



सत्यमेव जयते

VANAJA N. SARNA
Special Secretary & Member

भारत सरकार
GOVERNMENT OF INDIA
वित्त मंत्रालय/राजस्व विभाग
MINISTRY OF FINANCE / DEPARTMENT OF REVENUE
केन्द्रीय उत्पाद एवं सीमा शुल्क बोर्ड
CENTRAL BOARD OF EXCISE & CUSTOMS
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D.O.No.C-30013/79/2015-Ad.IVA

29 March, 2017

Please refer to Board's O.M.No. of even number dated 28.7.2016 wherein instructions were issued for periodic review of the performance of Government servants with a view to ascertain whether he/she should be retained in service or permanently retired from service under the provisions of FR 56(j), FR 56(i) and Rule 48(1)(b) of CCS (Pension) Rules, 1972 (copy enclosed). Subsequently, vide letter of even number dated 4.1.2017, all Commissionerates/Directorates and other offices were directed to carry out review as per instructions and Schedules and send the quarterly report before 10th of the month, without fail.

2. You may look into the matter and ensure that the review of all pending cases in respect of Group 'B' and 'C' are completed immediately as per schedule laid down by DoP&T. Please ensure that the report is sent regularly as earlier desired.

With


Yours


(VANAJA N. SARNA)

All Chief Commissioners/Directors General under CBEC

Encl: as above

✓ **Copy to:** Webmaster, CBEC for uploading on the CBEC website under the link Department Officers – Administrative Wing – Reports Reports Pending.


(VANAJA N. SARNA)
Member(Admn),CBEC

No A-19015/Misc/2015/MF.CGA/Gr B/FR 56 / 75

Ministry of Finance
Department of Expenditure
Controller General of Accounts
Lok Nayak Bhawan
New Delhi-110003

Dated 20-5-2016

Office Memorandum

Subject: Strengthening of administration-Periodical review under FR 56(j) and Rule 48 of CCS (Pension) Rules, 1972

DoP&T vide their O.M. dated 11.09.2015 has directed all the Ministries/Departments to conduct periodical review under FR 56 (j) and Rule 48 of CCS (Pension) Rules to ascertain whether the Government servant should be retained in service or retired from Service in the Public interest.

1. FR 56 (j) and Rule 48 of CCS (Pension) Rules, 1972 provide as under:-

FR 56 (j) Notwithstanding anything contained in this rule, the Appropriate Authority shall, if it is of the opinion that it is in the public interest so to do, have the absolute right to retire any Government servant by giving him notice of not less than three months in writing or three months' pay and allowances in lieu of such notice;

(i) If he is, in Group A or Group B service or post in a substantive, quasi-permanent or temporary capacity and had entered Government service before attaining the age of 35 years, after he has attained the age of 50 years;

(ii) in any other case after he has attained the age of fifty-five years.

Under FR 56, the 'Appropriate authority' has been defined as the authority which has the power to make substantive appointments to the post or service.

Rule 48 of CCS (Pension) Rules

Retirement on completion of 30 years' qualifying service

(1) At any time after a Government servant has completed thirty years' qualifying service-

(a) he may retire from service, or

(b) he may be required by the Appointing Authority to retire in the public interest

2. The provisions under FR provide for retiring a Govt. Servant on completion of 50 years of age in the case of Group A and B officers and on completion of 55 years of age in the case of Group C officers. Rules 48 of CCS (Pension) Rules also provide for retiring a Govt. Servant on completion of 30 years of qualifying service.

3. DoP&T Establishment Division has been issuing instructions regularly on the need for carrying out review of the performance of Govt. Servants and take action against under FR 56 (j) or Rule 48 of CCS (Pension) Rules. In this connection, their last O.M. No. 25013/1/2013-Estt.(A) dated 21.03.2014 may be referred to.

4. In order to ensure that the powers vested in the appropriate authority are exercised fairly and impartially and not arbitrarily Establishment Division has also prescribed the following procedure:

(i) The cases of Governments servants covered by FR 56 (j) or FR 56 (l) or Rule 48 (1)(b) of the CCS (Pension) rules should be reviewed six months before they attain the age of 50/55 years of complete 30 years service / 30 years of qualifying service, whichever occurs earlier,

(ii) Committees shall be constituted in each Ministry/Department/Office, to which all such cases, shall be referred for recommendation as to whether the officers concerned should be retained in service or retired from service in the public interest.

