

Answer Key

1(a) Consideration of Appeals

15. Consideration of appeals

(1) In the case of an appeal against an order imposing any penalty specified in Regulation 5, the appellate authority shall consider:

- (a) whether the facts on which the order was based have been established;
- (b) whether the facts established afford sufficient ground for taking action;
- (c) whether the penalty is excessive, adequate or inadequate and pass orders.
- (i) Confirming, enhancing, reducing or setting aside the penalty; or
- (ii) remitting the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case; provided that:—
 - (i) If the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in items (iv), (v) (c), (vi), (vii) and (viii) of Regulation 5 and an enquiry under sub-Regulation (b) of Regulation 8 has not already been held in the case, the appellate authority shall subject to the provisions of the sub-Regulation (c) of Regulation 8, itself hold such enquiry or direct that enquiry be held in accordance with the provisions of sub-Regulation (b) of Regulation 8 and thereafter, on a consideration of the proceedings of such enquiry and after giving the appellant a reasonable opportunity of making representation against the penalty proposed on the basis of the evidence adduced during such enquiry make such orders as it may deem fit;
 - (ii) If the enhanced penalty which the appellate authority proposes to impose is one of the penalties in items (iv), (v) (c), (vi), (vii) and (viii) of Regulation 5 and an enquiry under sub-Regulation (b) of Regulation 8 has already been held in the case, the appellate authority after giving the appellant reasonable opportunity of making representation against the penalty proposed on the basis of the evidence adduced during enquiry, make such orders as it may deem fit; and
 - (iii) no order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity, as far as may be in accordance with the provisions of sub-regulation (b) of Regulation 8 of making representation against such enhanced penalty".

(2) Any error or defect in the procedure followed in imposing a penalty may be disregarded by the appellate authority if such authority considers, for reasons to be recorded in writing, that the error or defect was not material and has neither caused injustice to the person concerned nor affected the decision of the case.

(3) The appellate authority or any higher authority than the competent authority prescribed in regulation 6 may *suo motu* call for the enquiry papers even in the absence of any appeal from the accused person and review the decision of the competent authority taking into account all recorded facts and also other facts subsequently disclosed. Such authority may amend the orders if in its opinion the punishment given is inadequate or excessive, provided that in case the punishment awarded is considered inadequate, the accused person may be given an opportunity to be heard before the punishment is enhanced.

(Regulation No:15 of TNEB Discipline and Appeal Regulation 1983)

(b) Withholding of Appeals

18. Withholding of appeals

An appeal may be withheld by the authority not lower than the authority from whose order it is preferred, if:—

- (i) it is an appeal in a case in which under these regulations no appeal lies, or
- (ii) it does not comply with the provisions of Regulation 17, or
- (iii) it is not preferred within one month after the date on which the appellant was informed or was in receipt of the order appealed against, and no reasonable cause is shown for the delay, or
- (iv) it is a repetition of a previous appeal and is made to the same appellate authority by which such appeal has been decided and no new facts or circumstances are adduced which afford grounds for a reconsideration of the case, or
- (v) it is addressed to an authority to which no appeal lies under these regulations:

Provided that in every case in which an appeal is withheld, the appellant shall be informed of the fact and the reasons for it:

Provided further that an appeal withheld on account only of failure to comply with the provisions of Regulation 17 may be resubmitted at any time within 15 days of the date on which the appellant has been informed of the withholding of the appeal, and if resubmitted in a form which complies with those provisions, shall not be withheld.

(Regulation No:18 of TNEB Discipline and Appeals Regulation 1983)

(c) Memorial

24. Memorial

(a) Any employee (includes also an employee who was in the service of the Board) whose appeal under these regulations has been rejected by the appellate authority, may address a memorial to the Board in respect of that matter. The memorial shall be submitted to the head of the office to which the employee belongs or belonged within six months from the date on which the final order passed on appeal was communicated to the employee. No such memorial shall be withheld by any authority.

(b) A memorial will be liable to summary rejection if—

- (i) the memorialist has not availed himself of the remedies provided by the regulations or orders applicable to the case;
- (ii) the memorial was not submitted within the time limit mentioned in clause (a) above;
- (iii) the memorial relates to a matter which has already been disposed of by the Board.

The authority forwarding a memorial shall state on it whether the memorialist has complied with the above requirements.

Note:—A memorial under this regulation is also permissible in respect of matters disposed of by the Board as competent authority and in respect of which there is no appellate authority.

(Regulation No 24 of TNEB Discipline and Appeal Regulation 1983)

2. (a) Insolvency and Habitual Indebtedness

15. Insolvency and Habitual Indebtedness:

An employee shall endeavour to avoid habitual indebtedness or insolvency. If an employee is adjudged or declared insolvent, or has incurred debts aggregating a sum which in ordinary circumstances he could not repay within a period of two years or of a part of his salary is frequently attached for debt, has been continuously so attached for a period of two years, or is attached for a sum which in ordinary circumstances, he could not repay within a period of two years, he shall be presumed to have contravened this regulation. But, he shall not be so deemed if he proves that the insolvency or indebtedness is the result of circumstances which, with the exercise of ordinary diligence, he could not have foreseen or over which he had no control, and had not proceeded from extravagant or dissipated habits. An employee who becomes the subject of a legal proceeding for insolvency shall forthwith report the full facts to the head of the office in which he is employed.

