



**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

PENSIONS – The Andhra Pradesh Revised Pension Rules, 1980, stoppage of Payment of Provisional Pension to a retired Government Servant immediately following his conviction by a court in corruption and misconduct cases – Amendment – Orders – Issued.

FINANCE (PENSION-I) DEPARTMENT

G.O.Ms.No. 26

Dated: 05.02.2013

Read the following:-

D.O. Letter NO. 283/Special.C/A.1/2011-3, dt. 21-06-2012 of Sri. Ajay Misra, I.A.S., Principal Secretary to Government (Political).

ORDER

In the letter read above, while forwarding the Annual Report of the Andhra Pradesh Vigilance Commission for the year 2010-11, the Principal Secretary to Government (Poll) has requested to take action. In his Annual Report for the year 2010-11 the Vigilance Commissioner reported to consider to amend the Rule 52 of the Andhra Pradesh Revised Pension Rules, 1980, for stoppage of Provisional Pension to a retired Government Servant immediately following his conviction in cases of corruption and misconduct, even though their appeals are pending before Higher Courts.

2. Rule 9(4) of the Andhra Pradesh Revised Pension Rules, 1980 provides that, in the case of a Government servant who has retired on attaining the age of superannuation or otherwise and against whom any departmental or Judicial Proceedings are instituted or where departmental proceedings are continued under sub rule (2), a provisional pension as provided in Rule 52 shall be Sanctioned. Rule 52(1) (a) provides that in respect of a Government servant referred to in sub-rule (4) of Rule 9, the Audit Officer/Head of Office shall pay the provisional pension not exceeding the maximum pension which would

have been admissible on the basis of qualifying service up to the date of retirement of the Government servant. Clause (b) provides that the provisional pension shall be paid by the Audit Officer/Head of Office during the period commencing from the date of retirement to the date on which, upon the conclusion of the departmental or judicial proceedings, final orders are passed by the competent authority. But, there is no specific mention in this rule, whether the retired Government servant convicted of corruption and criminal misconduct by a criminal court have to be paid provisional pension or not, when appeals are pending in the higher Courts, against such conviction.

3. Basing on the observation of the Hon'ble Supreme Court of India in K.C. Sareen Vs CBI Chandigarh, (2001 (5) Supreme 437) Government have issued the following instructions, to be followed scrupulously in Memo No. 1621/Spl.B/2001-1, GA (Spl.B) Dept dt. 26-11-2001.

“Action has to be taken forthwith for dismissal of public servant convicted of corruption and criminal misconduct immediately upon such conviction without waiting for any appeal and that the appointing / disciplinary authorities will be personally held responsible for non-implementation of these instructions and that they will be liable for disciplinary action. In spite of these instructions it is found, convicted officers continuing in service without being dismissed immediately or continue to receive provisional pension, if they have already retired, in the meantime without action to withhold pension and other pensionary benefits or withdraw pension entirely as the case may be disagreeing these instructions. It is also directed therein that salary/ pension / provisional pension paid after the judgment convicting the accused public servant shall be liable to be recovered from the appointing authority. Consultation with Andhra Pradesh Public Service Commission in such cases has also been dispensed with”.

4. Keeping in view of the Judgment of the Hon'ble Supreme Court of India, the Government after careful consideration of the matter, hereby decided to amend the Andhra Pradesh Revised Pension Rules, 1980, suitably.

5. The G.O is available on Internet and can be accessed at the address <http://goir.ap.gov.in>

6. Accordingly, the following notification will be published in an Extraordinary issue of the Andhra Pradesh Gazette.

NOTIFICATION

In exercise of the powers conferred by the proviso to article 309 of the Constitution of India, the Governor of Andhra Pradesh hereby makes the following amendment to the Andhra Pradesh Revised Pension Rules, 1980 issued in G.O.(P).No. 88, Finance & Planning Department, dt. 26-03-1980 as subsequently amended from time to time.

AMENDMENT

In rule 52 of the said rules, in sub-rule (1) to clause (b), the following proviso shall be added, namely:-

“Provided that Provisional pension shall not be paid to the Government servant who is convicted by a criminal court on the charges of indulging in corruption and criminal misconduct with effect from the date of such conviction though appeal is pending before the higher court against such conviction”.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr. D. SAMBASIVA RAO
PRINCIPAL SECRETARY TO GOVERNMENT (FP)

To

All the Department of Secretariat,
All the Heads of Department,
The Principal Accountant General, (A&E), A.P. Hyderabad
The Accountant General (Audit. I) A.P. Hyderabad.
The Accountant General (Audit.II) A.P. Hyderabad.
The Director of Treasuries and Accounts, A.P., Hyderabad.
The Pay and Accounts Office, A.P., Hyderabad.
The Director of State Audit.
The Director of (Works & Projects) Hyderabad.
All the Collectors.
All the District Judges.
Copy to:-
Law Department

//FORWARDED BY:: ORDER//



SECTION OFFICER