

R.O.C.NO.44199/2017/C4

P.DIS.NO. 36/2017



Copy of G.O.(Ms) No.54, Personnel and Administrative Reforms (N)

Department, dated 12.04.2017, is communicated for information.

HIGH COURT, MADRAS

DATED: 07.06.2017

SUB ASST. REGISTRAR (A.D.II)

To:

1. All the Principal District Judges/Chief Judicial Magistrates
2. The Director, Tamil Nadu State Judicial Academy, Malligai, P.S.K.R. Salai, R.A. Puram, Chennai-28, Madurai, Coimbatore.
3. The Principal Judge, City Civil Court, Chennai.
4. The Chief Judge, Court of Small Causes, Chennai.
5. The Chief Metropolitan Magistrate Court, Egmore, Chennai.
6. The Administrator General & Official Trustee, Chennai.
7. The Presiding Officer, Industrial Tribunal, Chennai.
8. The Presiding Officer, Labour Court, Chennai
9. The Presiding Officer, Special Court for EC & NDPS Act Cases, Chennai.
10. The City Government Pleader, City Civil Court Buildings, Chennai.
11. The Chairman, Sales Tax Appellate Tribunal, Chennai.
12. The Chairman, State Transport Appellate Tribunal, Chennai.
13. The Principal Judge, Family Court, Chennai.
14. The Judge, Family Court, Madurai, Coimbatore & Salem.
15. The Presiding Officer, Labour Courts, Madurai / Salem / Vellore / Coimbatore / Tirunelveli / Cuddalore and Tiruchirappalli.
16. The Special Judge, Special Court under E.C & NDPS Act Cases, Coimbatore, Madurai, Pudukottai, Thanjavur & Salem.
17. The Additional District Judge & Sessions Judge, Court under PCR Act cases, Tirunelveli, Tiruchirappalli, Thanjavur at Kumbakonam & Madurai.
18. The Additional District and Sessions Judge, Court of Communal Clashes, Madurai.
19. The Sessions Judge, Special Court for Bomb Blast Cases, Poonamallee, Chennai and Coimbatore.

p.t.o.

20. The Sessions Judge, Special Court for CBI Cases, Chennai/Madurai and Coimbatore.
21. The Special Judge, Special Court under TNPID Act, Chennai- 104.
22. The Sessions Judge, Mahalir Neethimandram, Chennai, Coimbatore, Madurai, Perambalur, Salem, Tirunelveli & Pudukottai.
23. The Secretary, The Madras High Court Retired Officer's Association, Plot No.46, Door No.2, 6th Street, Sudarashan Nagar Extension, Madambakkam, Chennai-126.

Copy to:

1. All the Registrars, High Court, Madras and Madurai Bench of Madras High Court, Madurai.
2. The Chief Accounts Officer, High Court, Madras & Madurai Bench.
3. The Sub Asst. Registrar (A/C, Admn., & Estt.) High Court, Madras and Madurai Bench.
4. The Section Officers, 'B', 'Establishment', and 'J', High Court, Madras .
5. The Section Officers, 'B', 'C', and 'Establishment', and 'J', Madurai Bench of Madras High Court at Madurai.
6. The Librarian, High Court, Madras & Madurai Bench.
7. The Record Keeper, AD Records, High Court, Madras, Madurai Bench.

Spare: 10 Copies.



ABSTRACT

Public Services – proviso under rule 9 (1) (b) of the Tamil Nadu Pension Rules, 1978 – Omitted - Instructions - Issued.

Personnel and Administrative Reforms (N) Department

G.O. (Ms) No.54

Dated : 12.04.2017

துன்முகி, பங்குனி - 30
திருவள்ளூர் ஆண்டு 2048.

Read :

G.O. (Ms) No.349, Finance Department, Dated 12.08.2013.

ORDER

As per the amendment issued in the Government Order read above, rule 9 (1) (a) of the Tamil Nadu Pension Rules, 1978, empowers the competent authority to reserve themselves the right of withholding or withdrawing a pension or part thereof as a measure of penalty, against the proven charges. The proviso stipulated under Rule 9 (1) (a) of the Tamil Nadu Pension Rules, 1978, is as follows:-

"Provided that before passing an order under this clause, if the pensioner does not agree to such withholding or withdrawal of the pension, the Tamil Nadu Public Service Commission shall be consulted....."

