

CHAPTER XXI

EMPLOYMENT AFTER RETIREMENT

A--COMMERCIAL EMPLOYMENT AFTER RETIREMENT

1. Definition

Commercial employment means 'employment' in any capacity including that of an agent under a company, cooperative society, firm or individual engaged in trading, commercial, industrial, financial or professional business, and includes also a directorship of such company and a partnership of such firm, but does not include employment under a body corporate owned or controlled by the Government. It also includes setting up practice either independently or as a partner of a firm, as an adviser or consultant in matters in respect of which the retired Government servant :

- (i) has no professional qualifications and the matters in respect of which the practice is to be set up or is carried on are relatable to his official knowledge or experience, or
- (ii) has professional qualifications but the matters in respect of which such practice is to be set up are such as are likely to give his client an unfair advantage by reasons of his previous position, or
- (iii) has to undertake work involving liaison or contact with the offices or officers of the Government.

Note :—Employment under a co-operative society shall include the holding of any office whether elective or otherwise such as that of President, Chairman, Manager, Secretary, Treasurer and the like by whatever name called in such a society.

[Rule 10(2) of the C.C.S. (Pension) Rules, 1972.]

2. General Provision

2.1 A retired officer of a Central Service Group 'A' cannot accept any commercial employment before the expiry of two years from the date of his retirement without prior sanction of the President. If he does so, no pension shall be payable to him in respect of any period for which he is employed or such longer period as the President may direct.

2.2 A Government servant permitted by the appropriate authority to take up a particular commercial employment during his leave preparatory to retirement shall not be required to obtain permission subsequently for his continuance in such employment after retirement.

[Rule 10(1) of the C.C.S. (Pension) Rules, 1972.]

2.3 'Date of retirement' in relation to a Government servant re-employed after retirement without break either in a Group 'A' post under the Central Government or in an equivalent post under a State Government means the date on which such Government servant finally ceased to be re-employed in Government service.

[Rule 10(2) (b) of the C.C.S. (Pension) Rules, 1972.]

2.4 Retired Engineers of gazetted rank (whether Group 'A' or Group 'B') and other gazetted officers (whether Group 'A' or Group 'B') employed on engineering or administrative duties in the engineering Departments of the Government of India, who after retirement wish to seek commercial employment as contractors in connection with the execution of Public Works (including Railway and Defence works) or as employees of such contractors within two years of their retirement should obtain the permission of the Central Government before accepting such employment. Such permission within two years of their retirement will be given very rarely and only in exceptional circumstances.

2.5 No person who has not obtained the necessary permission as indicated above should be given any contract and a condition should be incorporated in the terms of the contract that it is liable to cancellation if either the contractor himself or any of his employees is found to be a person who had not obtained the necessary permission.

2.6 As a further safeguard, at the time of sanctioning pension, officers of these categories should be required to sign an undertaking that they would not seek such employment within two years of retirement without the prior permission of Government. In the case of nonpensionable officers, the officers should be required to sign a similar undertaking at the time they are paid the gratuity.

[Ministry of Home Affairs O.M. No. 29/1/55-Est. dated 20-6-1956.]

2.7 (a) No officer who, while in service, belonged to the Indian Revenue Service or who having been a member of any other Central Service Group 'A' retired from a post under the Department of Revenue, Ministry of Finance, shall set up practice before the expiry of two years from the date of his retirement :—

- (i) in any area which was within the local limit of his jurisdiction during the last three years immediately before his retirement;
- (ii) in areas other than those referred to at (i) above, without the previous sanction of the President.

(b) No pension shall be payable to such pensioner who sets up practice in contravention of clause (a) above in respect of any period for which he set up practice or such longer period as the President may direct.

Note :—Practice means practice, either independently or as a firm or a consultant or adviser in matters relating to Income-tax, Custom duties, Central duties of excise, Estate duty, Wealth tax or as representative of assesseees in proceedings under enactments, relating to such taxes.

[Rule 11 of the C.C.S. (Pension) Rules, 1972.]

2.8 Officers disbursing pension are required to obtain monthly certificates from the pensioners in the form given in Annexure I, if suitable certificates have not already been prescribed by the Accountant General or the Comptroller and Auditor General, as the case may be.

