



HIMACHAL PRADESH STATE ELECTRICITY BOARD LIMITED
(A State Govt. undertaking)

75
आजादी का
अमृत महोत्सव



Registered office : Vidyut Bhawan, HPSEBL, Shimla-171004(H.P.)
GST No. : HPSEBL 02 AACCH4894EHZB
Telephone Number : 0177-2803600, 2801675(Office), 2813563(Fax)

Corporate Identity Number : U40109HP2009SGC031255
Website address : www.hpseb.in
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OFFICE ORDER

The Himachal Pradesh State Electricity Board Limited is pleased to adopt the Notification of Under Secretary (Pers.) to the Government of Himachal Pradesh vide No. Per(AP-B)-A(3)-3/2019 dated 19.01.2022(copy enclosed) regarding HP Civil Service (Premature Retirement) Rule,2022.

These instructions shall be applicable in toto in HPSEBL.

(Manoj Kumar)
Executive Director (Pers.),
HPSEBL Vidyut, Bhawan,
Shimla-4.

No.HPSEBL (SECTT)R&E.Govt.Instt. /2022-23:- 45964-4618 Dated:- 6.8.22
Copy of the above is forwarded for information and necessary action to:-

1. All the Chief Engineer in HPSEBL. (i/c M.D.BVPCL) Jogindernagar.
2. The Chief Electrical Inspector to the Govt. of H.P. Kasumpti Shimla.
3. The Secretary, BBMB, 19, B Madhya Marg Chandigarh.
4. The Director (Personnel), SJVNL, Shakti Sadan, Corporate Office Complex, Shanan Shimla-6.
5. The Chief Accounts Officer/Chief Auditor, F&A Wing HPSEBL, Shimla.
6. The Secretary, H.P. Regulatory Commission, Khalini Shimla.
7. The S.E. (IT) HPSEBL Shimla for uploading the HPSEBL web site.
8. All the Superintending Engineers in HPSEBL.
9. The Land Acquisition Officer, HPSEBL Mandi/Shimla.
10. The Special Private Secretary/Sr.PS/PS to Managing Director/Directors/Executive Director (Pers.) in Board Secretariat HPSEBL.
11. All the Dy. /Under Secretaries in Board Secretariat HPSEBL.
12. The Secretary, Consumer Grievances Redressal Forum (CGRF) HPSEBL Kasumpti Shimla-9.
13. All the Sr. Executive Engineers/Resident Engineers in HPSEBL.
14. The Dy. Director (Pers.) IR/Joint Director (PR.) in HPSEBL in Board Sectt.
15. All the Section Officers in Board Secretariat HPSEBL Shimla-4.
16. The Company Secretary (Meeting cell) in Board Secretariat HPSEBL Shimla-4.
17. The Addl. Chief Secretary (Power) to the Govt. of Himachal Pradesh Shimla-2.
18. Guard file.

DA:-As above.

Executive Director (Pers.),
HPSEBL Vidyut, Bhawan,
Shimla-4.

हिमाचल प्रदेश सरकार
कार्मिक विभाग

संख्या: पर (एपी-बी)-ए (3)-3/2019 तारीख शिमला-2, 19 जनवरी, 2022

अधिसूचना

हिमाचल प्रदेश के राज्यपाल, भारत के संविधान के अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, लोक सेवा आयोग के परामर्श से, हिमाचल प्रदेश राज्य में सरकारी कर्मचारियों की समयपूर्व सेवानिवृत्ति का विनियमन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात् :-

1. संक्षिप्त नाम और प्रारम्भ-(1) इन नियमों का संक्षिप्त नाम हिमाचल प्रदेश सिविल सेवाएं (समयपूर्व सेवानिवृत्ति) नियम, 2022 है।
(2) ये नियम राजपत्र (ई-गजट), हिमाचल प्रदेश में प्रकाशन की तारीख से प्रवृत्त होंगे।
2. लागू होना-इन नियमों में यथा उपबन्धित के सिवाय, ये नियम राज्य के कार्यकलाप से सम्बद्ध सेवा के लिए नियुक्त सरकारी कर्मचारियों को लागू होंगे, किन्तु ये निम्नलिखित को लागू नहीं होंगे -
 - (क) अखिल भारतीय सेवा के सदस्य;
 - (ख) विधान सभा के सचिवालय कर्मचारिवृन्द हेतु नियुक्त व्यक्तियों के लिए;
 - (ग) राज्य की किसी न्यायिक सेवा से सम्बन्धित व्यक्ति; और
 - (घ) उच्च न्यायालय के स्थापन में नियुक्त।
3. परिभाषा (ए)-इन नियमों में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो-
 - (i) "समुचित प्राधिकारी" से, ऐसा प्राधिकारी अभिप्रेत है, जिसे ऐसे पद या सेवा, जिससे सरकारी कर्मचारी सेवानिवृत्त किए जा सकेंगे, पर



स्थाई नियुक्तियां करने की शक्ति है, या कोई अन्य प्राधिकरण, जिसके यह अधीनस्थ है ;

