

**GOVERNMENT OF RAJASTHAN**  
**DEPARTMENT OF PERSONNEL (A-I/ACR cell)**

No. F.13(53)Karmik ACR/90

Jaipur, dated 21 April, 2000

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**CIRCULAR**

**Sub: Compulsory retirement under Rule 53(1) of Rajasthan Civil Services (Pension) Rules, 1996**

Attention is invited to this Department circulars of even number dated 23.4.90, 25.5.90, 14.10.94, 26.9.96, 21.10.97, 2.11.98, 26.4.99, 29.9.99 & 2.2.2000 and new Rule 53(1) of Rajasthan Civil Services (Pension) Rules, 1996 *{old rule 244(2) of RSR}* which empower the Appointing Authority to retire any government servant in public interest upon having been satisfied that the concerned Government servant has on account of his indolence or doubtful integrity or incompetence to discharge official duties or inefficiency in due performance of official duties, has lost his utility, by giving him 3 months clear notice in writing or giving bank draft of the amount equivalent to three months pay and allowances in lieu of such notice after completion of 15 years qualifying service or attaining age of 50 years, whichever is earlier.

While State Government have issued guidelines on the subject from time to time it has been observed that sufficient importance has not been given in implementing these guidelines and instructions. In supersession of all earlier Circulars on the above subject, the following guide-lines are hereby issued for strict compliance:

1. On the 1<sup>st</sup> of April every year, each Appointing Authority shall prepare a list of persons who would be completing 15 years of qualifying service or who would be attaining the age of 50 years. Such lists should be drawn up separately for each service, cadre or category of employees working under the Appointing Authority concerned. The list should be in the form of a statement under the following headings:-

1. S. No.
2. Name of Officer.
3. Department to which belongs.
4. Designation.
5. Date of birth.
6. Date of commencement of qualifying service.
7. Date of completion of 15 years' qualifying service.
8. Date of superannuation.
9. Date of attaining 50 years of age.
10. Recommendations of the Internal Screening Committee.  
(The Committee should given detailed recommendations alongwith reasons).

2. Cases of government servants included in the list mentioned above shall first be examined by the Screening Committee internal to the department. The Internal Screening Committee may consist of two officers nominated by the Appointing Authority. The Internal Screening Committee should function as a Standing Committee rather than as a body set up 'ad hoc' only at the time when cases are considered for premature retirement. The officers nominated to the Internal Screening Committee should, as far as possible, have knowledge of the working of the department and the performance of officers and staff in general. The main functions of the Internal Screening Committee would be to prepare a comprehensive brief of each employee for consideration by the Review Committee which would be finalising the recommendations of the Internal Screening Committee for compulsory retirement under Rule 53 (1) of the Rajasthan Civil Services (Pension) Rules, 1996. All the appointing authorities shall constitute Internal Screening Committee accordingly.

**PERUSAL OF ENTIRE SERVICE RECORD :**

3. The Internal Screening Committee should prepare a brief after perusing the entire service record of a government servant. However, in cases where the retirement is sought to be made for in-effectiveness, the actual performance in preceding 5 years may be concentrated upon for the purpose of screening. There is no such stipulation in respect of the cases where the government servant is to be retired on grounds of doubtful integrity. In such cases all adverse material is to be considered.

The term 'service record' is to be considered in the wider sense and the review should not be confined to the consideration of only the Annual Confidential remarks recorded in the APAR of the government servant. In certain departments, Government servants deal with files relating to contracts, settlement of claims, making purchases and discharging bills, assessing taxes or excise duties etc. In many cases, doubts might have arisen on the bonafide nature of action taken by an employee but no concrete action was taken for want of adequate proof in a regular departmental enquiry leading to punishment under the Rajasthan CCA Rules, where the personal file of the officer has details of the nature of doubt concerning his integrity of results of preliminary investigations carried out are available, these should also be considered and placed before the Review Committee. Where details of such cases are on a separate main file, but have not been brought to the personal file of the government servant, the Internal Screening Committee should ensure that extracts from such subject matter file, or the file itself, is also placed before the Review Committee for consideration. This should be done well ahead of the meeting of the Screening Committee or Review Committee so that a total assessment of the performance of the government servant is possible at the appropriate time.

