

GOVERNMENT OF ODISHA
GENERAL ADMINISTRATION & PUBLIC GRIEVANCE DEPARTMENT

File No. 27037 /Gen., Bhubaneswar Dated 24th September, 2019
GAD-SC-GCS-0089-2016

From

Shri Sanjeev Chopra, IAS
Principal Secretary to Government

To

All Secretaries to Government

Sub:- Premature Retirement of Government Servants to weed out Officers and employees of doubtful integrity or inefficiency from public service to ensure efficiency in administration.

Sir,

I am directed to say that a set of instructions have been issued in G.A. & P.G. Department Circular No. 30495 dated 24.11.1987 streamlining the procedures to deal with the cases of Premature Retirement of Government Servants to weed out Officers and employees of doubtful integrity or inefficiency from public service to ensure efficiency in administration.

2. In the meanwhile, different judicial pronouncements have been delivered based upon new ideas and principles to consider premature retirement on the ground of doubtful integrity or inefficiency. It is accordingly decided by the Government to prescribe the following instructions afresh by superseding the instructions issued earlier in GA & PG Department Circular No. 30495 dated 24.11.1987.

3. With a view to ascertain whether the Government servant would be retained in service or retired from service in the public interest, there is absolute need for periodical review of performance of Govt. servants. Provisions in this regard are contained under proviso to clause-(a) of Rule-71 of Odisha Service Code. Government have accordingly decided that the following instructions/ procedures shall henceforth be followed by the authorities empowered to conduct reviews or issue orders retiring an employee prematurely as provided in the Proviso to Clause (a) of Rule 71 of the Odisha Service Code, on his completing 30 years of qualifying service or attaining 50 years of age and on his attaining 55 years of age.

4. The cases of Group-A & Group-B Officers on their completing 30 years of qualifying service or attaining 50 years of age and on their attaining 55 years of age, as the case may be, on the 31st March, 30th June, 30th September and the 31st December of a year shall be reviewed by the Review Committees constituted in pursuance of these

instructions. Similarly the cases of Group-C Officers and Group-D employees shall be reviewed on the 30th June and the 31st December of the year by the relevant Review Committee.

5. The composition of Review Committees for different categories of employees shall be as set forth in Annexure-1.

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

- (a) Government employees whose integrity is doubtful, will be retired.
- (b) Government employees who are found to be ineffective will also be retired. The basic consideration in identifying such employees should be the fitness/ competence of the employees to continue in the post which he/she is holding.
- (c) 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 higher post, has been found satisfactory.

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.

- (d) Ordinarily no employee should be retired on grounds of ineffectiveness if he is 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 in the year preceding 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, 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.

7. The cases of Govt. servants covered under paragraph-4 above should be reviewed six months before their completing 30 years of qualifying service or attaining 50 years of age and on their attaining 55 years of age, as the case may be as per the following time schedule.

Sl. No.	Quarter in which review is to be made	Cases of Officer/Employee completing 30 years of qualifying service or attaining 50 years of age and on their attaining 55 years of age	Dateline of furnishing the report to the G.A.&P.G. Department
1.	January to March	July to September of the same year	15 th April
2.	April to June	October to December of the same year	15 th July
3.	July to September	January to March of the next year	15 th October
4.	October to December	April to June of the next year	15 th January of the next year

A register of officers/employees who are completing 30 years of qualifying service or attaining 50 years of age and on their attaining 55 years of age is to be maintained. The register should be scrutinized at the beginning of every quarter by a senior officer in the Department/ Office and the review undertaken according to the above schedule.

In addition to the above, the Secretary of the Administrative Department is also empowered to constitute internal Committees to scrutinize all the cases required to be reviewed in each quarter and finalize the specific cases to be reviewed. These Internal Committees will ensure that the service record of the employees being reviewed, alongwith a summary bringing out all relevant information, is submitted to the review committees at least one month before the due date of review.

The administrative Departments shall furnish reports of every review conducted quarterly in respect of their own offices as well as all the offices functioning under their administrative control to the G.A & P.G Department in the format prescribed in Annexure-VI.

8. Once an employee's case has been reviewed and he has been found by the competent authority to be deserving of continued employment after attaining 50 years of age, there shall be no further review of his case till he attains 55 years of age. Similarly, the case of an employee who was not prematurely retired in pursuance of the review conducted on his attaining 55 years of age shall not be reviewed thereafter. If, however, review was deferred or not conducted, the case may be reviewed in the meeting held after records were available.

