ministry of Finance OM No. F. 11(3)-EV(A)76, dated 6th May, 1976.

9. [D.P. and A.R. letter No. 25011/22/80-AIS(II), dated the 8th July, 1980.]

10. ANNEXURE TO DP and AR LETTER No. 25011/22/80-AIS(II), DATED 8TH JULY, 1980. Copy of Ministry of Home Affairs, Department of Personnel and Administrative Reforms O.M. No. 25011/22/80-AIS(II), dated 12th March, 1980.

11. Copy of Ministry of Finance, Department of Expenditure O.M. No. 23(5)-EV(A)/78, dated the 28th August, 1978.

12. Copy of Cabinet Secretaries, Department of Personnel and Administrative Reforms Letter No. 25011/32/75- AIS(1I), dated 4th October, 1975.

13. Copy of a Office Memorandum No. F. 23(1)-E.V.(A)/ 73, dated the 18th June, 1973 from Government of India Ministry of Finance (Department of Expenditure) ? All Ministries of the Government of India, etc.

14. Copy of a Office Memorandum No. F. 23(1)-EV(A)/13, dated 17th June, 1975 from Government of India Ministry of Finance (Department of Expenditure) to All Ministries of the Government of India, etc., etc.

15. [D.P. and A.R. letter No. 25011/6/81-AIS(II), dated the 28th February, 1981.]

16. [D.P. and AR letter No. 25011/4/83-AIS(III), dated 11th July, 1984.]

29. Interpretation :-

[If any question arises as to the interpretation of these rules, the Central Government shall decide the same.

30. Repeal :-

All rules corresponding to these rules in force immediately before the commencement of these rules are hereby repealed.]