

F. No. 25012/01/2015-Estt (A.IV)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training
Establishment A-IV Desk

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North Block, New Delhi-110 001

Dated: February 6th, 2015

OFFICE MEMORANDUM

Subject:- Request for Voluntary Retirement from Persons suffering with disability - regarding.

The undersigned is directed to say that many Government servants seek voluntary retirement on medical grounds. Sec 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PWD Act) lays down that no establishment shall dispense with the services of an employee who acquires a disability during the course of service. It is proposed that any Government servant seeking voluntary retirement on medical grounds may be apprised of the above provisions of PWD ACT, in order that he can take a considered decision.

2. A draft of the office memorandum to be issued in this regard is enclosed. Comments/suggestions are invited on the proposal. Comments may kindly be sent to the undersigned by E-mail at dse@nic.in or by FAX at 011-23093179 by 20-02-2015


(J.A. Vaidyanathan)
Director(E)
Tel:23093179

To

Nic - This may kindly be uploaded on the Department website.

F.No.25012/1/2015-Estt (A-IV)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

North Block, New Delhi-110 001
Dated : 2015

OFFICE MEMORANDUM

Subject : Request for Voluntary retirement from persons suffering from disability – Supreme Court Order in Bhagwan Dass & Anr Vs Punjab State Electricity Board (2008) 1 SCC 579.

The undersigned is directed to refer to Rule 48A and Rule 48 of CCS (Pension) Rules, 1972 and Rule 56 of the Fundamental Rules and say that a Government servant can seek voluntary retirement after completion of prescribed period of qualifying service under the said Rules.

2. It has been noticed that on many occasions persons suffering from physical/mental disability seek voluntary retirement owing to their inability to attend duty, not being aware of the protection afforded by the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PWD Act):

3. Section 47 of PWD Act, 1995 is reproduced below for reference:

Non-discrimination in Government Employment – (1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service.

Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits;

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

No promotion shall be denied to a person merely on the ground of his disability;

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section".

4. The issue had come up in *Bhagwan Dass & Anr Vs Punjab State Electricity Board* (2008) 1 SCC 579, decided by the Hon'ble Supreme Court where the employee who had during his service suffered from blindness had applied for voluntary retirement. The Hon'ble Supreme Court had observed that he was not aware of any protection that the law afforded him and apparently believed that the blindness would cause him to lose his job, the source of livelihood of his family. In those circumstances it was the duty of the superior officers to explain to him the correct legal position and to tell him about his legal rights.
5. Keeping in view the provisions of PWD Act and the judicial pronouncement, it has been decided that whenever a Government servant seeks voluntary retirement, on Medical grounds, the Appointing Authority shall examine whether his/ her case is covered by the provisions of Section 47 of PWD Act. In case, the provisions are applicable, then the Government servant shall be advised that he/she has the option of continuing in service by virtue of the protection afforded by PWD Act.
6. If the Government servant, after being advised as in para 5 above, still wishes to take voluntary retirement the request may be processed as per normal rules.
7. All the Ministries and Departments are requested to keep the above in view while processing cases of requests for Voluntary retirement in case of disability.
8. Hindi version follows.

Under Secretary to the Government of India
Tel.23040341

To

All Ministries/ Departments of the Government of India.