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Forest Department

Ref.No.9108/83/P2
Dated: 15--2--1983

Office of the Chief Conservator of
Forests, Andhra Pradesh, Hyderabad.

Sri A.K.Mathur, IFS,
Chief Conservator of Forests.

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CIRCULAR NO.3/83

Sub:- Public Services - Age of superannuation of State Government Servants in superior service - Reduced Allegations and pending charge sheets - Certain instructions issued.

Ref:- G.O.Ms.No.36 Fin & Plg (Fw.FR.I) dt:8-2-1983 communicated in CC's Lr.No.82'3/83-B4 dt:10-2-1983

The attention of all officers in distribution list 'A' is invited to the orders issued by the Government in the G.O.cited above, wherein the Government have reduced the age of superannuation of all State Government employees (except those belonging to Late Grade Service) from 58 years to 55 years with immediate effect. The Government have further ordered that all Government employees of the State (except in Last Grade Service) who have completed the age of 55 years on 8-2-1983 and those who will be completing 55 years by 28-2-1983 A.N.

2. The orders of the Government have to be strictly followed. Such of the State Government employees (other than last grade service) who have completed the age of 55 years or would be completing 55 years as on 28-2-1983 should be listed out and retired from service on 28-2-1983 A.N. without fail. Such of the Officers who are either on forced leave or under suspension, but have either completed already 55 years, or will complete 55 years by 28-2-1983 should also be retired from service on the A.N.of 28-2-1983.

3. Attention of all the Officers is also drawn to the G.O. Ms.No.64 Fin & Plg Dept. dt:1-3-1979 wherein the provision of F.R.& 56 (C) have been deleted and ~~xxxx~~ as such there is no provision to continue any employee under suspension or otherwise beyond the date of superannuation.

4. Attention of all the Officers is also drawn to the provision of Art.351(A) of A.P.Pension Code.Vol.I which is reproduced below:

351(A) - The State Government further reserve to themselves the right of withholding or withdrawing a pension or any prt of it, whether permanently or for a specified period and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government. If in a departmental or judicial proceeding, the pensioner is found guilty of grave misconduct or negligence during the period of his service including service re-employment after retirement;

Provided that:-

a) Such departmental proceeding, if instituted while the officer was in service, whether before his retirement ordering his reemployment shall after the final retirement of the officer be deemed to be a proceeding under this article and shall be

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continued and included by the authority by which it was commended in the same manner as if the officer had continued in service;

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

- i) Shall not be instituted save with the sanction of the Government;
- ii) Shall not be in respect of any event which took place more than four years before such institution and
- iii) Shall be conducted by such authority and in such place as the State Government may direct and in accordance with the procedure applicable to the departmental proceedings in which an order of dismissal from service could be made in relation to the officer during his service.

c) No such judicial proceeding, if not instituted while the officer 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 an event which took place more than four years before such institution and

d) the Andhra Pradesh Public Service Commission shall be consulted before final orders are passed

Explanation:- For the purpose of this article

a) a departmental proceeding shall be deemed to be instituted on the date on which the statement of charges is framed issued to the officer or pensioner, or, if the officer 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 a criminal proceeding, on the date on which the complaint or report of police officer, on which the Magistrate takes cognizance, ~~made~~ is made and

ii) in the case of a civil proceeding, on the date of presentation of the plaint in the Court (G.O.Ms.No.391 Finance dated 7th June, 1963)

RULINGS

The reduction of pension under this article shall be effected in whole rupees only

(G.I.Ms.No.39 Finance, dated 1st February 1973)

2. If an officer against whom an enquiry is held is unable to satisfactorily account for possession by himself or by any other person on his behalf, eg. dependants, of pecuniary resources or property disproportionate to his known sources of income, a charge of corruption should be presumed to have been proved against him and the case will come within the purview of Article 351-A of the Civil Service Regulations. The position is that the term 'grave misconduct' used in Article 351-A of the Civil Service Regulations is wide enough to include 'corrupt practices'. In cases where the charge of corruption is proved only after pension has been sanctioned and it is not therefore possible to invoke the provisions of Article 470 of the Civil Service Regulations, action to withhold or withdraw pension may be taken under Article 351-A, Civil Service Regulations. In this connection, the provisions of sub-paragraph (b) (ii) and paragraph (c) of the proviso to Article 351-A of the Civil Service Regulations are to be noted carefully. In accordance with these provisions the property or pecuniary resources in respect of which the departmental or judicial proceedings are instituted under Article 351-A of the Civil Service Regulations should have been in possession of the person concerned or any other person on his behalf, any time, within the period of four years before the institution of such proceedings, if not instituted while the officer was on duty either before retirement or during re-employment.

