

Part VI

Civilian Employees : Pensions and other retirement benefits

By asking for the impossible we obtain the best possible

Italian Proverb

17448

Our Overall Strategy on Retirement Benefits

INTRODUCTION

127.1 Our Terms of Reference require us to examine the existing pension structure and death-cum-retirement benefits with a view to having a proper pension structure for "pensioners" and make recommendations relating thereto which may be desirable and feasible. This gives us a broad enough canvas and we have tried to fulfil our mandate. We have not allowed the deletion of the phrase "pensioners, both past and present", which had been used in the Terms of Reference for the Fourth CPC, to constrict our vision and have included past pensioners within the ambit of our consideration.

DEFINITION OF PENSION

127.2 As per Article 366 (17) of the Constitution of India; pension means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of any person, and includes retired pay so payable, a gratuity so payable and any sum or sums so payable by way of the return, with or without interest thereon or any other addition thereto, of subscriptions to a provident fund.

THE GOALS OF PENSION SCHEMES

*Supreme Court's
verdict*

127.3 Pension is an area where clarity of vision is often obscured by ill-considered notions. However, the Supreme Court of India has, in the landmark judgement of D.S. Nakara and others vs. Union of India (AIR 1983, SC 130) clarified all the issues connected to pension. While examining the goals that a pension scheme should seek to subserve, the Apex Court held that :

"A pension scheme consistent with available resources must provide that the

pensioner would be able to live

(i) free from want, with decency, independence and self-respect; and

(ii) at a standard equivalent at the pre-retirement level."

127.4 The Court felt that as determining the minimum amount required for living decently was difficult, selecting the percentage representing the proper ratio between earnings and the retirement income was harder. We owe it to the pensioners that they live, not merely exist.

Pension not a bounty

127.5 The Court held that pension is neither a bounty nor a matter of grace depending upon the sweet will of the employer. It is not an ex gratia payment, but a payment for past services rendered. It is a social welfare measure, rendering socio-economic justice to those who in the heyday of their life ceaselessly toiled for the employer on an assurance that in their old age, they would not be left in the lurch.

Pension a statutory right

127.6 We would like, therefore, to state at the outset that we respect the observations of the Hon'ble Court in the Nakara case. It needs to be averred emphatically that pension is not in the nature of alms being doled out to beggars. The senior citizens need to be treated with dignity and courtesy befitting their age. **Pension is their statutory, inalienable, legally enforceable right** and it has been earned by the sweat of their brow. As such it should be fixed, revised, modified and changed in ways not entirely dissimilar to the salaries granted to serving employees.

Relativity between pay and pension

127.7 Having said so, we would hasten to add that we are not advocating a complete parity between pay and pension. Such a parity is neither justified nor affordable. All we are saying is that, in certain respects and within the limits of financial feasibility, certain limited linkages need to be incorporated.

Interim relief to pensioners

127.8 We started to build these bridges when for the first time in the history of the services, we suggested in our Report submitted in October, 1994, that an interim relief be granted to pensioners. When no action was taken on the same, we followed it up in our Report presented in May, 1995 and suggested another instalment of interim relief to pensioners. Fortunately, this time the Government relented and granted both the installments of interim relief to pensioners. This established a principle and the grant of a third instalment to pensioners consequent upon our Report of August, 1996 evoked no surprise. **We hope and trust that this nexus between the serving employees and pensioners with regard to grant of interim relief is now firmly established and will subsist.**

QUANTUM OF PENSION

Increase to 67%

127.9 With regard to the quantum of pension, there is nor can there be, a universally acceptable formula. Different countries give pensions ranging between 50 and 100% of last pay drawn. Our Consultants have suggested that 67% of last pay drawn should suffice. We realise that it would not be possible for

Government to fund this sudden increase in the quantum of pension from 50% to 67%. It is, therefore, being suggested that, while retaining the Government's contribution at 50%, the balance should be funded by employee's contributions. Even so, the figure of 67% cannot be reached overnight for those retiring within the next few years.

Pension Fund 127.10 This will involve the constitution of a Pension Fund, in which both Government's share and the employee's contribution will be deposited, outside the Public Account, to provide the possibility of higher income by a judicious investment of the trust funds.

Reckonable emoluments and Additional Pension 127.11 There would be some relief to pensioners by the reduction of the period over which emoluments are averaged towards the end of the career from ten to six months. Pensioners who have served the Government for more than 33 years would also benefit from our suggestion that **0.5% additional pension be granted for every 6 months of additional service over and above 33 years.**

Family pensions 127.12 With regard to family pensions, we have retained the quantum of 30% of reckonable emoluments as at present but this has been made uniform for all categories of employees. The ceiling has also been removed.

Neutralisation of cost of living 127.13 We have similarly found no justification for a differential neutralisation of the cost of living and have, therefore, allowed full neutralisation to all.

GRATUITY

Conversion of Dearness Allowance into Dearness Pay 127.14 There is a lot of loose thinking on gratuity. There are no fixed schedules for treatment of a portion of Dearness Allowance as Dearness Pay for purpose of computation of gratuity. Resultantly, there have been great differences between the amounts drawn by two colleagues who might have died or retired within one day of each other. This naturally caused tremendous resentment.

Ceilings 127.15 Gratuity has also been unnecessarily subjected to three kinds of ceilings. First is the rate of gratuity which is half-a-month's emoluments for every year of service put in. This is subject to a second ceiling of 16.5 months, irrespective of number of years of service. There is also a cash ceiling on top of the other two. We have tried to bring about greater equity in the system between past and present retirees, by making two suggestions - **removal of the cash ceiling and computation of gratuity on pay plus Dearness Allowance on the date of retirement.**

PARITY BETWEEN PAST AND PRESENT PENSIONERS

The One Time Increase 127.16 The most controversial subject in the field of pensions has been the glaring disparity between persons of equivalent rank and status drawing vastly unequal pensions if they retired at different points of time. Government had tried to solve the problem partially for the armed forces by adopting the One Time Increase formula, but this had not met their demand for One Rank One Pension.

The iniquity among the civilian pensioners has continued over the decades with scant relief to the older of the senior citizens.

*Modified
parity formula*

127.17 We have attempted a major policy thrust, by suggesting a complete parity between past and present pensioners at the time of the Fourth CPC, while recommending a modified parity between pre-1996 and post-1996 pensioners. The formula will ensure total equity as between persons who retired before 1986 and those who retired later. It also gives all pensioners at least the minimum pension appurtenant to the post-1996 revised scale of pay of the post they held at retirement.

DEATH

*Ex gratia
rewards*

127.18 We found considerable ad hocism in the treatment of employees dying while in service, even to the extent of different departments treating their employees through varying formulae. We have tried to bring some uniformity in the ex gratia rewards according to the nature of death in five different sets of circumstances, with the amount ranging upto Rs.7.5 lakhs.

MEDICAL ALLOWANCE

127.19 For pensioners not covered by CGHS, we are suggesting a medical allowance of Rs.100 per month. We have also recommended a comprehensive medical scheme, providing complete health insurance both to employees and pensioners in non-CGHS areas.

CONCLUSION

127.20 Thus the Commission has tried, within the constraints of resources, to rationalize the various retirement benefits, in accordance with an overall strategy as outlined above. Much more could possibly have been attempted, but we have proceeded slowly and steadily in a particular direction, with the hope that further improvements would be brought about by future Pay Commissions.

Age of Superannuation

INTRODUCTION

128.1 Age of retirement is one of the conditions of service of Government employees irrespective of whether they are in the Central or State Government. In fixing of the retirement age of employees, some of the most important factors which are taken into account are: life expectancy, health and morbidity, labour market conditions, stage of economic development, financial implications, social dimensions, etc. The age at which the productivity, efficiency and health of an employee begins to decline can be considered as the appropriate age for retirement.

HISTORICAL BACKGROUND

128.2 Till 31st March, 1938, the normal age of retirement of Central Government employees was 55 years. Employees could, however, be retained in service up to 60 years, depending on their being physically fit and mentally alert. From 1.4.1938, the age of retirement was uniformly fixed as 55 years for all Central Government employees and it continued to be so till 30th November, 1962.

VIEWS OF PREVIOUS PAY COMMISSIONS

First CPC

128.3 The First CPC recommended the age of 58 years for superannuation. It was, however, decided in 1949 not to change the age of retirement on the ground that a majority of the employees retiring at the age of 55 years were not capable of rendering efficient service and their replacement by younger persons was in the interest of maintaining efficiency in Government. This question was again considered in 1953. While it was decided not to change the age of retirement in consideration of its adverse impact on public opinion, liberal extension of service, particularly in case of scientific and technical personnel was recommended in the context of shortage of trained manpower.

128.4 The Second CPC also considered the question and recommended that raising the age of retirement to 58 years was fully justified due to improvement in life expectancy, physical fitness and the need for trained manpower. The recommendation was considered in 1959 and again in 1962, when it was decided to raise the age of superannuation to 58 years. The decision was based mainly on the consideration that reduction in employment opportunities in the event of an increase in the age of retirement would be a nominal 1% of the total additional employment needed for the educated unemployed during the 3rd Plan and that there was an urgent need for trained technical manpower. Orders were issued in November 1962 making the decision to increase the age of retirement from 55 to 58 years effective from 1.12.1962. The age of retirement for Group 'D' employees and workshop employees in the Central Government was maintained at 60 years.

128.5 The Third and Fourth CPCs examined the question of increasing the age of retirement further to 60 years. While conceding that such increase was justified in the context of the rise in life expectancy at birth, they did not, however, finally recommend any increase having regard to its likely adverse impact on fresh recruitment, as they felt that induction of fresh blood and fresh knowledge was essential for efficient working in government.