(Regulation 15 of TNEB Employees conduct regulation)

(b) Criticism of Board

18. Criticism of Board: (1) No employee, shall by any utterance, writing or otherwise, discuss or criticise in public or at any meeting of any association or body, any policy pursued or action taken by the Board or a State or the Central Government nor shall he in any manner participate in any such discussion or criticism.

(2) No employee shall, in any radio broadcast or in any document published anonymously or in his own name or in the name of any other person or in any communication to the press or in any public utterance, make any statement of fact or opinion :-

(i) which has the effect of any adverse criticism of any current or recent policy or action of the Board, the Central Government or a State Government; or

(ii) which is capable of embarrassing the relations between the Board, the Government of any State, the Central Government or any foreign State.

Provided that nothing in this regulation shall apply to any statement made or views expressed by an employee in his official capacity or in the due performance of the duties assigned to him.

(iii) No Board employee shall involve himself in any act involving moral turpitude on his part including any unlawful act which may cause embarrassment or which may bring discredit to the Board or the Government.

(3) An employee shall not, except in the discharge of his official duties, preside over or take part in the organisation of or occupy a prominent position at or address any

4

non-official meeting or conference at which it is likely that speeches may be made or resolutions may be proposed or passed criticising the action of the Board or a State-Government or the Central Government or requesting the Board to take certain action etc.

Explanation: Regularly convened meetings, for the transaction of their legitimate business of associations of employees of the Board recognized by the Board and of committees or branches of such associations are not non-official meetings for the purpose of this regulation.

(4) Nothing contained in this regulation shall be deemed to prohibit any employee from participating in discussions at any private meeting solely of employees of the Board or of any recognized association of such employees on matters which affect their personal interest individually or generally.

Provided that nothing contained in this subregulation shall be construed to limit or abridge the powers of the Board to require any employee to publish and explain any policy or action of the Board in such manner as may appear to it to be expedient or necessary.

(5) An employee who intends to publish any document or to make any communication to the press or to deliver any public utterance containing statements in respect of which any doubt as to the application of the restrictions imposed by this regulation may arise, shall submit to the Board a copy of draft of the document which he intends to publish or of the utterance which he intends to deliver, and shall thereafter act in accordance with such orders as maybe passed by the Board.

(6) This regulation shall apply to the Legal Adviser to the Board and to other Part-time employees also.

(Regulation 18 of TNEB Employees conduct regulation)

(c) Evidence before Committee or any authority

19. Evidence before committee or any other authority:

(1) Save as provided in sub-regulation (3), no employee shall except with the previous sanction of the Board, give evidence in connection with any inquiry, conducted by any person, committee or authority.

(2) Where sanction has been accorded under sub-regulation (1), no employee giving such evidence shall criticise the policy or any action of the Board or of the Central Government or of a State Government.

(3) Nothing in this regulation shall apply to:

a) evidence given at an enquiry before an authority appointed by the Government, by Parliament or by a State Legislature; or

(b) evidence given in any judicial inquiry; or

(c) evidence given at any departmental inquiry ordered by authorities subordinate to the Board.

(4) This regulation shall apply to the part-time employees also of the Board other than Legal Adviser to the Board.

(Regulation No: 19 of TNEB Employees conduct regulation)

3. Dismissal, Removal and Suspension Instructions.

INSTRUCTIONS UNDER REGULATION 57, 57-A & 57-B

1. The cases of suspension during pendency of criminal proceedings or proceeding for arrest for debt or during detention under a law providing for preventive detention shall be dealt with in the following manner hereafter :

(a) An employee who is detained in custody under any law providing for preventive detention or as a result of a proceeding either on a criminal charge or for his arrest for debt shall, if the period of detention exceeds 48 hours and unless he is already under suspension, be deemed to be under suspension, from the date of detention until further orders as contemplated in the Tamil Nadu Electricity Board Employee's Discipline and Appeal Regulations. An employee who is undergoing a sentence of imprisonment shall also be dealt with in the same manner pending a decision on the disciplinary action to be taken against him.

(b) An employee against whom a proceeding has been taken on a criminal charge but who is not actually detained in custody (e.g. a person released on bail) may be placed under suspension by an order of the competent authority under the Tamil Nadu Electricity Board Employee's Discipline and Appeal Regulations. If the charge is connected with the official position of the employee or involving any moral turpitude on his part, suspension shall be ordered under this regulation unless there are exceptional reasons for not adopting this course.

