

6. DISCIPLINARY PROCEEDINGS

6.25 Avoiding suspension on the date of retirement – Not applicable to cases of Directorate of Vigilance and Anti-Corruption enquiry and criminal cases

Personnel and Administrative Reforms (N) Department

G.O. (Ms) No. 144

Dated : 08.06.2007

Read :

1. Lr. (Ms) No. 1118/Par N/89, dated 22.12.87
2. G.O. (Ms) No. 439, P&AR (Per N) Department, dated 27.7.1989
3. D.O. letter No. 44626/2004-1 P&AR(N) Department dated 3.8.2004

ORDER

The Government have issued detailed instructions then and there to take expeditious action on the pending Disciplinary Proceedings within a specified time-limit in the letter first read above, so as to avoid delay in processing of disciplinary cases. Instructions have been issued in the DO Letter third read above to make a bimonthly review of all disciplinary cases pending at all levels including at the Government level to speed up the disciplinary cases. The disciplinary action initiated against the Government servant should be completed and final orders issued within the time limit prescribed by the Government so as to ensure that there is no unwarranted delay in finalising the disciplinary proceedings.

2. Of late, it is noticed that in many of the disciplinary cases which are pending for quite a long time, the disciplinary authority considers the question of suspension and such suspension orders are issued by the competent authorities on the date of retirement of the Government servants which causes much hardship to them. This may, perhaps, due to the inability on the part of the disciplinary authorities concerned for not having finalised the disciplinary proceedings within the stipulated time. If the cases are processed by the disciplinary proceedings within the time schedule prescribed by the Government, in the letter first read above the need for suspending the Government servants on their date of retirement would not at all arise and it can very well be avoided. In such a long pending cases, there may not be any justification to wait until the date of retirement of the Government servants on superannuation and then raise the question of suspension of the Government servant on the date of retirement. If the gravity of lapse committed by the Government servant concerned is so serious as to warrant any one of the major penalties, then the question of suspension can be examined well in advance before the date of retirement and a decision taken before 3 months instead of waiting till the date of his attaining the age of superannuation.

3. It may not be necessary to keep a retiring person under suspension just because there are some charges pending against him under Tamil Nadu Civil Services (Discipline and Appeal) Rules. In such cases, if the charges are not so grave and do not warrant any major punishment, the Government servant may be allowed to retire from service without prejudice to the case pending against him, since further action can be proceeded under Tamil Nadu Pension Rules, 1978, as "Deemed Proceeding". Such deemed proceedings in disciplinary cases are possible only if charges are framed under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, but not under Rule 17(a) of the said rules. The Government have got powers to withhold or withdraw a pension or part thereof from any Government Servant and also to withhold his Death-Cum-Retirement-Gratuity, if any, recovery is to be effected for the pecuniary loss causes to the Government by the retiring Government servant

4. After detailed examination, the Government have decided that, as a general principle, issue of suspension orders on the date of a Government servant should be avoided by examination of the case well in advance (i.e) 3 months prior to the date of retirement on superannuation of the Government servants concerned.

5. The Government direct that the following guidelines be followed to avoid suspension orders on the date of retirement of the Government servants in super session of orders issued in the reference second read above.

- (i) The Disciplinary authority should not resort to last minute suspension of the Government servants (i.e) on the date of their retirement. A decision either to allow Government servant to retire from service or suspend him from service should be taken well in advance (i.e) three months prior to the date of retirement on superannuation and orders issued in the matter and such a decision should not be taken on the date of retirement, if final orders could not be issued in a pending disciplinary case against a Government servant retiring from service due to administrative grounds.
- (ii) If an irregularity or an offence committed by the Government servant comes to notice within a period of three months prior to the date of retirement, the disciplinary authority shall process the case on war-footing and take a decision either to permit the Government servant to retire from service without prejudice to the disciplinary case pending against him or to place him under suspension, based on gravity of the irregularities committed by him.
- (iii) In respect of Directorate of Vigilance and Anti-Corruption and Tribunal for Disciplinary Proceedings cases, the disciplinary authorities should strictly adhere to the time limit prescribed by the Government. It is noticed that Directorate of Vigilance and Anti-Corruption and Tribunal for disciplinary Proceedings cases are dragged on for a long time without adhering to the time limit prescribed by the Government in Letter first read above. In such cases, the disciplinary authorities should take up the matter with the Directorate of Vigilance and Anti-corruption or Tribunal for disciplinary Proceedings to expedite such cases and final orders issued within the time limit prescribed. In unavoidable circumstances, if final orders could not be issued, even in such cases, the disciplinary authorities should take a decision to place him under suspension well in advance (i.e) prior to the date of retirement of the Government servants and not on the date of retirement.
- (iv) Any failure on the part of the disciplinary authority to issue final orders three months before the date of retirement of a delinquent officer will be viewed seriously and it will entail severe action to be initiated against the officials responsible for dragging on the case to the date of retirement of Government Servant concerned.
- (v) Where the delinquency committed by a Government servant is very grave which warrants imposition of major penalty such as dismissal or removal from service and if it is not possible to pass final orders in such departmental proceedings, then it is necessary to suspend the Government Servant from service and not to permit him to retire on attaining the age of superannuation under Fundamental Rule 56 (1) (c). In such cases also, the disciplinary authorities have to ensure that the suspension orders are not issued on the date of retirement of the Government servants. However, where a Government servant is already under suspension, orders retaining the services of Government servant beyond the date of superannuation under Fundamental Rule 56 (1) (c) have to be issued on the date of retirement only .
- (iv) In cases where charges have been framed and the disciplinary authority is of the view that a pension cut or withholding of pension under the Tamil Nadu Pension Rules, 1978 would suffice for the delinquency committed, the disciplinary authority may allow the Government servant to retire from service without prejudice to the departmental proceedings.
- (vii) If the disciplinary authority comes to know of the commission of a delinquency which warrants imposition of major penalty such as dismissal or removal from service, within three months prior to the date of retirement of the Government Servant and charges could not be framed before the date of retirement of the Government servant, then also it is necessary to suspend the Government Servant from service and not to

6. DISCIPLINARY PROCEEDINGS

permit him to retire on attaining the age of superannuation under Fundamental Rule 56(1)(a) (c). In such cases also, the disciplinary authorities may ensure that the suspension orders are not issued on the date of retirement of the Government servant.

- (viii) The above instructions shall not be made applicable to cases of Directorate of Vigilance and Anti-Corruption enquiry and criminal cases.

(By order of the Governor)

L.K.TRIPATHY
CHIEF SECRETARY TO GOVERNMENT