



सां/No.: 5-1(49)/2008-PD

दिनांक/Dated: 26.12.2016

प्रेषक / From:

संयुक्त सचिव (प्रशासन)  
Joint Secretary (Admn.)

सेवा में / To :

The Directors / Heads of all  
National Labs./Instts. of CSIR  
Hqrs./Complex/Centres/Units

महोदय/Sir / महोदया/Madam,

मुझे भारत सरकार के निम्नलिखित कार्यालय ज्ञापन को जानकारी, मार्गदर्शन और अनुपालन के लिए अग्रेषित करने का निदेश हुआ है।

I am directed to forward herewith a copy of Office Memorandum for information, guidance and compliance.

क्र.स. Sl.No.	कार्यालय ज्ञापन स. Office Memorandum No.	विषय / Subject
1	Ministry of Personnel, Public Grievances, and Pensions, Dept. of Pension & Pensioners' Welfare OM No. 21/1/16-P&PW (F) dated 30.09.2016.	Retirement of Govt. Servant under Central Civil Services (Pension) Rules, 1972 and Central Civil Service (Extraordinary Pension) Rules – applicability of provisions of "Persons with Disabilities (Equal opportunities, protection and rights and full participation) Act, 1995".

भवदीय/Yours faithfully

(संतोष कुमार / Santosh Kumar)  
अनु.अधि.(नीति प्रभाग)/Section Officer (PD)

संलग्न/Encl. :यथोपरि/As above

प्रतिलिपि/Copy to:

- 1) Head, IT Division with the request to make this Office Memorandum available on the website & Policy Repository.
- 2) कार्यालय प्रति/Office copy

No. 21/1/16-P&PW (F)  
Government of India  
Ministry of Personnel, PG & Pensions  
Department of Pension & Pensioners' Welfare  
3<sup>rd</sup> Floor, Lok Nayak Bhawan  
Khan Market, New Delhi-1 10 003  
Dated the 30<sup>th</sup> September, 2016

**OFFICE MEMORANDUM**

**Sub :- Retirement of Government Servant under Central Civil Service (Pension) Rules, 1972 and Central Civil Services (Extraordinary Pension) Rules – applicability of provisions of “Persons with Disabilities (Equal opportunities, protection and rights and full participation) Act, 1995”.**

The undersigned is directed to say that Section 47 of the Persons with Disabilities (Equal opportunities, protection and rights and full participation) Act, 1995 (PWD Act. 1995) provides as under :-

“Non-discrimination in Government Employment”-(1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service:

Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(2) - No promotion shall be denied to a person merely on the ground of his disability :

Provided that the appropriate Government may having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section”.

2. Department of Personnel & Training have, vide their OM No.18017/1/2014-Estt(L) dated 25.02.2015 and O.M. No. 25012/1/2015 – Estt (A-IV) dated 19.05.2015, issued instructions in pursuance of the above provisions of the PWD Act, 1995 in respect of the Government employees seeking retirement, on medical grounds, under the CCS(Pension) Rules. The instructions inter alia provide that whenever a Government servant seeks retirement under Rule 38 or Rule 48/48(A) of Central Civil Services (Pension) Rules citing medical grounds, or when the notice has been submitted due to a disability, the administrative authorities shall examine as to whether the case is covered under section 47 of the PWD Act. 1995. In case the provisions of the Act are applicable, the Government servant shall be advised that he/she has option of continue in service with the same pay scale and service benefits.

In case a disabled Government servant re-considers his decision and withdraws the notice for voluntary retirement, his case shall be dealt with under the provision of Section 47 of the Act read with the Department of Personnel and Training's OM dated 25.2.2015. If, however, in spite of being so advised, such Government servant still wishes to take voluntary retirement, the request may be processed as per the applicable Rules. A copy each of DoPT's OM dated 25.2.2015 and dated 19.5.2015 is enclosed.

3. Further, in accordance with the Central Civil Services (Extraordinary Pension) Rules disability pension is admissible to a Government servant if he is boarded out on account of disability due to wound, injury or disease which is attributable to Government service. The provisions of the Central Civil Services (Extraordinary Pension) Rules have been examined in the light of provisions of Section 47 of the PWD Act, 1995 and the instructions contained in DoP&T's OM dated 19.5.2015 referred to above. It is clarified that the provisions of the PWD Act and the instructions issued by DoP&T in this regard would also be applicable to Government servants covered by the provisions of Central Civil Services (Extraordinary Pension) Rules.