S.R.—9 (4—2001)

(c) An employee against whom a proceeding has been taken for his arrest for debt but who is not actually detained in custody may be placed under suspension by an order under the Tamil Nadu Electricity Board Employee's Discipline and Appeal Regulations, i.e., only if a disciplinary proceeding against him is contemplated.

(d) When an employee who is deemed to be under suspension in the circumstances mentioned in clause (a) or who is suspended in the circumstances mentioned in clause (b) is re-instated without taking disciplinary proceedings against him, his pay and allowances for the period of suspension will be regulated under Regulation 57/57-B, i.e., in the event of his being acquitted of blame or if the proceeding taken against him was for his arrest for debt or its being proved that his liability arose from circumstances beyond his control or the detention being held by any competent authority to be wholly un-justified, the case may be dealt with under Regulation 57(2)/57-B(3); otherwise it may be dealt with under Regulation 57(4)/57-B(5).

2. The grant of pay and allowances or a proportion of them under Regulation 57 or 57-A or 57-B does not cancel any officiating arrangements that may have been in force while the employee was under suspension or dismissal or removal or compulsory retirement.

3. In deciding whether any pay and allowances should be granted under Regulation 57 or 57-A or 57-B to an employee in temporary employment, the period for which the temporary post has been sanctioned should be taken into consideration.

4. The headquarters of an employee under suspension is his last place of duty. An employee under suspension may change his headquarters provided the competent authority who has placed him under suspension is satisfied that such a course will not put the Board to any extra expenditure like grant of travelling allowance.

5. A permanent post vacated by the dismissal, removal or compulsory retirement of an employee should not be filled substantively until the expiry of the period of one year from the date of such dismissal, removal or compulsory retirement, as the case may be. Where, on the expiry of the period of one year the permanent post is filled and the original incumbent of the post is reinstated thereafter, he should be accommodated against any post which may be substantively vacant in the grade to which his previous substantive post belonged. If there is no such vacant post he should be accommodated against a supernumerary post which should be created in his grade with proper sanction and with the stipulation that it would be terminated on the occurrence of the first substantive vacancy in that grade.

Explanation :

It is not necessary to keep a post vacant for a period of one year to provide for the contingency of subsequent reinstatement and confirmation in respect of officers who at the time of dismissal, removal or compulsory retirement, as the case may be, were not holding substantively permanent posts but would have been considered for confirmation but for the penalty imposed.

RULINGS

1. The case of an employee reduced to a lower grade or post as a measure of punishment and subsequently restored to his former post should be dealt with in accordance with the provisions of Regulation 57 and 57-A.

2. Where a temporary employee is due to be discharged from a service on account of the expiry of the sanction of the post held by him or otherwise becomes liable to be retrenched when he is under suspension, the question whether he should be discharged from service or whether to enable disciplinary proceedings being continued, special steps should be taken to provide a

7

post for him should be examined on the merits of each case and his post extended for an appropriate period. The vacancy caused by the extension should not, however, be filled.

The authority competent to dismiss or remove the employee concerned from service may, in such circumstances extend the post without reference to the competent authority, if delay is anticipated in obtaining sanction, before the expiry of the term of the post, under the normal procedure and obtain ratification of the competent authority. Otherwise, the sanction of the competent authority should be obtained as usual.

3. The competent authority in exercising the discretion vested in him under sub-regulation (5) of Regulation 57, sub-regulation 2(ii) of Regulation 57-A and sub-regulation (7) of Regulation 57-B may divide the period of absence from duty into several parts and declare whether each such part shall count as duty for purpose of increment, leave and pension.

4. The amount of subsistence grant, already drawn, should be adjusted against the leave salary which may be granted under the proviso to sub-regulation 5 of Regulation 57, sub-regulation 2(ii) of Regulation 57-A and the proviso to sub-regulation (7) of Regulation 57-B and the excess, if any, in each case, should be waived by the authority competent to regularise the period of suspension and a copy thereof sent to audit for scrutiny.

5. (i) The decision of the competent authority under Regulation 57, 57-A or 57-B is in respect of two separate and independent matters, viz.,

(a) pay and allowances for the period of absence; and

(b) Whether or not the period of absence should be treated as duty.

It is not necessary that the decision on sub-clause (a) above should depend upon the decision on sub-clause (b) above. The competent authority has the discretion to pay the proportionate pay and allowances and treat the period as duty for any specified purpose(s) or only to pay the proportionate pay and allowances. There is no discretion to pay full pay and allowances when the period is treated as "non-duty".

If no order is passed directing that the period of absence be treated as duty for any specified purpose, the period of absence should be treated as 'non-duty'. In such an event, the past service (i.e., service rendered before dismissal, removal, compulsory retirement or suspension) will not be forfeited.

