

GOVERNMENT OF TRIPURA  
GENERAL ADMINISTRATION (PERSONNEL & TRAINING) DEPARTMENT

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No.F.27(1)-GA(P&T)/18 :

Dated, Agartala, the July, 2018.

MEMORANDUM

Subject :- Strengthening of administration – Periodical review of service records under FR 56(j) / Rule 48 of CCS (Pension) Rules, 1972 as adopted by the Govt. of Tripura

The undersigned is directed to refer to this Department Memorandum of even number dated 11<sup>th</sup> June, 2018 regarding periodical review of service records under Fundamental Rule 56 (j) or Rule 48 of CCS (Pension) Rules, 1972 as adopted by the Government of Tripura.

2. The Hon'ble Supreme Court of India has observed in *State of Gujarat Vs. Umedbhai M. Patel*, 2001 (3) SCC 314 as follows :-

- (i) Whenever, the services of public servants are no longer useful to the General Administration, the officer can be compulsorily retired for the sake of public interest.
- (ii) Ordinarily, the order of compulsory retirement is not to be treated as a punishment coming under Article 311 of the Constitution of India.
- (iii) "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 records of the officer."
- (iv) Any adverse entries made in the confidential record shall be taken note of and be given due weightage in passing such order.
- (v) Even un-communicated entries in the confidential record can also be taken into consideration.
- (vi) The order of compulsory retirement shall not be passed as a short-cut to avoid Departmental Enquiry when such course is more desirable.
- (vii) If the officer was given a promotion despite adverse entries made in the confidential record, that is a fact in favour of the officer.
- (viii) Compulsory retirement shall not be imposed as a punitive measure.

3. In every review, the entire service records 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 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 in any papers or reports prepared and submitted by him. It would be useful if the Department puts together all the data available about the officers and prepares a comprehensive brief for consideration by the Review Committee. Even un-communicated remarks in the ACRs may be taken into consideration.

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4. In the case of those officers who have been promoted during the last five years, the previous entries in the ACRs may be taken into account if the officer was promoted on the basis of seniority-cum-fitness, and not on the basis of merit.

5. As far as integrity is considered, the following observations of the Hon'ble Supreme Court may, while upholding compulsory retirement in a case, may be kept in view.

The officer 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 a menace in public service and injurious to public interest.

[ *S. Ramachandra Raju vs. State of Orissa* – [(1994) 3 SCC 424 ]

Thus while considering integrity of an employee, actions or decisions taken by the employee 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. Judgement of the Apex Court in the case of Shri K. Kandaswamy, I.P.S. (TN : 1966) in *K. Kandaswamy vs Union of India and Anr*, 1996 AIR 277, 1995 SSC (6) 162 is relevant here. There were persistent reports of Shri Kandaswamy acquiring large assets and of his getting money from his subordinates. He also indulge in property transactions, which gave rise to suspicion about his bonafides. The Hon'ble Supreme Court upheld his compulsory retirement under provisions of the relevant Rules.

6. Similarly, reports of conduct unbecoming of a Government servant may also form basis for compulsory retirement. As per the Hon'ble Supreme Court in *State of UP and others vs Vijay Kumar Jain*, Appeal (Civil) 2083 of 2002.

If conduct of a Government employee becomes unbecoming to the public interest or obstructs the efficiency in public services, the Government has an absolute right to compulsorily retire such an employee in public interest.

7. In order to simplify and speed up the procedure of review, it is felt necessary to constitute a Review Committee. Accordingly, it has been decided that the Review Committee in the case of various level of employees will be as follows :-

(I) In case of officers holding Group – A posts :-

- |     |  |   |                  |
|-----|--|---|------------------|
| (a) | Chief Secretary                              | - | Chairman         |
| (b) | One of the Senior most Principal Secretaries | - | Member           |
| (c) | Secretary of the Department                  | - | Member           |
| (c) | Secretary of Tribal Welfare                  | - | Member           |
| (d) | Secretary, Sch. Castes Welfare               | - | Member           |
| (e) | Principal Secretary, G.A. (P&T) Department   | - | Member-Secretary |