5. The criteria to be followed by the Committee in making their recommendations would be as follows:

(a) Government employees, whose integrity is doubtful, will be retired.

(b) Government employees who are found to be ineffective will also be retired. The basic consideration in identifying such employee should be the fitness/competence of the employee to continue in the post which he/she is holding.

(c) While the entire service record of an Officer should be considered at the time of review, no employee should ordinarily be retired on grounds of ineffectiveness if his service during the preceding 5 years or where he has been promoted to a higher post during that 5 year period, his service in the highest post, has been found satisfactory.

Consideration is ordinarily to be confined to the preceding 5 years or to the period in the higher post, in case of promotion within the period of 5 years, only when retirement is sought to be made on grounds of ineffectiveness. There is no such stipulation, however where the employee is to be retired on grounds of doubtful integrity.

(d) No employee should ordinarily be retired on ground of ineffectiveness, if, in any event, he would be retiring on superannuation within a period of one year from the date of consideration of his case.

It is however clarified that in a case where there is a sudden and steep fall in the competence, efficiency or effectiveness of an officer, it would be open to review his case for premature retirement.

The above instructions are relevant only when an employee is proposed to be retired on the ground of ineffectiveness, but not on the ground of doubtful integrity. The damage to public interest could be marginal if an old employee, in the last year of service, is found ineffective; but the damage may be incalculable if he is found corrupt and demands or obtains illegal gratification during the said period for the tasks he is duty bound to perform.

6. The Supreme Court had not only upheld the validity of FR 56 (j) but also held that no show-cause notice need be issued to any government servant before a notice of retirement is issued to him under the aforesaid provisions. The appropriate authority defined in Note 1 below FR 56 should bonafide form an opinion that is in the public interest to retire the

Government servant in exercise of the powers conferred by that provision and this decision should not be an arbitrary decision or should not be based on collateral grounds. Accordingly, in every case where it is proposed to retire a Government servant in exercise of the powers conferred by the said rule, the appropriate authority should record in the file its opinion that it is necessary to retire the Government servant in pursuance of the aforesaid rule in the public interest.

7. As per para 7 of DoP&T O.M. No. 25013/01/2013-Estt.A-IV dated 11.09.2015, Secretaries of the Cadre Controlling Authorities will constitute Review Committees consisting of two members at appropriate level. As per approval of competent authority, the Review Committee in the case of various levels of employees will be as under:-

(A) In case of Group B (Gazetted) Officers:

Review Committee	<p>Chairman - Pr. CCA/CCA/Jt. CGA (Group 'B')</p> <p>Two Members - to be co-opted by the Chairman (preferably one from administrative Ministry in the rank of DS and above).</p> <p>Final orders will be passed by the appropriate authority.</p>
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(B) Non - Gazetted employees:

(i) Employees working in O/o CGA:

Review Committee	<p>Chairman - Jt. CGA (Admn.)</p> <p>Two Members in the rank of Dy. CGA or ACGA.</p> <p>If action is proposed on the basis of lack of integrity CVO will be associated as a member.</p> <p>Final orders will be passed by the appropriate authority.</p>
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(ii) Non-Gazetted (Gr. B) & Gr. 'C' Employees working in field offices of the CCAS:-

Review Committee	Chairman - Pr. CCA/CCA/CA/Linked CA Two Members to be co-opted by the Chairman (preferably one from administrative Ministry in the rank of DS and above). If action is proposed on the basis of lack of integrity CVO will be associated as a member. Final orders will be passed by the appropriate authority.
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8. In terms of DoPT's OM No. 25013/1/2013-Estt(A) dated 21/03/2014 on the periodical review under Fundamental Rule 56 or Rule 48 of CCS (Pension) Rules, review of officers is broadly covered under the following guidelines:

- (i) If service of an officer is not useful one can be compulsorily retired in public interest;
- (ii) Review is after having due regard to the entire service record of the officer viz. ACR/APAR dossier, personal file, work and performance of the officer in files/reports prepared;
- (iii) Adverse entries including un-communicated entries in CRs should be taken note of and given due weightage;
- (iv) Integrity : Actions/decisions which do not appear to be above board; complaints received; suspicious property transactions – not sufficient evidence to initiate departmental proceedings;
- (v) Conduct unbecoming to the public interest or obstructs efficiency in public services;
- (vi) Not a short cut to avoid disciplinary proceedings and should not be resorted to as a punitive measure;
- (vii) Promotion despite adverse entries in ACRs is a fact in favour of the Officer.