(ii) As Regulation 57 is absolute, the law of limitation need not be invoked at the time of paying the arrears of pay and allowances for the period from the date of dismissal/removal/compulsory retirement/suspension to the date of reinstatement in respect of all cases where the pay and allowances are regulated on reinstatement in accordance with the provisions contained in Regulations 57, 57-A and 57-B with the exception of those covered under sub-regulation (4) of Regulation 57 and sub-regulation 2 (i) of Regulation 57-A

6. Regulation 57 is in-applicable in cases where dismissal/removal/discharge from or termination of service is held by a court of law or by an appellate/reviewing authority to have been made without following the procedure required under Regulation 8 (b) of Tamil Nadu Electricity Board Employees Discipline and Appeal Regulation.

In such cases—

(i) If it is decided to hold a further inquiry and thus deem the employee to have been placed under suspension from the date of dismissal / removal / discharge / termination, under Regulation 9 (c) or 9 (d) of the Tamil Nadu Electricity Board Employees' Discipline and Appeal

Regulations, the employee will be paid the subsistence allowance from the date he is deemed to have been placed under suspension.

(ii) If the employee is not 'deemed' to have been under suspension as envisaged under (i) above, the payment of full pay and allowances for the intervening period and treatment of that period as duty for all purposes will be automatic and compulsory, provided that—

- (a) The arrears should be paid subject to the law of limitation and
- (b) Where the reinstated employee has secured employment during any period between the dismissal/removal/discharge/termination and reinstatement, the pay and allowances admissible to him after reinstatement for the intervening period shall be reduced by the emoluments earned by him during such employment, unless the emoluments earned by him exceed the pay and allowances admissible to him. If the pay and allowances admissible to him after re-instatement for the intervening period are equal to or less than emoluments earned by him during such employment, nothing shall be paid to him.

Provided that the amount to be paid under (i) and (ii) above will be determined subject to the directions, if any, in the decree of the court regarding arrears of salary.

7. Uniform allowance shall not be granted during the period of suspension even if the period is subsequently treated as duty or leave as the case may be.

8. An employee, who has been placed under suspension pending enquiry, should not be dismissed or removed or compulsorily retired from service retrospectively from the date on which he was placed under suspension. The order in such a case should take effect only from the date of issue thereof.

9. Where a Board employee is —

- (a) Placed under suspension in view of the fact that a complaint against him of any criminal offence is under investigation or trial; or
- (b) dismissed or removed from service or compulsorily retired on the ground of conduct which has led to his conviction on a criminal charge and—

—the Board employee is subsequently reinstated in service on his acquittal by the Court either on merits or on the ground that the charge has not been proved against him or by giving benefit of doubt or on any other technical ground or on the ground that he has been pardoned by the Court as he turned approver based on his judicial confession, he must be regarded as having been prevented from discharging his duties and the period of his absence including the period of suspension shall be treated as duty for all purposes and he shall be paid full pay and allowances which he would have been entitled to, had he not been under suspension, or dismissed or removed or compulsorily retired from service.

10. When a Board employee, who was suspended, is fully exonerated of the charges on appeal, the period of suspension shall be treated as duty; and he shall be entitled to pay and allowances for the entire period of suspension, provided the period of suspension ended before the date of his superannuation.

11. When a Board employee is placed under suspension where enquiry into grave charges against him is pending or contemplated and criminal proceedings are also instituted

simultaneously in respect of the same charges and subsequently he is reinstated into service the period of suspension shall be :

- (i) treated as duty if there is a specific order or direction of a Court of competent jurisdiction to this effect notwithstanding the fact that a penalty has been imposed in the departmental inquiry ;
- (ii) regulated under Regulation 57, only after the final order of the criminal court is delivered in which he is acquitted notwithstanding the fact that departmental enquiry has been finalised and a penalty has also been imposed upon him prior to the finalisation of criminal proceedings.

58. Leave may not be granted to an employee under suspension.

(Chapter VI under TNEB Service Regulation)

4. (a) Journey to Attend an Examination

73. Journey to attend an Examination : An employee is entitled to draw travelling allowance for the journey to and from the place at which he appears for any departmental examination which is compulsory under any Regulations or order or the time being in force applicable to the employee concerned :

Provided that :

- (1) Travelling allowance shall not be drawn under this Regulation more than twice for any particular examination or standard of examination and
- (2) The Chairman in the case of employees in class I service the Secretary in the case of employees in Board Office Secretariat Branch and Audit Branch and the Chief Engineer (Personnel) in the case of others may disallow travelling allowances under the Regulation to any candidate who in their opinion.
 - (i) has culpably neglected the duty of preparing himself for an obligatory examination or
 - (ii) does not display a reasonable standard of proficiency in an examination which is not obligatory.

Note : (1) A Claim for travelling allowance under this regulation should be supported by a certificate by the controlling officer to the effect that the conditions prescribed in the regulation have been satisfied.

Note : (2) If an employee is away from his headquarters on duty and if he has to appear for an examination held at the headquarters, he shall be entitled to draw travelling allowance under this Regulation for the journey from camp to headquarters, provided the conditions prescribed in this Regulations are satisfied.

Note : (3) The examinations to be obligatorily passed are those prescribed in the Service Regulations.

