



Personnel and Administrative
Reforms (N) Department,
Secretariat,
Chennai – 600 009.

நந்தன வருடம் பங்குனி - 21
திருவள்ளூர் ஆண்டு 2044

Letter (Ms) No. 35 / N / 2012 - 1, dated 03.04.2013

From
Dr.V. Irai Anbu, I.A.S.,
Principal Secretary to Government.

To
All Departments of Secretariat (w.e.)
All Heads of Departments (w.e.)

Sir / Madam,

Sub.: Public Services – Departmental Proceedings pending
at the time of superannuation – Issuance of
conditional retirement order – Regarding.

Ref.: Commercial Taxes and Registration Department
U.O. No.2082/E2/2011-1, dated 17.03.2011.

When a government servant is facing disciplinary action under rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, and he reaches the age of superannuation, the appointing authority has to decide, depending on the gravity of the lapses, whether to allow him to retire and to continue the disciplinary proceeding under the Tamil Nadu Pension Rules, 1978 or to keep him under suspension and to retain him in service under FR 56(1) (c). When the lapses are not so grave and not warranting imposition of any of the major penalty viz: removal or dismissal from service or compulsory retirement, the delinquent officer is allowed to retire by mentioning in the retirement order that he is permitted to retire from service without prejudice to the disciplinary action pending against him.

2) The Division Bench of the Madurai Bench of Madras High Court, in its order dated 2.12.2010 in W.A.(MD) No.698 of 2010 and W.A.(MD) No.721 of 2010, while deciding the issue whether a government servant facing disciplinary proceedings can be allowed to retire from service on attaining the age of superannuation without prejudice to the pending disciplinary Proceedings, has observed that, the expression "without prejudice to the pending disciplinary action and other statutory actions" found in the impugned order should be construed to mean that the disciplinary proceeding initiated under section 17 (b) of the Rules shall be deemed to be a proceedings initiated under rule 9 (2) (a) of the Pension Rules and the same may be continued, which may result in any order under Rule 9 (1) of the Pension Rules.

(p.t.o)

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3) Based on the said observation of the Madurai Bench of Madras High Court in W.A.(MD) No.698 of 2010 and W.A.(MD) No.721 of 2010, the government examined the issue in detail and decided not to use the expression "permitted to retire from service without prejudice to the disciplinary proceedings pending". Instead, in such cases, where the disciplinary authority decides that the lapses / charges are not so grave in nature and does not warrant imposition any of the major penalty like removal or dismissal or compulsory retirement, the authority may allow the delinquent officer to retire from service by specifically mentioning in the retirement order that the disciplinary proceedings pending shall be continued under rule 9 of the Tamil Nadu Pension Rules, 1978.

4) Taking into consideration the need for uniformity in this regard, the Government hereby prescribe a model format annexed to this letter.

5) The disciplinary authorities concerned are requested to adopt the above format scrupulously.

Yours faithfully,

for Principal Secretary to Government

4/4/13

Copy to:

The Vigilance Commission, Chennai -9(w.e)
All Officers / Sections in P&AR Departments,
Secretariat,
Chennai -09.(w.e.)

**STANDARD FORM OF ORDER FOR ALLOWING A
GOVERNMENT SERVANT WHO FACES DISCIPLINARY
PROCEEDINGS TO RETIRE FROM SERVICE AND TO
CONTINUE THE ACTION UNDER RULE 9 OF TAMIL NADU
PENSION RULES 1978 BY THE APPOINTING AUTHORITY.**

-----Department

G.O. / Proceedings No.....

Dated

WHEREAS Thiru/Tmt/Selviis attaining the age of superannuation on the afternoon ofand the disciplinary proceedings already initiated against him/her in G.O. / Proceedings No.....dated.....for the lapses (here specify briefly the lapses) are pending finalization.

NOW, THEREFORE, it is hereby ordered that the said Thiru/Tmt/Selviis permitted to retire from service on his/her reaching the date of superannuation on the afternoon ofand the disciplinary proceedings pending against him/her shall be continued under rule-9 of the Tamil Nadu Pension Rules,1978 in accordance with the procedure laid down in the said Rules.

Signature of Appointing Authority

[* Score off, whichever is not applicable]

To

Thiru/Tmt/Selvi.....

(with designation)

The Heads of Department concerned.

The Pay and Accounts Officer / Treasury Officer concerned.

The Accountant-General, Chennai-18 / Chennai-35.