

मध्यप्रदेश शासन
वित्त विभाग

क्रमांक बी-6/6/91/पी.डब्ल्यू.सी/चार

भोपाल, दिनांक 7 अगस्त 1996.

प्रति,

शासन के समस्त विभाग,
अध्यक्ष, राजस्व मंडल, ग्वालियर,
समस्त कमिश्नर,
समस्त विभागाध्यक्ष,
समस्त कलेक्टर,
मध्यप्रदेश.

विषय.—मध्यप्रदेश सिविल सर्विसेस (पेंशन) नियम, 1976 के नियम 9 के प्रकरणों में राज्यपाल महोदय की स्वीकृति से अभिप्रेत।

मध्यप्रदेश सिविल सर्विसेस (पेंशन) नियम, 1976 के नियम 9 के तहत पेंशन को रोकने और उसे वापस लेने के अधिकार राज्यपाल को हैं। साथ ही इस नियम (2) में यह व्यवस्था है कि अगर शासकीय सेवक के सेवा में रहते हुए या पुनर्नियुक्ति के दौरान उसके खिलाफ विभागीय जांच संस्थापित नहीं की जाती है तो राज्यपाल की स्वीकृति के बगैर विभागीय जांच संस्थापित नहीं की जाएगी।

2. इस नियम के तहत राज्य शासन के सामने यह सवाल पैदा होता रहा है कि क्या प्रत्येक प्रकरण में राज्यपाल महोदय की स्वीकृति प्राप्त की जाए, विधि एवं विधायी कार्य विभाग के परामर्श से यह निर्णय लिया गया है कि प्रकरणों में राज्यपाल महोदय की व्यक्तिगत स्वीकृति की जरूरत नहीं है। ऐसे प्रकरणों में मंत्रि-परिषद की स्वीकृति ली जानी चाहिए।

3. इस विभाग के ज्ञापन क्रमांक एफ. बी. 6/6/87/नि-2 चार, दिनांक 3-2-1989 द्वारा जारी निर्देश निरस्त किये जाते हैं।

हस्ता./-

(ए. एन. अस्थाना)
सचिव,
मध्यप्रदेश शासन.

सहपत्र :-नियम 9 का उद्धरण

पृष्ठांकन क्रमांक बी-6/6/91/पी.डब्ल्यू.सी/चार

भोपाल, दिनांक 7 अगस्त 1996

प्रतिलिपि :-

1. राज्यपाल, मध्यप्रदेश के सचिव भोपाल.
2. रजिस्ट्रार, उच्च न्यायालय, मध्यप्रदेश जबलपुर.
3. सचिव, मध्यप्रदेश विधान सभा, भोपाल.
4. सचिव, लोक सेवा आयोग, मध्यप्रदेश, इन्दौर.
5. सचिव, लोक आयुक्त, मध्यप्रदेश, भोपाल.
6. अवर सचिव, सामान्य प्रशासन विभाग (स्थापना शाखा) भोपाल.
7. अवर सचिव, सामान्य प्रशासन विभाग (अधीक्षण शाखा) भोपाल.
8. मुख्य लेखा अधिकारी, वल्लभ भवन, भोपाल.
9. महालेखाकार (लेखा और हकदारी)/(आडिट)-1/2, मध्यप्रदेश, ग्वालियर/भोपाल.
10. सभी संभागीय संयुक्त संचालक, कोष लेखा एवं पेंशन, मध्यप्रदेश.
11. सभी प्राचार्य, लेखा प्रशिक्षण शाला, मध्यप्रदेश.
12. सभी कोषालय अधिकारी, मध्यप्रदेश.

हस्ता./-

(के. एन. पंत)

अवर सचिव,
मध्यप्रदेश शासन, वित्त विभाग.

सहपत्र:- नियम 9 का उद्धरण.