(G.O.Ms.No. 236, Finance Dept., dt. 29th Sept., 1973).

3. The death-cum-retirement gratuity admissible under the Andhra Pradesh Liberalised Pension Rules, 1961 has been consistently viewed as a gift and not a debt. It follows that no individual has a right to claim the whole or any part of it. It would, therefore, be open to Government to decline to pay it even in the absence of a specific rule to that effect. It may not, therefore, be necessary to go into the question whether the term pension occurring in Article 351-A Civil Service Regulations includes the death-cum-retirement gratuity or not.

It means Government have got full right to withhold the death-cum-retirement gratuity in full or to recover the pecuniary losses from death-cum-retirement gratuity irrespective of the position whether the word 'Pension' in Article 351-A Civil Service Regulations includes death-cum-retirement gratuity or not.

(G.O.Ms.No. 307, Finance Dept. dated 21.12.1973.)

4. According to provision (a) of Article 351-A, Service Regulations, departmental proceedings, if instituted while the officer was in service, whether before his retirement or during his re-employment shall after the final retirement of officer, be deemed to be proceedings under the said Article and shall be continued and concluded by the authority by which it was commenced in the same manner as if the officer had continued in service. A question has been raised whether in the case of an officer whose case falls within the purview of the afore-said provision and proceedings against whom were instituted by an authority subordinate to the Government, order for withdrawal/withholding of pension can be passed by the subordinate authority on the conclusion of the proceeding, or that authority should refer the case to the Government for final orders.

The function of the Disciplinary Authority is only to reach a finding on the charges and to submit a report recording its findings to the Government. It is then for the Government to consider the findings and take a final decision under Article

351-A, Civil Service Regulations. In case Government decide to take action under Article 351-A, Civil Service Regulations, in the light of the findings of the Disciplinary Authority, the Government will serve on the person concerned with a show-cause notice specifying the action proposed to be taken under Article 351-A, Civil Service Regulations and the person concerned will be required to submit his reply to the show-cause notice within such time as may be specified by the Government. The Government will consider the reply and consult the Andhra Pradesh Public Service Commission. If as a result of such consideration in consultation with the Commission, it is decided to pass an order under Article 351-A, Civil Service Regulations necessary orders will be issued in the name of the Government. (G.O.Ms.No. 306, Finance Department dt.21.12.1973.)

5. The charge sheets if any pending against any person retiring on superannuation on 28.2.1983 should be disposed off by 28.2.1983 should be disposed off by 28.2.1983 as far as possible. In all matters where the disciplinary action is contemplated, the appointment of Enquiry Officer should be ordered, charge sheet framed and served on the employees concerned before their retirement on superannuation.

6. The subordinates against whom the inquiries or allegations are pending should be disposed off on their merits after completing all formalities before they are retired. In case, if any of such allegations are not yet enquired, they should be enquired into expeditiously and if any prima-facie case exists, the Enquiry Officer should be appointed under Rule 19 (2) of C.C.A. Rules. Such of A.P.C.S. (C.C.A) Rules, 1963 and the charge sheet should be served on the subordinates concerned on or before 28.2.1983, before they are retired from service on superannuation on 28.2.1983 A.N. Special care has to be taken on all the allegation petitions or other preliminary reports received or susmote any irregularities observed or committed by the subordinates, all such cases that warrant the appointment of Enquiry Officer should not only be done but such orders and the charge sheets also should be served on the persons concerned on or before 28.2.1983 i.e. before they are relieved on 28.2.1983 on superannuation.

7. The above instructions should be followed scrupulously. Any violation will be viewed seriously.

8. The receipt of this circular may please be acknowledged immediately.

Sd/- A.K.Mathur,
Chief Conservator of Forests.,

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