PRESENT POSITION

128.6 Presently the age of retirement is 58 years for different categories of Central Government employees other than workmen, ministerial Government servants who entered service on or before 31.3.1938 and Group 'D' employees, in whose cases the age of retirement is 60 years. Provision also exists for extension/re-employment in service of non-technical/ non-scientific personnel up to the age of 60 years and of Scientific/Technical personnel up to 62 years in public interest.

128.7 The age of retirement of technical and scientific personnel engaged in research institutions like CSIR, ICMR, IITs etc. and of university teachers is 60 years. However, in many universities there is a practice of re-employing personnel up to 62-65 years.

128.8 In Central Police Organisations, the age of retirement of personnel up to the rank of Commandant is 55 years in BSF, ITBP and CRPF, and 58 years in Assam Rifles, CISF and RPF. In the Coast Guard, officers below the rank of Commandant, Subordinates and Sailors retire at the age of 55 years. In the Armed Forces, the age of superannuation differs from rank to rank and from category to category and ranges between 40 and 60 years.

COMPARATIVE POSITION IN OTHER SECTORS

128.9 Most of the State Governments follow the Central Government pattern in regard to the age of retirement. In Kerala, however, it continues to be 55 years for all categories of employees. Officers of the State Judicial Services retire at 60 years on the basis of a judgement of the Supreme Court delivered on November 13, 1991 in the case of All India Judges Association versus Union of India and others 1992 SCC(L&S) 9. Teachers retire at 60 years, and are also

allowed to continue in employment up to the end of the academic session.

Position in public enterprises 128.10 Public sector undertakings follow the retirement pattern of the Central Government. In the case of autonomous organisations supported by the Government of India, a higher age of retirement of 60 years has been prescribed, but the age of retirement for ministerial staff continues to be 58 years in many of them.

Position in private sector 128.11 The age of retirement in the private sector differs from organisation to organisation and generally ranges from 60 to 65 years. In some smaller organisations, there is no age of retirement at all and employees continue to work till they are able to.

POSITION IN OTHER COUNTRIES

128.12 The global trend is to increase the age of retirement further in view of demographic changes. In most of the western countries, age of superannuation is already 65 years. In U.S.A., it has been recently increased to 67 years. In Italy and Argentina, an increase is proposed from 60 years to 65 years. In Denmark and Norway, the age of retirement is 67 years and 70 years respectively. In the Asian region, the age of retirement in Japan and Hong Kong is 65 years. In China, Pakistan and Philippines, it is 60 years. Upward revision of the age of retirement is, therefore, a global phenomenon.

CONSULTANCY REPORT

Specialised study by the IAMR 128.13 In the context of a large number of demands received from individuals, associations of employees, eminent persons, etc. relating to increase in the age of superannuation of Central Government employees, the Commission entrusted a study to the Institute of Applied Manpower Research (IAMR) to examine the retirement pattern of Central Government employees including scientific, technical and educational categories, Central Police Organisations and the Armed Forces and to make suitable recommendations about their desirable ages of superannuation.

Recommendations of IAMR 128.14 The IAMR in its report recommended raising of the age of superannuation on the following considerations:-

- (a) Life expectancy
- (b) Span of service
- (c) Old age dependency ratio
- (d) Physical health and mental capabilities
- (e) Productivity in old age
- (f) Expert opinion

MAIN ISSUES AND OUR RECOMMENDATIONS THEREON

General increase in age of retirement 128.15 It has been urged that the age of retirement may be increased from 58 years to 60-65 years taking into account the increase in longevity, availability

of better health care facilities, improved health standards of citizens, need for utilisation of experience and wisdom of senior employees, need for uniformity in the age of retirement between industrial and non-industrial categories, the possibility of taking full advantage of the vast potential of qualified doctors, scientists, engineers, technologists, and other professionals, the resultant reduction in the expenditure on pensions, the scope for protecting the interests of unprivileged sections of society and highly qualified persons who join service at higher ages and who are unable to render 33 years of service required for full pension.

*Our
recommendations*

128.16 After considering various aspects of the matter and the recommendations of IAMR, we recommend an increase in the age of retirement for all Central Government employees (except those in the Armed Forces and Central Police Organisations) to 60 years on the following considerations:-

- (i) Life expectancy at birth has increased by 19.5 years over 1961. Life expectancy at the age of 50 years has increased from 14.81 years in 1950 to 27 years.
- (ii) All over the world, the trend is to raise the age of superannuation to around 65 years. China, Pakistan and Phillipines have already raised it to 60 years.
- (iii) Many persons join Government employment at a late age. These are mainly the disadvantaged sections of society like scheduled castes, scheduled tribes, other backward classes etc. They are unable to draw full pension because they do not complete 33 years of qualifying service. Addition of two more years to service would bring thousands of such employees to a higher rate of pension.
- (iv) A large percentage of employees already superannuate at 60 years. Extending the same benefit to others removes a major irritant. It also does away with the anomalous situation of a Group 'D' employee under promotion to a Group 'C' post debating within himself as to whether he should refuse the promotion and continue till 60 years or accept the promotion and retire at 58 years.
- (v) There is a tendency on the part of senior officials to seek extension of service up to the age of 60 years. Very often, they are prepared to do anything for obtaining such an extension of service. A general increase in the age of superannuation, coupled with a total ban on extension of service except for scientists and medical specialists who could be granted extension in service on a case to case basis up to the age of 64 years, recommended separately, will lead to an enhanced level of objectivity and impartiality among senior administrators.
- (vi) The impact on employment situation is rather marginal, especially as there is a freeze in fresh recruitment for the last 15 years or so.

- (vii) There is a massive saving of more than Rs.3,000 crores on account of postponement of retirement benefits for two years.

<i>Prospective effect</i>	128.17	The recommendation for extending the age of superannuation to 60 years should have only prospective effect from such date as Government may specify and shall be applicable only to those employees who are to retire at the normal age of superannuation on or after the date on which the Government orders come into effect.
<i>Demands from CPOs</i>	128.18	It has been urged that the age of superannuation for personnel of Central Police Organisations should be (i) at par with other organisations; (ii) 60 years; (iii) 58 years for all instead of 55 years up to the rank of Commandant and 58 years for others; and (iv) on the pattern of armed forces.
<i>Our recommendations</i>	128.19	We have given careful consideration to the suggestions and are of the view that the ages of superannuation in different organisations have been evolved over the years in accordance with their specific individual requirements and any tampering with the existing ages of superannuation may not be very conducive to the overall interest of the organisations and may ultimately prove to be counter-productive. We have also noticed that the conditions of service of the armed forces and personnel of the CPOs are different and there is no provision for rehabilitation of personnel of CPOs after retirement at par with ex-servicemen. The existing practice of maintaining the difference between the two forces may continue notwithstanding the need for some relief to the personnel of the CPOs for their early retirement.
	128.20	In order to compensate the loss partially that employees in CPOs may suffer due to non-extension of the proposed general increase in the age of superannuation in their case, we recommend that a benefit of three added years of service for the purpose of computation of pensionary benefits may be given to all employees in CPOs to whom the proposal for increase in the age of superannuation would not apply. The benefit of added years of service shall be extended in case of superannuation pension alone and would be limited to the extent of shortfall in qualifying service subject to maximum of three years so that the qualifying service plus the weightage allowed does not exceed 33 years of service. We are making a similar suggestion for armed forces personnel separately.
<i>Reduction in the age of retirement</i>	128.21	Suggestions have also been made for reducing the age of retirement to 55 years so as to overcome the problem of unemployment.
<i>Our recommendations</i>	128.22	We have given careful consideration to these suggestions. Our consultants (IAMR) have referred that the Central Government accounts for just one per cent of total employment opportunities in the country. In most of the western countries, the age of superannuation is 65 years. In the Asian Region also, the age of retirement varies between 60 and 65 years. In the European Region, a further increase in the retirement age is round the corner. We consider it to be bad economic policy to remove unemployment by retiring people before they cease to be productive. Any attempt at reduction of age of retirement will not only be uneconomical but is likely to be viewed as a retrograde step. Data furnished by the IAMR supports the view that there has been a marked improvement in life expectancy not only at birth but also at higher ages. The survey conducted by them and various WHO studies reveal that there is no decline in physical health and

mental abilities up to 62 years of age and there is a higher participation rate of older workers in the labour market. In the light of the above information and in keeping with the global trends, **we do not find any merit in the suggestions to reduce the age of superannuation to 55 years.**

*Date of
retirement of
employees*

128.23 It has been urged before us that all the employees should be retired on 31st December irrespective of the month in which they were born. Another suggestion is that the employees born on the first day of a month should be retired on the last day of the same month instead of the last day of the preceding month.

*Our
recommendations*

128.24 We have considered the suggestions in the light of the opinion expressed by the official side that retiring all employees on 31st December irrespective of their month of birth or on the last day of the month for employees born on first of a month, would amount to retention of such employees beyond the age of superannuation. We have also been informed that there are several court rulings about persons whose date of birth falls on the first day of a month, in which courts have held that such persons should retire from service on the afternoon of the last day of the preceding month on attaining the age of superannuation. In view of the above position, **we do not recommend any change in the existing procedure and practice being followed.**

*Reference by
DOPT*

128.25 The Department of Personnel and Training made a specific reference to the Commission to examine and consider (i) substituting the words "regular employees" for "monthly rate of pay" appearing in Rule 56(b) of the Fundamental Rules because the use of the words 'monthly rate of pay' was slightly anachronistic, in as much as even casual workers with temporary status were in receipt of pay on monthly basis; (ii) the scope of the term "workmen", their age of retirement and categories of persons who could be covered under Note below FR 56(b).

128.26 The staff unions of various organisations having fully or partially commercial, semi-commercial or service functions have demanded that the age of retirement of their employees be treated as 60 years as they belong to the category of 'workman' and the benefit of Note below FR 56(b) should be extended to them. Certain categories of employees such as Drivers, Despatch Riders and Gestetner Operators have also demanded the benefit of superannuation at the age of 60 years.

