

13. ALL INDIA SERVICES (DEATH-CUM-RETIREMENT BENEFITS) RULES, 1958

In exercise of the powers conferred by sub-section (1) of Section 3 of the All India Services Act, 1951(61 of 1951), the Central Government, after consultation with the Governments of the States concerned, hereby makes the following rules, namely:-

1.Short title and application

1(1) These rules may be called the All India Services (Death-cum-Retirement Benefits) Rules, 1958.

1(2)(a) Subject to the provisions of clause (b) of this sub-rule, they shall apply to all persons who retired from the Service on or after the 29th October, 1951.

¹1(2)(b) They do not apply to those members of the Service who were promoted to the Service from the State Services or were appointed to the Service under the Indian Administrative Service (Extension to States) Scheme or the Indian Police Service (Extension to States) Scheme and who, under orders issued by the Central Government before the coming into force of those rules, were given an option in the matter of pension rules, by which they would be governed and who in exercise of that option, chose to be governed by the Superior Civil Services Rules, the Civil Service Regulations, or the pension rules of the State concerned, as the case may be:

Provided that the members of the Service to whom these rules do not apply, and who were in service on the 1st January, 1964, may opt to be governed by these rules in accordance with such orders as may be issued by the Central Government in this behalf.

²”Provided further that nothing contained in these rules shall applied to the persons appointed to the service on or after the 1St day of January 2004.”

2. Definitions

2(1) In these rules, unless the context otherwise requires:-

³2(1)(a) “Accounts Officer” means an officer, whatever his official designation, who maintains the accounts of a Ministry, Department or Office of the Central Government or State Government or Union territory and includes an Accountant-General, who is entrusted with the functions of maintaining the accounts or part of accounts of the Central Government or State Government or Union territory ;’

⁴2(1)(aa) "average emoluments" means the average of the emoluments drawn by a member of the Service during the last ten months of his service;

1 Substituted vide DP &AR orders No. 31/7/72-AIS(III) dated 22.05.1973.

2 Inserted vide DOP&T Notification No. 25014/14/2001-AIS(II)(A) (GSR No. 105(E) dt 06.02.2004)

3. Inserted vide DOP&T Notification No. 29018/16/2013-AIS(II) (GSR 492E dated 12/07/2013)

4 Inserted w.e.f. 31.12.72 vide DP &AR Notification No. 33/12/73-AIS(III),dated 24.1.57 read with Notification No.25011/29/75-AIS(II) dated 30.1.1976 (GSR No. 196 dated 14.2.76).

¹⁰⁷**26. Acceptance of employment after retirement.-**

- (1) A pensioner shall not accept any commercial employment before the expiry of ¹⁰⁸one year from the date of his retirement, except with the previous sanction of the Central Government by submitting an application in Schedule 'L'. If a pensioner accepts a commercial employment without such sanction, it shall be competent for the Central Government to declare by an order in writing that he shall not be entitled to the whole or such part of the pension and for such period as may be specified in the order:

Provided that the previous sanction may be granted by the State Government concerned on whose cadre the member of the service is borne and who is not holding a post higher than a post in the pay scale of Rs.22400-24500/- and has not worked under the Central Government during the preceding¹⁰⁹three years prior to his retirement from the service.

Provided further that no such order shall be made without giving the pensioner concerned an opportunity of showing cause against such declaration:

¹¹⁰Provided also that it shall be competent for the Central Government or the State Government, as the case may be, to allow the pensioner to continue in any commercial employment in an organisation with whom the services of the Members of the All India Services had been placed immediately before his/her retirement under the provisions of the respective Cadre Rules of All India Services pending formal sanction of such commercial employment subject to the condition that the Member of the Service shall withdraw from such organisation forthwith once a decision is taken by the Competent Authority not to accord such sanction."

¹¹¹Provided also that a pensioner who has been permitted by the Central Government to take up a particular commercial employment during leave preparatory to retirement shall not be required to obtain subsequent permission for his continuance in such employment after retirement.