3. Procedure

3.1 Requests from retired officers for permission to take up private commercial employment within two years after retirement, should be made in the prescribed proforma (vide Annexure II), and should be first examined by the Department/Ministry under which the officers served last prior to their retirement by applying the following criteria, and submitted to the Minister-in-charge for orders :

- (i) Has the officer while in service had any such dealings with the proposed employer as might provoke the suspicion that he had shown favour to the latter ?
- (ii) Will his commercial duties be such that his official knowledge and experience could be used to give the employer an unfair advantage ?
- (iii) Will his duties be such as might bring him into conflict with Government ?
- (iv) Is the proposed employment of a thoroughly reputable kind ?
- (v) Are there any exceptional circumstances which would make the refusal of consent a real hardship ?

3.2 The decision of the Government should be communicated to the retired officer within 60 days from the date of receipt of application (for permission to take up post-retirement commercial employment). The aforesaid time limit would be counted only when the retired officer furnished all the required particulars or supplied the omission or rectified the defect(s) in his application.

[DOP & AR OM No. 27012/1/82-Estt(A), dated 13-10-83.]

3.3 Ministries/Departments should maintain check list (Annexure III) and a register in the form given in Annexure IV to monitor the progress of cases relating to post-retirement commercial employment.

3.4 Where the cases required to be referred to the Department of Personnel and Training, it should be ensured that such reference is made at least three weeks before the due date for the expiry of the time limit of 60 days. Where the cases require the approval of the Prime Minister, the references to Department of Personnel and Training should be made at least 30 days before the due date for the expiry of the time limit of 60 days. Such references to the Prime Minister's office should be sent by the Joint Secretary concerned in the Administrative Ministry/Department direct to the Prime Minister's Office at his level.

3.5 Before the case is submitted to the Minister-in-charge it may be ensured by the administrative Ministry/Department that the integrity of the retired officer where he was in service is certified.

3.6 Requests for permission from retired Group 'A' officers to take up commercial employment are to be considered by a committee consisting of the Minister-in-charge of the administrative Ministry and the Minister of State of Home Affairs if the officer concerned drew a salary of Rs. 2500/- per month and above at the time of his retirement. Other cases may be disposed of by the administrative Ministry/Department themselves in accordance with the prescribed procedure. Proposals for grant of permission to take up commercial employment after retirement to officers who, at the time of retirement, held posts, (including the post of a Deputy Secretary, notwithstanding the fact that cases of such officers who drew less than Rs. 2500/- at the time of their retirement), appointment to which are required to be made, with the approval of the Appointments Committee of the Cabinet (A.C.C.) or the Prime Minister should be submitted to the Prime Minister for orders by the Ministry/Department administratively concerned after obtaining the approval of the Minister-in-charge.

[DOP & A.R. OM No. 27012/54/77-Ests(A) dated 18-8-78 and OM No. 27012/54/77-Ests(A) dated 15-4-78.]

3.7 Cases of all Group A officers who served last prior to their retirement in offices like President's Secretariat, Vice President's Secretariat, Cabinet Secretariat etc. which do not have separate Minister-in-charge, may be referred to Department of Personnel for decision, with the recommendation of the Secretary concerned. In the case of officers in the Prime Minister's Secretariat, the Secretary to the Prime Minister will refer such cases with his recommendations to the Department of Personnel & Training who will arrange to place it before the Minister in the Department of Personnel and Training and Prime Minister for decision.

[Min. of Home Affairs OM No. 29/1/64-Estt(A), dt. 17-12-65, as amended by OM No. 29/15/69-Estt(A), dt. 21-1-1969.]

3.8 Employment in work of maintaining liaison or contact with Government agencies cannot be described as employment of a thoroughly reputable kind [vide 3.1(iv)] and as such, requests for permission to take up post-retirement commercial employment involving such work should not be acceded to.

Reputation of the firm which offers employment would also be a consideration which should be taken into account by the Administrative Ministry/Department concerned while dealing with the request for permission to take up post-retirement commercial employment. For instance, the fact that a firm is black-listed by Government will be one of the factors which will render the employment to be considered as not being of a thoroughly reputable kind.

[MHA OM No. 29/1/64-Ests(A), dt. 10-1-66 and DOP&AR No. 29/23/74-Ests(A), dt. 11-2-1975.]