- (ii) "सरकारी कर्मचारी" से, हिमाचल प्रदेश राज्य के कार्यकलापों के सम्बन्ध में लोक सेवा और पदों पर नियुक्त कोई व्यक्ति अभिप्रेत है ;
- (iii) "अर्हक सेवा" से, केन्द्रीय सिविल सेवाएं (पेंशन) नियम, 1972 और, यथास्थिति, राज्य सरकार/राष्ट्रीय पेंशन सिस्टम के अधीन पेंशन फंड रैग्युलेटरी एण्ड डिवैल्पमेंट ऑथोरिटी द्वारा जारी नियमों/विनियमों के अधीन पेंशन/उपदान के लिए अर्हक सेवा अभिप्रेत है ; और
- (iv) "अत्यन्त प्रतिकूल परिस्थितियां" से प्रतिकूल (कष्टप्रद) स्वास्थ्य/चिकित्सीय परिस्थिति, वैयक्तिक कठिनाई, बाध्यकारी पारिवारिक परिस्थितियां, घरेलू या सामाजिक बाध्यताएं आदि अभिप्रेत है।

4. सरकारी कर्मचारी की समयपूर्व सेवा निवृत्ति— (1)

समुचित प्राधिकारी, यदि उसकी यह राय है कि ऐसा करना लोकहित में है, तो किसी सरकारी कर्मचारी को कम से कम तीन मास का लिखित नोटिस या ऐसे नोटिस के बदले में तीन मास का वेतन और भत्ते देकर सेवानिवृत्त कर सकेगा—

(क) अर्हक सेवा के तीस वर्ष के पूर्ण होने पर ; या

(ख) (i) वर्ग—I और वर्ग—II अधिकारियों के सम्बन्ध में पैंतीस वर्ष की आयु प्राप्त करने से पूर्व सरकारी सेवा में भर्ती हुए हैं पचास वर्ष की आयु पूर्ण हो जाने पर ; और

(ii) अन्य समस्त वर्ग—I, वर्ग—II, वर्ग—III और वर्ग—IV के सरकारी कर्मचारियों की दशा में पचपन वर्ष की आयु पूर्ण हो जाने पर ;



परन्तु जहाँ कम से कम तीन मास का नोटिस नहीं दिया जाता है या तीन मास से कम अवधि का नोटिस दिया जाता है तो सरकारी कर्मचारी उसके वेतन और भत्ते के बराबर की रकम, उसी दर पर जो वह, यथास्थिति, सेवानिवृत्ति के तीन मास से ठीक पूर्व या उस अवधि के लिए, जितनी तीन मास के लिए कम रह जाती है, का दावा करने का हकदार होगा :

परन्तु यह कि समुचित प्राधिकारी नोटिस की अवधि के अन्तान्त से पूर्व किसी भी समय नोटिस की अवधि के अनवसित सम्पूर्ण या भाग के लिए उसके बदले में वेतन प्रतिस्थापित कर सकेगा और संदाय करने के तत्काल पश्चात् सरकारी कर्मचारी को सेवानिवृत्त कर देगा :

परन्तु यह और भी कि या तो समय पूर्व सेवानिवृत्त सरकारी कर्मचारी के अभ्यावेदन पर या अन्यथा यदि मामले के पुनर्विलोकन पर सरकारी कर्मचारी को सेवा में पुनःस्थापित करने का विनिश्चय किया जाता है तो पुनःस्थापन करने वाला प्राधिकारी समय पूर्व सेवानिवृत्त और पुनःस्थापन की तारीख की मध्यवर्ती अवधि को, मामले के तथ्यों और परिस्थितियों पर निर्भर रहते हुए असाधारण छुट्टी सहित देय और अनुज्ञेय अवकाश स्वीकृत करके उसे विनियमित कर सकेगा।

(2) कोई भी सरकारी कर्मचारी, समुचित प्राधिकारी को लिखित में कम से कम तीन मास का पूर्व नोटिस देने के पश्चात् सेवा से, उस तारीख को जिस को वह—

(क) अर्हक सेवा के बीस वर्ष पूर्ण करता है ; या

(ख) चिकित्सा आधार पर, दस वर्ष की अर्हक सेवा पूर्ण करने पर।

राजपत्रित सरकारी कर्मचारी की दशा में, चिकित्सा प्राधिकरण अर्थात् चिकित्सा बोर्ड और अन्य मामलों में, मुख्य चिकित्सा अधिकारी या चिकित्सा अधिकारी से असमर्थता का चिकित्सीय प्रमाण-पत्र प्रस्तुत करने के अध्यक्षीन ; या



(ग) अत्यन्त प्रतिकूल परिस्थितियों में, दस वर्ष की अर्हक सेवा पूर्ण करता है ;

(घ) आयु प्राप्त कर लेने पर--

(i) वर्ग-I और वर्ग-II सरकारी कर्मचारी के सम्बन्ध में जो पैंतीस वर्ष की आयु प्राप्त करने से पूर्व सरकारी सेवा में भर्ती हुआ है, पचास वर्ष की आयु प्राप्त करता है ; और

(ii) अन्य समस्त वर्ग-I, वर्ग-II, वर्ग-III और वर्ग-IV के सरकारी कर्मचारियों की दशा में पचपन वर्ष, की आयु प्राप्त करता है ;

सेवानिवृत्त हो सकेगा :

परन्तु यह कि इस उपनियम के अधीन दिया गया समयपूर्व सेवानिवृत्ति का नोटिस समुचित प्राधिकारी द्वारा स्वीकृत होना अपेक्षित होगा :