All Pr. CCAs/CCAs/CAs are requested to examine the entire service records available with their office and furnish inputs as to the desirability to retain or to prematurely retire in respect of CCAS (Group B & C Officers) working under their jurisdiction. Statement showing Ministry wise break up of Sr.AOs/AOs and AAOs being affected under FR 56 (j) & Rule 48 of CCS (Pension) Rules is enclosed (Annexure I). The first review meeting should be done within 30 days of the issue of this O.M. in case the numbers of officers are less than 50 and 60 days where these are more than 50.

This issues with the approval of competent authority.

T. Palra
(Tripti P Ghosh)

Dy. Controller General of Accounts

To,
All the Pr CCAs/CCAs/CAs

ITD Section: It is requested to upload aforesaid OM on official website of CGA.

48. Retirement on completion of 30 years' qualifying service

(1) At any time after a Government servant has completed thirty years' qualifying service -

(a)	he may retire from service, or
(b)	he may be required by the appointing authority to retire in the public interest, and in the case of such retirement the Government servant shall be entitled to a retiring pension :

Provided that -

(a)	a Government servant shall give a notice in writing to the appointing authority at least three months before the date on which he wishes to retire; and
(b)	the appointing authority may also give a notice in writing to a Government servant at least three months before the date on which he is required to retire in the public interest or three months' pay and allowances in lieu of such notice :

²Provided further that where the Government servant giving notice under clause (a) of the preceding proviso is under suspension, it shall be open to the appointing authority to withhold permission to such Government servant to retire under this rule :

³Provided further that the provisions of clause (a) of this sub-rule shall not apply to a Government servant, including scientist or technical expert who is -

(i)	on assignments under the Indian Technical and Economic Cooperation (ITEC) Programme of the Ministry of External Affairs and other aid programmes,
(ii)	posted abroad in foreign based offices of the Ministries/Departments,
(iii)	on a specific contract assignment to a foreign Government,

unless, after having been transferred to India, he has resumed the charge of the post in India and served for a period of not less than one year.

¹ (1-A)	(a)	A Government servant referred to in clause (a) of the first proviso to sub-rule (1) may make a request in writing to the appointing authority to accept notice of less than three months giving reasons therefor.
	(b)	On receipt of a request under clause (a) the appointing authority may consider such request for the curtailment of the period of notice of three months on merits and if it is satisfied that the curtailment of the period of notice will not cause any administrative inconvenience, appointing authority may relax the requirement of notice of three months on the condition that the Government servant shall not apply for commutation of a part of his pension before the expiry of the period of notice of three months.

(2) A Government servant, who has elected to retire under this rule and has given the necessary intimation to that effect to the appointing authority, shall be precluded from withdrawing his election subsequently except with the specific approval of such authority :

Provided that the request for withdrawal shall be within the intended date of his retirement.

⁴(3) For the purpose of this rule the expression '*appointing authority*' shall mean the authority which is competent to make appointments to the service or post from which the Government servant retires.

For consolidated instructions regarding premature retirement of Government servants refer appendix 10 of CCS(Pension) rules book

Footnote : 1. Inserted by G.I., Dept. of Per. & A.R., Notification No. 31/3/80-Pension Unit, dated the 5th March, 1981.

2. Inserted by G.I., M.F., Notification No. 6 (8)-E. V (A)/73, dated the 25th January, 1974.

3. Inserted by G.I., Dept. of P. & P.W., Notification No. 38/15/85-Pension Unit, dated the 1st July, 1985,

No.25013/1/2013-Estt (A)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

North Block, New Delhi-110 001
Dated :21st March, 2014

Office Memorandum

Subject : Strengthening of administration – Periodical review under FR 56 / Rule 48 of CCS(Pension) Rules


Instructions exist on the need for periodical review of performance of Government servants with a view to ascertain whether the Government servant should be retained in service or retired from service in the public interest. Provisions in this regard are contained in FR 56 (j), FR 56 (l) and Rule 48 (1) (b) of CCS(Pension) Rules, 1972.