74. The sanction of the Board is required for drawal of travelling allowance for attending an examination other than those specified in regulation 73.

75. Travelling allowance under Regulation 73 and 74 should be calculated as for a journey on tour, but no allowance may be drawn for halts. Mileage for journeys by car between places connected by rail shall, however, be restricted to what would be admissible, had the journey been performed by rail.



(Regulation No:73 of Employees Travelling Allowance Regulations)

(b) T.A to an Employee and his family after retirement to settle down at the home town.

80-A. Travelling Allowance to an employee and his family after retirement to settle down at the home town.

- (1) Travelling allowance will be admissible in respect of the journey of an employee and members of his family from the last station of his duty to his home town and in respect of the transportation of his personal effects between the same places. The rates of travelling allowance shall be those which would be admissible for a journey on transfer. The grade of the employee will be decided with reference to the pay drawn by him on the date when he was last on duty.
- (2) An employee on retirement shall be paid Travelling Allowance as on transfer to any place within India where he/she proposed to settle down as per the entry in the pension application.
- (3) Where an employee wishes to settle down not in his home town but at another place, he may be permitted to avail himself of the concession upto the latter place. In that event the amount reimbursable to him would be that which would have been admissible had he actually proceeded to his home town, or the amount reimbursable had the latter place been the "home town" whichever is less.
- (4) The concession may be availed of by an employee who is eligible for it within six months of the date of his retirement.
- (5) The concession will be admissible to an employee who retires on superannuation invalid or compensation pension. It will not be admissible to the employees of Board who quit service by resignation or who may be dismissed or removed from service.
- (6) In the case of a person whose domicile is elsewhere than in India or who intends to reside permanently out side India after retirement, the concession will be admissible upto the railway station nearest to the port of his embarkation. In the case of such a person who travels by air, the concession of travelling allowance by rail/road under the Regulation will be admissible upto the air-port of embarkation for himself and members of his family and upto the port of despatch for his personal effects.
- (7) Where an employee is re-employed under the Board within six months of the date of his retirement, the concession admissible under this Regulation may be allowed to be availed of by him within six months of the expiry of the period of his re-employment.
- (8) Travelling allowances claims admissible under this Regulation will be drawn in travelling allowance bill form like transfer travelling claims. The claims of employees who were their own controlling officers before retirement will however be counter signed by the next superior administrative authority. The certificates required to be furnished by the employees in respect of transfer Travelling Allowance claims will also be required to be furnished in respect of claims for Travelling Allowance under this Regulation.
- (9) Before reimbursing the Travelling allowance admissible under this Regulation, the counter signing authorities should satisfy themselves, as far as possible, that the claimant and members of his family actually performed the journeys to the home town or the other place to which he might have proceeded to settle there, e.g., by requiring the production of original railway vouchers, relating to transport or personal effects, conveyance etc.,
- (10) The competent authorities may make the payment of such claims even after the issue of a last pay certificate and without asking the retiring employee to surrender the last pay certificate which will be required for the purpose of the finalisation of his pension.
- (11) According to Sub-Regulation (1) above, the rates of Travelling Allowance shall be those which would be admissible for a journey on transfer and the grades of employees will be decided with references to the pay drawn by them on the last day of duty.

- (12) No advance of transfer travelling allowance shall be admissible in such cases.
- (13) The time limit for performing journey by the retired employee and members of the family and transport of personal effects is six months from the date of retirement.
- (14) The time limit for preferring the travelling allowance claim is three months and this time limit should be reckoned from the date of journey.

(Regulation No: 80 A of Employees Travelling Allowance Regulation)

5. Salient feature of New Pension Scheme

Salient features of New Pension Scheme.—Government of India have introduced a new Defined Contribution Pension Scheme replacing the existing system of Defined Benefit Pension System *vide* Government of India, Ministry of Finance, Department of Economic Affairs Notification, dated 22-12-2003. The New Pension Scheme comes into operation with effect from 1-1-2004 and is applicable to all new entrants to Central Government service, except to Armed Forces, joining Government service on or after 1-1-2004.

The salient features of the New Pension Scheme are as follows:—

1. The New Pension Scheme will work on defined contribution basis and will have two tiers—Tiers-I and II. Contribution to Tier-I is mandatory for all Government servants joining Government service on or after 1-1-2004, whereas Tier-II will be optional and at the discretion of Government servants.
2. In Tier-I, Government servants will have to make a contribution of 10% of his basic pay *plus* DA, which will be deducted from his salary bill every month by the PAO concerned. The Government will make an equal matching contribution.
3. Tier-I contributions (and the investment returns) will be kept in a non-withdrawable Pension Tier-I Account. Tier-II contributions will be kept in a separate account that will be withdrawable at the option of the Government servant. Government will not make any contribution to Tier-II account.
4. The existing provisions of Defined Benefit Pension and GPF would not be available to new Government servants joining Government service on or after 1-1-2004.
5. In order to implement the Scheme, there will be a Central Record Keeping Agency and several Pension Fund Managers to offer three

categories of Schemes to Government servants, viz., options A, B and C based on the ratio of investment in fixed income instruments and equities. An independent Pension Fund Regulatory and Development Authority (PFRDA) will regulate and develop the pension market.