परन्तु यह और कि ऐसा नोटिस, वैज्ञानिकों, प्रविधितन्त्रियों, चिकित्सकों, इंजीनियरों, शिक्षाविदों से सम्बन्धित ऐसे सरकारी सेवक के मामले में या सेवा के किसी अन्य प्रवर्ग जो सेवाओं के अत्यावश्यक प्रवर्ग के हों, प्रशासनिक आधारों के साथ-साथ लोक सेवाओं के बृहत् हित के हों, के मामलों में अनुज्ञात किया गया समझा जा सकता है :

परन्तु यह और कि जहां समुचित प्राधिकारी उक्त नोटिस में विनिर्दिष्ट अवधि के अवसान से पूर्व सेवानिवृत्ति की अनुज्ञा प्रदान करने से इन्कार नहीं करता है तो सेवानिवृत्ति उक्त अवधि की तारीख से प्रभावी समझी (मानी) जाएगी :

परन्तु यह और भी कि समुचित प्राधिकारी, उस सरकारी कर्मचारी जो समुचित प्राधिकारी के विशिष्ट अनुमोदन के सिवाय इन नियमों के अधीन निम्नलिखित परिस्थितियों में समयपूर्व सेवा निवृत्ति चाहता है को, अनुज्ञा निर्धारित करने/इनकार करने के लिए स्वतंत्र होगा :-

(i) यदि सरकारी कर्मचारी निलम्बनाधीन है ; या

री

(ii) यदि आरोपपत्र जारी कर दिया गया है और अनुशासनात्मक कार्यवाहियां लम्बित हैं ; या

(iii) उन आरोपों पर जो गम्भीर अवचार की श्रेणी में आते हैं; यदि न्यायिक कार्यवाहियां लम्बित हैं।

3 (क) उप नियम (2) में अन्तर्विष्ट किसी बात के प्रतिकूल होते हुए भी कोई सरकारी कर्मचारी, समुचित प्राधिकारी को लिखित में तीन मास से कम अवधि का, उसके लिए कारण देते हुए सेवानिवृत्ति नोटिस स्वीकार करने का अनुरोध कर सकेगा ;

(ख) नियम 4 (2) के उपबन्धों के अधीन खण्ड (क) के अधीन अनुरोध की प्राप्ति पर समुचित प्राधिकारी गुणागुण (मैरिट) आधार पर तीन मास के नोटिस की अवधि की अनदेखी (माफी)/कमी करने के लिए ऐसे अनुरोध पर विचार कर सकेगा यदि उसका समाधान हो जाता है कि नोटिस की अवधि की अनदेखी (माफी)/कमी से कोई प्रशासनिक असुविधा कारित नहीं होगी।

5. पेंशन और उपदान-(1) तारीख 14.05.2003 को या इससे पूर्व नियमित आधार पर नियुक्त किसी सरकारी कर्मचारी, जो सेवानिवृत्त हो गया है या उक्त नियमों के नियम 4 के अधीन सेवानिवृत्त होना संभाव्य है, को केन्द्रीय सिविल सेवा (सी0सी0एस0) (पेंशन) नियम, 1972 के अनुसार पेंशन और अन्य सेवानिवृत्ति प्रसुविधाएं अनुज्ञात की जाएंगी। अन्य प्रसुविधाएं जैसे कि छुट्टी के बदले में नकद भुगतान/जी0आई0एस0 आदि की संगणना सरकारी कर्मचारी को यथा लागू नियमों के अधीन की जाएगी।

(2) तारीख 15.05.2003 को या इसके पश्चात् नियुक्त सरकारी कर्मचारी की पेंशन और उपदान, जो सेवा निवृत्त हो गया है या जो इन नियमों के नियम 4 के अधीन सेवानिवृत्त होना संभावित (संभाव्य) है, को पेंशन फंड रैग्युलेटरी एंड डेवेलपमेंट अथॉरिटी रैग्युलेशनज के अनुसार पेंशन (वार्षिकी) अनुज्ञात की जाएगी और उपदान राज्य



सरकार द्वारा समय-समय पर जारी अनुदेशों के अनुसार संदत्त किया जाएगा। अन्य सेवा प्रसुविधाएं जैसे कि छुट्टी के बदले में नकद भुगतान/जी०आई०एस० आदि की संगणना सरकारी कर्मचारी को यथा लागू नियमों के अधीन की जाएगी।

6. अध्यारोही प्रभाव—इन नियमों के उपबन्ध तत्समय प्रवृत्त किन्हीं अन्य नियमों में अन्तर्विष्ट किसी बात के असंगत होते हुए भी प्रभावी होंगे।
7. निरसन और व्यावृत्तियां—(i) अधिसूचना संख्या : पर (ए०पी०-II) —बी० (2)—15/75, तारीख 21 फरवरी 1976 द्वारा अधिसूचित और समय-समय पर यथा संशोधित हिमाचल प्रदेश सिविल सर्विसिज (प्रीमैच्योर रिटायरमेंट) रूलज, 1976 का एतद्वारा निरसन किया जाता है।
(ii) ऐसे निरसन के होते हुए भी इस प्रकार निरसित किए गए नियमों के अधीन की कोई बात या कार्रवाई इन नियमों के अधीन विधिमान्य रूप से की गई समझी जाएगी।
8. शिथिल करने की शक्ति—जहां राज्य सरकार की यह राय जो कि ऐसा करना आवश्यक या समीचीन है, वहाँ वह, कारणों को लिखित में अभिलिखित करके और हिमाचल प्रदेश लोक सेवा आयोग के परामर्श से, इन नियमों के किसी/किन्हीं उपबन्ध (उपबन्धों) को शिथिल कर सकेगी।
9. निर्वचन—इन नियमों के किन्हीं उपबन्धों के निर्वचन की बाबत कोई प्रश्न उत्पन्न होता है तो उसे सरकार को कार्मिक विभाग के विनिश्चय के लिए निर्दिष्ट किया जाएगा।

आदेश द्वारा,

प्रबोध सक्सेना

अतिरिक्त मुख्य सचिव (कार्मिक)

हिमाचल प्रदेश सरकार।



पृष्ठांकन संख्या यथोपरि/ तारीख शिमला-2, 19 जनवरी, 2022.