NOTE :—For slight liberalisations in guidelines refer to DOP&T OM No. 27012/24/85-Ests(A), dt. 19-8-86.

4. *Appointment of a Group 'A' Officer in a Private Company as a nominee/Director*

4.1 Where the management of a private company is taken over by a public financial institution/State Government/Central Government, the appointment of a retired Group 'A' officer

as Chairman/Managing Director/Director by the public financial institution or the State/Central Government should be construed as employment under a body corporate wholly or substantially owned or controlled by the Government, as the case may be, as envisaged in rule 10(8)(i) of the Central Civil Services (Pension) Rules, 1972. Such an employment will not amount to commercial employment and the officer concerned will not be required to obtain prior permission of the Government.

4.2 Where a public financial institution/Government appoints a retired Group 'A' officer as Chairman/Managing Director/Director in a company whose management continues in private hand, such employment will technically fall within the ambit of the expression 'commercial employment'. It is, however, not necessary to treat such employment at par with normal commercial employment as it is the Government or the public financial institution, as the case may be, that seeks to protect its interests through appointment of the retired officer as a nominee Director. The retired officer would be an appointee of the institution or the Government though he would receive his pay or fee from the private company. In such cases approval of the Government for permitting the officer to accept the appointment in question under rule 10 of the Central Civil Services (Pension) Rules, 1972, could be presumed.

[DOP & AR OM No. 27012/26/79-Ests.(A) dated 16-10-79.]

Negotiations for Employment

5. A Government servant is under an obligation to devote his energies whole-heartedly to the performance of his duties and not to divide his attention and efforts in search of employment elsewhere after retirement. It is moreover likely that in initiating negotiations for such employment, the Government servant may in some measure utilise his official position or the official position of his friends and colleagues to further his interests in securing commercial employment or at any rate give reason for an impression that he might have done so. Government servants should not, therefore, enter into negotiations with private firms to secure commercial employment while in service, without obtaining the prior permission of the Head of Department, or if he is a Government servant serving in an office under its control, of the Ministry or Department administratively concerned. Such permission should not, however, be given unless there are any special reasons for doing so.

[Ministry of Home Affairs OM No. 29/3/66-Est.(A) dated 8-2-66.]

B—EMPLOYMENT AFTER RETIREMENT UNDER A GOVERNMENT OUTSIDE INDIA . . .

6.1 If a pensioner, who immediately before his retirement was a member of Central Service Group A, wishes to accept any employment under any Government outside India, he shall obtain the prior permission of the Central Government for such acceptance, and no pension shall be payable to a pensioner who accepts such an employment without proper permission in respect of any period for which he is so employed or such longer period as the Government may direct.

Provided that a Government servant who was permitted by the Central Government to take up a particular form of employment under any Government outside India during his leave preparatory to retirement shall not be required to obtain subsequent permission for his continuance in such employment after retirement.

Explanation : For the purposes of this rule, the expression "employment under any Government outside India" includes employment under a local authority or corporation or any other institution or organisation which functions under the supervision or control of a Government outside India, or an employment under an International Organisation of which the Government of India is not a member.

[Rule 12 of the CCS (Pension) Rules, 1972.]

6.2 Requests for permission to accept the aforesaid employment shall be considered by the Ministry/Department under which the officer concerned served last prior to his retirement and a decision taken in consultation with the Ministry of External Affairs.

ANNEXURE—I

CERTIFICATE

I declare that I have not accepted commercial employment.

or

I declare that I have accepted commercial employment after obtaining the previous sanction of the President.

NOTE 1:—The certificate is required to be given for a period of two years from the date of retirement by every pensioner who immediately before retirement was a member of an All India Service or of a Central Civil Service Group A.

NOTE 2:—The certificate refers to the acceptance of commercial employment on or after the 1st January, 1948.

NOTE 3:—Commercial employment means 'employment' in any capacity including that of an agent under a company's cooperative society, firm or individual engaged in trading, commercial, industrial, financial or professional business, and includes also a directorship of such company and a partnership of such firm, but does not include employment under a body corporate owned or controlled by the Government. It also includes setting up practice either independently or as a partner of a firm, as an adviser or consultant in matters in respect of which the retired Government servant:

- (i) has no professional qualifications and the matters in respect of which the practice is carried on are relatable to his official knowledge of experience, or
- (ii) has professional qualifications but the matters in respect of which such practice is to be set up are such as are likely to give his client an unfair advantage by reason of his previous position, or

(iii) has to undertake work involving liaison or contact with the offices or officers of the Government.