- 6. As an interim arrangement, till such time the Statutory PFRDA is set up, an interim PFRDA has been appointed by issuing an executive order by M/o Finance (DEA).
- 7. Till the regular Central Record Keeping Agency and Pension Fund Managers are appointed and the accumulated balances under each individual account are transferred to them, it has been decided that such amounts representing the contributions made by the Government servants and the matching contribution made by the Government will be kept in the Public Account of India. This will be purely a temporary arrangement as announced by the Government.
- 8. It has also been decided that Tier-II will not be made operative during the interim period.
- 9. A Government servant can exit at or after the age of 60 years from the Tier-I of the scheme. At exit, it would be mandatory for him to invest 40 per cent of pension wealth to purchase an annuity (from an IRDA, regulated Life Insurance Company), which will provide for pension for the lifetime of the employee and his dependent parents / spouse. In the case of Government servants who leave the Scheme before attaining the age of 60, the mandatory annuitization would be 80% of the pension wealth.
- 10. The following guidelines are issued for the implementation of the New Pension Scheme during the interim arrangement for the guidance of the PAOs/DDOs:—
 - (a) The new pension scheme becomes operational with effect from 1-1-2004.
 - (b) Contributions payable by the Government servants towards the Scheme under Tier-I, i.e., 10% of the (Basic Pay plus DA), will be recovered from the salary bills every month.
 - (c) The scheme of voluntary contributions under Tier-II will not be made operative during the period of Interim arrangement and therefore no recoveries will be made from the salaries of the employees on this account.
 - (d) Recoveries towards Tier-I contribution will start from the salary of the month following the month in which the Government servant has joined service. Therefore, no recovery will be effected for the month of joining. For example, for employees joining service in the month of

January, 2004, deductions towards Tier-I contribution will start from the salary bill of February, 2004. No deduction will be made for his salary earned in January, 2004. Similarly, deductions for those joining service in the month of February, 2004 will start from the salary bill of March, 2004 and so on.

- (e) No deductions will be made towards GPF contribution from the Government servants joining the service on or after 1-1-2004 as the GPF scheme is not applicable to them.
- (f) It has been decided that pending formation of a regular Central Record Keeping Agency, Central Pension Accounting Office will function as the Central Record Keeping Agency for the above scheme.
- (g) Immediately on joining Government service, the Government servant will be required to provide particulars such as his name, designation, scale of pay, date of birth, nominee(s) for the fund, relationship of the nominee, etc., in the prescribed form (Annexure-I). The DDO concerned will be responsible for obtaining this information from all Government servants covered under the new Pension Scheme. Consolidated information for all those who have joined service during the month shall be submitted by the DDO concerned in the prescribed format (Annexure-II) to his Pay and Accounts Officer by 7th of the following month. Annexure-I will be retained by DDOs.
- (h) On receipt of Annexure-II from the DDOs, PAO will allot a unique 16 digit Permanent Pension Account Number (PPAN). The first four digits of this number will indicate the calendar year of joining Government service, the next digit indicates whether it is a Civil or a Non-Civil Ministry (for all Civil Ministries this digit will be "1"), the next six digits would represent the PAO code (which is used for the purpose of compiling monthly accounts), the last five digits will be the running serial number of the individual Government servant which will be allotted by the PAO concerned. PAO will allot the serial number pertaining to individual Government servant from '0001' running from January to December of a calendar year. The following illustration may be followed:—

The first Government servant joining service under Ministry of Civil Aviation under the accounting control of PAO (Sectt.), New Delhi in 2004, shall be allotted the following PPAN:—

Calendar Year				Civil Min.	PAO Code						Serial Number				
2	0	0	4	1	0	4	0	8	6	6	0	0	0	0	1