9. Right of Governor to withhold or withdraw pension.— (1) The Governor reserves to himself the right of withholding or withdrawing a pension or part thereof, whether permanently or for a specified period and of ordering recovery from pension of the whole or part of any pecuniary loss caused to the Government, if in any, departmental or Judicial proceeding, the pensioner is found guilty of grave misconduct or negligence during the period of his service, including service rendered upon re-employment after retirement :

Provided that the State Public Service Commission shall be consulted before any final orders are passed :

Provided further that where a part of the pension is withheld or withdrawn, the amount of such pension shall not be reduced below ¹[the minimum pension as determined by the Government from time to time]

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

Provided that where the departmental proceedings are instituted by an authority sub-ordinate to the Governor, that authority shall submit a report recording its findings to the Governor.

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

(i) Shall not be instituted save with the sanction of the Governor;

(ii) Shall not be in respect of any event which took place more than four years before such institution; and

³(iii) shall be conducted by such authority and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings ,—

(a) in which an order of dismissal from service could be made in relation to the Government servant during his service in case it is proposed to withhold or withdraw a pension or part thereof whether permanently or for a specified period;

or

(b) in which an order of recovery from his pay of the whole or part of any pecuniary loss caused by him to the Governor by negligence or breach of orders could be made in relation to the Government servant during his service if it is proposed to order recovery from his pension of the whole or part of any pecuniary loss caused to the Government.

(3) No judicial proceeding, if not instituted while the Government servant was in service, whether before his retirement or during his re-employment, shall be instituted in respect of a cause of action which arose, or in respect of an event which took place, more than four years before such institution.

(4) In the case of Government servant who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued under sub-rule (2), a provisional person and death-cum-retirement gratuity as provided in rule 56 or rule 64, as the case may be, shall be sanctioned :

¹Substituted for the word and figure 'Rs. 60 p.m.' by F.D. Notification No. B-25-9-96/PWC/IV, dated 18-6-96; effective 1-1-86

²The words referred to in sub-rule (1) deleted by F.D. Notification F.B-25-31-95/PWC/IV, dated 22-12-95

³. Inserted by F.D. Notification No. FB 6-3-78/R-II/IV, dated 25-10-78.

Provided that where pension has already been finally sanctioned to a Government servant prior to institution of departmental proceeding, the Governor may, by order in writing, withhold, with effect from the date of institution of such departmental proceedings, fifty per cent of the pension so sanctioned subject however that the pension payable after such withholding is not reduced to less than ⁵[the minimum pension as determined by the Government from time to time] :—

Provided further that where departmental proceedings have been instituted prior to the 25th October 1978, the first proviso shall have effect as if for the words 'with effect from the date of institution of such proceedings' the words "with effect from a date not later than thirty days from the date aforementioned", had been substituted :

Provided also that.— (a) if the departmental proceedings are not completed within a period of one year from the date of institution thereof, fifty per cent of the pension withheld shall stand restored on the expiration of the aforesaid period of one year;

(b) if the departmental proceedings are not completed within a period of two years from the date of institution, the entire amount of pension so withheld stand restored on the expiration of the aforesaid period of two years; and

(c) if in the departmental proceedings final order is passed to withhold or withdraw the pension or any recovery is ordered, the order shall be deemed to take effect from the date of the institution of departmental proceedings and the amount of pension since withheld shall be adjusted in terms of the final order subject to the limit specified in sub-rule (5) of rule 43.

(5) Where the Government decides not to withhold or withdraw pension but orders recovery of pecuniary loss from pension, the recovery shall not be made at the rate exceeding one third of the pension ⁴missible on the date of retirement of a Government Servant.

(6) For the purpose of this rule.—(a) departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the Government Servant or pensioner, or if the Government servant has been placed under suspension from an earlier date, on such date; and

(b) judicial proceedings shall be deemed to be instituted ,—

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

(ii) in the case of civil proceedings on the date the plaint is presented in the court.

⁴ Inserted by F.D. Notification No. F-B-6-3-78/R-II/IV, dated 25-10-78.

⁵ Substituted for the word and figure, Rs, 60 p.m. in the case of invalid pension and Rs. 40 p.m. in other cases, by F.D. Notification No. B-B-25-9-96/PWC/IV, dated 18-6-96; effective 1-1-86.