#### ANNUAL PERFORMANCE APPRAISAL REPORTS :

4 Entries in the APAR Dossier of an officer will, of course, constitute a very important part of the total service record taken into account while considering any proposal for compulsory retirement. There might be certain mis-conceptions relating to the procedure to be adopted in this behalf and clarification are given as below :-

(a) The general impression prevalent that the Screening or Review Committees shall not take into account any remark that has not been communicated to the officer, is not correct. In certain circumstances, specifically non communication of an adverse entry in regard to the doubtful integrity, may be taken into account by the Screening Committee.

(b) In a particular case, while an old adverse remark that may not have been communicated to the officer concerned, could be taken into account as part of the total service record considered by the Screening or Review Committee, it would not, as a matter of course, be appropriate to take into account adverse remarks of last two years barring the remarks relating to integrity which have not been communicated to the officer.

(c) Another point to be kept in view is that when the overall assessment is made of the record of a government servant. Special emphasis should be given to the confidential remarks pertaining to the 3 years immediately preceding the screening. It is possible that a government servant having a somewhat erratic record in the earlier years of the service might have so greatly improved with the passage of time that it would be appropriate to continue him in service upto the prescribed age of superannuation. Whatever value the confidential remarks may have, those pertaining to the later years immediately preceding the review are of direct relevance and hence of utmost importance.

(d) Relevance should not be placed only on the APAR dossier, but the entire service record including personal or other files relating to the officer should be taken into account.

5 No employee should ordinarily be retired on grounds of ineffectiveness if he would be retiring on superannuation within a period of one year. It may be clarified, however, that this instruction is relevant only on the ground of ineffectiveness, but not in cases where the action is contemplated on the ground of doubtful integrity.

**ACTION SHOULD BE IN PUBLIC INTEREST :**

- 6 The Department must ensure that action under Rule 53(1) of the Rajasthan Civil Services (Pension) Rules, 1996 is a bonafide action taken in the public interest. Any contention that action in this regard is based on arbitrariness or malice or influenced by extraneous or irrelevant considerations is closely enquired into by the Courts and on such a contention being upheld, the order of compulsory retirement is liable to be struck down. It is, therefore, necessary that the action for compulsory retirement is taken on bonafide & thorough considerations undertaken in an appropriate manner. The final order issued to the government servant concerned must specify that action had been taken in the public interest.
- 7 It is also clarified that compulsory retirement under Rule 53(1) of Rajasthan Civil Services (Pension) Rules, 1996 should not be used to punish a government servant on grounds of specific acts of misconduct as a short cut. To illustrate this further, where a departmental enquiry has been conducted on an alleged misconduct and the stage has been reached as to the decision by the Competent Authority about the punishment to be imposed, it would not be appropriate to issue an order of compulsory retirement under rule 53(1) of Rajasthan Civil Services (Pension) Rules, 1996.
- 8 At the same time, the intention of the previous paragraph is not that when an officer has reached the stage in service when review under rule 53(1) of Rajasthan Civil Services (Pension) Rules, 1996 can be initiated and a specific act of misconduct also comes to notice at that time, action under rule 53(1) of Rajasthan Civil Services (Pension) Rules, 1996 cannot be taken. It is well settled that action under rule 53(1) of Rajasthan Civil Services (Pension) Rules, 1996 is not a punishment, that there is no stigma attached to it and that no civil consequences follow. These conclusions apply to an individual case when an order under rule 53(1) of Rajasthan Civil Services (Pension) Rules, 1996 is not a cover for what is, in fact, a punishment sought to be imposed. However, where any departmental enquiry has been initiated and the specific allegation or misconduct involving lack of integrity is only one of the facts on the service record of the officer, which has to be considered in toto, the order under rule 53(1) of Rajasthan Civil Services (Pension) Rules, 1996 can quite justifiably be passed for the same is appropriate otherwise also. This view draws strength from what has been observed by the Supreme Court in the case of Tara Singh Vs. State of Rajasthan (1975).
- 9 It may also be mentioned that provisions of rule 53(1) of Rajasthan Civil Services (Pension) Rules, 1996 correspond to the Rule 16(3) of the All India Services (Death-cum-Retirement Benefit) Rules, 1958. In the case of State of Uttar Pradesh Vs. Chandra Mohan Nigam and others 1978 (1) S.I.R. 12, it

