

GOVERNMENT OF TAMIL NADU

Abstract

Fundamental Rules - Fundamental Rules 56(3) - Voluntary Retirement Consolidated Instructions - Issued.

Personnel and Administrative Reforms (FR-III) Department

G.O. Ms. No. 376

Dated 11.12.1995

Read:

- (i) Lr. No. 66188/84-1, P& A.R. (FR III) Department, dt. 8.10.1984.
- (ii) Lr. No. 2514/84-10, P& A.R. (FR III) Department, dt. 30.3.1985.
- (iii) Lr. No. 10326/84-6, P& A.R. (FR III) Department, dt. 23.4.1984.
- (iv) G.O. Ms. No. 1327 P& A.R. (FR I) Department dt. 27.11.1978.
- (v) G.O. Ms. No. 829 P& A.R. (FR III) Department dt. 26.8.1985.
- (vi) G.O. Ms. No. 1108 P& A.R. (FR III) Department dt. 18.12.1987.
- (vii) Lr. No. 88441/FR III/90-5, P& A.R. (FR III) Department dt. 8.5.1991.

(viii) G.O. Ms. No. 350, P& A.R. (FR III) Department dt. 7.10.1991.

(ix) Lr. No. 73081/FR III/91-7, P& A.R. (FR III) Department dt. 25.9.1992.

(x) Lr. No. 24857/FR III/93-2, P& A.R. (FR III) Department dt. 19.7.1993.

ORDER:

Fundamental Rule 56(3) governs the issue of Voluntary Retirement of Government Servants, according to which a Government servant who has attained the age of fifty years or who has completed twenty years of qualifying service may retire from service by giving notice of not less than three months in writing direct to the appointing authority, with a copy marked to the officer immediately superior to the Government servant concerned, for information.

2. The concept of Voluntary Retirement took a change, considering the advantages that accrued to individual Government servants, and accordingly an amendment to the Fundamental Rules was issued in the Government order eighth read above, bringing out the essential aspects of Voluntary Retirement. The salient features of this G.O. are as under:

F.R. 56(3)(a) : After completion of 20 years of qualifying service or 50 years of age, notice of not less than 3 months for Voluntary Retirement may be given in writing direct to the appointing authority.

F.R. 56(3)(d)(i) : Weightage upto five years shall be given, subject to the condition that the total qualifying service, including the weightage, shall not in any case exceed thirty three years.

(ii) The weightage given shall be in addition to the qualifying service for purposes of pension and gratuity only, and it shall not entitle a Government servant to any notional fixation of pay for purposes of calculating the pension and gratuity.

F.R. 56(3)(e) : Notice of Voluntary Retirement shall be accepted subject to the fulfillment of the following conditions :

(i) No disciplinary proceedings are contemplated or pending against the Government servant, for imposition of any major penalty.

(ii) No prosecution is contemplated or pending in a Court of Law against the Government servant. (A report from Special Branch, C.I.D. Madras-4 is necessary) ~~deleted~~.

(iii) No enquiry is contemplated or pending against the Government servant in the records of Directorate of Vigilance and Anti-Corruption. (A report from Directorate of Vigilance and Anti-Corruption is necessary)

(iv) No dues which can not be recovered from the Death-cum-Retirement Gratuity are pending to be recovered from the Government servant concerned.

(v) There should be no contractual obligation pending against the Government servant to serve the Government for the period subsequent to his Voluntary retirement.

F.R. 56(3)(f) : If no orders either accepting or rejecting the Voluntary Retirement are issued before expiry of notice period, then the Voluntary Retirement shall become deemed. The appointing authority shall, therefore, pass appropriate orders before the expiry of the notice period.

F.R. 56(3)(g) : Voluntary Retirement Notice can be withdrawn before the expiry of Notice period, with the approval of the appointing authority.

3. There are certain other instructions issued from time to time as indicated in the references (i), (ii), (iii), (vii), (ix) and (x) read above. They are not affecting the main scheme of Voluntary Retirement, as modifications to them have been made in the main rule. Experience has shown that these instructions were and are not being taken into account by the administrative departments either because they have been issued at various stages and thereby lost sight of or because they have not been incorporated in the main rule itself. However, as these instructions are equally important in the implementation of the scheme of Voluntary Retirement, a need itself. However as these instructions are equally important has arisen to consolidate these instructions in order to facilitate the administration to be aware of the existence of such instructions and in order to effectively implement the scheme of Voluntary Retirement.

4. The attention of all Secretaries and Heads of Departments is therefore invited to the following instructions once again for careful examination of cases of Voluntary Retirement.

(1) Lr. No. 66188/84-1 P&A.R. dt. 8.10.84; If no disciplinary action is pending on the date of issue of notice of Voluntary Retirement or if the Government Servant is not under suspension on the date of issue of Notice of Voluntary Retirement, then he shall become eligible to go on Voluntary Retirement on

completion of three months from the date of issue of Notice of Voluntary Retirement. (Based on the order of the High Court).

Explanation : This instruction is subject to the provision under F.R. 56(3)(e)(i).

