



कर्मचारी भविष्य निधि संगठन
Employees' Provident Fund Organisation

श्रम एवं रोजगार मंत्रालय, भारत सरकार
 Ministry of Labour & Employment, Government of India
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To

✓ All ACC(Zones), Director(PDUNASS), ACC(ASD),
 All RPFC/OIC in-charge of RO/ZTI/ASD-HO.

Subject: Strengthening of Administration – Periodical review under FR 56(j) and Rule 48 of CCS (Pension) Rules, 1972 that are applicable mutatis mutandis to the employees of Central Board in terms of Rule 18 and 22 (read with Schedule I & II respectively) of Employees' Provident Fund (Officers and Employees' Conditions of Service) Regulation 2008.

Sir/Madam,

Various instructions have been issued from time to time on the subject cited above on the need for periodical review of performance with a view to ascertain whether the Officers and Employees of EPFO/CBT should be retained in the service or prematurely retired from service in the public interest as per the provisions contained in the Fundamental Rule 56(j) and Rule 48 of the CCS (Pension) Rules, 1972 that are applicable mutatis mutandis to employees of Central Board in terms of Rule 18 and 22 (read with Schedule I & II respectively) of Employees' Provident Fund (Officers and Employees' Conditions of Service) Regulation 2008.

2. The observations of Hon'ble Supreme Court of India in the State of Gujarat Vs. Umedbhai M. Patel, 2001(3)SCC 314 are noted herein below:

- i. Whenever the services of a public servant 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.
- 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 record 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. The Department of Personnel and Training (DoPT) vide OM No.25013/01/2013-Estt.A-IV dt.11.9.2015 has issued instructions in the light of observations of Hon'ble Supreme Court of India and accordingly in supersession of all earlier instructions on the subject in EPFO, the following instructions, guidelines and clarifications are issued for strict compliance:

4. **RULE PROVISIONS AND TIME SCHEDULE:** The relevant provisions under the Fundamental Rules and CCS (Pension) Rules are noted below for ready reference:

- i. The appropriate authority has the absolute right to retire, if it is necessary to do so in public interest, a Government servant under FR 56(j) or Rule 48 of CCS (Pension) Rules, 1972 as the case may be. The provisions are tabulated below:

	FR 56	Rule 48(1)(b) of CCS (Pension) Rules, 1972
Category	FR 56(j) <u>Group 'A' & 'B' Officers:</u> who entered service before 35 years of age and have attained 50 years of age. <u>Other cases:</u> Attained 55 years of age.	All Government servants covered by CCS (Pension) Rules, 1972 who have completed 30 years of qualifying service.
Notice Period	Three months or three months' pay & allowances in lieu thereof	Three months or three months' pay and allowances in lieu thereof.

- ii. As per OA No.25013/01/2013-Estt.A-IV dt.11.9.2015, the cases of Government servant covered by FR 56(j) or rule 48 of CCS (Pension) Rules, 1972 should be reviewed six months before he / she attains the age of 50/55 years, in cases covered by FR 56(j) and on completion of 30 years of qualifying service under Rule 48 of CCS (Pension) Rules, 1972.

- iii. Time Schedule for review is as under:

Sl.No.	Quarter in which review is to be made	Cases of employee who will be attaining the age of 50/55 years or will be completing 30 years of service or 30 years of service qualifying for pension, as the case may be, in the quarter indicated below to be reviewed
1.	January to March	July to September of the same year
2.	April to June	October to December of the same year
3.	July to September	January to March of the next year
4.	October to December	April to June of the next year

5. **CRITERIA TO BE FOLLOWED FOR CONSIDERING THE CASES OF OFFICIALS:**

- i. **GENERAL PRINCIPLE:** It has to be ensured that powers vested in appropriate authority are exercised fairly and impartially and not arbitrarily, and for this purpose a Review Committee has to scrutinise the individual cases for recommendation as to whether the officer concerned should be retired from service in the public interest or whether he should be retained in service.