Employment under a co-operative society shall include the holding of any office whether elective or otherwise such as that of President, Chairman, Manager, Secretary, Treasurer and the like, by whatever name called in such a society.

Form of application for permission to accept commercial employment within a period of two years after retirement

1. Name of the officer (In block letters):
2. Date of retirement:
3. Particulars of the Ministry/Department/Offices in which the officer served during the last five years preceding retirement (with duration)

Name of Ministry/Department/Office.	Post held	Duration	
		From	To

4. Post held at the time of retirement and period for which held:
5. Pay scale of the post and the pay drawn by the officer at the time of retirement:
6. Pensionary benefits:

Pension expected/sanctioned (commutation if any, should be mentioned).	Gratuity, if any
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7. Details regarding commercial employment proposed to be taken up:
 - (a) Name of the firm/company/Cooperative Society etc.
 - (b) Products being manufactured by the firm/Type of business carried out by the firm etc.
 - (c) Whether the official had, during his official career, any dealings with the firm/etc.
 - (d) Duration and nature of the official dealings with the firm.
 - (e) Name of the job/post offered.
 - (f) Whether post was advertised, if not how was offer made. (attach newspaper cutting of the advertisement and a copy of the offer of appointment, if any)
 - (g) Description of the duties of the job/post.
 - (h) Remuneration offered for the post/job.
 - (i) If proposing to set up a practice, indicate—
 - (a) professional qualifications in the field of practice.
 - (b) nature of proposed practice.
8. Any information which the applicant desires to furnish in support of his request.
9. Declaration:

I hereby declare that

- (i) the employment which I propose to take up will not bring me into conflict with Government;
- (ii) my commercial duties, will not be such that my previous official position or knowledge or experience under Government could be used to give my proposed employer an unfair advantage.
- (iii) my commercial duties will not involve liaison or contact with the Government departments.

Dated:

Signature of the applicant

Address:

[Para 2 of DOP & AR OM No. 27012/1/82-Estt(A) dated 13-10-1983]

CHECK LIST

Subject: Grant of permission to retired Group 'A' Officers for commercial employment after retirement—case of
Shri. _____

1. Date of receipt of application in Office/Ministry/Deptt.
2. Date of expiry of 60 days from the date of receipt of application.
3. Comments with reference to the prescribed criteria:

Criteria	Comments
(a) The nature of the employment proposed to be taken up and the antecedents of the employer (If the firm concerned was black-listed by Govt. this should be clearly indicated)	
(b) Are his duties in the employment which he proposes to take up such as might bring him into conflict with Government?	
(c) Did the pensioner while in service have any such dealings with the employer under whom he proposes to seek employment as might afford a reasonable basis for the suspicion that the pensioner had shown favours to such employer?	
(d) Do the duties of the commercial employment proposed involve liaison or contact work with Government Departments?	
(e) Will his commercial duties be such that his previous official position or knowledge or experience under Government could be used to give the proposed employer unfair advantage?	
(f) Any other relevant factor.	
4. Was the retired official's integrity while in service certified?	
5. The C.R. Dossier of the applicant is attached/may be attached by the Ministry/Deptt. of _____	
6. Recommendation regarding grant or refusal of permission including conditions, if any, subject to which permission may be granted.	

Signature of authority recommending the case

Name

Designation

[DOP & AROM No. 27012/1/82-Esttt. (A) dated 13-10-83]

ANNEXURE IV

Register for keeping a watch on disposal of cases for grant of permission to Group 'A' officers for commercial employment after retirement

S. No.	Name of applicant	Date of initial receipt of complete application in prescribed form in Office/ Deptt./ Ministry	Date when 60 days from date of initial receipt (as in col. 3) expire	Date of recpt. in Min./Deptt. (where applica- tion is forwarded to Min./ Deptt.)	Date of sending to DOP&T (where applicable)	Date of return from DOP&T (where applicable)	Date of final reply to applicant	File No.
1	2	3	4	5	6	7	8	9

[DOP & AROM No. 27012/1/82-Esttt.) (A) dated 13-10-1983]