4. Accordingly, in all cases where a Government servant acquires disability on account of a wound, injury or disease attributable to Government service, administrative authorities shall examine as to whether the case is covered under Section 47 of the Persons with Disabilities (Equal opportunities, protection and rights and full participation) Act, 1995 (PWD Act, 1995). In case the provision are applicable, the Government servant shall be advised that he/she has the option of continuing in service with the same pay scale and service benefits. In case a disabled Government servant wishes to continue in service, his case shall be dealt with under the provision of Section 47 of PWD Act read with the Department of Personnel and Training's OM dated 19.5.2015. In case, however, the Government servant still wishes to retire, the request may be processed as per the provisions of Central Civil Services (Extraordinary Pension) Rules.

5. All Ministries and Departments are requested to keep the above in view of while processing cases of requests for retirement under CCS (Pension) Rules or CCS (EoP) Rules.

  
(Vandana Sharma)

Additional Secretary to the Government of India

To

The Secretaries,  
All Ministries/Departments of the Government of India

Copy to:

1. Comptroller & Auditor General of India, New Delhi
2. Union Public Service Commission, New Delhi.
3. Central Vigilance Commission, New Delhi.

F.No.25012/1/2015-Estt (A-IV)  
Government of India  
Ministry of Personnel, Public Grievances and Pensions  
Department of Personnel and Training  
Establishment (A-IV) Desk

North Block, New Delhi-110 001  
Dated : May 19, 2015

OFFICE MEMORANDUM

Subject : Request for Voluntary retirement from persons suffering from disability – Supreme Court Order in *Bhagwan Dass & Anr Vs Punjab State Electricity Board*, (2008) 1 SCC 579.

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The undersigned is directed say that vide Department of Personnel and Training's OM No.18017/1/2014-Estt(L) dated the 25<sup>th</sup> February, 2015, certain clarifications regarding treatment of leave and absence of disabled Government servants have been issued.

2. Instances have come to notice where Government servants apply for voluntary retirement under various provisions like Rules 38, Rule 48 and 48A of CCS (Pension) Rules, 1972 or Rule 56 of the Fundamental Rule on account of hardships faced by them due to a disability, as they are unaware of the protection provided by the Section 47 of the *Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PWD Act)*. Section 47 of the PwD Act, 1995 is reproduced below for reference:

"Non-discrimination in Government Employment – (1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service.

Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits;

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

No promotion shall be denied to a person merely on the ground of his disability;

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section".

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From pre-page:

3. The issue had come up in *Bhagwan Dass & Anr Vs Punjab State Electricity Board* (2008) 1 SCC 579, decided by the Hon'ble Supreme Court where the employee who had during his service suffered from blindness, had applied for voluntary retirement. The Hon'ble Supreme court has observed that the Petitioner was not aware of any protection that the law afforded him and apparently believed that the blindness would cause him to lose his job, which was the source of livelihood of his family. In those circumstances, it was the duty of the superior officers to explain to him the correct legal position and to tell him about his legal rights.

4. Keeping in view the provisions of the Section 47 of the *PwD Act, 1995* and the above mentioned judgement, it has been decided that whenever a Government servant seeks voluntary retirement citing medical grounds, or when the said notice has been submitted due to a disability, the administrative authorities shall examine as to whether the case is covered under Section 47 of *PWD Act, 1995*. In case the provisions are applicable, the Government servant shall be advised that he/she has the option of continuing in service with the same pay scale and service benefits.

5. In case a disabled Government servant reconsiders his decision and withdraws the notice for voluntary retirement, his case shall be dealt with under the provisions of the Section 47 read with the Department of Personnel and Training OM dated 25<sup>th</sup> February, 2015, mentioned above. If however, in spite of being so advised, such Government servant still wishes to take voluntary retirement, the request may be processed as per the applicable rule.

6. All the Ministries and Departments are requested to keep the above in view while processing cases of requests for Voluntary retirement from disabled Government servants.

7. Hindi version follows.



(Mukesh Chaturvedi)

Director

Tel.23093176

To

The Secretaries,  
All Ministries/ Departments of the Government of India.

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*From pre-page:*

**Copy to:**

1. Comptroller & Auditor General of India, New Delhi.
2. Union Public Service Commission, New Delhi.
3. Central Vigilance Commission, New Delhi.
4. Central Bureau of Investigations, New Delhi.
5. Parliament Library, New Delhi.
6. All Union Territory Administrations.
7. Lok Sabha/ Rajya Sabha Secretariat.
8. All Officers and Sections in the Ministry of Personnel, Public Grievances & Pensions.
9. All Attached and Subordinate Offices of Ministry of Personnel, P.G. & Pensions.
10. ✓ NIC, DoP&T with the request to upload this O.M. on Department's web site (OMs/Orders << Voluntary Retirement).
11. Deputy Director (OL) with the request to make available Hindi Version of the OM.

