

PENSIONARY BENEFITS

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1.1 INTRODUCTION

A Government servant becomes eligible to get pensionary benefits when he retires from the service. This is the essential condition. In case of resignation or termination, etc., the Government servant forfeits his right to pensionary benefits. The only exception is technical resignation i.e. resignation tendered with a view to taking up another appointment in the Central or State Government or PSU or Autonomous Bodies. The second important factor which must be known is the Qualifying Service rendered by the Government servant to determine his pensionary benefits. Civil pension is mainly related to the employees who generally retire from Government sector.

1.2 PENSIONARY BENEFITS:

Pensionary benefits are thus granted to a Government servant given as below:

1.2.1 Pension

A Government servant who retires after rendering more than or equal to 10 years Qualifying Service is eligible to receive Pension. In the case of Member Parliament, whose service falls short of 5 years by not more than 60 days are also entitled to Pension.¹ Pension is derived from the word per-mensem which means per month. It is a recurring monthly payment for life. It is protected from inflation as Dearness Relief is sanctioned on Pension in January and July every year to keep the value of Pension constant. A fixed retiring age would have the effect of taking men out of the industry who are still doing useful work, and would thus intensify the manpower problem.² A Government servant who retires after rendering less than 10 years of Qualifying Service is not eligible to receive Pension. Minimum pension has Rs.1275 + Dearness Relief thereon per month w.e.f. 1.1.1996.

1.2.2 Service Gratuity

Rendering less than 10 years of Qualifying Service is not eligible to receive Minimum pension has also been raised to Rs. 3500 + Dearness Relief thereon per month w.e.f. 01.01.2006.

1.2.2 Service Gratuity

A Government servant who retires before rendering less than 10 years of Qualifying Service is not eligible to get any Pension. He is entitled to receive one time lump-sum payment only called the Service Gratuity in lieu of the Pension.

1.3 RETIREMENT GRATUITY

A Government servant who retires after rendering more than or equal to 5 years of Qualifying Service is eligible to receive Retirement Gratuity. Retirement Gratuity is one time lump-sum payment. As on date, the maximum amount of Retirement Gratuity is restricted to Rs.10 lakhs.

1.4 COMMUTATION OF PENSION

A Government servant who is in receipt of any class of Pension is eligible to get his pension commuted through the required commutation forms as per Annexure-B. Commutation i.e. 40% of pension means conversion of a portion of Pension into lump-sum amount. A Government servant who surrenders a portion of his monthly pension receives a lump sum payment in lieu of such surrender.

1.5 FAMILY PENSION

Family Pension is admissible to the family of the Government servant or pensioner from the next day of death of such Government servant or pensioner. Thus the family is eligible for Family Pension only after the death of the Government servant or death of Pensioner.³

1.6 DEATH GRATUITY

Death Gratuity is admissible to the family of the Government servant on his death while in service. Death Gratuity is one-time lump-sum payment.

1.7 GENERAL CONDITIONS

The day on which a Government servant retires or is discharged or is allowed to resign from Government service or the day of death, shall be treated as a working day except the day of premature retirement, voluntary retirement as non-working day.

Day of death of an official, on Extra Ordinary Leave or Earned Leave with Medical Certificate to be treated as a part of Leave. A Government servant shall not earn two Pensions in the same service or post at the same time or by the same continuous service except re-employment after retirement.

1.7.1 Pension subject to future good conduct

The fundamental objective of a pension plan is to provide a life income for each employee covered by plan, payable monthly, annually, or at other regular intervals and commencing upon his retirement.⁴ Stoppage or reduction of Pension for reasons other than misconduct is not permissible. Forfeiture of Pension is possible only on resignation, removal or dismissal from service. The Appointing Authority may, withhold or withdraw a pension or part thereof, whether permanently or for a specified period, if Pensioner is convicted of a serious crime or is found guilty of a grave misconduct.