9. Premature retirement can be ordered in public interest only and not as a penalty to the employee concerned. Compulsory retirement is one of the major *penalties listed under Rule 13* of the Orissa Civil Services (Classification, Control &

Appeal) Rules, 1962 and before it is imposed on any employee, the procedure outlined in the said Rules for imposition of major penalties must be complied with. Premature retirement under Clause (a) of Rule 71 of the Orissa Service Code is not and must not be used as a substitute that can be resorted to more conveniently. In other words, where it appears that any employee is guilty of misconduct or negligence in duty and that he would probably have been compulsorily retired had disciplinary proceedings been initiated against him, the proper course would be to initiate such proceeding instead of trying to circumvent the prescribed procedure and thereby extinguishing the employee's right of defending himself against the charge of misconduct or negligence. Premature retirement can only be ordered where it is obvious that retention of the employee in service will not be in public interest.

10. It will not be in public interest to retain an employee in service if-

- (a) he is clearly lacking in integrity, or
- (b) although his integrity is not in doubt, his physical or mental condition is such as to make him inefficient for further service, or
- (c) even though his work in a lower grade was satisfactory, he clearly lacks in standard of efficiency required to discharge the duties of the post he presently holds.

11. The objective of the review is to weed out persons of doubtful integrity or inefficiency from public service. In order however that no such decision is taken arbitrarily or without very careful appraisal of facts, the review committee shall, wherever it recommends premature retirement of an employee, record the reasons of its findings in adequate detail.

12. The Hon'ble Supreme Court have observed the following basic parameters to deal with the premature retirement of Government Servants in *State of Gujarat Vs. Umedbhai M. Patel, 2001 (3) SCC 314:-*

- (a) Whenever the services of a public servant are no longer useful to the general administration, the officer can be prematurely retired for the sake of public interest.
- (b) Ordinarily, the order of premature retirement is not to be treated as a punishment coming under Article 311 of the Constitution.
- (c) For better administration, it is necessary to chop off dead wood, but the order of premature retirement can be passed after having due regard to the entire service record of the Officer.
- (d) Any adverse entries made in the confidential record shall be taken note of and be given due weightage in passing such order.

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

13. (i) In every review, the Committee in each case shall consider the entire service record. The expression 'service record' implies all relevant records and hence the review need not be confined to the consideration of ACR/PAR dossier. The personal file of the Officer may contain relevant materials. Similarly the work and performance of an Officer can also be assessed by taking into account the files dealt with by him or any papers or reports prepared and submitted by him.

(ii) As far as considering integrity of an employee is concerned, 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. The following observations of Hon'ble Supreme Court in the case *S. Ramachandra Raju vs. State of Odisha* passed while upholding compulsory retirement need to be kept in view at the time of deciding each case.

"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 to public service and injurious to public interest."

(iii) The reports of conduct unbecoming of a Government servant may also form the basis for compulsory retirement. As per the judgement of Hon'ble Supreme Court in *State of U.P 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."

14. Any adverse entries made in the confidential record, if not expunged, 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.

If on the date of review the time limit for consideration of representation made against adverse remark has not expired or the employee's representation has not been disposed of his case should be deferred till the next review unless the earlier entries in the confidential character roll of the officer clearly justify a recommendation for premature retirement.

15. It seems to be the practice in some organizations to consult the General Administration (Vigilance) Department with a view to ascertaining if any enquiry into the integrity of employees whose cases are due for review is under way. For purposes of the review, facts already available on the date of the review should alone be taken into account. If the General Administration (Vigilance) Department has already submitted a report about any employee, that report can no doubt be taken into account, but to consider enquiries that have not been completed will amount to prejudging the issue. If the enquiry ultimately leads to a reasonable inference of lack of integrity, the employee concerned can be proceeded against either departmentally or under the criminal law, but it would not be correct to conclude that an employee is lacking in integrity merely because some allegations against him are under enquiry. In other words, allegations which have not been enquired into or in respect of which enquiry is not complete should, generally speaking, be ignored. Even in regard to allegations which have been enquired into by the Vigilance Organisation, a conclusion of lack of integrity may not be drawn straightway, the facts of the case should be carefully considered and it should be examined if the ends of justice will not be better served by a departmental proceeding. The Rule, normally should be that before any such conclusion is drawn, the explanation of the employee concerned should have been considered. It is only in exceptional cases, for example cases where the employee's lack of integrity is obvious, that the review may be conducted without considering his explanation and on the basis of an exhaustive report of enquiry by the Vigilance Organisation or any senior officer. This exception to the normal rule should be invoked only where the Committee is satisfied that the allegations are serious and beyond doubt and that public interest requires the employee's immediate exit from service.

16. There may be instances where on promotion from Group D to a post in Group-C, an employee completes 50 years of age or 30 years of qualifying service and is subject to review. Since character rolls are not maintained for Group-D employees, it will not be possible to refer to his character roll for the period of his service in Group-D. The Committee should, in such cases, presume that his work in the Group-D post that he held was satisfactory as otherwise he would not have been promoted to the higher post. If however there is clear evidence that the employee lacked in integrity while working in the lower post, the Committee may recommend his premature retirement. Subject to this exception his continuance in Group-C post should be decided on the strength of reports earned by him subsequent to the promotion.