*Our
recommendations*

128.27 We have considered the proposals made by the Department of Personnel and Training and the demands raised by certain categories of employees in the light of several Court/Tribunal rulings. Courts and Tribunals have been adopting a liberal interpretation of the terms 'industry' and 'workman', with the result that a large number of employees who would ordinarily not qualify as 'workmen' are getting the benefit of retirement at the age of 60 years.

128.28 The scope of the term 'workman' has been examined and widely interpreted by the Supreme Court in diverse judgements. In Prithpal Singh versus UOI, 1991 Supp (I) SCC 32, driver of a staff car has been held to be an "artisan". In Des Raj versus State of Punjab, (1988) 2 SCC 537, Irrigation Department of the State of Punjab has been held to be an "industry". Following a judgement in a case of Bangalore Water Supply versus A. Rajappa (1978) 2 SCC 213, the definition of 'industry' has been enlarged.

128.29 In view of our general recommendation to increase the age of superannuation to 60 years for all Central Government employees regardless of the category to which they belong the questions posed to us by the DOP&T have lost their relevance.

128.30 The present age of superannuation of Central Government employees has acted in the past as a benchmark against which the ages of superannuation of other categories of employees, judicial officers, teachers, constitutional authorities etc. were fixed. It is expected that our recommendations will lead to suitable readjustments elsewhere in order to maintain the present relativities.

Voluntary Retirement

INTRODUCTION

*Two-pronged
strategy*

129.1 Currently, we already have a procedure for voluntary retirement. In the context of economic liberalisation and the need for rightsizing the Government machinery, the question of liberalising the provisions of the present Voluntary Retirement Scheme (VRS) arose. After considerable thought, and considering the report of M/s Noble & Hewitt, our consultants on the subject, the Commission has evolved a two-pronged strategy on voluntary retirement as under:

- (a) **Retain the existing VRS as it is, on a regular year-round basis to take care of those who want to leave Government service of their own volition.** Here the assumption is that they have weighed the pros and cons of their decision and have already lined up a job in all probability. For them, the normal provisions would be adequate.
- (b) **Evolve a new special short-term Golden Handshake Scheme only for those who are identified by Government as surplus.** Here it is the Government which is taking the painful decision of sending such employees home, although there may be no fault of theirs. To ease the position, special provisions are necessary.

129.2 We first consider the present provisions relating to Voluntary Retirement and the demands and issues pertaining thereto.

HISTORICAL BACKGROUND

*Provisions in
Rules*

129.3 The scheme of Voluntary Retirement for Central Government employees was first introduced in 1977 through executive instructions. It was given a statutory backing by the introduction of Rule 48-A in the CCS (Pension) Rules in November, 1978. Under the Scheme, a Government servant who has completed

not less than 20 years of qualifying service may seek voluntary retirement by giving a notice of not less than 3 months in writing to the appointing authority. Retirement under this rule is on a voluntary basis, the initiative resting with the employee. The Government does not have the right to retire the employee at this stage.

129.4 Provisions providing for premature retirement are also contained in Rule 48(l)(a) of Central Civil Services (Pension) Rules. A Government servant can under this Rule, seek retirement at any time after completion of 30 years of qualifying service. Rule 56(k) of Fundamental Rules provides for premature retirement by a Group 'A' or 'B' officer on his attaining the age of 50 years, provided he had entered Government service before attaining the age of 35 years and in all other cases after attainment of the age of 55 years. The Government also has a corresponding right to retire a Government servant in public interest under Rule 48 (l)(b) and FR 56(j), but this is a kind of punishment and we have dealt with compulsory retirement in our Chapter on Service Matters.

Weightage in service

129.5 Initially, a weightage of five years in qualifying service was admissible in cases of voluntary retirement under Rule 48-A. This was subject to the condition that the total qualifying service after the weightage did not exceed 30 years and it did not take an employee beyond the normal date of his superannuation. Subsequently, however, the position was liberalised and the weightage of five years has been given in all cases of voluntary retirement covered by Rule 48(l)(a) and Rule 48-A of CCS(Pension) Rules and Rule 56(k) of the Fundamental Rules. The limit of 30 years was also raised to 33 years. The benefit of weightage is, however, not admissible in cases where a Government employee is retired compulsorily by the Government in public interest.

MAJOR ISSUES AND OUR RECOMMENDATIONS

Reduction in qualifying service for voluntary retirement

129.6 It has been urged before the Commission that the qualifying service for seeking voluntary retirement should be reduced from the existing 20 years to 15 or 10 years. Some employees have pleaded that they be permitted to retire after 15 years of service or on completion of 50 years of age irrespective of the fact that they had entered Government service before attaining the age of 35 years.

Our recommendations

129.7 Similar requests had been examined by the first three Pay Commissions, who chose not to recommend any special provisions for early retirement. The existing rules which permit voluntary retirement after 20 years of service or on attaining 50/55 years of age already provide an opportunity to those who do not wish to continue in service. Any further reduction in the period of service for voluntary retirement is likely to create difficulties in the retention of trained manpower in Government, besides casting upon Government the liability to pay a life-long pension to the employee and his family after his death. Any employer, including the Government, expects an employee to render service for a reasonable period before entering into a commitment for the payment of a life-long pension and family pension on a liberal scale. There is also no justification for allowing different periods of qualifying service for seeking voluntary retirement in case of outstanding sportsmen, women employees, Groups 'A' and 'B' officers or employees posted in remote areas as has been demanded. Taking an overall view

of the matter, the existing provisions providing for voluntary retirement are adequate and do not call for any modification.

*Increase in
weightage of
qualifying service*

129.8 It has been urged that the weightage in qualifying service on voluntary retirement should be raised from 5 years to 10 or 15 years. Also that the weightage of 5 years in qualifying service may be allowed to those who sought voluntary retirement prior to 10.9.1983.

*Our
recommendations*

129.9 The present provisions relating to voluntary retirement are considered to be quite reasonable and adequately compensate those desirous of quitting government service for whatever reasons. **Any further liberalisation of these provisions would not appear to be justified.** As regards the extension of weightage of 5 years in qualifying service to those who retired prior to 10.9.1983, benefits improving the conditions of service of government employees **should logically be extended only prospectively from a date to be specified for the purpose.** Under the circumstances, it would not be desirable to reopen past cases already decided.

*Financial benefit
for added years
of service*

129.10 Another demand received by us is that an additional benefit in the form of five advance increments should be extended to those seeking voluntary retirement for the purpose of calculation of their pension and other benefits.

*Our
recommendations*

129.11 An increment is granted after an employee renders service for 12 months. Since an employee ceases to render any service on voluntary retirement, **the question of granting any further increments would not obviously arise.** No change is recommended in the existing procedure.

*Repeal of Rule 10
of CCS (Pension)
Rules*

129.12 It has been urged that Rule 10 of the CCS (Pension) Rules which requires a pensioner to seek the previous sanction of the Government before accepting any commercial employment within a period of two years of his superannuation should be deleted or modified slightly to provide that the request of an employee seeking permission to accept such employment should be decided before the expiry of the notice period. This has been justified on the ground that the rule places unnecessary restrictions on pensioners.

*Our
recommendations*

129.13 Rule 10 of the CCS (Pension) Rules would not appear to be very relevant in the context of the circumstances prevailing after the liberalisation of the economy. It could, in fact, be considered an anachronism. There is, therefore, much force in the argument that the existing provisions place unnecessary restrictions on pensioners. **We, recommend deletion of Rule 10 of the CCS (Pension) Rules subject to other liabilities of Government employees for acts committed by them while in service continuing to remain in force as per the existing rules.** It may also be clarified that if it turns out later that a government employee had obtained a post-retirement job from an individual or a company in lieu of certain undue favours extended by him during service, **he shall be proceeded against under the Prevention of Corruption Act and other legal provisions.**

*Appointment of
dependents on
voluntary
retirement*

129.14 It has been represented by some of the associations and employees that a dependant child or other dependants of an employee opting for voluntary retirement should be employed in government service on compassionate grounds.

*Our
recommendations*

129.15 In this context, it would be quite appropriate to make reference to a decision of the Supreme Court in Auditor General of India and other Vs. Shri G. Anantha Rajeswara Raj, 1994 SCC(L&S) 500. In that case, the question posed for consideration was whether the compassionate appointment of near relations tantamounted to appointment on the basis of descent and was, therefore, violative of Article 16(2) of the Constitution. The Supreme Court held as under:-

"If the appointments are confined to the son/daughter or widow of the deceased Government employee who needs immediate appointment on grounds of immediate need of assistance in the event of there being no other earning member in the family to supplement the loss of income from the breadwinner to relieve the economic distress of the members of the family, it is unexceptionable. But in other cases, it cannot be a rule to take advantage of the memorandum to appoint the persons to these posts on the ground of compassion."

129.16 In view of the above, no change is called for in the existing provisions.

*Cent per cent
commutation on
voluntary
retirement*

129.17 It has been urged that employees seeking voluntary retirement should be given the option to commute even 100% of their pension. It has also been suggested that such persons should be paid a lump sum amount in lieu of monthly pension.

*Our
recommendations*

129.18 At present employees seeking voluntary retirement are treated at par with employees retiring on superannuation and are allowed to commute up to one-third of their pension. The facility of commutation of one's entire pension which was available to employees permanently absorbed in public sector undertakings and autonomous bodies has been withdrawn w.e.f. 31.3.1995. Pension is primarily intended to provide a regular income to an employee after his retirement. It also ensures that he leads an independent life without having to rely on others for support and sustenance. This has been rendered even more necessary after the breakdown of the joint family system. Commutation of the entire pension would not meet the desired objectives. On the contrary, it is not unlikely that the lump sum amount received in lieu of pension may be frittered away in speculative ventures to the detriment of a pensioner's interests. Having regard to all relevant factors, we recommend that the employees seeking voluntary retirement should be allowed to commute pension upto the same percentage as is allowed to employees on superannuation.