1.7.2 Right of Governor to withhold or withdraw pension and Gratuity:

Following provisions regarding right of Governor to withhold or withdrawn Pension and Gratuity are given as below:

In case of after retirement, organisational proceedings are instituted under Rule 7 from the date of issue of Charge Sheet. Further in case, the Government servant is under suspension and retires on superannuation alongwith charge sheet under rule 7 to the retiree, the pension may be withheld till the final decision of departmental proceedings. Where departmental proceedings are instituted by an authority subordinate to the Governor, that authority shall submit a report recording its findings to the Governor.

- After retirement, the departmental proceedings require the sanction of the Governor.

- The Proceedings shall not be in respect of any event which took place more than four years before retirement.
- Departmental proceedings are to be conducted by such authority and at such place as the Governor may direct. Procedure is applicable in such situation would be the same as applicable in case of dismissal in relation to Government servant during his service.

1.7.3 Provisional Pension:

Following provisions regarding sanctioning the Provisional Pension are mentioned as below:

- During pendency of Departmental or Judicial Proceedings, the Government servant is allowed to retire on Superannuation and Provisional Pension may be sanctioned to him.
- Recovery shall not be more than 1/3 of pension admissible, if it is decided ultimately to make recovery of loss caused to Government from Pension of retired Government servant.
- Final order is to be issued in the name of Governor.

1.7.4 Minor penalty proceedings

Disciplinary Authority who instituted proceedings for minor penalty can drop them and have no effect on Pension without submitting its findings to the Governor.

1.8 CLASSES OF PENSION:

The primary purpose of a pension plan is to provide old age income to retired workers and their widows, to continue throughout the remaining lifetime of the individuals.⁵ Following are the kinds of pension given as below:

1.8.1 Superannuation Pension

This is granted to a Government servant who is retired on his attaining the age of Superannuation i.e., 58 and 60 years in the case of class III, II, I and class IV, blinds, judicial officers' categories of employees respectively. It is true to say that when you are working on a regular job, the requirements and routines of the job must be performed, but when you

retire, you are released from drudgery. Now he is free to do anything at any time⁶. A Government servant retires on the afternoon of the last day of the month in which he attains the age of 58. In cases his date of birth falls on the 1st of the month, then he will retire on the last date of the previous month. For Example, if there are 4 Government servants A, B, C and D whose dates of birth are 1st July, 1957, 2nd July, 1957, 23rd July, 1957 and 31st July, 1957 respectively, then Shri A shall retire on Superannuation on 30th June, 2014 while Shri B, Shri C and Shri D shall retire on 31st July, 2014 in case where the age of Superannuation is 58 years. Pension is calculated at the rate of 50% of the average pay of last 10 months now on the last pay of the service. The amount of Pension finally calculated is expressed in whole rupees by rounding the fraction to the next higher rupee. Basic pension is subject to minimum of Rs.3500/- and a maximum of Rs.15,000/- per month. A Government servant retiring before completion of 33 years of service but after completion of 10 years of Qualifying Service gets the Pension proportionately.

1.8.2 Retiring Pension

It is available to a Government servant who retires or is retired in advance of the age of Superannuation. A wise man will consider the prospect of retiring when he is still in his prime in the fifties.⁷ Date of retirement is usually on the expiry of notice period which need not necessarily synchronize with the last date of the month. Rules contemplate situation where Government can retire its personnel on completion of the age of 50/55 years or 30 years of service. Government servant also has a reciprocal right to retire voluntarily under the rules. In accordance with the provisions of Fundamental Rule, the Appointing Authority has the absolute right to retire any Government employee in public interest as under:-

- (i) If he is Group 'A' or 'B' service/post and had entered Government service before attaining the age of 35 years, he can be retired at the age of 50 years.
- (ii) Regarding Groups 'C' and 'D', their cases will be considered on attaining the age of 55 years. In addition, a Government servant in Group 'C' service or post not governed by any pension rules, can also be retired after he has completed thirty years service. In other words, a Government employee, who may belong to Group 'A', 'B', 'C' or 'D' can be prematurely retired, irrespective of age at the appropriate time.