.....The Tamil Nadu Public Service Commission need not be consulted in cases where the pensioner agrees to withholding or withdrawal of the pension"

2. As per the amendment issued in the Government Order read above, rule 9 (1) (b) of the Tamil Nadu Pension Rules, 1978, empowers the Competent Authority, the right of ordering recovery from the Pension / Death cum Retirement Gratuity of the whole or part of the pecuniary loss caused by such grave misconduct or negligence. The proviso stipulated under Rule 9 (1) (b) of the Tamil Nadu Pension Rules, 1978, is as follows:-

(p.t.o.)

"Provided that before passing an order under this clause, the Tamil Nadu Public Service Commission shall be consulted by the Government in respect of pensioners belonged to State Service and in respect of the pensioners who belonged to service other than State Service, the Head of the Department concerned, after arriving at the amount of recovery, shall refer the case to the Government and the Government, after consulting the Tamil Nadu Public Service Commission shall intimate the views of the Commission to the Head of the Department concerned for issue of final orders."

3. Instances have been brought to the notice of the Government that when a pensioner agrees to the proposed penalty under rule 9 (1) (a) of the Tamil Nadu Pension Rules, 1978, there is no need to consult Tamil Nadu Public Service Commission as instructed under the proviso of the said rule. But for exercising the right of the competent authority to effect the recovery of loss from the pension, Tamil Nadu Public Service Commission is being consulted as laid down under the proviso to rule 9 (1) (b) of the Tamil Nadu Pension Rules, 1978. The said repugnancy forcing the competent authority to compulsorily consult Tamil Nadu Public Service Commission with respect to the component of recovery of loss, even in cases where the pensioner agrees to the proposed penalty.

4. In rule 9 (1) (b) of the Tamil Nadu Pension Rules, 1978 itself it has been laid down that it is the right of the Competent Authority for ordering recovery from Pension or Death cum Retirement Gratuity of the whole or part of the pecuniary loss caused by such grave misconduct or negligence, since such recovery is not of the character of penalty.

5. There is no provision available in the Tamil Nadu Public Service Commission Regulations, 1954 for seeking its views when the competent authority takes action for ordering a recovery of pecuniary loss from Pension or Death cum Retirement Gratuity. Thus the proviso under rule 9 (1) (b) of the Tamil Nadu Pension Rules, 1978 has not also been validated under Tamil Nadu Public Service Commission Regulations, 1954.

6. The Government after due examination in the light of the above context, have decided to omit the proviso made under rule 9 (1) (b) of the Tamil Nadu Pension Rules, 1978, and ordered accordingly.

7. Necessary amendment to the Tamil Nadu Pension Rules, 1978 will be issued separately by the Finance Department.

(p.t.o.)

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8. This order issues with the concurrence of the Finance Department in U.O. No. 298, Finance (Pension) Department, dated 23.01.2017.

(BY ORDER OF THE GOVERNOR)

S.SWARNA,
SECRETARY TO GOVERNMENT (i/c).

To

All Secretaries to Government, Chennai - 600 009.
All Departments of Secretariat, Chennai - 600 009.
All Heads of Departments.
The Finance (Pension) Department, Chennai- 600 009 (For issuing necessary amendments to the Tamil Nadu Pension Rules, 1978)
The Secretary, Tamil Nadu Public Service Commission, Chennai - 600 003.

Copy to:

The Private Secretary to Secretary to Government,
Personnel and Administrative Reforms (Trg) Department, Chennai - 600 009.
The Private Secretary to Vigilance Commissioner and
Commissioner of Administrative Reforms, Chennai - 600 009.
All Officers and Sections of Personnel and Administrative
Reforms Department, Chennai - 600 009.
The Personnel and Administrative Reforms (AR-II)
Department, Chennai - 600 009. (to upload in website)
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13.04.17
SECTION OFFICER


13.04.2017