was observed by the Court : "we should hasten to add that when integrity of an officer is in question, that will be an exceptional circumstance for which orders may be passed in respect of such a person under rule 16(3), at any time, if other conditions of that rule are fulfilled, apart from the choice of disciplinary action which will also be open to Government."

**CONSTITUTION OF STATE REVIEW COMMITTEE :**

10. (A) For officers in the State Service (other than the RAS & RSS) or on posts with pay scales whose minimum stage is Rs. 12,000/- or above, viz. pay scales No. 18 and above, the State Review Committee shall consist of the following:-

- i) Chairman, Board of Revenue or an officer of equivalent rank nominated by the Government.
- ii) Secretary to the Administrative Department; and
- iii) Secretary, Department of Personnel.

(B) For officers in State Services (other than the RAS and RSS) or on posts with pay scales whose minimum stage is Rs. 10,000/- or above, excluding those covered vide (A) above (viz. pay scales No. 15 to 17), the Committee shall consist of the Secretary of the Administrative Department and the Secretary, Department of Personnel.

(C) For officers in State Services (other than the RAS and RSS) or posts not covered by (A) or (B) above and excluding members of the Subordinate and Ministerial Services, the review committee shall consist of the Secretary of the Administrative Department or his nominee not below the rank of Deputy Secretary and the Dy. Secretary, Department of Personnel (A-I).

Note:- For the above purpose, the Secretary of the Administrative Department would be the Secretary who controls the services concerned, and in case of isolated posts the Secretary of the Department where that post is located.

(D) For members of the RAS and RSS, the review committee shall consist of one Principal Secretary to the State Government nominated by the Chief Secretary and the Secretary, Department of Personnel.

(E) For Subordinate Services, the review committee shall consist of the Head of Department Appointing Authority and an officer of the Department not below the rank of joint Head of Department to be nominated by the head of Department. Where there is no post of Joint Head of Department, the Deputy Head of Department may be nominated.

(F) For Ministerial and Class IV Services and posts, the review committees shall consist of Head of Department or his nominee not below the rank of Deputy Head of the Department and the Head of office concerned.

**TIME FRAME :**

- 11 Review Committee should meet as soon as the briefs on the Government servants coming within the scope of rule 53(1) of Rajasthan Civil Services (Pension) Rules, 1996 have been prepared. In each year this work should commence from 1<sup>st</sup> July by which time the APARs, would have been drawn up. The entire work of the internal screening committee and the review committee should be completed by 31<sup>st</sup> of October.
- 12 In cases where the appointing authority is State Government, the list of officers concerned alongwith their service rolls and service record should be submitted by the Secretary of the administrative department for the approval of the Minister In-charge and the Chief Minister through the Chief Secretary. After approval, the orders for compulsory retirement under rule 53(1) of Rajasthan Civil Services (Pension) Rules, 1996 will be issued by the administrative Secretary. In other cases orders should be issued by the appointing authority concerned. The model form of the order is annexed to the Circular.
- 13 The Government servant proposed to be retired compulsorily under rule 53(1) of Rajasthan Civil Services (Pension) Rules, 1996 is entitled to a notice of three months. There can be two ways of retiring them namely:
  - (i) They may be given Bank Draft of the amount equivalent to three months pay and allowances in lieu of notice period alongwith the order of retirement. This should be adopted when it is considered that the services of such officer should be dispensed with immediately.
  - (ii) Where there is no such urgency, they may be given three months' notice alongwith retirement orders and after the expiry of three month's notice period, they may be relieved immediately. If during the notice period, the Government servant applies for leave, the same may be considered for sanction as per rules but it may be ensured that the period of leave does not exceed beyond the date of expiry of the notice period.