GOLDEN HANDSHAKE SCHEME

*Amendment to
Rule 29 of CCS
(Pension) Rules,
1972*

129.19 While any further liberalisation of the existing scheme of voluntary retirement as contained in Rule 48-A of the CCS (Pension) Rules is not considered justified, it is felt that a more attractive "golden handshake scheme" needs to be formulated in respect of employees who are identified as being surplus to requirements in the context of right-sizing the machinery of Government. At present employees who are declared surplus are given a weightage of five years' service under Rule 29 of the CCS (Pension) Rules, provided they had rendered a service of not less than 15 years. With a view to

protecting the interests of an employee declared to be surplus due to abolition of posts or reduction in establishment, the provisions of Rule 29 of the Pension Rules need to be revised. The following guidelines are proposed to be incorporated in Rule 29 of the Pension Rules in substitution of the existing provisions. Some of the suggestions contained here have been taken from the Report of M/s Noble & Hewitt, our consultants on the subject.

*Weightage in
service*

129.20 A Government servant who is declared surplus to the establishment in which he is serving **shall be entitled to an addition of five years to the qualifying service rendered by him provided that the qualifying service rendered by him is not less than 15 years on the date on which he exercises an option to retire and the qualifying length of service after taking into account the aforesaid addition is not more than the service he could have rendered had he retired on the date of his normal superannuation, and the option to retire is exercised and is communicated to the authority competent to sanction pension within the period specified by the competent authority.**

129.21 With a view to effecting an across-the-board reduction in the staff strength to the extent specified by the Commission in its recommendations on reducing the size of the government machinery, a special task force consisting of senior officers not below the rank of Joint Secretary may be constituted under the Secretary of each administrative ministry, to identify the surplus categories of employees and their numbers. Every department will have to carry out this exercise on a continuing basis. The scheme being proposed will be applicable to persons within the age group of 35-50 years. The scheme shall be opened for a limited period of 3 months at a time, during which period options will be invited from the categories of staff identified as surplus. If the staff identified as surplus apply for voluntary retirement, they shall be relieved from service and if they do not exercise the option to retire in response to the scheme, action shall be taken to discharge them from service under the existing provisions of various Service Rules. With a view to ensuring that only those persons are discharged from service who are sought to be discharged and not others who are to be retained, the final decision to accept the notice of retirement would rest with the special task force. **The posts vacated by the incumbents shall be abolished. The persons identified as surplus would be entitled to the following benefits:-**

- a) **Full commutation of pension by surrender of the right to receive monthly pension with an option to avail, instead, of commutation up to the limit prescribed for employees retiring on superannuation and to receive monthly pension.**
- b) **Ex-gratia amount equivalent to 1.5 months emoluments (Pay+ DA) for each completed year of service or the remaining years of service left before the normal date of retirement, whichever is lower. The weightage allowed in qualifying service shall not count for the purpose of computation of ex-gratia amount. The employee shall be given an option to receive the amount of ex-gratia and retirement gratuity either in lump sum or in the shape of a Monthly Protection Allowance, equivalent to the ex-gratia, gratuity and interest thereon at the rate applicable to GPF accumulations, spread over 60 months. This Allowance could help the employee to pull on during the period of transition,**

by providing him with a substantial monthly income sufficient to cater to his basic needs at least.

- c) Computation of pension and retirement gratuity by allowing a **weightage of five years** to the qualifying service on the date of relief.
- d) **Encashment of Earned Leave** accumulated on the date of relief.
- c) **Payment of accumulations in the General Provident Fund.**
- f) **Payment of savings element with interest in the CGEGIS.**
- g) **TA/DA as on transfer for self and family for settling anywhere in India.**
- h) **Exemption of pensionary benefits including ex-gratia amount from Income Tax and Wealth Tax.**

CONCLUSION

129.22 It is our firm belief that Government can, by a judicious mix of the normal Voluntary Retirement Scheme and the special Golden Handshake Scheme be able to achieve its objective of rightsizing the Government machinery within a reasonable time-frame.

Retirement Benefits of State Government Employees

INTRODUCTION

130.1 One of our terms of reference relates to an examination of the existing pension structure for Central Government employees, including death-cum-retirement benefits, having regard, among other relevant factors, to the prevailing pay structure and retirement benefits available in other sectors. It was, therefore, necessary for us to ascertain the retirement benefits available to employees of the State Governments. A specific questionnaire for the purpose was designed and sent to the State Governments. Replies were received from 21 States.

130.2 Analysis of these responses reveals that a majority of the States have generally adopted the Central Government pattern for grant of pensionary benefits. Like Central Government employees, those working under State Governments are entitled to pension and gratuity on superannuation and are eligible to commute their pension and encash leave. Provisions for payment of family pension and gratuity also exist in the event of their death. Improvements effected by the Central Government from time to time in the pensionary benefits of its employees and the changes in the Pension Rules have also been extended to the employees of the State Governments. There are, however, certain departures which are discussed in the succeeding paragraphs.

PENSIONARY BENEFITS

*Eligibility
criteria*

130.3 As in the Central Government, only such of the State Government employees as have rendered a minimum qualifying service of ten years are eligible to receive pension. Full pension is admissible on completion of qualifying service of 33 years and any service rendered in excess of 33 years is ignored for computation of pensionary benefits. In Tamil Nadu, however, full pension is admissible on rendering a qualifying service of 30 years in consideration of the fact that the maximum age limit for entry into government service is 28 years.

<i>Calculation of pension</i>	130.4	While pension is calculated with reference to the average emoluments drawn during the ten months preceding superannuation by a majority of the States, the pay last drawn, however, forms the basis in Karnataka, Orissa, Tripura and West Bengal. The concept of reckonable emoluments for pension, which include only the basic pay in the Central Government, has also been adopted by States other than Meghalaya, Rajasthan, Tamil Nadu, West Bengal and Punjab where special pay and personal pay are also included in the definition of the term 'emoluments'.
<i>Minimum and maximum pension</i>	130.5	The minimum pension presently admissible in the Central Government and most of the States is Rs.375 per month; this is, however, restricted to Rs.300 in Orissa and Rajasthan and to Rs.370 in Andhra Pradesh. On the other hand, a higher minimum monthly pension has been approved by the State Governments of Karnataka (Rs 390), Tripura and West Bengal (Rs.400) and Assam (Rs 450). While there is no ceiling on pension in Andhra Pradesh, Madhya Pradesh, Orissa, Rajasthan, Tamil Nadu and Tripura, the ceiling ranges between Rs 3,000 and Rs 4,500 in other States.
<i>Compensation for inflation</i>	130.6	With a view to maintaining the real value of pension and family pension, the concept of payment of Dearness Relief is followed by the State Governments as at the Centre. The pension of past pensioners is also updated in the same way as is done in respect of Central Government pensioners.
<i>Enhancement of pension</i>	130.7	The State Government of Punjab grants a special allowance equal to 5 <u>per cent</u> and 10 <u>per cent</u> of the basic pension to its pensioners and family pensioners on their attaining the age of 70 and 80 years respectively to compensate them for the higher expenses attendant with old age. No Dearness Relief is, however, payable on the special allowance.
<i>Commutation of pension</i>	130.8	Provisions relating to commutation of pension are similar in the Central and State Governments and the commutation table in force in the Central Government has also been adopted for the purpose by the States. However, the Government of Tamil Nadu permits its employees to commute their pension on more than one occasion whenever this is increased or revised. While most of State Governments permit restoration of the commuted portion of pension on expiry of a period of 15 years, the State Governments of Kerala, Madhya Pradesh and Orissa permit this after 12 years. On the other hand, restoration is permitted after 14 years in Arunachal Pradesh and Assam. In Punjab, restoration on expiry of 12 years is applicable only in those cases where the pension is commuted before one attains the age of 59 years. If this is done between the ages of 59 and 65 years or between 65 and 70 years, restoration takes place on expiry of a period of twelve months and nine months respectively after the entire lumpsum amount paid as the commuted value is adjusted by means of drawal of a reduced pension. Pensioners in Karnataka who retired prior to July 1, 1986 are entitled to the restoration of their full pension on the expiry of 14 years or on their attaining 70 years of age. The position is somewhat similar in Rajasthan except that restoration in all cases is permissible on completion of 14 years or on the employee attaining the age of 70 years, whichever is later. The Haryana Government permits restoration on the employee attaining the age of 70 years or when the entire amount commuted is recovered along with notional interest thereon, whichever is later. In Himachal Pradesh, on the other hand, restoration is permissible after the lapse of 138 months or on attainment of 70 years of age, whichever is later.

GRATUITY

130.9 State Governments also pay retirement gratuity to their employees who retire voluntarily or superannuate on attaining the age of compulsory retirement, service gratuity to those who superannuate after having rendered less than 10 years of service and death gratuity to the families of those employees who die in harness. The eligibility conditions governing these benefits, their quantum and method of their computation are similar to those applicable to Central Government employees. While the ceiling on gratuity/death gratuity was enhanced to Rs 2.5 lakhs by Government with effect from April 1, 1995 in pursuance of the recommendation contained in our Second Interim Report (May 1995), the earlier ceiling of Rupees one lakh continues to be applicable in many States other than the following:

Andhra Pradesh	...	15 times the emoluments, subject to an overall ceiling of Rs 60,000.
Assam and Meghalaya	...	Rs 72,000
Kerala	...	Rs 80,000
Rajasthan and West Bengal	...	Rs 85,000
Sikkim	...	Rs 65,000

FAMILY PENSION

*Deviations from
Central Scheme*

130.10 Most of the State Governments have generally adopted the Central Family Pension Scheme. However, while the rates of family pension in Central Government vary with reference to three distinct pay ranges, employees of the Governments of Andhra Pradesh and Tamil Nadu are entitled to family pension at a uniform rate of 30 per cent of the pay. The slab system is consequently not in force in these two States. The rates of Family Pension are also somewhat different in Punjab for the same pay ranges as in the Central Government and are 40 per cent, 30 per cent and 20 per cent of the pay respectively for the three pay ranges. A maximum family pension of Rs 1,500 is also admissible as against the ceiling of Rs 1,250 prescribed by the Central Government. The minimum and maximum family pension admissible in different States also vary and are as follows:

State Government	<u>Family Pension Entitlement</u>	
	Minimum	Maximum
	Rs	Rs
Assam	450	900
Haryana	300	
Karnataka	390	1,250
Orissa	300	715

Rajasthan	300	750
Sikkim	325	1,000
West Bengal	400	1,000

State Government employees in Rajasthan and Tamil Nadu are eligible for family pension on completion of not less than a year's qualifying service, whereas a minimum service of not less than three years is necessary in Sikkim. Apart from the spouse, minor sons up to 18 years of age and unmarried daughters up to 21 years of age are eligible for family pension in Assam and Meghalaya. In Rajasthan, however, only minor sons and unmarried minor daughters are eligible.

