

**Government of Jammu & Kashmir,
Finance Department,
Civil Secretariat, Srinagar/Jammu.**

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S.O.—In exercise of powers conferred under proviso to Article 309 of the Constitution of India, the Lieutenant Governor is pleased to direct that Article 226(2) of the Jammu and Kashmir Civil Service Regulations may be substituted as follows:-

“226 (2): (a) Notwithstanding anything contained in these Regulations, Government may, if it is of the opinion that in the public interest to do so, require any Government servant other than one working on a post which is included in Schedule II of these Rules, to retire at any time after he has completed 22 years of qualifying service or on attaining 48 years of age:

Provided that the Appropriate Authority shall give a notice to Government servant at least 3 months before the date on which he is required to retire or 3 months of pay and allowance in lieu of such notice.

Such a Government servant shall be granted pensionary benefits admissible under these rules on the basis of qualifying service put in by him on the date of such retirement.

Explanation: A Government servant who is retired immediately after allowing him pay and allowances in lieu of notice will be entitled to pension from the date of such retirement and the pension shall not be deferred till after the expiry of the three months for which he is paid pay and allowances.

(b) Time Schedule to be followed:- The exercise of review of performance of the Government servants will be initiated for each Government Servant for the first time after his/her completion of 22 years of service or attaining 48 years of age and any time subsequently, as may be required.

(c) **Maintenance of Register:-** A register of the Government servants who are due to attain the age of 48 years or to complete 22 years of service, has to be maintained by the Administrative Department. The register should be scrutinized at the beginning of every year by officers to be nominated by the Administrative Department concerned and the review be undertaken as mentioned in sub-clause (b).

(d) Government may, at any time after a Government servant has attained the age of 48 years or completed 22 years of service, as the case may be, retire him in public interest.

(e) **Subsequent Review:-** There is also no bar on the Government to review any such case again where it was decided earlier to retain the officer, but the Administrative Department is of the opinion that it is expedient to undertake the review again on account of changed circumstances, in public interest.

(f) **Review Committee:-** The cases of Government servants for consideration under clause(a) shall be placed before the General Administration Department by Review Committee(s) constituted under clause(g) of this Regulation for placing its recommendations. The recommendations of the Review Committee shall be processed by the GAD for orders of the Competent Authority in accordance with clause (k) for its approval.

(g) **Composition of Review and Representation Committee:** For the purpose of this regulation, the Review Committee(s) shall be as follows:-

(A) In case of officers holding Grade of Under Secretary and above, the Review Committee shall consist of:-

(i) An Officer of the rank of Chief Secretary or Principal Secretary to be nominated by Lieutenant Governor.

(Chairperson);

(ii) Principal Secretary to Lieutenant Governor;

(iii) Principal Secretary to Chief Minister;

(iv) Administrative Secretary, Home Department;

- (v) Administrative Secretary, General Administration Department; -(Member-Secretary)
- (vi) Administrative Secretary, Department of Law, Justice & Parliamentary Affairs;
- (vii) One senior Administrative Secretary to be nominated by the Lieutenant Governor; or
- (viii) any other member(s) to be co-opted by the Committee.

(B) In case of Non-Gazetted Officials, the Review Committee shall consist of:-

- * (i) Concerned Administrative Secretary; -(Convener)
- (ii) Administrative Secretary, Home Department;
- (iii) Administrative Secretary, General Administration Department;
- (iv) Administrative Secretary, Department of Law, Justice & Parliamentary Affairs.
- (v) One senior Administrative Secretary to be nominated by the Chief Secretary; or
- (vi) any other member(s) to be co-opted by the Chairman.
- (vii) Special Secretary/Additional Secretary of the concerned department; -(Member-Secretary)

Senior most Administrative Secretary to be the Chairperson of the Committee.

A defect in the composition or vacancy in the Review Committee shall not invalidate its proceedings.

(h) Representation Committee:- There shall be a Representation Committee for examination of representations as provided in clause (m) of these regulations. The composition of Representation Committee shall be as follows:-

- i. Chief Secretary.
- ii. Two senior Secretaries to Government who not members of the relevant Review Committee constituted under clause (g).

(i) Constitution of Internal Committee:- There will be an Internal Committee in each Administrative Department comprising of the following:-

- a) Administrative Secretary;
- b) Concerned Head of the Department;
- c) Two Senior Officers to be nominated by the Administrative Secretary.

The Internal Committee will ensure that the service records of the Government servants being reviewed, along with a summary, bringing out all relevant information, is placed before the Review Committee.

(j) Broad Criteria to be followed by the Review Committee:- The broad criteria to be followed by the Review Committee while making the recommendations are as follows:-

- (i) The integrity of the Government servant is doubtful.
- (ii) The Government servant is found to be ineffective in his/her work. The basic consideration in identifying such Government servants should be their fitness/competence to continue in the post held and their utility for the purpose for which they are employed.
- (iii) A Government servant retiring on superannuation within a period of one year from the date of consideration of his case, may be retired under these regulations, where there is a sudden and steep fall in the competence, efficiency or effectiveness of the Government servant.
- (iv) Retiring a person is in public interest and his/her continuance is not serving any public purpose.

(v) A Government servant is ineffective, if, his service during the preceding 5 years or since his last promotion, has deteriorated suddenly or substantially. This is not a consideration, however, where the Government servant is to be retired on grounds of doubtful integrity.

(vi) All relevant portions of the entire service record of a Government servant may be considered at the time of review. The review should not be confined to the consideration of the ACR/APAR dossier only. The personal file of the Government servant may contain valuable material. Similarly, his work and performance could also be assessed by looking into files dealt with by him or in any papers or reports prepared and submitted by him. Even uncommunicated remarks in the ACRs/APARs may be taken into consideration as well as any other records which are material to the decision.

(k) **Approval of Competent Authority:-** The recommendations of Review Committee will be put up for consideration and orders of the Lieutenant Governor in coordination.

(l) **Recommendations of the Review Committee to be reasoned:-**

While considering the case of the Government employees, the Review Committee shall ensure that there is sufficient material in support of its recommendation clearly outlining the grounds for such retirement and supported by well reasoned recommendations. The recommendations shall be the basis for the order to be issued by the Appropriate Authority under these regulations.

(m) **Representation against Premature Retirement:-** After issue of the orders of premature retirement, the concerned Government servant may put up representation for orders otherwise, within three weeks from the date of service of order and the matter may be placed before the Representation Committee to be constituted

for the purpose, along with fresh inputs, if any. The examination of the representation should be completed by the Administrative Department within eight weeks from the date of receipt of the representation and the Administrative Department shall thereafter submit its report to the General Administration Department for its placement before the Representation Committee. The Representation Committee shall forward its recommendations to General Administration Department for orders of Lieutenant Governor in coordination.”

Explanation:

For the purpose of this regulation, the ‘Appropriate Authority’ shall mean the Government in the General Administration Department.

By Order of the Lieutenant Governor.


(Dr. Arun Kumar Mehta), IAS,
Financial Commissioner,
Finance Department

No. _____

Dated: .10.2020

Copy to the:

Standard Endorsements.