प्रतिलिपि:-

1. समस्त प्रशासनिक सचिव, हिमाचल प्रदेश सरकार, शिमला-171002.
2. समस्त मण्डलायुक्त, हिमाचल प्रदेश।
3. समस्त विभागाध्यक्ष, हिमाचल प्रदेश।
4. समस्त उपायुक्त, हिमाचल प्रदेश।
5. सभी प्रबन्ध निदेशक/पंजीयक/ सचिव, बोर्ड/ निगम/ विश्वविद्यालय इत्यादि, हिमाचल प्रदेश।
6. सचिव, हिमाचल प्रदेश लोक सेवा आयोग, निगम विहार, शिमला-171002.
7. सचिव, हिमाचल प्रदेश कर्मचारी चयन आयोग, इमीरपुर (हि0प्र0)।
8. गार्ड फाईल।

(बलवीर सिंह)

अवर सचिव (कार्मिक)
हिमाचल प्रदेश सरकार।

Authoritative English Text of this Department Notification No. Per(AP-B)-A(3)3/2019 dated 19-1-22 as required under Article 348(3) of the Constitution of India.

Government of Himachal Pradesh
Department of Personnel

No. Per(AP-B)-A(3)-3/2019

Dated Shimla-171002, (9-01-2022)

NOTIFICATION

In exercise of the powers conferred by proviso to Article 309 of the Constitution of India, the Governor of Himachal Pradesh, in consultation with the Himachal Pradesh Public Service Commission is pleased to make the following rules to regulate the premature retirement of Government servants in the State of Himachal Pradesh, namely:-

1. **Short title and commencement-** (1) These rules may be called the Himachal Pradesh Civil Services(Premature Retirement) Rules, 2022.
(2) They shall come into force from the date of publication in the Rajpatra (e-gazette), Himachal Pradesh.
2. **Application-** Save as otherwise provided in these rules, these rules shall apply to Government servants appointed to serve in connection with the affairs of the State, but shall not apply to-
 - (a) the members of the All India Services;
 - (b) the persons appointed to the Secretariat Staff of the Legislative Assembly;
 - (c) the persons belonging to any Judicial Services of the State; and
 - (d) the persons appointed to the establishment of the High Court.



3. **Definition(s)-** In these rules, unless the context otherwise requires-

- (i) **"Appropriate Authority"** means the authority which has the power to make substantive appointments to the post or service from which the Government servants may be retired or any other authority to which it is subordinate;
- (ii) **"Government Servant"** means any person appointed to public service and posts in connection with the affairs of the State of Himachal Pradesh;
- (iii) **"Qualifying Service"** means service qualifying for Pension/ Gratuity under Central Civil Service (Pension) Rules, 1972 and under Rules/ Regulations issued by the State Government/ Pension Fund Regulatory and Development Authority under National Pension System, as the case may be;
- (iv) **"Extreme adverse circumstances"** mean adverse health/ medical condition, personal hardship, compelling family circumstances, domestic or social obligations etc.

4. **Premature Retirement of Government servant-(1)** The Appropriate Authority may, if it is of the opinion that it is in the public interest to do so, retire any Government servant by giving him notice of not less than three months in writing or three months pay and allowances in lieu of such notice,-

- (a) on completion of 30 years of qualifying service ; or
- (b) on attaining the age of-
 - (i) 50 years in respect of Class-I and Class-II Officers who have entered in Government service before attaining the age of thirty five years ; and
 - (ii) 55 years in case of all other Class-I, Class-II, Class-III and Class-IV Government servants;



Provided that where at least three months notice is not given or notice for a period less than three months is given, the Government servant shall be entitled to claim a sum equivalent to the amount of his pay and allowances at the same rates at which he was drawing immediately before the date of retirement for a period of three months or, as the case may be, for the period by which such notice falls short of three months:

Provided further that the Appropriate Authority may at any time before the expiry of the notice period substitute for the whole or part of the unexpired period of notice, pay in lieu thereof and retire the Government servant forthwith on making such payment.

Provided further that if on a review of the case either on a representation from the Government servant retired prematurely or otherwise, it is decided to reinstate the Government servant in service, the authority ordering reinstatement may regulate the intervening period between the date of premature retirement and the date of reinstatement by grant of leave of the kind due and admissible, including extra ordinary leave depending upon the facts and circumstances of the case.