OTHER BENEFITS

Medical facilities

130.11 There is a considerable variation in medical and other benefits admissible to pensioners of different State Governments. In Kerala, pensioners above 65 years are entitled to a monthly medical allowance of Rs 25, while all pensioners in Jammu & Kashmir and Meghalaya receive an allowance of Rs50 and Rs200 per month respectively. The Tamil Nadu Government also pays a monthly medical allowance of Rs 50 to its pensioners.

Ex-gratia payments

130.12 Employees of West Bengal Government who retired prior to September 30, 1993 as well as those who retired or died between October 1, 1993 and December 31, 1993 and were not eligible to receive ad hoc bonus are paid an annual ex gratia grant of Rs.400. Ex gratia payment of Rs.100 is also paid by the Tamil Nadu Government to its pensioners. Besides, pensioners in the State are also entitled annually to a festival advance equal to their monthly pension or Rs.500, whichever is lower.

Travel concessions

130.13 Pensioners in Punjab receive, once in a block of two years, a month's basic pension as a grant to meet expenditure on travel. This is in lieu of the Leave Travel Concession admissible to serving employees.

130.14 It would be observed that retired employees in certain States have an edge over their counterparts in the Central Government in certain respects, while they are less favourably placed in certain others. Quite naturally, in urging the extension of additional benefits and facilities, associations representing Central Government pensioners have drawn our attention to the more favourable aspects of the retirement benefits admissible to employees of State Governments. We have given due consideration to the position prevailing in different States in formulating our recommendations on the package of benefits for Central Government pensioners.

130.15 Based on available information presented by the Department of Pension and Pensioners' Welfare at the Chief Ministers' Conference on Pension Administration (November 1995), statistical data on pensioners and family pensioners in different States and expenditure on pensions during 1990-95 have been presented in Annexe 130.1.

130.16 Our information on State Governments being based on their replies to questionnaires, which were received quite some time back, some of the data could be out of date.

ANNEXE - 130.1
(REFER PARA L30.L5)

STATEMENT OF STATE GOVERNMENT PENSIONERS (INCLUDING FAMILY PENSIONERS)
IN THE LAST FIVE YEARS AND EXPENDITURE INCURRED ON PAYMENT OF PENSION

Name of the Government	NUMBER OF PENSIONERS (IN LAKHS)					TOTAL EXPENDITURE (In Crores of Rupees)				
	31.03.90	31.03.91	31.03.92	31.03.93	31.03.94	1990-91	1991-92	1992-93	1993-94	1994-95
Andhra Pradesh	1.91	2.05	2.30	2.51	2.59	304.16	391.18	4234.11	510.10	5638
Assam				0.65	0.89	49.35	83.32		71.20	98
Bihar					1.75					Not reported
Gujarat	1.25	1.34	1.50	1.60	1.66	182.37	206.35	288.55	262.08	2569
Haryana					.84	70.39	83.52	106.98	119.65	1316
Himachal Pradesh					.30					830
Jammu & Kashmir	0.49	0.52	0.55	0.60	0.64	34.62	53.86	56.96	77.65	776
Kerala	1.63	1.80	2.00	2.24	2.41	293.13	338.95	371.86	437.56	5509
Karnataka	2.24	2.37	2.50	2.66	2.77	232.30	239.65	247.60	315.48	3483
Madhya Pradesh	1.35	1.45	1.57	1.67	1.67	165.22	203.97	253.91	309.00	3338
Maharashtra	3.11	3.23	3.36	3.48	3.64	176.34	203.43	276.57	361.77	4444
Orissa	0.85	0.89	0.96	1.02	1.08	52.35	66.40	81.11	88.58	1073
Punjab					.71				107.60	
Rajasthan	0.83	1.35	1.46	1.56	1.65	96.02	118.90		172.00	1840
Tamil Nadu	2.02	2.08	2.26	2.22	2.62	370.29	460.18	548.98	637.30	6995
West Bengal					1.00	184.42	217.98	252.97	170.40	2360
Uttar Pradesh					130.26	175.67	226.51	411.35	354.50	

Retirement Benefits in the Public Sector

INTRODUCTION

131.1 Although a comparison with Public Sector Undertakings (PSUs) has not been specifically mentioned in our Terms of Reference, we thought it proper to collect information not only from PSUs but also from financial institutions and insurance corporations. A questionnaire was sent to the various organisations and we received information from 63 of them.

CONTRIBUTORY PROVIDENT FUND

131.2 On analysis of the information, it was noticed that employees in PSUs are mostly governed by the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (Act 19 of 1952), as amended from time to time which provides for institution of compulsory provident fund, family pension fund and deposit-linked insurance fund for the benefit of employees in factories and other establishments employing twenty or more persons. The Employees' Provident Fund scheme framed under the provisions of this Act stipulates that a contribution varying from 8.33 per cent to 10 per cent of the monthly salary (basic wages plus dearness allowance) together with a matching contribution from the employer shall be deposited in a public fund to be operated by the Central Government. The rates of contribution to Contributory Provident Fund (CPF) by both employees and employers are either 8.33 per cent or 10 per cent of the monthly salary. The accumulations in the CPF earn interest @ 12 per cent per annum.

RETIREMENT BENEFITS

131.3 The retirement benefits available to the employees of PSUs are mostly in the form of employer's contribution to the provident fund, gratuity and leave encashment. An Employees' Family Pension Scheme has also been adopted

by most of the PSUs since 1971 under the provisions of Employees' Provident Fund and Miscellaneous Provisions Act. This scheme is quite distinct from the family pension scheme applicable to Central Government employees.

131.4 There are a few PSUs where staff originally came on deputation/transfer from Central Government Departments and was later absorbed. Such absorbed employees have been permitted to retain their pensionary benefits. These PSUs include Food Corporation of India, Mahanagar Telephone Nigam Ltd., Hindustan Petroleum Corporation Limited, Nuclear Power Corporation of India Limited, Central Coalfields Limited, Hindustan Salts Limited, etc.

131.5 A few PSUs such as Madras Fertilisers Limited, Indian Oil Corporation, Hindustan Petroleum Corporation, Gujarat State Fertilisers Company Limited have limited superannuation benefit fund schemes which are managed out of employees' contributions.

131.6 The gratuity schemes in PSUs are framed under the Payment of Gratuity Act, 1972, as amended from time to time. Gratuity is payable on completion of five years' service on (a) superannuation (b) retirement (c) resignation and (d) death while in service. It is calculated at the rate of fifteen days' wages for the last month for every year of service or a part thereof in excess of six months. A month is treated as consisting of 26 days. The maximum gratuity payable is limited to 20 months' salary (basic pay plus dearness allowance). However, in the event of death while in service, the condition of five years' service for eligibility does not apply. The method of calculation of death gratuity, rates of death gratuity and the ceiling on death gratuity are the same as for Central Government employees. A few PSUs follow the Central Government pattern for payment of gratuity where the amount of gratuity is restricted to 16-1/2 months' salary. These PSUs are: Bharat Electronics Ltd., Cement Corporation of India, Engineers India Ltd., Indian Railway Construction Company, Indian Telephone Industries Ltd., Mazagon Dock Limited, Mica Trading Corporation of India Ltd., etc. An overall ceiling of Rs. one lakh is being observed on the payment of gratuity by all the PSUs.

PENSIONS

*Introduction of
pension scheme
in banks and
Insurance
companies*

131.7 On the basis of a settlement signed by the Indian Banks' Association and the All India Workmen's Unions on 29.10.1993, a pension scheme, as a second retiral benefit, in lieu of contributory provident fund was introduced with effect from 1.11.1993. The scheme was compulsory for employees who joined service of a bank on or after 1.11.1993 and optional for those who were in service of a bank as on 31.10.1993. The pension scheme is patterned on the scheme applicable to Central Government employees. A similar scheme has also been introduced with effect from 1.11.93 for employees in the Insurance Sector.

*Pension schemes
in PSU's*

131.8 The Delhi Transport Corporation has introduced a pension scheme for its employees. Mahanagar Telephone Nigam Limited has also adopted the pension scheme as available to Central Government employees, because 99% of its employees are reported to be on deputation from the Department of Telecommunications. For the employees recruited directly, benefits of CPF have been extended. The Air India has introduced a superannuation pension scheme for

its full-time regular employees on Indian pay-roll as on 1.4.1994. To be eligible for pension, a minimum of continuous fifteen years' service is required. Pension is calculated on salary last drawn consisting of basic pay, dearness allowance and personal pay. For the existing employees, pension is payable @ 40% of salary last drawn for the first ten years which is stepped up by 0.5% for each completed year of service subject to a maximum of 50% of salary. For the new employees, pension shall be payable @ 1.25% for each year of service subject to maximum of 50% of salary. No dearness relief is payable on pension. No other PSU has introduced a pension scheme as per information received by the Commission.