2. As per these instructions the cases of Government servant covered by FR 56(j), 56(l) or Rule 48(1) (b) of CCS (Pension) Rules, 1972 should be reviewed six months before he / she attains the age of 50/55 years, in cases covered by FR 56(j) and on completion of 30 years of qualifying service under FR 56(l) / Rule 48 of CCS(Pension) Rules, 1972 as per the following time table:-

Sl. No.	Quarter in which review is to be made	Cases of employees who will be attaining the age of 50/55 years or will be completing 30 years of service or 30 years of service qualifying for pension, as the case may be, in the quarter.
1.	January to March	July to September of the same year
2.	April to June	October to December of the same year
3.	July to September	January to March of the next year
4.	October to December	April to June of the next year

3. The procedure as prescribed from time to time has been consolidated and enclosed as Appendix to this O.M.

4. All Ministries / Departments are requested to follow these instructions and periodically review the cases of Govt. servants as required under FR 56(j)/FR56(l)/Rule 48(1)(b) of CCS (Pension) Rules,1972.


(B.Bandyopadhyay)
Under Secretary to the Government of India
Tel.No.23040341

To

All Ministries / Departments Government of India as per standard list.

Subject : Periodical review under FR 56 (j)

The appropriate authority has the absolute right to retire, if it is necessary to do so in public interest, a Government servant under FR 56(j), FR 56(l) or Rule 48 (1) (b) of CCS (Pension) Rules, 1972 as the case may be. The guidelines in this regard have been issued from time to time under the marginally noted office Memoranda which are available in this Ministry's website:www.persmin.nic.in The procedure has been summarized below:-

MHA, DPAR
O.M.No.33/13/61-Estt
(A) dated 23.6.1969

MHA, DPAR
O.M.No.33/11/69-Estt
(A) dated 23.10.1970

MHA, DPAR
O.M.No.25013/5/76-
Estt (A) dated
11.10.1976

MHA, DPAR
O.M.No.25013/13/77-
Estt (A) dated 8th
November, 1977.

MHA, DPAR
O.M.No.25013/14/77-
Estt (A) dated 5th
January, 1978.

MHA, DPAR
O.M.No.15013/9/80-
Estt (A) dated
22.6.1982

DoPT
O.M.No.25013/30/85-
Estt (A) dated 7th
August, 1985.

DoPT
O.M.No.25013/38/85-
Estt (A) dated 7th
March, 1986.

DoPT
O.M.No.25013/15/86-
Estt (A) dated 27th
June, 1986.

	FR 56	Pension Rule 48(1)(b) of CCS (Pension) Rules, 1972
Category	<p>FR 56 (j) Group 'A & B' officers:</p> <p>who entered service before 35 ears of age and have attained 50 years of age</p> <p>Other cases: Attained 55 years of age FR56(l) A Govt. Servant in Group 'C' post who is not governed by any Pension Rules, can also be retired after he has completed 30 years service.</p>	<p>All Government servants covered by CCS (Pension) Rules, 1972 who have completed 30 years of qualifying service.</p>
Notice Period	3 months or 3 months pay allowances in lieu thereof	Three months or Three months pay and allowances in lieu thereof.

2. The cases of Government servant covered by FR 56(j) , 56(l) or Rule 48(1) (b) of CCS (Pension) Rules, 1972 should be reviewed six months before he / she attains the age of 50/55 years, in cases covered by FR 56(j) and on completion of 30 years of qualifying service under FR 56(l) Rule 48 of CCS(Pension) Rules, 1972. Time Schedule for review is as under:-

Sl. No.	Quarter in which review is to be made	Cases of employee who will be attaining the age of 50/55 years or will be completing 30 years of service or 30 years of service qualifying for pension, as the case may be, in the quarter indicated below to be reviewed
1.	January to March	July to September of the same year
2.	April to June	October to December of the same year
3.	July to September	January to March of the next year
4.	October to December	April to June of the next year

A register of employees who are due to attain the age of 50/55 years or complete 30 years of service to be maintained. The register should be scrutinized at the beginning of every quarter by a senior officer in the Ministry / Department and the review undertaken according to the above schedule.

3. It may be noted that Compulsory Retirement as a penalty under CCS (CCA) Rules, 1965 is distinct from the above provisions.

4. In order to ensure that the powers vested in the appropriate authority are exercised fairly and impartially and not arbitrarily, following procedures and guidelines have been prescribed for reviewing the cases of government employees covered under the aforesaid rules:

- The cases of Government servants covered by FR 56 (j) or FR 56 (l) or Rule 48(1)(b) of the CCS (Pension) Rules should be reviewed six months before they attain the age of 50/55 years or complete 30 years service / 30 years of qualifying service, whichever occurs earlier,
- Committees shall be constituted in each Ministry / Department / Office, to which all such cases shall be referred for recommendation as to whether the Officer concerned should be retained in service or retired from service in the public interest.