(2) Any Government servant may after giving at least three months' previous notice in writing to the Appropriate Authority retire from service on the date on which he, -

- (a) completes 20 years of qualifying service; or
- (b) completes 10 years of qualifying service, on medical grounds subject to production of medical certificate of incapacity from the medical authority i.e. Medical Board in the case of Gazetted Government servant and Chief Medical Officer or Medical Officer in other cases; or
- (c) completes 10 years of qualifying service, in extreme adverse circumstances;



(d) attains the age of-

- (i) 50 years in respect of Class-I and Class-II Government servant who have entered Government service before attaining the age of thirty five years; and
- (ii) 55 years in case of all other Class-I, Class-II, Class-III and Class-IV Government servants;

Provided that the notice of premature retirement given under this sub-rule shall require acceptance by the Appropriate Authority;

Provided further that such notice can be considered to be disallowed in cases of such Government servant belonging to the category of Scientists, Technocrats, Doctors, Engineers, Educationist or any other category of service which may fall in the category of exigencies of services, on administrative grounds as well as in the larger interest of public services;

Provided further that where the Appropriate Authority does not refuse to grant permission for retirement before expiry of the period specified in the said notice, the retirement shall be deemed to be effective from the date of expiry of the said period;

Provided further that it shall be open to the Appropriate Authority to withhold/ deny permission to the Government servant who seeks premature retirement under these rules in the following circumstances except with the specific approval of the Appropriate Authority:-

- (i) If the Government servant is under suspension; or
- (ii) If a charge sheet has been issued and the disciplinary proceedings are pending; or
- (iii) If judicial proceedings on charges which amount to grave misconduct, are pending.

(3) (a) notwithstanding anything to the contrary contained in sub-rule(2), a Government servant may make a request in writing to the appropriate authority to accept retirement notice of less than 3 months giving reasons therefor;

(b) on receipt of a request under clause (a) the appropriate authority subject to the provision of rule-4(2) may consider such request for the condonation/curtailment of the period of notice of 3 months on merits and if it is satisfied that curtailment/condonation of the period of notice will not cause any administrative inconvenience.

5. Pension and Gratuity-(1) The Government servant appointed on regular basis on or before 14.05.2003 who is retired or is likely to be retired under rule 4 of the said rules, shall be allowed pension and other retirement benefits in accordance with CCS(Pension) Rules, 1972. Other service benefits viz. leave encashment/GIS etc. will be worked out under the rules as applicable to the Government servant.

(2) The Pension and Gratuity of Government servant appointed on or after 15.05.2003 and who is retired or is likely to be retired under rule 4 of these rules, shall be allowed the Pension (Annuity) in accordance with Pension Fund Regulatory and Development Authority Regulations and the Gratuity shall be paid as per the State Government instructions issued from time to time. Other service benefits viz. leave encashment/GIS etc. will be worked out under the rules as applicable to the Government servant.

6. Overriding effect- The provisions of these rules shall have effect notwithstanding anything inconsistent therewith contained in any other rules for the time being in force.

7. Repeal and savings-(i) The Himachal Pradesh Civil Services [Premature Retirement] Rules, 1976 notified vide Notification No. Per (AP-II)-B (2)-15/75, dated 21st February, 1976 as amended from time to time are hereby repealed.

(ii) Notwithstanding such repeal, any action taken or anything done under the rules so repealed shall be deemed to have been validly made or done or taken under these rules.



8. **Power to relax-** Where the State Government is of the opinion that it is necessary or expedient to do so, it may, by order for reasons to be recorded in writing and in consultation with the Himachal Pradesh Public Service Commission relax any of the provision(s) of these rules.

9. **Interpretation-** If any question arises as to the interpretation of any of the provisions of these rules, the matter shall be referred to the Government in the Department of Personnel for decision.

BY ORDER

PRABODH SAXENA

Additional Chief Secretary (Personnel) to the
Government of Himachal Pradesh

Endst No. As above. Dated: Shimla-171002, the 19-01-2022.

Copy to:-

1. All Administrative Secretaries to the Government of Himachal Pradesh, Shimla-171002.
2. All Divisional Commissioner in Himachal Pradesh.
3. All Heads of Departments in Himachal Pradesh.
4. All Deputy Commissioners in Himachal Pradesh.
5. All Managing Directors/Registrars/Secretary, Board/Corporations/ Universities etc. in Himachal Pradesh.
6. The Secretary, Himachal Pradesh Public Service Commission, Nigam Vihar, Shimla-171002.
7. The Secretary, Himachal Pradesh Staff Selection Commission, Hamirpur (H.P.).
8. Guard file.



(Balbir Singh)

Under Secretary (Personnel) to the
Government of Himachal Pradesh

STRENGTHENING OF THE ADMINISTRATIVE MACHINERY BY
DEVELOPING RESPONSIBLE AND THE EFFICIENT WORKERS AT ALL
LEVELS AND TO INTRODUCTION OF EFFICIENCY, ECONOMY AND
SPEED IN THE DISPOSAL OF GOVERNMENT FUNCTIONS - REVIEW
OF CASES OF GOVERNMENT SERVANTS ATTAINING THE AGE OF
50/55 YEARS OR COMPLETING 30 YEARS OF SERVICE

➤ As per provisions contained in Fundamental Rule-56(j) and Rule-48 of CCS (Pension) Rules, 1972, the Government has absolute right to retire any Government servant, if it is necessary to do so in the public interest who have outlived their utility or whose integrity is doubtful.