Family Pension Scheme, 1971

131.9 The Employees' Provident Fund Scheme lacked survivorship coverage on death of the member or providing required support in the unfortunate event of his becoming invalid. To meet this objective partially, the Employees' Family Pension Scheme, 1971 (EFP) was added to the provident fund. According to the scheme, from and out of contributions payable by the employer and the employee to the CPF, a part representing 1-1/6th per cent of the employee's pay (basic plus DA) along with an equivalent amount from and out of employer's contribution was remitted to the Family Pension Fund (FPF) account maintained as a public account by the Central Government. The Central Government also contributed @ 1-1/6th per cent of the pay of the members of the fund to this account. The family pension scheme provided for coverage of widow pension and in the event of death or remarriage of the widow, such pension passed on to the eldest minor children. The need for pensionary support for the member during his old age and to the family upon his death, other than while in service, remained unfulfilled.

Introduction of Employees' Pension Scheme, 1995

131.10 With a view to bridging the aforesaid gap for the workers in industrial and commercial sectors, an Employees' Pension Scheme has been introduced by the Government with effect from 16.11.1995. The scheme has been designed to provide old-age benefit to the member and survivorship coverage to the family upon his death. No separate contribution is payable additionally for this pension scheme. It operates in an integrated manner with the EPF Scheme and derives its finance by way of diversion from EPF Contribution besides the Central Government's contributions. The new pension scheme is an enlargement of the erstwhile family pension scheme, 1971 which stands merged with the new scheme on its introduction. The benefit and entitlements under the old scheme have been secured and will be continued to be payable under the new scheme.

Coverage by the EPS, 1995

131.11 The Employees' Pension Scheme, 1995 (EPS) is compulsory for all members of the existing Family Pension Scheme, 1971 and who become subscribers of provident fund scheme from 16.11.1995 onwards. It is optional for those Provident Fund members who are not members of the Family Pension Scheme, 1971 and those Family Pension Fund members who retired between 1.4.1993 and 15.11.1995.

Financing of EPS

131.12 8.33 per cent of wages out of employer's share have been diverted to the Pension Fund with effect from 16.11.1995. Balance or 1.67% (if rate of contribution is 10%) of employer's share remains in the Provident Fund. Entire employer's share up to 15.11.1995 also gets deposited in the Provident Fund account of the subscriber.

<i>Qualifying conditions</i>	131.13	A minimum of 10 years' service (one month in case of total disablement and death) is essential for eligibility to pension.
<i>Benefits under EPS</i>	131.14	Superannuation/retirement pension is payable on completing a minimum 10 years of service and attaining the age of 58 years. Pension can be availed of by the member at his option before attaining the age of 58 years but not below 50 years. Such early pension is subjected to a reduction factor of 3% per year. On leaving employment before ten years' pensionable service, the member has the option to retain the membership until attaining the age of 58 years and enlarge his entitlement with subsequent employment if any, or quit the scheme by availing withdrawal benefit. If the member retains the membership, he remains covered for death risk throughout, thereby providing assured family pension coverage without incurring any extra cost.
<i>Quantum of pension</i>	131.15	Superannuation pension @ 50% of average salary (basic plus DA) during the last 12 months is payable for 33 years of service. If service is more than 33 years, pension shall be increased and can go up to 60%. Pension is calculated at the rate of 1/70th of pensionable salary for each year of service.
<i>Minimum pension</i>	131.16	If the age of the member is 48 years and above but below 53 years or 53 years and above as on 16.11.1995, minimum pension for 24 years of past service shall be Rs.600 p.m. or Rs.500 p.m. respectively. If the past service is less than 24 years, pension shall be reduced proportionately but it shall be not less than Rs.325 and Rs.265 p.m. respectively. For service beyond 16.11.1995, pension shall be calculated @ 1/70th of pensionable salary for each year of service.
<i>Invalid pension</i>	131.17	Full pension is payable as per formula, according to pensionable salary and service, subject to a minimum of Rs.250 per month even if the employee has paid only one month's contribution.
<i>Family Pension</i>	131.18	Pension is payable to the widow and children in the event of death of the member in service or after leaving service or after his death while drawing pension. In case of death while in service, the pension payable will be equal to admissible pension as if the member had retired on the day of death or Rs.450 or the amount worked out according to a table, whichever is more. In case of death after date of exit but before attaining the age of 58 years, it is equal to admissible pension which would have accrued if the member had retired on the date of exit or Rs.250 p.m. or the amount worked out according to a table, whichever is more. In case of death after superannuation, it would be 50% of the member's pension subject to a minimum of Rs.250 p.m.
<i>Orphan pension</i>	131.19	Orphan pension is payable equal to 25% of widow/widower pension, subject to a minimum of Rs.115 p.m., until the children attain the age of 25 years, for a maximum of two children. If the deceased member is not survived by a widow but is survived by children, orphan pension shall be 75% of widow's pension subject to a minimum of Rs.170 p.m. It is available for a maximum of two orphans and runs from the oldest to the youngest.

<i>Benefit for bachelors</i>	131.20	If a member is not married on the date of death but has nominated a person to receive the benefit, pension equal to widow's pension is payable.
<i>Commutation of pension</i>	131.21	Pension can be commuted up to one-third of pension after three years from the introduction of the scheme, i.e. from 16.11.1998.
<i>Adjustment with cost of living index</i>	131.22	Provision has been made for increase in the benefits every year after valuation of the Pension Fund.
<i>Return of capital</i>	131.23	If a pensioner opts for 10% less pension during life-time or opts for 12.5% less pension for a fixed period of 20 years, 100 times the original pension is payable at death in the first case and whether a member lives or dies, after 20 years, in the second case.

OTHER RETIREMENT BENEFITS

<i>Employees' Deposit-linked Insurance Scheme</i>	131.24	An Employees' Deposit-linked Insurance Scheme was introduced in 1976 to provide insurance cover to the workers in the unfortunate event of death of the worker. The scheme provides additional social security benefits equal to the average balance in provident fund account of the deceased employees up to a maximum of Rs.35,000.
<i>Post-retirement medical coverage and facilities</i>	131.25	A few PSUs have extended post-retirement medical facilities on a contributory basis.
<i>Travel facilities</i>	131.26	Most of the PSUs allow their retiring employees to settle anywhere in India by allowing reimbursement of fare as per entitlement. Except this, no travel facilities are provided after retirement.
<i>Encashment of leave</i>	131.27	Facility of leave encashment is available to the employees in PSUs on the same scale as is permitted for Central Government employees.
	131.28	Information collected in this chapter has been utilized by us for making a comparative analysis while deciding various issues relating to the retirement benefits of Central Government employees.

Retirement Benefits in Other Countries

INTRODUCTION

132.1 In most of the countries, public servants are subject to a special scheme of social security/ protection against old age, disability and death and such a scheme generally differs from other social security schemes meant for the general population or for other workers. Both in developed and developing countries, public authorities have generally tended to provide a preferential scheme for government employees. In some developing countries, public servants are still the only categories of workers who draw pensions, while other workers either avail themselves of accumulated compulsory savings in a National Provident Fund or have no protection whatsoever. Entitlements to pensionary benefits are often recognised as one of the conditions of service of public servants and these benefits are generally paid in full from the public exchequer. In certain cases, where public servants have to pay a contribution, the benefits are comparatively higher.

DETAILS OF RETIREMENT BENEFITS

Entitlement to pension

132.2 Entitlement to pension in case of public servants is dependent on a prescribed age and on certain length of service. The age of superannuation for pensionary purposes ranges from 50 to 70 years. In some countries, pension is also due after a certain length of service, which usually ranges between 30 and 35 years. The minimum period of service which entitles one to pension varies between 10 and 15 years.

Computation of benefits

132.3 Pension in most countries is in the form of a periodical payment based on the average salary in the last year or last 3 to 5 years or on the highest salary achieved in one's career. Generally, the quantum of pension is fixed as a percentage of the reference salary. The basic rate in such cases is stipulated for a

specified number of years and it is increased by 1 or 2 per cent of the reference salary for every additional year of service beyond the specified number of years. In certain cases, a fixed percentage of the reference salary is paid for every year of service. Some countries use a weighted pension formula, in which the lowest paid public employees receive a higher percentage of their previous salary than their better paid counterparts. Most schemes also contain provisions limiting the amount of pension. In many cases, this is done by subjecting the reference salary to a ceiling. Some countries have also introduced a minimum pension.

*Pension schemes
in other countries*

132.4 Details about age of retirement, maximum pension, rate of contribution as percentage of salary by the individual, and the government as prevalent in some countries, are given in the following Table. This has been prepared on the basis of information contained in Report-III of the Joint Committee on the Public Service of the International Labour Organisation (Fourth Session, Geneva, 1988) on social security.

PENSION SCHEMES IN OTHER COUNTRIES				
	Age of retire- ment	Maximum pension	Contribution rate as %age of salary	
			Individual	Government
Bangladesh	57	60%	0%	Total cost
Belgium	65	67%	-	Total cost
Canada	65	70%	6.5%(normal) +1% (for supplementary benefits)	6.5%(normal) +1% (for supplement- ary benefits)
France	65	75-80%	6%	Remainder
Germany	65	75%	0%	Total cost
India	58	50%	0%	Total cost
Indonesia	55	75%	4.75%	Remainder
Malaysia	55	50%	0%	Total cost
Mexico	55	95%	6%	6%
Morocco	65	100%	7%	0%
Myanmar	60	60%	0%	Total cost
Pakistan	60	70%	0%	Total cost
Sri Lanka	55	80-90%	4%	Remainder
Sweden	65	65%	9.45%	25%
	(employer)			
U.K.	65	50%	9% (individual) + 10.5%(employer)	13%
U.S.A.	62	40%	7%	6.06%

*Other associated
benefits*

132.5 In almost all countries, the pension schemes also entitle public servants to an Invalidity benefit, even if the disability is not attributable to the performance of duties. Similarly, survivor's benefit in case of death of an employee or pensioner is also provided. In many countries, a survivor's pension is also payable to a dependent widower. The quantum of widow or widower's pension is less than 50 and 60 per cent of the amount of the deceased person's

pension. Pension schemes also provide for orphan's pension and it is normally paid until the children come of age. However, in many cases, a higher age limit is fixed for such pensions in cases where an orphan is undergoing scholastic or vocational training.

