New Delhi, 14th Oct., 1987

OFFICE MEMORANDUM

Subject - Applicability of CCS (RP) Rules, 1986 and CCS (RP) Amendment Rules, 1987 to persons reemployed in Government Service after retirement whose pay is debitable to Civil Estimates.

The undersigned is directed to invite attention to this Department's OM No. 3/7/86-Estt. (Pay II) dated the 9th December, 1986 regulating the fixation of pay of persons reemployed in Government Service. On a point raised, it was clarified by this Department's OM No. 3/9/87-Estt. (Pay II) dated the 11th September, 1987 that the pay of pensioners who were in reemployment on 1.1.1986 and whose pay was fixed in accordance with the instructions contained in this Department's OM dated 9th December, 1986, referred to above, may be refixed w.e.f. 1.1.1986 by taking into account the revised pension. Likewise, increase in the pension of ex-servicemen under separate orders of Ministry of Defence may also be adjusted by refixation of their pay in terms of provisions of this Department's OM dated 9.12.1986 and overpayments already made may be recovered/adjusted.

2. The clarification given by this Department in the OM dated 11th Sept., 1987 was challenged in the Supreme Court by way of several writ petitions/SLPs. The Hon'ble Supreme Court in their judgement dated 9th December, 1984 had declared the decision to reduce the enhanced pension from pay of those ex-servicemen only who were holding civil posts on 1.1.1986, following their reemployment, as unconstitutional on the ground that no logic and basis for classifying the reemployed persons on the basis of their being in reemployment on 1.1.1986 was canvassed. The Review Petition in the matter justifying Government Order has also been dismissed. The Government have examined the judgement of the Supreme Court and have decided to implement the same. It has accordingly been decided that the pay of pensioners who were in the employment on 1.1.1986 and whose pay was fixed in terms of this Department's OM dated 9.12.1986 may be refixed w.e.f. 1.1.1986 ignoring the enhanced portion of pension w.e.f. 1.1.1986.
3. The Ministry of Agriculture and Cooperation etc., are, therefore, advised that the pay of reemployed pensioners who were in reemployment on 1.1.1966 may be fixed accordingly. Similarly, the pay of ex-servicemen may also be regulated accordingly and arrears of pay paid to them. Where recoveries have already been made as per OM dated 11.5.1967, the same may be refunded after re-fixing the pay as decided above.

4. In so far as the application of these orders to the persons serving in Indian Audit and Accounts Department is concerned, these orders are issued in consultation with the Comptroller and Auditor General of India.

[Signature]

UNDER SECRETARY TO THE GOVT. OF INDIA

To

All Ministries/Departments of
Govt. of India

(As per standard Mailing list)