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(II) In case of officers holding Group – B (Gazetted) posts :-

- (a) Senior most Principal Secretary - Chairman
- (b) Secretary of the Department - Member
- (c) Secretary of Tribal Welfare - Member
- (d) Secretary of Sch. Castes Welfare - Member
- (e) Additional Secretary, GA (P&T) Department - Member-Secretary

(III) In case of officers holding Group – B & C [ Non-Gazetted ] posts :-

- (a) Secretary of the Department - Chairman
- (b) Director of Tribal Welfare - Member
- (c) Director of Sch. Castes Welfare - Member
- (d) Director/Additional Secretary/ Joint Secretary decided by the Secretary - Member
- (e) Nominee of GA (P&T) Department - Member

(IV) In case of Group – D posts :-

- (a) Additional Secretary / Joint Secretary / Director of the Department as the case may be. - Chairman
- (b) Additional Director / Joint Director / Deputy Director of the Department - Member
- (c) Additional Director / Joint Director of Tribal Welfare - Member
- (d) Additional Director / Joint Director of Sch. Castes Welfare - Member
- (e) Deputy Secretary or Under Secretary of the Department - Member

8. In order to ensure that the powers vested in the appropriate authority are exercised fairly and impartially and not arbitrarily, following procedure and guidelines have been prescribed for reviewing the cases of government employees covered under the aforesaid rules.

- (i) The cases of Government servants covered by FR 56(j) or Rule 48 (1)(b) of the CCS (Pensions) Rules, 1972, as adopted by the Govt. of Tripura should be reviewed six months before they attain the age of 50 / 55 years or complete 30 years of service / 30 years of qualifying service, whichever occurs earlier.

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- (ii) Committee shall be constituted in each Department to which all such cases shall be recommendation as to whether the Officer concerned should be retained in service or retired from service in the public interest.

9. The criteria to be followed by the Committee in making their recommendations would be as follows :-

- (i) Government employees, whose integrity is doubtful, will be retired.
- (ii) Government employees who are found to be ineffective will also be retired. The basic consideration in identifying such employee should be the fitness / competence of the employee to continue in the post which he / she is holding.
- (iii) While the entire service record of an officer should be considered at the time of review, no employee 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 highest post, has been found satisfactorily.
- (iv) Consideration is ordinarily to be confined to the preceding 5 years or to the period in the higher post, in case of promotion within the period of 5 years, only when retirement is sought to be made on grounds of ineffectiveness. There is no such stipulation, however, where the employee is to be retired on grounds of doubtful integrity.
- (v) No employee 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 the case. It is clarified that 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.

The above instruction is relevant only when an employee 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 employee, 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.

10. The report of the Committee shall be submitted before the appointing authority for decision. In every case where it is proposed to retire a Government servant in exercise of the powers conferred by the said rule, the appointing authority should record in the file its opinion that it is necessary to retire the Government servant in pursuance of the aforesaid rule in the public interest. The order to be served on the Government service would of course be on the Form prescribed for the purpose.

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11. All Departments / Heads of Departments are requested to follow the above instructions and take necessary action towards periodical review of the cases of Government servants as required under FR 56 (j) or Rule 48(1)(b) of CCS (Pension) Rules, 1972 (as adopted by the Government in the Finance Department).

*Sd/- 24.7.18*  
( Santosh Das )  
Additional Secretary to the  
Government of Tripura.

To .

All Departments / Heads of Department.

Copy to :-

1. Secretary to Governor, Tripura, Agartala.
2. Principal Secretary to Chief Minister, Tripura, Agartala.
3. Office of the Deputy Chief Minister, Tripura, Agartala.
4. Offices of all Ministers, Tripura, Agartala.
5. All Principal Secretaries / Secretaries / Special Secretaries, Tripura.
6. Finance Department (Estt. Br. / General Br. ) / GA (SA) / GA (AR) Deptt., Agartala.

*Sd/- 24.7.18*  
( Santosh Das )  
Additional Secretary to the  
Government of Tripura.