FINANCING OF PENSION SCHEMES

PAYG Scheme

132.6 **In a comparatively large number of countries, the Pension Schemes for public servants are unfunded i.e. based on the pay-as-you-go principle (PAYG). Under this principle, workers today pay pensions to retirees expecting that their pension will be paid by future workers. The main source of financing is, therefore, the government and payment is made out of its current budget. Thus, there is no saving or contribution from the current budget to pay future pensions.**

Funded Schemes

132.7 In a funded scheme, a stock of capital accumulates to pay the future obligations, so that the aggregate contribution plus investment returns are sufficient at any time to cover the present value of the entire stream of future obligations. The current generation of workers supports itself through wages and saves part of its output for support after retirement.

132.8 Increased system dependency rates i.e. the ratio of number of pensioners to the number of workers, have put pressure on the viability of PAYG schemes. As such, rapid increase in this rate has caused pressure on public pension systems, resulting in a situation where **most of countries of Eastern Europe and South America have made their pension plans more sustainable by converting part of the pension obligation into a funded contributory scheme.** Current regulations in most of the OECD countries, e.g. Australia, Austria, France, Germany, Italy, Japan, Sweden, UK, etc. require that the occupational pension plans be fully funded. In case of U.S.A., the Public Employees Retirement Systems (PERS), which manage such funded pension schemes have become powerful financial institutions, and there are approximately 2,400 public pension schemes covering around 10 million full-time employees and 3 million pension beneficiaries. Large funds have accumulated under occupational pension plans amounting to 133% of GDP in Switzerland, 117% in Netherland, 105% in UK and 72% in USA. In Chile, which represents an example of successful pension reform, the funded pension schemes are government-mandated but are privately managed by specialised fund management companies. The funds have accumulated resources which are equal to 30% of GDP and achieved a real rate of return of 13% per annum.

Hybrid Systems

132.9 Pure public pay-as-you-go systems or private funded pension systems can be thought of as being at the opposite ends of a spectrum of pension types and many countries operate some sort of a hybrid system. Many pay-as-you-go public pension schemes combine earning-related pensions with a provision for a minimum pension. The concept of minimum pension is seen as a part of poverty prevention after retirement, while providing scope for a degree of income replacement relative to worker's former earnings. Since poverty prevention is seen as a government function, there is no provision for minimum pension in case of private funded pension schemes. However, public funded pension systems, as in case of Chile, do provide minimum pension entitlements for contributors whose

own capital funds are insufficient to purchase a minimum pension annually. This, however, involves a charge on government revenue, as well.

OTHER MATTERS

*Maintenance of
pensionary rights
in cases of
mobility to
private sector*

132.10 Public service pension schemes are well coordinated, so as to ensure that in case of mobility of a public servant from one organisation to another, his pensionary rights are also transferred. Such coordination is ensured even where the transfer is to a private occupational scheme. Thus a sum corresponding to the actuarial value of the rights of a public servant in a scheme is transferred to another scheme to which a worker is admitted. In Canada, such facility is ensured between the Federal Public Service Pension Scheme and Private Occupational Schemes with which transfer agreements have been concluded. In case of Switzerland, this relationship has been established between public service pension schemes and private occupational schemes, which have all had to conform to the requirements of Occupational Pension Act, 1982.

*Adjustments of
pensions to cost
of living index*

132.11 In many countries, old-age, invalidity and survivors' benefits are **either indexed to variations in current salaries for public servants in the same grade, or periodically adjusted to variations in the cost-of-living index.**

Latest data

132.12 The Commission tried to collect data from 26 important countries through our missions abroad. A summary of the information relating to retirement benefits available to Government employees in 10 countries has been tabulated at Annexe 132.1

Retirement benefits to the Government Employees in different Countries

Annexe - 132.1
(see Para 132.12)

Country	Average age of super-annuation	Quantum of pension as % of last pay drawn	Pension paid out of Pension Fund or Public Fund	Relief to Pensioners against inflation	Terminal benefits payable on super-annuation	Quantum of family pension as % of last pay drawn	Medical facilities to retired employees	Schemes of Voluntary retirement/golden handshake and experience
1.	2.	3.	4.	5.	6.	7.	8.	9.
1. Australia	65 years (maximum) 55 years (minimum)	Lump sum benefit (part or full) divided by a conversion factor defined by age at retirement.	Not available	Not provided	Benefits payable as lumpsums, however, it can be exchanged partly or entirely for an indexed Pension Benefit consists of a member component, productivity component and an employer financed component **	Amount as a % of employee pension entitlement:- Spouse 67% Spouse & one Child 78% Spouse & two Children 89% Spouse and 3 or more children 100%	Not Available	Not available
2. Canada	No fixed age	Not on the basis of last pay drawn	N.A.	Pension linked to CPI	Pension	50% of employees basic pension to spouse; 10% of employees basic to each of the surviving child of under 8 years (maximum of four child)	N.A.	Yes
3. France	N.A.	50% of the average salary of 11 best career years of an individual	Pension fund		Pension, supplementary grants made in the case of insufficient pension	N.A.	N.A.	Early retirement for those above 60 years of age
4. Sweden	65 years	N.A.	Out of public fund	Pensioners protected against inflation	Only Pension	No family pension	Full medical benefits	Does not exist

Country	Average age of super-annuation	Quantum of pension as % of last pay drawn	Pension paid out of Pension Fund or Public Fund	Relief to Pensioners against inflation	Terminal benefits payable on super-annuation	Quantum of family pension as % of last pay drawn	Medical facilities to retired employees	Schemes of Voluntary retirement/ golden handshake and experience
1.	2.	3.	4.	5.	6.	7.	8.	9.
5. China	55 years (women) 60 years (men)	75 to 100% of last pay drawn	out of public Fund	N.A.	Pension	N.A.	Full medical cover	VRS includes full pension, retaining, soft loans etc.
6. Hongkong	60 years	1/675 for each month of pensionable service is taken as pensionable factor. Maximum Pension is 2/3rd of the highest pensionable emoluments drawn during the service.	No, paid from general revenue.	Pension linked to average of CPI	Annual Pension	Widows and orphans pension scheme, and spouses and children pension scheme exist.	N.A.	VRS applicable for employees between the ages of 45 years and 54 years.
7. Indonesia	56 years (in general) 60 years (JS & above) 65 years (Judges etc.)	N.A.	Out of social Insurance (pension) Plans	Indirectly linked to cost of living index	Pension, lump sum payment, medical facilities	on the basis of formula	Medicare facilities provided	No VRS
8. Japan	60 years to 65 years	N.A.	Partly out of pension fund	Pension indexed to CPI	Retirement Allowance and pension	Not applicable (fixed sum p.a. paid as SBP)	Medical facilities available s.t certain conditions	N.A.
9. Malaysia	55 years	Maximum limit 50% of last pay drawn	Out of Public Fund	N.A.	Gratuity and Pension	N.A.	Free medical facilities provided	VRS includes golden handshake
10. Sri Lanka	60 years	80 to 90% of last pay drawn	N.A.	Pensioners not protected against inflation	Pension only	Widow & Orphan's pension	Not provided	

Retirement benefits to the Government Employees . Different Countries

Annexe.132.1
(see Para 132.12)

Country	Average age of super-annuation	Quantum of pension as % of last pay drawn	Pension paid out of Pension Fund or Public Fund	Relief to Pensioners against inflation	Terminal benefits payable on super-annuation	Quantum of family pension as % of last pay drawn	Medical facilities to retired employees	Schemes of Voluntary retirement/ golden hand-shake and experience
1.	2.	3.	4.	5.	6.	7.	8.	9.
11. Thailand	60 years	on the basis of formula	Out of public fund	N.A.	Pension	30 times of last pay drawn as one time payment upon the death of employee	Full medical cover	VRS after 25 years of complete service
12. India	58 years (in general) 60 years (class IV)	50% of last ten months' average basic pay	out of consolidated fund	Pension linked to AICPI	Gratuity, Leave salary, commutation payable as one time payment. Pension payable on monthly basis.	On the basis of Formula	C.G.H.S. facility	VRS after 20 years of qualifying service. No scheme of golden hand-shake.

CPC/Statistical Unit

Source: Data collected by the Fifth Central Pay Commission.

* Monthly Pension = Last pay drawn X Years of service/50

SBP = Survivors Basic Pension

@ Death before retirement, FP = 1.35 X Annual gross salary last drawn X Nos. of years of service

Death after retirement, FP = 0.9375 X Annual gross salary last drawn X Nos. of years of service

** Member component is the contributions paid by the employees plus interest thereon. Productivity component is the fortnightly superannuation productivity contribution made by the employer plus interest thereon.

Employer financed component is a defined amount, the size of which depends on a number of factors including the length of membership, salary and rate of contribution.

Retirement Benefits of Civilian Employees

INTRODUCTION

*Retirement
benefits defined*

133.1 Central Government employees on retirement are entitled to superannuation or retiring pension, retirement gratuity, encashment of earned leave and the facility to commute upto one-third of their pension. The significant features of retiring or superannuation pension are that it is non-contributory and is subject to future good conduct of the pensioner. Pension can also be withheld under certain circumstances. Employees who have opted for the CPF scheme are paid CPF accumulations, gratuity and cash equivalent of earned leave.