(2) Lr. No. 2514/84-10, P&A.R. (F.R.-3) Dept. dt. 30.3.85 : If a Government servant has executed a bond to serve the Government till the date of his superannuation, then he shall not be allowed to go on Voluntary Retirement.

(3) Lr. No. 10326/84-6, P&A.R. (F.R.-III) Dept. dt. 23.4.85: A Government servant on foreign service in a foreign country or in India can be allowed to retire voluntary after giving three months notice, subject to fulfilling the conditions in F.R. 56(3)(a) & (e).

(4) Lr. No. 88441/F.R.III/90-5, P&A.R. (F.R.-III) Dept. dt. 8.5.91 : Unearned Leave on Medical Certificate and Unearned Leave on Private Affairs may be sanctioned to a Government servant during the Notice period of Voluntary Retirement, only if he/she rejoins duty on expiry of leave. Otherwise, the leave salary may be recovered from him/her, as per Ruling-4 under Rule-15 A of Tamil Nadu Leave Rules. Earned Leave may, however, be sanctioned till the end of the Notice period, subject to eligibility. Extraordinary Leave on loss of pay cannot run concurrently with the period of Notice of Voluntary Retirement.

Explanation : Sanctioning of Earned Leave till the end of Notice period means such leave extends upto and excludes the date of Retirement (Opinion of Accountant General (A&E) Madras - 18 with reference to the position prevailing in Government of India - Vide his letter No. A.G. (A&E)/TM/1/1-2 FR 56/94-95/236, dt. 14.3.1995).

(i) Lr. No. 73081/F.R.III/91-7 P&A.R. dt. 25.9.92. When ^{Extraordinary} ~~Earned~~ Leave without allowances runs concurrently with the period of notice, the leave should be refused and he/she may be requested to join duty immediately and give a fresh Notice of not less than three months. Otherwise, the request for voluntary Retirement may be negatived.

(ii) Payment of pay and allowances for the short fall of the notice period shall not be allowed.

(iii) No waiver of shortfall in Notice period shall be allowed.

(iv) If a Government servant rejoins duty for a few days prior to the date of his retirement on expiry of his Unearned Leave on Medical Certificate during the period of Notice, if no vacancy is available to accommodate him, he should be given postings, by reverting the junior most of that department in the respective category.

(v) The last 3 months Notice period should necessarily be a continuous one and should not include period of extraordinary leave (without pay and allowances).

Explanation : Where the Voluntary Retirement has already taken place (With ~~extraordinary~~ ^{earned} leave without allowance during the period of Notice) Pensionary benefits may be determined treating the period of ~~Extraordinary~~ ^{Earned} Leave without allowance as non qualifying period. (Govt. Letter No. 35481/FR.III/92-2 P&A.R. (FR.III) Department dated 21.9.1992 and A.G. (A&E)/PMI/III/457 dt. 14.2.95 read with Lr. No. AG (A&E)/PMI-III/3-20-92-93/782 dt. Nil)

(vi) Letter No. 24857/FR.III/93-2 P&A.R. (FR III) Department, dated 19.7.1993: A Notice of Voluntary Retirement given by a Government servant either direct to the appointing authority or sent through proper channel, takes effect from the date of receipt of the same by the appointing authority only. Indication of any date for voluntary retirement before completion of three months from the date of receipt by the appointing authority, will have no validity. In such a case, there is no need for obtaining a second Notice indicating a revised date of Voluntary Retirement, but the revised date may be worked out by the appointing authority himself and the Government servant concerned promptly informed of the date of receipt of the Notice by the appointing authority, together with the provision contained in F.R.56(3)(b).

5. All the Secretaries to Government and Heads of Departments are therefore requested to follow the above consolidated instructions scrupulously in future while dealing with cases of Voluntary Retirement, for effective implementation of this scheme. As salient features of the instructions have been indicated above for purpose of ready reference, it is requested that the main rule F.R. 56(3) may also be referred to. It is the bounden duty of the appointing authorities to ensure that all the conditions in force are satisfied before allowing a Government servant to retire voluntarily. Non adherence to the statutory notice period will result in deemed retirement, giving scope for an erring Government servant to escape punishment. The appointing authorities are therefore requested to bear in mind the statutory rules and the guidelines in force while dealing with cases of Voluntary Retirements,

to safeguard the interests of the Government as well as the Government
ants concerned.

6. The receipt of this order may kindly be acknowledged.

(By order of the Governor)

M.B. Pranesh,
Secretary to Government.

GOVERNMENT OF TAMIL NADU

Personnel and Administrative Reforms (FR.III) Department

Letter No. 57753/F R III/95-2 dt. 27.12.95

Sub : Fundamental Rules FR 56(3) - Voluntary Retirement - Consolidated
Instructions - Erratum issued.

Ref : G.O. (Ms.) No. 376, P&A.R. (FR III) dt. 11.12.95.

The following erratum is issued.

Erratum :

In the said Government orders in para-4 under item No. 5 for the words
ed Leave without allowances the words Extraordinary Leave without
ances shall be substituted.

Yours faithfully,

(R. Ranganathan)
for Joint Secretary to Government