17. Where it is decided to retire an employee prematurely, he has either to be given a notice in writing at least three months before the date on which he/she is required to retire or paid three months' pay and allowances in lieu of such notice (Annexures II, III, IV and V as the case may be.)

18. An employee may also, under the Proviso to clause (a) of rule 71 of the Orissa Service Code, seek premature retirement after completing 30 years of qualifying service or attaining 50 years of age by giving a notice in writing to the appropriate authority at least three months before the date on which he/she wishes to retire. The

appropriate authority may also, subject to the orders of Government in any case, entertain a notice received within less than three months preceding the date of the intended retirement. As clearly indicated in this proviso, permission to retire prematurely may be refused to an employee who is under suspension or against whom enquires are in progress. Where, in any such case, it is proposed to permit the employee to retire prematurely, the appropriate authority shall record the reasons for granting the permission. Naturally, no permission should be granted in any such case unless it is patent that the allegations are not serious and that, even if proved, are not likely to result in imposition of a penalty of far greater consequence than the employee's premature exit from office.

19. Since no stigma is attached to an employee retired prematurely, his service should be certified as satisfactory for purposes of pension, while preparing pension documents of any such employee, the following instructions may be kept in view

- (a) Where an employee is served with a notice, he will be deemed to have retired on the date following the date on which the period of 3 months from the date of the service of the notice expires, if, for example, the period of 3 months following the service of the notice expires on the 5th of any month, the employee would be deemed to have retired with effect from the 6th of that month.
- (b) Where, in lieu of notice 3 months' pay and allowance (no allowance other than Dearness Allowance is payable) are paid, the date specified in the order shall be deemed to be the date on which the employee has retired.
- (c) Since 3 months' pay and allowances are paid in lieu of the notice, the employee will be entitled to pension from the date specified in the order in addition to the pay and allowance paid to him.
- (d) The pay and allowances payable in lieu of the notice will be calculated at rates at which he/she drew pay and allowances immediately before retirement.
- (e) Earned leave not exceeding 300 days at the credit of the employee on the date of premature retirement shall be en-cashed.
- (f) The employee will be entitled to draw Travelling Allowance for journey from the last station of duty to his home town in accordance with rule 120 of the Orissa Travelling Allowances Rules.
- (g) The entitlement of the employee to retain the official accommodation supplied to him will be governed by item 2 (b) of the Table under rule 107-A (i) of the Orissa Service Code.

20. It is held by the Hon'ble Supreme Court that, no show-cause notice need be issued to any Government servant before a notice of retirement is issued to him under

the aforesaid provisions. 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 necessary to retire the Government servant in pursuance of the aforesaid rule in the public interest. The order to be served on the Government servant would of course be on the form prescribed for the purpose.

21. It is accordingly therefore, requested to ensure holding of Review Committee Meetings regularly as per these instructions for effective functioning of Government offices by weeding out persons of doubtful integrity or patent inefficiency from public service. Suitable instructions may also be issued to all the Offices functioning under your control to hold review meeting positively in scheduled time without failure.

22. For the purpose of this circular, the expression "appropriate authority" means the appointing authority.

23. Government desires that the above provisions are to be followed by all concerned Authorities in a time bound manner without any deviation. Any lapses on these instructions shall be viewed seriously and shall attract the penal provisions prescribed in the existing Disciplinary Rules.

This may be treated as **MOST URGENT**.

Yours sincerely,



Principal Secretary to Government

Memo No. 27038 /Gen., Bhubaneswar Dated, the 24th September, 2019.

Copy forwarded to the Director of Printing, Stationery & Publication for information with a request to publish the Notification in the extra-ordinary issue in the Odisha Gazette and Supply 200 copies to this Department for official use.



Special Secretary to Government

Memo No. 27039 /Gen., Bhubaneswar Dated, the 24th September, 2019.

Copy forwarded to all Departments of Government/ all Heads of Departments/ all RDCs. / all Collectors/ The Registrar, Orissa High Court, Cuttack/ The Registrar, O.A.T., Bhubaneswar / Odisha Public Service Commission, Cuttack/ Odisha Staff Selection

Commission, Bhubaneswar/ Odisha Sub-Ordinate Staff Selection Commission, Bhubaneswar for information and necessary action.

It is impressed upon all concerned competent authorities to conduct review pertaining to the period 1st October to 31st December, 2019 positively and furnish the report to the GA & PG Department.

G.P. 24-9-19

Special Secretary to Government

Memo No. 27040/Gen., Bhubaneswar Dated, the 24th September, 2019.