No.18017/1/2014-Estt(L)  
Government of India  
Ministry of Personnel, Public Grievances & Pensions  
Department of Personnel & Training

New Delhi, the 25<sup>th</sup> February, 2015

**OFFICE MEMORANDUM**

Subject: Amendment to Central Civil Service (Leave) Rules, 1972 - *Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PWD Act, 1995)*-regarding

The Central Civil Services (Leave) Rules, 1972 were amended vide the Department of Personnel and Training Notification No. 13026/1/2002-Estt(L) dated the 15/16<sup>th</sup> January, 2004 consequent to the *Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PWD Act, 1995)* which came into force from 7<sup>th</sup> February, 1996.

2. Section 47 of the PWD Act, 1995 provides that services of no employee can be terminated nor can he be reduced in rank in case the employee has acquired a disability during his service. The first proviso to the Section 47 lays down that if such an employee is not suitable for the post he was holding, he could be shifted to some other post. However, his pay and service benefits would be protected. The second proviso provides that if it is not possible to adjust such an employee against any post, he would be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier. Further, the Clause (2) of Section 47 provides that no promotion shall be denied to a person merely on ground of his disability. In *Kunal Singh v. Union of India, [2003] 4 SCC 524*, Hon'ble Supreme Court has observed that the very frame and contents of Section 47 of the PWD Act, 1995 clearly indicate its mandatory nature.

3. The issues relating to leave or absence of Government servants who have acquired a disability while in service are required to be dealt with in the light of the provisions of the Section 47 of *Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995*. The case of a disabled government servant who is declared fit to resume duty but who may not be able to perform the duties of the post he was holding earlier may be dealt with as per the first proviso to Section 47 of the PWD Act, 1995. The second proviso shall apply if it is not possible to adjust him against any existing post. In all such cases, the Government servant so adjusted shall be entitled to the pay scale and other service benefits attached to the post he was holding.

4. A disabled Government servant who is not fit to return to duty shall be adjusted as per second proviso to the Section 47 mentioned above, until he is

declared fit to resume duty or attains the age of superannuation whichever is earlier, with the same pay scale and service benefits. On being declared fit for resuming duty, the Government servant who is not fit for the post he is holding, may be adjusted as per the first proviso to Section 47.

5. Leave applied on medical certificate in connection with disability should not be refused or revoked without reference to a Medical Authority, whose advice shall be binding. The ceiling on maximum permissible leave laid down in Rule 12 may not be applied to leave on medical certificate applied in connection with the disability. Any leave debited for the period after a Government servant is declared incapacitated shall be remitted back into his/her leave account.

6. For a government servant who is unable to submit an application or medical certificate on account of disability, an application/medical certificate submitted by a family member may be accepted. The provisions relating to examination of disabled Government servants and the Medical Authorities competent to issue such certificates are also being amended.

7. Necessary amendments to the Central Civil Services (Leave) Rules, 1972 are being notified separately.

  
(Mukesh Chaturvedi)  
Director  
Tel: 23093176

To

1. All Ministries/Departments of Government of India
2. NIC, DO&PT – with a request to upload this OM on the Department's website under OMs & Orders (Establishment Leave) and also under "What is New".

Copy also forwarded to :

1. Registrar General, Supreme Court of India.
2. Secretaries to Union Public Service Commission/ Supreme Court of India/ Lok Sabha Sectt./ Rajya Sabha Sectt./ Cabinet Sectt./ Central Vigilance Commission/ President's Sectt./ Vice-President's/ Prime Minister's Office/ Niti Ayog.
3. Controller General of Accounts/ Controller of Accounts, Ministry of Finance.
4. Department of Personnel and Training (AIS Division)/ JCA/ Admn. Section.
5. Governors of all States/ Lt. Governors of all Union Territories.
6. Secretary, National Council of JCM (Staff Side), 13-C, Feroz Shah Road, New Delhi.
7. All Members of Staff Side of the National Council of JCM/ Departmental Council.
8. All Officers/Sections of DoPT/Deptt. of Administrative Reforms & Public Grievances/ Department of Pensions & Pensioners Welfare/ PESB.
9. Joint Secretary (Pers). Ministry of Finance, D/o Expenditure.
10. Additional Secretary (Union Territories), Ministry of Home Affairs.