¹¹²*Explanations:*

- (1) 'Commercial Employment' means: -
- (i) an employment, whether paid or honorary, in any capacity including that of an agent under a company, firm, co-operative society, body or individual engaged in trading, commercial, industrial, financial or professional business, and includes a directorship of such company or partnership of such firm but does not include employment under a body corporate, wholly or substantially owned or controlled by Government;

107 Amended vide DP&T Notification No. 25011/12/82-AIS(II) dated 16.7.83 (GSR No. 557 dt 30.7.83)

108 Substituted vide notification no. 26013/2/2006AIS(II) dated 12/1/2007.

109 substituted vide notification no. 26013/3/2006-AIS(II), dated 12/1/2007.

110 Inserted vide notification no. 23013/11/2005-AIS(II), dated 8/3/2007.

111 Substituted vide notification no. 29018/11/2003-AIS(I) dated 20/12/2004

¹¹² Amended vide DP&T Notification No. 25011/12/82-AIS(II) dated 16.7.83 (GSR No. 557 dt 30.7.83)

- (ii) setting up practice, either independently or as a partner of a firm, as adviser or consultant in matters in respect of which a pensioner has-
 - (a) no professional qualifications and the matters in respect of which the practice is proposed to be set up or carried on are relatable to his official knowledge or experience; or
 - (b) professional qualifications, but the matters in respect of which such practice is to be set up are such as are likely to give his clients an unfair advantage by reason of his previous official position; or
 - (c) to undertake work involving liaison or contact with the offices or officers of the Government.

NOTE: 1 For the purpose of this Explanation, 'employment under a co-operative society' includes 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 society.

- 2. For the purpose of this sub-rule the expression "the date of retirement" in relation to a pensioner re-employed after retirement, without any break either in a Class I post under the Central Government, or in an equivalent post under a State Government, shall mean the date on which such pensioner finally ceases to be so re-employed in Government service.

- (2) A pensioner shall not accept any employment under a Government outside India, (or under an international organization of which the Government of India is not a member) except with the previous sanction of the Central Government. No pension shall be payable to a pensioner who accepts such an employment without such sanction in respect of any period for which he is so employed or for such longer period as the Central Government may determine:

Provided that a pensioner who has been permitted by the Central Government to take up a particular employment under a Government outside India during his leave preparatory to retirement shall not be required to obtain subsequent permission for continuance in such employment.

NOTE.- "Employment" under a "Government outside India" shall include 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.

- ¹¹³(3) In granting or refusing permission under sub-rule (1) or sub rule (2) to a pensioner for taking up any employment, the Central Government or the State Government, as the case may be, shall have the following factors, namely:-

- (i) whether the organisation the pensioner proposes to join has any conflict of interest or activities prejudicial to India's foreign relations, national security and domestic harmony; and whether the organisation is undertaking any form of

¹¹³ Substituted vide notification no. 26013/3/2006-AIS(II), dated 12/1/2007

intelligence gathering;

- (ii) whether the pensioner has been privy to sensitive or strategic information in the last three years of his service which is directly related to the areas of interest or work of the organisation which he proposes to join or the areas in which he proposes to practice/consult,
- (iii) whether there is conflict of interest between policies of the office(s) held by the pensioner during the last three years and the interest represented or work undertaken by the organisations he proposes to join. Such conflict of interest, however, should not be interpreted narrowly to mean normal economic competition with Government or its Undertakings,
- (iv) whether the service record of the pensioner is clear, particularly with respect to integrity and dealings with Non-Government Organisations,
- (v) the emoluments offered by the proposed employer to the pensioner and whether the proposed emoluments and pecuniary benefits are far in excess of those currently prevalent in the Industry.(The word "far in excess" should not be narrowly interpreted to cover increases in such benefits that may be result of buoyancy in the industry or in the economy as a whole); and
- (vi) any other relevant factors."

129 “Schedule L”

(See sub-rule (1) and (2) of rule 26)

Form of application to accept commercial employment

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

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

Note: Before granting permission a ‘no objection’ would be obtained from the Cadre Controlling Authority and from the office from where the officer retired.

4. Post held at the time of retirement and period for which held
5. Pay scale of the post and 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

7. Details regarding commercial employment proposed to be taken up-
 - ¹³⁰(a) (i) Name of the Organization/Firm/Company/Co-operative Society, etc..
 - (ii) Brief nature of the organization.
 - (iii) Full address of the registered office of the organisation.
 - (iv) Permanent Account Number (PAN)/ Tax Identification Number (TIN)/ Registration Number of the Organization.
 - (b) Type of business carried out and products being manufactured or services being provided by the firm/ company/co-operative Society, etc.
 - (c) Whether the officer had during the last three years of his official career, any dealings with the firm company/co-operative Society, etc.