1.8.3 Voluntary Retirement after 20 years of Qualifying Service

The most important single influence on early retirement plans of all employees in the labour force was the Pension and Annuity income after retirement.⁸ A Government servant who seeks voluntary retirement after completion of 20 years of Qualifying Service gets an additional weight-age in Qualifying Service upto five years subject to the condition that after the weight-age total Qualifying Service may not exceed 25 years and it may not take him beyond the normal age of Superannuation of 58 years. An employee is paid voluntary Pension for life by his employer.⁹

1.8.4 Invalid Pension

This is granted to a Government servant who is permanently incapacitated either physically or mentally. The usual provision is for a pension to be paid on exactly the same basis as for ordinary retirement provided that the member has ten years service.¹⁰ But in this case, the Government servant has to get a medical certificate on the prescribed form from the competent authority with full knowledge of the Head of the Office. In case of where the Medical Authority declares that the Government servant is completely and permanently incapacitated for further service of any kind in the department to which he belongs in consequence of disease or cause mentioned, he shall be retired. Where the Medical Authority, has declared a Government servant, fit for further service of less laborious character than that which he had been doing. He may be provided if he is willing to be so employed may be employed on lower post and if there may be no means of employing him even on a lower post, he may be admitted to Invalid Pension. This type of Pension is available for those who are injured or too sick to work.¹¹ There is also special provision, that the amount of Invalid Pension shall not be less than the amount of Family Pension admissible i.e., 30/100 % of last pay drawn. On the basis of the opinion expressed by the examining Medical Authority, the Appointing Authority may require the Government servant to proceed on leave, or if he is already on leave to continue to remain on leave or may retire him from the service. Once a decision to retire a Government servant is taken by the Appointing Authority, it is applicable.

1.8.5 Compensation Pension

This is granted when the permanent post of a Government servant is abolished and it is not possible to appoint him in any other post the conditions of which are deemed to be equal to the one held by the Government servant and he does not opt for another appointment

or such post as may be offered to him. Under these circumstances, compensation pension is granted.

1.8.6 Pension on absorption in Public Sector Undertakings

This is granted to a Government servant who is permanently absorbed by the PSUs or Autonomous Bodies. Such a Government servant can opt to receive pro-rata retirement benefits rendered under State Government or those benefits of combined service under the Government in the Autonomous Body.

1.8.7 Compulsory Retirement Pension

This is admissible to a Government servant who is retired as a measure of penalty by the Competent Authority. It specifically excludes disciplinary suspensions or terminations on the one hand and compulsory retirement on the other.¹² In this case, no pensionary benefits are granted to a retiree. Date of retirement is the date on which penalty becomes effective.¹³

1.8.8 Compassionate Allowance

This is available to a Government servant who is dismissed or removed from the service and forfeits his Pension and Gratuity. The authority competent to dismiss or remove him from service may in consideration of deserving cases, sanction a compassionate allowance not exceeding two-thirds of Pension or Gratuity or both which he would have got had he retired on compensation pension and should not be less than Rs.3500/- + D.R. per month thereon which is the minimum pension admissible.

1.9 FAMILY PENSION

The death benefits take many forms, including continuation of retirement benefits to a survivor after the death of a retired employee or a pensioner to a survivor upon the death of an active employee.²⁰

Family pension is primarily granted to the wife of the deceased employee.²¹ Family Pension is payable to the family of the Government servant who died while in service after rendering one year of continuous service. In case of a Government servant who had been medically examined and declared fit

prior to his appointment this condition does not apply.

Family Pension is payable on the death of a Pensioner. The normal Family Pension is payable at the rate of 30% of the last pay drawn for all categories of employees. Dearness Relief is also payable on the Family Pension. With effect from 1.1.2006, the Family Pension

shall in no case be less than Rs.3500/- p.m. which is the minimum amount of Family Pension admissible to the family of the Government servant. The payment of Family Pension at enhanced rate is allowed for a period of 10 years. After this, the normal Family Pension will be admissible to the family. The rate of enhanced Family Pension in case of death of the Government servant is 50% of the last pay drawn by the Government servant. In case of death of a Pensioner, the enhanced Family Pension is payable for maximum period of 10 years but limited to the date on which the Government servant would have attained the age of 67 years had he been survived. For example, if a Pensioner had retired voluntarily at the age of 50 years, he dies at the age of 58 years, the enhanced Family Pension would be payable for the next 10 years to his family. In case the Pensioner had died at the age of 61 years, the family pension would payable at enhanced rates for the next 6 years i.e. up to the date on which he would have attained the age of 67 years had he been survived. Similarly, in case of death of a Pensioner at the age of 67 years, no enhanced Family Pension is payable to his family and only normal Family Pension will be paid.