- ii. **RECORDS:** In every review, the entire service records should be considered by the Committee. The expression 'service record' will take in all relevant records and hence the review should not be confined to the consideration of the ACR/APAR 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 any papers or reports prepared and submitted by him. It would be useful if all the data available about the officers are put together and a comprehensive brief is prepared for consideration by the Review Committee. Even un-communicated remarks in the ACRs/APARs may be taken into consideration.

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.

- iii. **INTEGRITY:** As far as integrity is concerned, the following observations of the Hon'ble Supreme Court while upholding compulsory retirement in case of S. Ramachandra Raju Vs State of Orissa (1994) 3 SCC 424, 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 to public service and injurious to public interest."

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 & Anr, 1996 AIR 277, 1995 SCC (6) 162 is relevant here. There were persistent reports of Sh.Kandaswamy acquiring large assets and of his getting money from his subordinates. He also indulged 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.

- iv. **UNBECOMING ACTS:** Similarly, reports of conduct unbecoming of an employee of CBT /EPFO may also form basis for compulsory retirement. As per the Hon'ble Supreme Court in the 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."

- v. **NON PERFORMANCE/INEFFECTIVENESS:** Employees of CBT/EPFO 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 is holding.

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.

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 his case. However, it has further been provided that 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 accordance with the orders.

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.

6. CONSTITUTION OF SCREENING COMMITTEES, REVIEW COMMITTEES AND REPRESENTATION COMMITTEES* IN EPFO:

The Chairman, CBT and Hon'ble Minister for Labour & Employment has accorded his approval to the Constitution of the following Committees i.e. Screening Committee and Review Committee for the purpose of review:-

(* The Representation Committee will be formed as and when required)

Officials	Screening Committee	Review Committee
	Head Office	
Below Section Officer or equivalent	<ul style="list-style-type: none"> > RPFC (ASD) > DD(Audit) > AD(Vigilance) 	<ul style="list-style-type: none"> > ACC(HRM) > RPFC-I of any nearby region (to be nominated by CPFC) > RPFC-II(Vigilance)
Section Officer and equivalent	<ul style="list-style-type: none"> > ACC(HRM) > RPFC-I of any nearby region (to be nominated by CPFC) > D.D.(Vigilance) 	<ul style="list-style-type: none"> > ACC(HRM) > ACC of any nearby Zone (to be nominated by CPFC) > RPFC-I (Vigilance)
APFC & RPFC-II	<ul style="list-style-type: none"> > ACC in Head Office nominated by CPFC > ACC(HRM) > D.D.(Vigilance) 	<ul style="list-style-type: none"> > ACC(HQ-HR) > ACC(HRM) > CVO
RPFC-I, ACC Gr.I & Gr.II	<ul style="list-style-type: none"> > ACC(HQ-HR) > ACC(HQ) > CVO 	<ul style="list-style-type: none"> > FA&CAO > CVO > JS&FA MOLE
ACC(HQ)	<ul style="list-style-type: none"> > CPFC > FA&CAO > CVO 	<ul style="list-style-type: none"> > Secretary (MOLE) > CPFC > CVO(MOLE)

Field Offices (Zonal /Regional offices)		
Below EO/AO and equivalent	<ul style="list-style-type: none"> > RPFC-I of Region concerned > RPFC-II (Admn.)/any RPFC-II (OIC) nominated by ACC(Zone) > RPFC-II(FA) 	<ul style="list-style-type: none"> > ACC of the Zone > RPFC-I In-charge of erstwhile region > DD(Vig.) Hqrs.
EO/AO and equivalent	<ul style="list-style-type: none"> > ACC of the Zone > RPFC-I of region concerned. > DD(Vig.) of zone 	<ul style="list-style-type: none"> > ACC in Head Office nominated by CPFC > ACC(HRM)/RPFC(HRM) > DD (Vig.)Hqrs.
APFC & RPFC-II	<ul style="list-style-type: none"> > ACC in Head Office nominated by CPFC > ACC(HRM)/RPFC(HRM) > D.D.(Vig.) Hqrs. 	<ul style="list-style-type: none"> > ACC(HQ-HR) > ACC(HRM) > CVO
RPFC-I, ACC Gr.I & II	<ul style="list-style-type: none"> > CPFC > ACC(HQ) > CVO 	<ul style="list-style-type: none"> > Secretary (MoLE) > CPFC > CVO (MOLE)