129 Substituted vide notification no. 26013/3/2006-AIS(II), dated 12/1/2007.

130 Substituted vide notification no. 26013/10/2011-AIS(II), dated 05/03/2014.

- (d) Duration and nature of the official dealings with the firm/company/co-operative Society, etc.
 - (e) Name of the job/post offered by the firm/company/co-operative Society, etc.
 - (f) Whether post was advertised, if not, how was offer made (attach details 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 post/job.
 - (i) If proposing to set up a practice, indicate
 - (i) professional qualification/in the field of practice,
 - (ii) nature of proposed practice.
9. Any information which the applicant desires to furnish in support of his request.
10. Declaration :-

I hereby declare that-

- (i) The employment which I propose to take up will not involve activities prejudicial to India's foreign relations, national security and domestic harmony. It will not involve conflict of interest with the policies of the office(s) held by the me during the last three years and the interest represented or work undertaken by the organisations I propose to join and will not bring me into conflict with the working of the Government.
- (ii) I have not been privy to sensitive or strategic information in the last three years of service which is directly related to the areas of interest or work of the organisation which I propose to join or the areas in which I propose to practice/consult.
- (iii) My service record is clear, particularly with respect to integrity and dealings with Non-Government Organisations.

I agree to withdraw from the Commercial Employment in case of any objection by the Government.

Address:

Place:

Dated:

Signature of the applicant.”

- (ii) while fighting in war-like situations or border skirmishes with any country;
- (iii) in action against armed hostile, militants, terrorists and extremists;
- (iv) during laying or clearance of mines, including those laid by enemies, militants, and terrorists, etc. as well as in the course of mine-sweeping operations:
- (v) as a result of exploding mines en route to an operational area:
- (vi) during battle inoculation as part of prescribed training exercises involving the use of live ammunition:

In addition families of Central Government Civilian Employees killed after being kidnapped by militants, terrorists, extremists, etc. because of their official position or with a view to spreading terror will also be entitled to the compensation under this clause.

GOVERNMENT OF INDIA'S DECISION UNDER RULE 26

1. **Re-employment to cadre posts will be regulated by rule 9 of these rules and to non-cadre posts, State Government rules will apply:** - These rules do not contain any provision regarding reemployment of retired Indian Administrative/Police Service Officers. A question therefore, arose by what rules their re-employment under State Government should be regulated.

2. Indian Administrative/Police Service Officers are treated as non-cadre officers after their retirement. Their re-employment in cadre posts shall be regulated by rule 9 of Indian Administrative/Police Service (Cadre) Rules, 1954. As regards reemployment in non-cadre posts, State Government rules will apply.

[G.I., M.H.A. letter No. 10/5/59-AIS(II), dated the 16th June, 1959.]

2. **No permission of the Government of India is required for re-employment of a member of service on the administrative staff of a university:** - A question having arisen, it was decided that re-employment of a member of service on the administrative staff of a university, does not come within the purview of Rule 26 of AIS(DCRB) rules, and no permission of the Government of India is required.

(F.No.10/7/62-AIS(II))

3. **permission of the Government of India is not necessary for re-employment under the State Government or body corporate or not, which is wholly or substantially controlled by State Government:** - Re-employment under the State Government or body corporate or not, which is wholly or substantially controlled by State Government or an Institute like the Indian Institute or Public Administration, does not come within the definition of 'commercial employment' and permission of the Government of India is not necessary.

[Ministry of Home Affairs letter No. 10/3/62-AIS(II), dated 23.4.1962 & F. No. 11/18/62-AIS(II).]

4. It has been decided that fixation of pay of re-employed IAS/IPS officers under the State Government will be regulated in accordance with Government of India, Ministry of Finance O.M. No. 8/E.II/57, dated the 25th November, 1958.

[MHA letter No. 13/19/58-AIS(III), dated 26.6.1959 and F. No. 1/5/26-AIS (II).]