- (i) The Pay and Accounts Officer will maintain an Index Register for the purpose of allotment of PPAN to new entrants to Government service. Format of the index register is given in Annexure-VII (*not printed*).
- (j) The PAO will return to the DDO concerned, a copy of the statement duly indicating therein the Account numbers allotted to each individual by 10th instant. DDO in turn will intimate the account number to the individuals concerned and also note in the Pay Bill Register.
- (k) The particulars of the Government servants received from the various DDOs will be consolidated by the PAO in the format (Annexure-II-A) and sent to the Principal Accounts Office by the 12th of every month.
- (l) The Principal Accounts Office in turn will consolidate the particulars in the prescribed format (Annexure-II-B) and forward the same to Central Pension Accounting Office by 15th instant. The CPAO will feed this information in their computer database.
- (m) The DDOs/CDDOs will prepare separate Pay Bill Registers in respect of the Government servants joining Government service on or after 1-1-2004. The DDOs/CDDOs will have to prepare separate pay bills in respect of these Government servants and will send the same with all the schedules to the PAO on or before 20th of the month to which the bills relate. Cheque Drawing DDOs may note that hereafter in respect of Government servants joining service on or 1-1-2004, they will only prepare pay bills and not make payment. Such bills will be sent by them to the Pay and Accounts Offices for pre-check and payment.
- (n) The DDO / CDDO will prepare a recovery schedule in duplicate in the prescribed form (Annexure-III — *not printed*) for the contributions under Tier-I and attach them with the pay bills. The amount of the Contributions under Tier-I should tally with the total amount of recoveries shown under the corresponding column in the pay bill.
- (o) The accounting procedure for these deductions is being finalized and shall be notified shortly.
- (p) It may be noted that along with the salary bill for the Government servants who join service on or after 1-1-2004, the DDO / CDDO shall also prepare a separate bill for drawal of matching contributions to be paid by the Government and creditable to Pension account.

- (q) The bill for drawal of matching contribution should also be supported by schedules of recoveries in form (Annexure-IV — *not printed*).
- (r) On receipt of the salary bills in respect of Government servants joining service after 1-1-2004, PAO will exercise usual checks and pass the bill and make the payments. After the payment is made and posting done in the Detailed Posting Register, one set of schedules relating to Pension contributions will be detached from the bills as done in the case of other schedules such as GPF, Long-term advances. The schedules will then be utilized for posting the credits of contributions in the Detailed Ledger Account of the individual.
- (s) The employee's contributions under Tier-I and Tier-II and Government's contribution should be posted in different columns of the individual ledger account (to be maintained in the format in Annexure-V) and Broadsheet and tallied with the accounts figures as being done in the case of GPF.
- (t) These accounts should not be mixed with GPF accounts and these records / ledger accounts should be independent of GPF accounts maintained in the case of pre-1-1-2004 entrants.
- (u) The PAO will consolidate the information available in the New Scheme schedules received from the various DDOs and forward the same in a floppy in the prescribed form (Annexure-VI) to Principal Accounts Office by 12th of the month following the month to which the credit pertains. Principal Accounts Office in turn will consolidate the information and send the same in electronic form to the Central Pension Accounting Office by 15th.
- (v) CPAO on receipt of this information from all the Pr. AOs (including the Non-Civil Ministries) will update its database and generate exception reports for missing credits, mismatches, etc., which will be sent back to the PAOs concerned through the Pr. AOs for further action.
- (w) Whenever any Government servant is transferred from one office to another either within the same accounting circle or to another accounting circle, balances will not be transferred by the PAO to the other Accounts Office. However, the Drawing and Disbursing Officer should clearly indicate in the LPC of the individual the unique account number, the month up to which Government servant's contribution and Government's contribution have been transferred to the Pension Fund.

- (x) No withdrawal of any amount will be allowed during the interim arrangement. Provisions regarding terminal payments in the event of untimely death of an employee or in the event of his leaving the Government service during the interim period shall be notified in due course.
- (y) Detailed instructions on the interest payable on Tier-I balances shall be issued in due course.
- (z) At the end of each financial year, the CPAO will prepare annual account statements for each employee showing the opening balance, details of monthly deductions and Government's matching contributions, interest earned, if any, and the closing balance. CPAO will send these statements to the Pr. A.O. for onward transmission to the DDO through the PAO.
- (aa) After the close of each financial year, CPAO will have to report the details of the balances (PAO-wise) to each Principal Accounts Offices, who will forward the information to each PAO for the purpose of reconciliation. The PAO will reconcile the figures of contributions posted in the ledger account of the individuals as per their ledger with figures as per the books of CPAO.
- (bb) After the appointment of CRA and Fund Managers, this office will issue detailed instructions on transfer of balances to CRA.

All Chief Controller of Accounts / Controller of Accounts are requested to circulate the above guidelines to all the PAOs/DDOs/CDDOs of their Ministry.

(New pension scheme page no: 8 – 13)

6. (a) Penalties

20. **Penalties.**—(1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.

(Regulation No: 20 of RTI Act 2005)

(b) Appeal

19. **Appeal.**-(1) Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority:

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.

(3) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission:

Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.

(5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.

(6) An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

(7) The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding.

(8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to—

(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including—

(i) by providing access to information, if so requested, in a particular form;

(ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;

(iii) by publishing certain information or categories of information;

(iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;

(v) by enhancing the provision of training on the right to information for its officials;

(vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;

(b) require the public authority to compensate the complainant for any loss or other detriment suffered;

(c) impose any of the penalties provided under this Act;

(d) reject the application.

(9) The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

(10) The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.