FINDINGS AND SUGGESTIONS

Regarding findings, the condition of rendering more than or equal to 10 years Qualifying Service for the grant of Pension was observed much more years in the present era while future avenues are always available every time in abundance.

Further, a Government servant who submitted resignation before rendering less than 10 years of Qualifying Service, he is entitled to receive one-time lump sum payment of Service Gratuity in lieu of Pension which is negligible amount while the difference of the amount between the Service Gratuity, and Pension was much bigger.

In view of the provision, recovery shall not be more than 1/3 of Pension admissible, if it was decided ultimately to make recovery of loss caused to Government Exchequer from Pension of retired Government servants. Amount of recovery not more than 1/3 of Pension was generally observed quite less in view of the outstanding amount in lacs of rupees for recovery from employee or pensioner.

A Government servant who rendered 40 years of service but the benefit of Qualifying Service was restricted to 33 years of service. It was observed an arbitrary clause in the Civil Pension Rules.

A Government servant has completed 20 years Qualifying Service, he may, by giving notice of not less than three months submitting to the Appointing Authority, retire from the service provided the notice has been accepted by the Appointing Authority. Researcher observed that the condition of giving notice of not less than three months was on higher side and may be reduced to 15 days.

Family Pension is payable to the family members of the Government Servant who died while in service after rendering one year continuous service which was not justified in the rules as death could be happened before the completion of one year service.

In case of death of a Pensioner, the Enhanced Family Pension was payable for maximum period of 7 years but limited to the date on which the Government servant would have attained the age of 65 years had he been survived. Thereafter, Normal Family Pension is commenced. But the researcher observed that the Enhanced Family Pension was found remained continuous even after the period of 7 years from the date of death, causing loss to the Government Exchequer.

The Pension is calculated on the basis of SMPs (six monthly periods). Service was found less than 3 months in some cases, the benefit of one SMP was not granted to the Government servant. Thus the Pension is reduced causing financially loss to the employee under this provision.

Regarding suggestions, the condition of rendering more than or equal to 10 years Qualifying Service was observed unjustified for grant of Pension, while further avenues are always available in abundance in the present globalization. This condition was observed on higher side. The condition of Qualifying Service may be reduced to 5 years for the grant of Pension and the Service Gratuity may also be increased to grant in lump sum at least equivalent to half of the Pension of 20 years.

In case the recovery of out standing loss caused to the Government may be made through not less than $\frac{1}{2}$ instead of $\frac{1}{3}$ of the monthly Pension. Government may increase the limit of recovery equal to $\frac{1}{2}$ of the total monthly Pension of the pensioner.

The limit of maximum benefit of 33 years of service rendered by the Government servant may be increased to 40 years of the service for maintaining the working interest of the employee in service.

In case of Voluntary Retirement, the condition of submitting the notice of not less than three months to the competent authority was on higher side and it could be reduced. Researcher found that the notice of 15 days was sufficient to accept the resignation of the Government servant by the competent authority.

In case of the death of an employee, the condition of at least one year service was observed baseless in the Pension rules for the grant of Family Pension. This condition may be waved off.

The Enhanced Family Pension was generally observed continuous for years after getting the benefit of 7 years from the date. If death of the employee which was an over payments causing loss to the Government Exchequer. Normal Family Pension which is always less Pension must be reduced by the Treasury or Bank after the completion of 7 years from the date of death.

Further, the SMPs(Six monthly periods) system was not observed in the interest of the Government servant and could not get the benefit of one SMP due to service rendered less than 3 months. Government may introduced the system of calculating the Pension on the basis of month period instead of SMPs in the interest of Government servant.

FOOT NOTES

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