5. State Governments are not competent to grant permission for re-employment within two years of retirement of the moS: - Recently, a State Government had referred to the Central Government a request from a retired officer of an All India Service for permission to accept commercial employment within two years after retirement. While forwarding the case, the State Government informed the Government of India that in view of the urgency represented by the officer, the State Government had permitted him to accept the employment provisionally in anticipation of the Central Government's approval subject to the condition that he should resign the appointment if the Government of India did not approve of such reemployment.

2. As under Rule 26(1) of the AIS(DCRB) Rules, 1958, the responsibility of examining such cases and sanctioning permission has been cast upon the Government of India, State Governments are requested not to permit All India Services Officers to accept such commercial employment, in anticipation of Government of India's orders. As a matter of general policy, the Government of India are averse to the acceptance of such commercial employment, by retired All India Services Officers within two years of retirement.

(G.I., Ministry of Home Affairs letter No. 11/10/63-AIS(II), dated the 16th August, 1963.)

6. It has been decided that no permission is required for acceptance of Professorship at MIT Harward after retirement.

[File No. 26013/4/75-AIS(II).]

7. It has been decided that the acceptance of appointment as Arbitrator does not constitute commercial employment.

[File No. 17/7/72-AIS(II).]

8. The reputation of the firm offering employment would also be a consideration which should be taken into account by the State Government with reference to the relevant five criteria : - It has been decided that the reputation of the firm offering employment would also be a consideration which should be taken into account by the State Government with reference to the relevant five criteria. For instance, the fact that firm is blacklisted by Government will be one of the factors which will render the employment to be considered as not being of a thoroughly reputable kind.

[G.I. DP&AR Letter No. 26013/2/75-AIS(II), dated 14.2.1975].

9. Employment of All India Services pensioner in a nationalised bank and State Bank of India and its subsidiaries will not amount to acceptance of commercial employment.

[DP&AR File No. 18/19/73-AIS(II).]

10. Instructions to the States for re-employment of AIS officers in a private undertaking as a nominee Director by the Government or a public financial institution: - The question whether appointment of an All India Service pensioner in a private undertaking as a nominee

Director by the Government or a public financial institution, amounts of acceptance of commercial employment under rule 26(1) of All India Service (DCRB) Rules, has been under the consideration of this Department. It has been decided to lay down the following instructions for the information and guidance of State Governments:-

- (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 member of an All India Service as Chairman/Director/Managing Director by the public financial institution of the Government should be construed as “employment under a corporation controlled by Government”, as envisaged in explanation 1 below rule 26(1) *ibid*. Such an employment will not amount to commercial employment and the officer concerned will not require to obtain prior permission of the Central Government.
- (2) Where a public financial institution/Government appoints a retired member of an All India Service as Chairman/Director/Managing Director in a company, whose management continues in private hands, such employment will technically fall in the purview of expression “commercial employment”. It is, however, not necessary to treat such employment on 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 interest through appointment of the retired member of the service as a nominee Director. The retired officer would be an appointee of the institution or the Government though he would receive his pay or free from the private company. In such cases, approval of the Central Government for permitting the officer to accept the appointment in question under rule 26(1) of All India Service (DCRB) Rules, 1958, could be presumed [DP& AR letter No. 26014/17/77-AIS(II), dated 4.1.1978].
- (1) While forwarding applications from individual offices for permission to accept commercial employment during leave preparatory to retirement or after retirement, the State Government/Ministry may clearly specify whether they are satisfied that each of the following criteria is fulfilled, viz.
 - (i) Has the officer while in service had any such dealing with the proposed employer as might create 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?

They may also indicate the salary which the officer expects to receive on accepting commercial employment, [G.I., Ministry of Home Affairs letter No. 11/20/59-AIS(II), dated the 7th August, 1959.]

- (2) It has been decided that an All India Service Pensioner, who wants permission to take up commercial employment under rule 26 of AIS(DCRB) Rules, 1958, will have to indicate in his application the details of posts held by him under the Central Government any time before his retirement from service. Accordingly, the form of application for permission to accept commercial employment prescribed under the Ministry of Home Affairs Letter No. 11/1/68-AIS(II), dated the 23rd January, 1968 has been slightly amended and the revised form is annexed herewith.