(Regulation No:19 of RTI Act 2005)

7. (a) Counting of periods spent on leave

18. *Counting of periods spent on leave.*- All leave during service for which leave salary is payable and extraordinary leave granted on medical certificate shall count as qualifying service:

Provided that in the case of extraordinary leave other than extraordinary leave granted on medical certificate the appointing authority may, at the time of granting such leave, allow the period of that leave to count as qualifying service if such leave is granted to a Government servant -

(i) due to his inability to join or rejoin duty on account of Civil Commotion: or

(ii) for prosecuting higher scientific and ¹[technical studies; or]

²[(iii) for taking up employment abroad, if necessary pension contributions are paid by the Government servant to the Accountant General, Tamil Nadu from time to time with appropriate interest for belated payments, if any.]

(Regulation No: 18 of Tamilnadu pension rules 1978)

(b) Counting of period spent on training

19. *Counting of period spent on training.*- The Government may by order, decide whether the time spent by a Government servant under training immediately before appointment to service under the Government shall count as qualifying service.

NOTES :- For the purpose of this Rule-

- (1) The various kinds of training referred to in Annexure I to Fundamental Rules and subsidiary Rules which have been ordered to be treated as on duty.
 - (2) Any State Forest Service Probationers who have not been appointed permanently to Government Service before attaining the age of 23 will count as service towards pension any period of training or probationary service undergone after he attained that age.
 - (3) Training of all kinds in the case of subordinate officers of Police Department shall count as service.
-

(Regulation No: 19 of Tamilnadu pension rules 1978)

(c) Counting of period spent on suspension

20. *Counting of periods of suspension.*- Time passed under suspension pending enquiry into conduct counts in full where, on conclusion of the enquiry, the Government servant has been fully exonerated or the suspension is held to have been wholly unjustified. In other cases, the period of suspension does not count unless that authority competent to pass orders under Fundamental Rule 54 expressly declares at the time that it shall count, and then it shall count only to such extent as the competent authority may declare. ³[However, in the case of a Government servant who dies while under suspension before the enquiry is over, the period of suspension shall be treated as duty].

(Regulation No: 20 of Tamilnadu pension rules 1978)

(d) Counting of past service on reinstatement

22. *Counting past service on reinstatement.*- (1) A Government Servant who is dismissed, removed or compulsorily retired from service, but is reinstated on appeal or review, is entitled to count his past service as qualifying service.

(2) The period of interruption in service between the date of dismissal, removal or compulsory retirement, as the case may be and the date of reinstatement, and the period of suspension if any, shall not count as qualifying service unless regularised as duty or leave by a specific order of the authority which passed the order of reinstatement.

(Regulation No: 22 of Tamilnadu pension rules 1978)

8. (a) Expenses chargeable to Capital Works

Expenses Chargeable to Capital Works

2.11 All expenses in respect of construction units shall be fully chargeable as cost of capital assets.

2.12 At an O&M-cum-capital location (where both capital and O&M work is being carried out) only the following expenses shall be capitalised.

- (1) Insurance on assets under construction.
- (2) Legal charges and stamp fees in connection with agreements with capital suppliers/contractors.

- (3) Fees payable to foreign technician for capital projects.
- (4) Expenses incurred for foreign technician for capital projects.
- (5) Technical documentation and design charges.
- (6) Other consultancy charges—Projects (which includes architectural fees)
- (7) Power consumed for construction.

No part of any other Administration and general expenses shall be charged to capital works

(Annexure III – Basic Accounting Principles and Policies 2.11 – 2.12)

(b) Expenses for Purchase of Buildings

2.20 In case of purchase/acquisition of a building, the building costs shall include the following items:

- (1) Purchase price
- (2) Compensation for acquisition of Building
- (3) Payments to tenants to cancel their tenancy rights
- (4) Expenses such as legal charges, stamp duty etc. incurred for securing an effective title
- (5) Repairs, alterations and improvements to put the building in usable condition
- (6) Architect's fees for remodelling, alterations, improvements before the building is first put to use.

(Annexure III – Basic Accounting Principles and Policies 2.20)

(c) Expenses for Constructed Buildings

2.21 Cost of a constructed building shall include the following items:

- (1) Cost of construction comprising of materials, labour, contractor charges and depreciation on construction machinery
- (2) Surveying
- (3) Cost of obtaining permits, sanctioned plans, occupation certificates from Municipal or other bodies
- (4) Architectural fees
- (5) Insurance on uncompleted structure
- (6) Cost of excavation (excavation is not a cost of land development).

(Annexure III – Basic Accounting Principles and Policies 2.21)

(d) Expenses for Land and Land Rights

2.18 Land cost shall comprise of the following :

- (1) Purchase price of land
- (2) Compensation for acquisition of land
- (3) Compensation for trees and crops on the acquired land
- (4) Legal charges stamp duty etc. incurred in order to secure effective title
- (5) Land revenue and other taxes paid during the stage of land development
- (6) Site preparation costs such as cost of levelling hills or filling low spots cost of clearing trees, etc.
- (7) Cost of demolishing an unwanted structure if the land is acquired with structure.

(Annexure III – Basic Accounting Principles and Policies 2.18)