In order to tone up the administration and make it more responsive, the State Government attaches great importance to this exercise and expects that each Administrative Secretary and Head of Department shall initiate prompt action in this regard and review the progress at their level. It is enjoined upon all the concerned authorities to ensure strict compliance of these instructions keeping in view the time

4. schedule & provisions as enunciated in this circulars. Action taken in this regard may be intimated to this department immediately.

  
(Inderjit Khanna)  
Chief Secretary

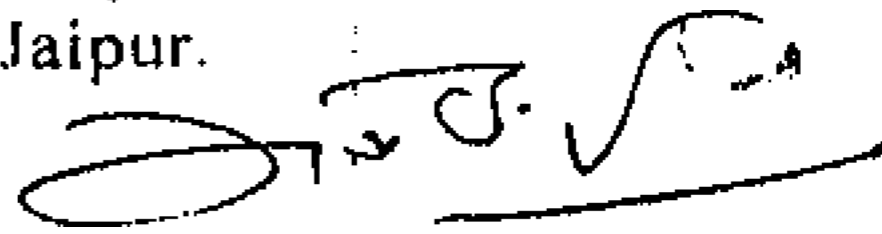
Copy forwarded to the following for information & necessary action to the following :

1. Principal Secretary to HE the Governor-Chief Minister
2. Secy. to CM.
3. SA/PS to All Ministers/State Ministers
4. PS to Chief Secretary
5. All Principal Secretaries, Secretaries/Spl. Secretaries/Dy. Secretaries to Govt.
6. All Divisional Commissioners/Collectors
7. All Heads of Departments They are requested to please circulate this to their Subordinate Appointing Authorities under their control.
8. All Sections of the Secretariat/Codification Section (A/R) with 7 spare copies.

  
(B. P. Arya)  
Secretary to Government

Copy also forwarded to :

1. The Accountant General, Rajasthan, Jaipur.
2. The Secretary, Rajasthan Legislative Assembly, Jaipur.
3. The Secretary, Rajasthan Public Service Commission, Ajmer.
4. The Secretary, Lokayukta Sachivalaya, Jaipur.
5. The Registrar Adl.Registrar, Rajasthan High Court, Jodhpur/Jaipur
6. The Registrar, Rajasthan Civil Services Appellate Tribunal, Jaipur.

  
Secretary to Government

(Circular No. 1/2000)

Government of Rajasthan

Department of

No.

Dated

**ORDER**

Whereas Shri \_\_\_\_\_ designation \_\_\_\_\_  
\_\_\_\_\_ \*has completed 15 years of qualifying service. \*has attained the age of 50  
years.

Now, therefore, in exercise of the right conferred by rule 53 (1) of Rajasthan Civil  
Services (Pension) Rules, 1996, the Governor is hereby pleased to retire the said  
Shri \_\_\_\_\_.

The undersigned hereby retires the said Shri

from service, in public interest \*with effect from the date of expiry of a period of three months  
from the date of receipt of this order by him. \*with effect from the date of expiry of a period of  
three months from the date of publication of this order in the Rajasthan Rajpatra.

\*with effect from the date of receipt of this order by him (In lieu of the three months' previous  
notice, a Bank Draft for an amount of Rs. \_\_\_\_\_ representing the amount of pay and  
allowances for the said notice period is enclosed.)

\*By order of the Governor

( \_\_\_\_\_ )  
Secretary to Government

\*( \_\_\_\_\_ )  
Signature and Designation  
of the Appointing Authority

\*To be struck down whichever is not applicable.