7. ROLE & FUNCTIONS OF APPROPRIATE AUTHORITIES AND COMMITTEES:

- (i) Internal Screening Committee: The Committee consisting to the extent possible of those senior officers who have had occasion to know about the work and conduct of the officer proposed to be reviewed is constituted as a standing arrangement to render assistance to the Review Committee. The committee shall ensure that the service records of employee reviewed alongwith the summary bringing out all the relevant information is submitted to the authority at least three months before the due date of review. It has to prepare a comprehensive brief on each officer, for being placed before the Review Committee. The Committee shall verify and scrutinise the register of employees who are due to attain the age of 50/55 years or complete 30 years of service at the beginning of every quarter.
- (ii) Review Committee: The Committee shall examine the brief prepared by the Screening Committee and the service records and furnish its recommendations keeping in view the criteria specified herein above at para 5.
- (iii) The Appropriate Authority has to take action on the recommendations of the review committee. It should consider the totality of facts and circumstances of the case and should form an opinion whether compulsory retirement would be in public interest. Such opinion must be based on facts and material available on record.

The Hon'ble Apex court of India has laid down the Law that principles of natural justice are not attracted and therefore no show cause notice need to be issued to any officer / official before an order of retirement is issued to him under the aforesaid provisions.

The appropriate authority should not use the provision to retire an official/officer as a short cut to initiating formal disciplinary proceedings on ground of specific misconduct. Further the process should not be adduced to reduce the surplus staff without following the rules and instructions relating to retrenchment.

If the appropriate authority takes a decision to retain an official/ officer in service, the said official/officer would ordinarily continue his service till he attains the age of superannuation. If however the appropriate authority considers at any time after the aforesaid review that the retention of the said official / officer is not in the public interest the authority may take necessary action to retire the officer by following the laid down procedure.

In the cases where the appropriate authority has come to a conclusion that an officer / employee is to be prematurely retired, a three months notice may be given before he/she attains the specified age or has completed 30 years of service.

- (iv) Representation Committee: An employee who has been served with a notice /order of premature retirement under the provisions mentioned above may submit a representation within three weeks from the date of service of such notice/ order. The representation shall be referred to the committee by the Appropriate Authority after due scrutiny as to whether the representation contain any new facts or any new aspect of a fact already on record but which has not been considered at the time of taking decision to compulsorily retire the officer.

The Representation Committee shall consider the representation submitted by an employee against notice or order of premature retirement.

The authority which is empowered to pass final orders on the representation should pass its orders within two weeks from the date of receipt of recommendations of the Committee on the representation.

For regulating the period of absence in case an employee is reinstated, provisions of FR-56 (j) and proviso to FR-56 (j) (i) may be referred to.

8. IMMEDIATE ACTION ON PART OF THE AUTHORITIES CONCERNED:

All Addl. CPFCs of Zones, Addl. CPFC(ASD) of Head Office and RPFCs in-Charge of Regional Offices are requested to initiate timely action to process the cases as per the time schedule prescribed above.

Every Region will prepare a Calendar for review and submit a quarterly report in the first fortnight of the following quarter to their respective Zonal Office, who in turn will send a consolidated report to the Head Office immediately thereafter.

A special review as provided for under the Rules may also be made in respect of all those officers whose cases were not reviewed at the relevant time. If it is considered that retention of such employees will not be in the public interest, such employees will be given retirement under FR 56(j) or Rule 48 of CCS (Pension) Rules notwithstanding the fact that they have already crossed 50 or 55 years of age or 30 years of qualifying service. Such cases may be reviewed separately.

Yours faithfully,


(K. V. Sarveswaran)

Addl. Central P.F. Commissioner (HQ)HR

Copy for information to: Shri Subhash Kumar, Under Secretary (SS-I),
Ministry of Labour & Employment,
Shram Shakti Bhawan, New Delhi.