Copy forwarded to all sections of G.A. & P.G. Department/ G.A. & P.G. Department Library (20 copies)/ Guard file (S.C. Branch) (20 copies) for information and necessary action.

G.P. 24-9-19

Special Secretary to Government

Memo No. 27041/Gen., Bhubaneswar Dated, the 24th September, 2019.

Copy forwarded to the OIC, Secretariat I.T Centre, Bhubaneswar for information and necessary action. He is requested to post this Notification in the website of G.A. & P.G. Department.

G.P. 24-9-19

Special Secretary to Government

Memo No. 27042/Gen., Bhubaneswar Dated, the 24th September, 2019.

Copy forwarded to A.R. Cell, G.A. & P.G. Department with a request to hoist this Notification in the website of G.A. & P.G. Department.

G.P. 24-9-19

Special Secretary to Government

ANNEXURE-I

Sl. No.	Category of Officers	Composition of the Review Committee
(1)	(2)	(3)
1	Group-A (Senior Branch)	(a) Chief Secretary/Development Commissioner/Agriculture Production Commissioner as the case may be : Chairman (b) Secretary in charge of cadre controlling Department : Member (c) Controlling Authority : Member (d) Representative of G.A. & P.G. Department : Member
2	Group-A (Junior Branch and above)	(a) Secretary in charge of cadre controlling Department : Chairman/ Member (b) Controlling Authority : Member (c) Representative of G.A. & P.G. Department : Member
3	Group-B	(a) Secretary of the Cadre controlling Department/Heads of Department/Head of Office as the case may be : Chairman (b) Controlling Authority : Member (c) An officer not below the rank of Group-A (JB) in charge of Establishment : Member
4	Group-C	(a) Appointing Authority/Cadre Controlling Authority : Chairman (b) Officer not below the rank of Group-A (JB) of the Office : Member (c) Officer not below the rank of Group-A(JB) in charge of Establishment :Member
5	Group-D	(a) Appointing Authority : Chairman (b) Head of Office : Member (c) An officer not below the rank of Group-B of the concerned Office : Member

Note: (1) The senior most officer of the Committee shall be the Chairman in cases where the above stated arrangements appear inconsistent.

(2) The concerned Departments/Heads of Department/District Office/Sub-ordinate District Office shall decide the officer to act as Convenor of the review Committee.

ANNEXURE- II

(Form of Notice to Group-A & Group-B Officer)

ORDER

No..... Bhubaneswar, the ...

In exercise of the powers Conferred under clause (a) of rule 71 of the Odisha Service Code, the Governor of Odisha is pleased to order the retirement, from service under the Government, of Shri/Smt on the expiry of three months from the date of service of this order on him/her.

By order of the Governor

Secretary to Government

ANNEXURE-III

(Form of Notice to Group-C and Group-D Employee)

ORDER

No..... Bhubaneswar, the

In pursuance of Clause (a) of Rule 71 of the Odisha Service Code, Shri/Smt
.....

..... is retired from service under the Government on the expiry of three months from the date of service of this order on him/her.

By order of the Government

(Designation of the Appointing Authority)

ANNEXURE-IV

(Form of order of retiring a Group-A & Group-B Officer on payment of 3 months' Pay and Allowances)

ORDER

No..... Bhubaneswar, the

In exercise of the powers conferred under clause (a) of Rule 71 of the Orissa Service Code, the Governor of Odisha is pleased to retire from service under the Government, Shri/Shrimati who has completed 30 years of qualifying service/ already attained the age of 50 years with effect from allowing him/her 3 months pay and allowances in lieu of 3 months' notice, as provided in the First Proviso to the said rule.

By order of the Governor

Secretary to Government

ANNEXURE- V

Form of order of retiring a Group-C and Group-D on payment of 3 months' Pay and Allowances)

ORDER

No..... Bhubaneswar, the.....

In pursuance of Clause (a) of Rule 71 of the Orissa Service Code, Shri/Shmt...

..... who has completed 30 years of qualifying service/already attained the age of 50 years is retired from service under the Government with effect from and is hereby paid 3 months' pay and allowances in lieu of 3 months' notice, as

provided in the First Proviso to the said rule.

By order of the Government

(Designation of the Appointing Authority)

ANNEXURE-VI

FORMAT FOR FURNISHING QUARTERLY REPORT ON REVIEW

TO G.A & P.G DEPARTMENT

1. Name of the Administrative Department:-
2. Premature retirement of Government servants belonging to Office of _____ for the quarter _____ held on _____.
3. Name of the Officer/Employee recommended for premature retirement.
 - (i)
 - (ii)
 - (iii)
4. The Order No. & Date in which the order of notice for premature retirement was issued as per recommendation.

Secretary of the Administrative Department