5. The criteria to be followed by the Committee in making their recommendations would be as follows:-

- (a) Government employees whose integrity is doubtful, will be retired.
- (b) Government employees who are found to be ineffective will also be retired. The basic consideration in identifying such employee should be the fitness/competence of the employee to continue in the post which he/she is holding.

Contd...

- (c) While the entire service record of an Officer should be considered at the time of review, no employee should ordinarily be retired on grounds of ineffectiveness if his service during the preceding 5 years or where he has been promoted to a higher post during that 5 year period, his service in the highest post, has been found satisfactory.

Consideration is ordinarily to be confined to the preceding 5 years or to the period in the higher post, in case of promotion within the period of 5 years, only when retirement is sought to be made on grounds of ineffectiveness. There is no such stipulation, however where the employee is to be retired on grounds of doubtful integrity.

- (d) No employee should ordinarily be retired on ground of ineffectiveness, if, in any event, he would be retiring on superannuation within a period of one year from the date of consideration of his case

Ordinarily no employee should be retired on grounds of ineffectiveness if he is retiring on superannuation within a period of one year from the date of consideration of the case. It is clarified that in a case where there is a sudden and steep fall in the competence, efficiency or effectiveness of an officer, it would be open to review his case for premature retirement..

The above instruction is relevant only when an employee is proposed to be retired on the ground of ineffectiveness, but not on the ground of doubtful integrity. The damage to public interest could be marginal if an old employee, in the last year of service, is found ineffective; but the damage may be incalculable if he is found corrupt and demands or obtains illegal gratification during the said period for the tasks he is duty bound to perform.

6. The Supreme Court had not only upheld the validity of FR 56(j) but also held that no show-cause notice need be issued to any Government servant before a notice of retirement is issued to him under the aforesaid provisions. The appropriate authority defined in Note 1 below FR 56 should bonafide form an opinion that is in the public interest to retire the Government servant in exercise of the powers conferred by that provision and this decision should not be an arbitrary decision or should not be based on collateral grounds. Accordingly, in every case where it is proposed to retire a Government servant in exercise of the powers conferred by the said rule, the appropriate authority should record in the file its opinion that it is necessary to retire the Government servant in pursuance of the aforesaid rule in the public interest. The order to be served of the Government servant would of course be on the form prescribed for the purpose.

7. Detailed instructions on the procedure, criteria for assessment, issue of notice etc. are contained in the Office Memoranda indicated at page 1 of this Appendix and may be referred to.

Annexure-I

**Details of Officers who have attained the age of 50 years and qualifying service of
30 years - Review under FR 56(j) and Rule 48 of CCS (Pension) Rules, 1972**

No.	Ministry/Departments	Sr. AO/AO	AAO	Grant Total
1	Agriculture	8	1	9
2	CBDT	65	27	92
3	CBEC	56	25	81
4	CGA	12	2	14
5	Chemical & Fertilizers	3	2	5
6	Civil Aviation & Tourism	7	5	12
7	Coal	3	1	4
8	Commerce & Textile	13	4	17
9	Consumer Affairs, Food and Public Distribution	6	1	7
10	CPAO	10	5	15
11	DGS&D	6	3	9
12	Earth Sciences	5	2	7
13	Electronic & Information Technology	4	1	5
14	Environment and Forests	3	1	4
15	Finance	20	10	30
16	Food Processing Industries	2	0	2
17	Health & Family Welfare	19	4	23
18	Home Affairs	43	20	63
19	Human Resource Development	7	9	16
20	Industry	3	2	5
21	Informatin & Broadcasting	21	15	36
22	JNGAF/RTC	1	0	1
23	Labour & Employment	9	1	10
24	Law & Justice	4	0	4
25	MEA	3	3	6
26	Mines	4	3	7
27	New & Renewable Energy	1	0	1
28	Panchayati Raj	1	0	1
29	Personnel, Public Grievances & Pension	4	3	7
30	Petroleum & Natural Gas	2	0	2
31	PFMS	8	0	8
32	Planning, Statistics & P.I.	5	3	8
33	Power	4	1	5
34	President Sectt.	1	0	1
35	Rural Development	2	2	4
36	Science & Technology	5	2	7
37	Shipping, Road Transport & Highways	12	3	15
38	Skill Development	3	0	3
39	Steel	2	0	2
40	Urban Development	19	24	43
41	Water Resources	5	11	16
	Total	411	196	607