➤ Following are the parameters which are based on the judgement delivered by the Supreme Court in State of Gujarat V/s Umedbhai M. Patel, 2001 (3) SCC 344, and are required to be kept in view while considering compulsory (prematurely) retiring of a Government servant :-

- Whenever the services of a public servant are no longer useful to the general administration, the officer can be compulsorily retired in the sake of public interest.
- Ordinarily, the order of compulsory retirement is not to be treated as punishment within the meaning of Article 311 of the Constitution of India.
- For better administration, it is necessary to chop off 'dead wood', but the order of compulsory retirement can be passed after having due regard to the entire service record of the officer.
- Any adverse entries made in the confidential record shall be taken note of and be given due weightage in passing such order.

- Even un-communicated entries in the confidential record can also be taken into consideration.
- The order of compulsory retirement shall not be passed as a short cut to avoid Departmental enquiry when such course is more desirable.
- If the officer was given a promotion despite adverse entries made in the confidential record, this is a fact in favour of the officer.
- Compulsory retirement shall not be imposed as a punitive measure.

➤ In every review, the entire service record should be considered. The expression 'Service Record' will take in all relevant records and hence the review should not be confined to the consideration of the ACR/ APAR dossier. The personal file of the officer may contain valuable material. Similarly, the work and performance of the officer could also be assessed by looking into files dealt with by him or any papers or reports prepared and submitted by him. It would be useful if the Department put together all the data available about the officers and prepares a comprehensive brief for the consideration by the Review Committee.

➤ While the entire service record of an officer should be considered at the time of review, no Government servant should ordinarily be retired on grounds of 'ineffectiveness' if his service during the preceding 5 years or where he has been

promoted to a higher post during that 5 year period, his service in the higher post, has been found satisfactory.

➤ No Government servant should ordinarily be retired on ground of ineffectiveness, if, in any event, he would be retiring on superannuation within a period of one year from the date of consideration of case. In a case where there is a sudden and steep fall in the competence, efficiency or effectiveness of an officer, it would be open to review his case for premature retirement. This provision is relevant only when an Government servant is proposed to be retired on the ground of ineffectiveness, but not on the ground of doubtful integrity. The damage to public interest could be marginal if an old Government servant, in the last year of service, is found ineffective, but the damage may be incalculable if he is found corrupt and demands or obtains illegal gratification during the said period for the tasks he is duty bound to perform.

➤ As far as 'Integrity' is concerned, it may be kept in view that Government servant would live by reputation built around him. In an appropriate case, there may not be sufficient evidence to take punitive disciplinary action of removal from service. But his conduct and reputation is such that his continuance in service would be menace to public service and injurious to public interest. Thus while considering integrity of an Government servant, actions or decisions taken by the Government servant which do not appear to be above board, complaints received against him, or suspicious property transactions, for which there

may not be sufficient evidence to initiate departmental proceedings, may be taken into account.

➤ Similarly, reports of 'Conduct' unbecoming of a Government servant may also form basis for compulsory retirement. If conduct of a Government servant becomes unbecoming to the public interest or obstructs the efficiency in public services, the Government has an absolute right to compulsorily retire such a Government servant in public interest.

➤ No show-cause notice need to be issued to any Government servant before a notice of retirement(s) is issued to him under the aforesaid provision(s). The appropriate authority should bonafide form an opinion that is in the public interest to retire the Government servant in exercise of the powers conferred by that provision, and this decision should not be an arbitrary decision or should not be based on collateral grounds. Accordingly, in every case where it is proposed to retire a Government servant in exercise of the powers conferred by the said rule, the appropriate authority should record in the file its opinion that it is necessarily to retire the Government servant in pursuance of the aforesaid rule in the public interest. The order to be served to the Government servant would of course be on the Form prescribed for the purpose.

➤ Due to change in the areas of responsibilities of various Departments in the present scenario, the Review Committees in the case of various levels of Government servants shall be constituted to

which all such cases shall be referred for recommendation as to whether the Government servant should be retained in service or retired from service in the public interest. The composition of Committee will be as under :-

(i) Class-I Gazetted posts

Administrative Secretary		Chairman
Head of the Department		Member
Special/Additional/Joint/ Deputy/Under Secretary (Branch Officer)		Member

(ii) Class-II Gazetted post

Administrative Secretary or his representative i.e. Special / Additional / Joint Secretary/Deputy/Under Secretary		Chairman
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Head of Department <u>OR</u> his representative not below the rank/level of Additional/ Joint /Deputy Director or Chief Engineer etc.		Member
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weightage to be given to such adverse remarks;

- (iv) Mere pendency of an enquiry against the Officer with the Director of Vigilance and Anti-Corruption should not be taken into consideration for recommending the cases for compulsory retirement;
- (v) Reason for recommending the retirement should be recorded clearly;
- (vi) Scheduled Castes / Scheduled Tribes and more Backward Class Officers should be shown special consideration before their cases are recommended for compulsory retirement. Unless questions of corruption or moral turpitude are involved, the review Committees may err on the liberal side in the case of such officers.
- (vii) The proceedings of the Review Committee and other records of Government should clearly indicate that material relating to the inquiry / disciplinary proceedings / Court Proceedings pending against the officer was not taken into account while coming to the conclusion whether the officer concerned should be retained in service / retired from service. A certificate to the above effect has also to be furnished in respect of all review of cases.
- (viii) The recommendation of the Head of the Department whether the Government servant concerned is fit to be retained in service or retired under Rule-3(1) should invariably be obtained in writing before the meeting of the Review Committee, with supporting reasons and given adequate weight in the final decision.

- (ix) In the "Form of recommendation of Review Committee" the names of the Chairman and Members of Review Committee should be invariably typed below their signatures, so as to obviate the difficulty in identifying their names.
- (x) Though in the order of compulsory retirement, the reason is mentioned crisply as "Public interest" the Review Committee should indicate clearly in detail in a separate record of its deliberations (not in the ultimate proceedings or recommendation) the grounds on which the Committee has come to the conclusion that the Government servant should be compulsory retired, so that the record of deliberations of the Review Committee will be available for perusal of the High Level Standing Committee, while considering the review petitions of Government Servant compulsorily retired.
- (xi) Form of recommendation of Review Committee will be as follows:
 - (a) Name of the officer
 - (b) Date of birth
 - (c) Constitution of the Committee
 - (d) Recommendations of the review Committee

The Review Committee considered the case of who has completed the age ofyears and /or has completed 30 years of qualifying service on or before the continuance in service. His personal file was pursued. The Committee considers that he

CHAIRMAN OF THE COMMITTEE
MEMBERS OF THE COMMITTEE

The following proforma alongwith the particulars is to be placed before the Review Committee :-

1.	Name of the Government servant	
2.	Post Held	
3.	Date of Birth	
4.	Date of first regular appointment in Government Service	
5.	Date of completion of 50/55/58 years of age	
6.	Date of completion of 30 years of qualifying service	
7.	Punishment awarded	
8.	Lack of Integrity	
9.	Whether there were/ are any complaints of corruption and if so details to be given briefly	
10.	Whether any vigilance enquiry is pending/ contemplated against him	
11.	Whether physically or mentally fit for retention in service	
12.	Whether he is adequate and will continue to be adequate for the responsibilities of the post he	

	holds for the next 3/5 years	
13.	Remarks of the Appointing Authority	

Note-1: The Review Committee should once and for all carefully consider each case and take a final decision. They should judge the official by strict norms/ yardsticks in recommending their fitness for continuance in service. The committee should not be on the liberal side, as it defeats the very purpose for which such Review committee have been set up.

Note-2 The Appointing Authorities/ Heads of Departments concerned should be made personally responsible to ensure that all the cases that are ripe for review have to be placed before the Review committee in time and its recommendations are obtained well before the actual limit is reached and severe action should be taken in regard to any lapse of failure to be observe the prescribed time limits.

Note-3 In respect of government servants whose services are placed on secondment/ deputation, the recommendations of Borrowing Organization may be obtained before putting up their cases before Review Committee.

Note-4 The specific recommendations of Review committee concerned either for retention in service or for compulsory retirement should be obtained.

Note-5 The recommendations of the Committee are considered by the Government and decision taken either for accepting or otherwise. If the proposal is to retire a person compulsorily under these rules, orders of Chief Minister should be obtained. In other cases, where it is proposed to allow the incumbent to

continue in service circulation of the cases is not necessary. If decided to retire a Government servant compulsorily, he should be given 3 months' notice in writing or 3 months' pay and allowances in lieu of such notice while retiring him from service. The date of compulsory retirement shall be the date of issue of orders compulsorily retiring a Government servant from service. The orders compulsorily retiring a Government servant shall be issued by the appropriate authority who has the power to make substantial appointments to the post of service from which the Government servant required to retire.

Note-6 In all cases of compulsory retirement under these rules, wherein it has been decided to retire an officer by giving him 3 months' notice or salary in lieu of 3 months' notice of the retirement order and the notice salary cheque should be served on the individual in person on the date of issue of the orders.

Note-7 While issuing orders of compulsory retirement under these rules, the grounds that the officer is being compulsorily retired on "Public Interest" should be specified. The Government servant compulsorily retired should also be informed that if he so desires he may prefer a review petition, within one month from the date of issue of the order of compulsory retirement.

Note-8 In case where disciplinary proceedings are pending against a Government servant and where action has been initiated for imposing a major penalty and the proceedings are in the final stages, the disciplinary proceedings may be finalized instead of compulsorily retiring the officer under these rules.

Note-9 When an officer is compulsorily retired under Rule-3(1), further disciplinary proceedings against such officer

should not be pursued and the disciplinary proceedings that are being pursued against an officer compulsorily retired so far shall be dropped and no action need be pursued in such cases.

Note-10 In case where a Government servant is under suspension and his name is recommended by the Review Committee for compulsory retirement, he cannot straight away be compulsorily retired under these rules. The suspension orders have to be revoked in the first instance re-instating him to service and the orders for compulsory retirement should be issued. Regularisation of the period of suspension will depend on the outcome of the disciplinary proceedings taken against him.

Note-11 In the case of Government servant on leave, the procedure would be either to recall from leave and serve the orders of retirement when he joins duty or wait for the Government servant to join duty on the expiry of leave and then serve the order.

Note-12 In the case of Government servant, who is working in a station away from the headquarters of appropriate authority, the orders of the compulsory retirement alongwith the Notice Salary may be served after calling him in person to the headquarters.

Note-13 In the case of a Government servant who is away on camp from the headquarters/ the order may be served on the officer by recalling him from camp or on return from the camp.

Note-14 In the case, it is found that an officer is evading the receipt of the order of compulsory retirement, then the procedure indicate below should be followed for service of the order :-

- (i) If such person is not found, by leaving it at his last known place or residence or by giving or tendering it to an adult member of his family, or
- (ii) If the address of such person is known, by sending it to him by registered post, or
- (iii) If none of the means aforesaid is available, by affixing it in some conspicuous part of his last known place of residence.

In all these cases, the appointing authority should ensure that there is no time lag between the date of issue of orders and the date of serving such an order.

When an officer refuses to receive the notice salary and evades the service of orders of Compulsory retirement, in such cases, the 3 months notice salary has to be paid to the compulsorily retired government servant through Cheque, as and when he approaches the appropriate authority concerned or the appropriate authority has to send the Cheque through registered post with Acknowledgement due if the address is known to him subsequently.

Note-15 Settlement of Pension, Death cum Retirement Gratuity and Provident Fund- The work relating to preparation of pension papers shall not be delayed till the Government servant has actually submitted a formal application. The provisions which apply in the case of normal retirement, will also apply in the case of Government servant who are retired under these rules as all benefits that accrue under normal retirements are allowed in the case of compulsorily retired government servant(s), since retirement under these rules is not a punishment, even where a formal application has not been received, action may be

initiated for the sanction of final pension and DCRG under CCS (Pension) Rules, 1972 or National Pension Scheme on the basis of particulars available in the service books of the Government servants and other concerned records. Where there are difficulties such as delay in verification of service, non availability of service registers, etc. as a result of which it might not be possible to complete the process of pension claim within a period of 3 months from the date of retirement, a provisional pension, which should approximate 2/3rd of the pension or as admissible under National Pension Scheme, to which the Government servant may be normally entitled, should be sanctioned. Simultaneously, GPF claims should also be settled promptly.

Note-16 REVIEW OF ORDER OF COMPULSORY RETIREMENT- If the Government servant compulsorily retired, prefers a Representation/Appeal, such appeal should be sent to the Chief Secretary through the appropriate authority within one month from the date of issue of the order of compulsory retirement.

In cases, where final decision has been taken to reject the appeal of the government servant while his Writ Petition is pending in the Court, he may be informed that the final decision in his review petition will be communicated after disposal of petition.

If on a review of the case either on a representation from the Government servant retired prematurely or otherwise, it is decided to reinstate the Government servant in service, the authority ordering reinstatement may regulate the intervening period between the date of premature retirement and the date of reinstatement by the grant of leave of the kind due and admissible, including extra ordinary leave, or by treating it as dies

non depending upon the facts and circumstances of the case :

Provided that the intervening period shall be treated as a period spent on duty for all purposes including pay and allowances, if it is specifically held by the authority ordering reinstatement that the premature retirement was itself not justified by the circumstances of the case, or, if the order of premature retirement is set aside by a Court of Law.

Where the order of premature retirement is set aside by a Court of Law with specific directions in regard to regulation of the period between the date of premature retirement and the date of reinstatement and no further appeal is proposed to be filed, the aforesaid period shall be regulated in accordance with the directions of the Court.

Note-17 While settling the arrears to pay and allowances to the re-instated Government servant, the pension, DCRG already paid shall be regulated on the lines indicated below :-

- (a) Such persons are entitled to pay and allowances less the period already received, if any.
- (b) The notice salary already paid may be adjusted against the duty pay to be disbursed. No interest need be charged on the notice salary.
- (c) No interest need be charged on the encashed leave salary.
- (d) As regards the adjustment of DCRG/NPS already paid, the same should be adjusted against the pay and allowances admissible to the extent possible. The balance DCRG may be allowed to be retained by Government servant concerned on payment of simple interest as prescribed for GPF for the corresponding period. The amount to

be retained will be adjusted against the final DCRG/NPS becoming due on final retirement and the balance, if any will be paid to him.

Note-18

When a Government servant compulsorily retired has been reinstated to duty, reference to his compulsory retirement and reinstatement should not be made while considering his name for promotion or for any other selection.

XXXXXXXX

(iii) Non-Gazetted Posts

Head of Department Chairman

Additional/Joint/Deputy
Director Member

District Level Officer/
Subordinate Head of Office Member

The Administrative Secretary/ Head of the Department is also empowered to constitute Internal committees to assist the Review Committees in reviewing the cases. These Committees will ensure that the service record of the Government servants being reviewed, alongwith a summary bringing out all relevant information, is submitted to the Cadre Authorities at least 3 months before the due date of review.

The cases of Government servant covered by Rule-3(1) should be reviewed 6 months before he/she attains the age of 50/55 years and on completion of 30 years of qualifying service as per the following calendar :-

S.No.	Quarter in which review is to be made	Cases of Government servants who will be attaining the age of 50/55 years or will be completing 30 years of service in a calendar year

1.	January to March	July to September of the same year
2.	April to June	October to December of the same year
3.	July to September	January to March of the next year
4.	October to December	April to June of the next year

A register of Government servants who are due to attaining the age of 50/55 years or complete 30 years of service to be maintained. The register should be scrutinized at the beginning of every quarter by a senior officer at the Government as well as Departmental level as the case may be and the review undertaken according to the above schedule.

GUIDELINES FOR REVIEW COMMITTEES

All Review Committees are advised that they should keep the following guidelines in mind at every Review Meeting under Rule-3(1) -

- (i) Before the cases are put up to the Review Committees, the Personal file of the officers should be brought up-to-date;
- (ii) If adverse remarks in the Personal files were communicated to the officers, the result of their representations, if any, should be recorded in the 'Personal files'.
- (iii) If adverse remarks were not communicated to the concerned Officers, due regard should be given to subsequent reports to assess the