*Computation of
Pension*

133.2 Pension is computed on the basis of length of qualifying service, reckonable emoluments and the pension formula. There are also orders prescribing a minimum and maximum pension. The rules and regulations governing the above aspects are contained in the Central Civil Services (Pension) Rules, 1972 (hereafter referred to as Pension Rules) which have been modified from time to time with a view to bringing about improvements in the pensionary benefits of the employees.

QUALIFYING SERVICE

*What is
qualifying service*

133.3 One of the elements taken into account for computation of pension is the length of qualifying service rendered by an employee. It is reckoned from the date a government servant assumes charge of the post to which he is appointed in a permanent capacity. Temporary service followed by confirmation without interruption also qualifies for pension provided the duties and pay are regulated by the Central Government.

*Formulae in the
past*

133.4 Prior to 17.4.1950, full pension was equal to 30/60 of emoluments on completion of 30 years of service. From 22.4.1960, pension was computed in terms of completed six monthly periods of service, instead of completed years of

service. Accordingly, pension was computed @ 1/160 of average emoluments for every completed six monthly period of service, subject to a maximum of 60/160 of the average emoluments. With effect from 1.1.1973 maximum pension was raised to 66/160 of average emoluments. At present full pension is admissible on completion of 33 years of qualifying service.

QUALIFYING SERVICE FOR FULL PENSION

Demands 133.5 Suggestions have been made that full pension should be allowed on completion of 10-30 years of service because of increase in the age of recruitment up to 28 years for general candidates and 33 years for reserved category candidates. It has also been suggested that the period of minimum qualifying service for eligibility to pension should be reduced to five years.

Reduction in period of qualifying service 133.6 We understand that the ages of 28 and 33 years mentioned by the memorandists are the upper ages up to which persons belonging to general and reserved categories can enter into Government service. The normal age of recruitment for Groups 'B', 'C' and 'D' posts continues to be between 18 and 25 years, whereas for Group 'A', the age is between 21 and 28 years. It is not logical to assume the upper ages as the normal age of entry into Government service. However, taking into account the plight of late entrants to service, specially those of our brethren belonging to SCs/STs/OBCs, we have recommended an increase in the age of superannuation to 60 years uniformly for all employees other than personnel of Central Police Organisations and defence forces. This would enable even those employees who join service late to render two more years of service and draw more pension than at present. Taking the above factors into consideration, we are unable to recommend a reduction in the period of qualifying service for eligibility to full pension.

Minimum qualifying service 133.7 We have also considered the other suggestion in the light of observations of the Fourth CPC that pension confers a long-term benefit on an employee covering the entire period of his life and should be admissible only if he has served the Government for a reasonably long period. The Commission did not favour any reduction in the requirement of 10 years' qualifying service for grant of pension. **We also do not recommend any reduction.**

ADDITION TO QUALIFYING SERVICE

Position of Rules 133.8 A weightage up to a maximum of 5 years is added to qualifying service when an employee retires on (a) completion of 30 years' qualifying service at the option of employee, (b) attaining the age of 50 years (for Groups 'A' and 'B') and 55 years (for Groups 'C' and 'D') at the option of employee, (c) completion of 20 years' qualifying service, (d) being retrenched on account of abolition of post if the employee opts to retire within two months of being declared surplus provided he has completed 15 years' qualifying service, and (e) appointment to a service or post for which a post graduate research or specialised qualification or experience in scientific, technological or professional field is essential to which candidates of more than 25 years of age are normally recruited. Provisions to this effect are contained in Rule 48 of Pension Rules, Rule 56(k) of Fundamental Rules and Rules 29, 30 and 38 of the Pension Rules.

<i>Demands</i>	133.9	Suggestions have been made that those who are initially appointed in relaxation of age should be allowed the benefit of added years of service to the extent of such relaxation. Also, that the benefit of added years of service be extended to scheduled castes, scheduled tribes, physically handicapped, blind, deaf and sportsmen.
<i>Cases of age concession</i>	133.10	As per existing rules, there are 27 categories to whom age concession is allowed for the purpose of appointment to services/posts in the Government of India. Age concession to 20 categories is related to previous government service and for that reason the question of addition to qualifying service does not seem to be appropriate. In other cases, the concession has been extended on compassionate grounds. Keeping in view the fact that the benefit of added years of service is presently extended irrespective of the fact whether a person had obtained employment by availing himself of age concession or otherwise and is essentially service/post-specific for which specific provision is made in the Recruitment Rules in consultation with the UPSC, grant of a concession based on caste, creed or language is not called for. We do not find any merit in the suggestion and recommend maintaining the status quo.
<i>Persons with less than 33 years' service</i>	133.11	It has been suggested that Central Government employees who at the time of retirement on superannuation had rendered service of less than 33 years, may be allowed the benefit of addition to service the difference between 33 years and the actual service rendered subject to a maximum of 3 years, on the analogy of provisions available in Andhra Pradesh Government Pension Rules, 1960.
<i>Our Recommendations</i>	133.12	The suggestion implies grant of full pension on completion of 30 years of service. For the reasons mentioned earlier, we do not accept the suggestion and recommend accordingly.
<i>Cases of premature retirement</i>	133.13	It has been urged that the benefit of five years addition to service should be allowed when an employee is retired prematurely, which is not a punishment and the denial of weightage in qualifying service amounts to inflicting a punishment indirectly.
<i>Our Recommendations</i>	133.14	Retiring a government servant prematurely is a condition of service and the prerogative of the Government. Such an action is taken by the Government in the interest of public service when the retention of the government servant is considered to be undesirable. In such cases, extension of the benefit of addition to qualifying service is not called for and, in our view, amounts to rewarding inefficiency. We do not find any merit in the suggestion and recommend maintaining the status quo.
<i>Professionally qualified people</i>	133.15	It has been suggested that professionally qualified people who join at the age of 40-45 years with a higher start should be allowed the benefit of addition to service which could either be the number of advance increments granted or a notional figure based on the length of service in the private sector, whichever is more.
<i>Our Recommendations</i>	133.16	Having regard to the fact that the benefit of notional addition to qualifying service in case of services requiring persons with scientific, technological and professional qualifications is already admissible subject to certain conditions specified in Rule 30 of the Pension Rules, we do not find any

justification in relating the benefit of notional addition to qualifying service to the number of advance increments granted at the time of appointment or to the length of experience gained in the private sector and recommend accordingly.

- CPO personnel* 133.17 Personnel belonging to BSF, CRPF, ITBP, etc. who retire at the age of 55 years do not get full pensionary benefits. A weightage of three years to the qualifying service has been suggested.
- Our Recommendations* 133.18 With our recommending an increase in the age of superannuation to 60 years for all Central Government employees other than personnel of CPOs and defence forces, the existing difference of 3 years in the age of retirement between Central Government employees and personnel of CPOs would widen to five years. We are of the view that they need to be compensated partially for the loss of pay and allowances for these five years. **We accordingly recommend that the benefit of addition to qualifying service to the extent of shortfall and up to a maximum of 3 years may be extended to such of the CPOs' personnel whose service falls short of 33 years.**
- Counting of EOL* 133.19 It has been urged that periods of Extra Ordinary Leave whether on medical grounds or otherwise should be taken into account for pensionary benefits.
- Our Recommendations* 133.20 Extra Ordinary Leave (EOL) on medical certificate and without Medical Certificate taken for prosecuting higher scientific/technical studies or due to inability to join or rejoin duty on account of civil commotion is already treated as duty and counts for qualifying service. EOL for other purposes is taken by the employee of his own volition and **we do not find any merit in the suggestion to treat the same as qualifying service for pension.**

COUNTING OF PAST SERVICE FOR PENSION

- Demands* 133.21 Suggestions have been made that service rendered in Government recognised schools should be counted for computation of pensionary benefits. Another suggestion made relates to counting of service rendered by scientific officers, doctors and others in institutions, run by voluntary organisations or local bodies. It has also been suggested that service rendered as Railway apprentice prior to 15.8.1947 be counted in respect of officers who retired prior to 22.12.1983 on the ground that such service has been counted in respect of officers who retired after 22.12.1983.
- Our recommendations* 133.22 Counting of past service rendered in recognised schools, colleges, local bodies and charitable institutions on absorption in Government service implies taking over pension liability, which is not in keeping with pronounced policy of the Government. **Keeping in view the financial implications and recurring nature of liability which the Government will have to assume in the event of acceptance of the suggestion, we are not inclined to agree to the suggestion and recommend accordingly.** In view of the judgement of the Supreme Court upholding the right of the Government to prescribe a cut-off date for a new service benefit, **we are not inclined to recommend reopening of the past cases decided otherwise relating to counting of service rendered as**

Railway Apprentice prior to 15.8.1947.

Service of casual labourers

133.23 It has been represented that the service rendered by casual labourers should be counted as qualifying service for computation of pensionary benefits, irrespective of whether they are regularised or not. Another suggestion made relates to counting of full service instead of half service of casual labourers employed by the Railways who were subsequently regularised, on the ground that such a facility was extended to similarly placed Railway Canteen employees.

Our Recommendations

133.24 We have considered the suggestions and noted that the Department of Personnel and Training have already taken a decision to count 50% of the service rendered after grant of temporary status, which is generally after a casual labourer has been engaged for a period of at least 240 days (206 days in the case of offices observing five-day week). With a view to maintaining uniformity about counting of service rendered by casual workers on attainment of temporary status followed by regularisation, **we are of the view that the guidelines issued by the DOP&T in its O.M. dated 10.9.1993 in regard to counting of service of casual labourers are adequate and no change therein is recommended.**

Canteen employees

133.25 It has been urged by the canteen employees that the service rendered by them prior to 26.9.1983 should be counted because they were declared holders of civil posts w.e.f. 1.10.1979. A suggestion has also been made that service rendered by government employees on re-employment after superannuation should count towards pensionary benefits and their pension enhanced suitably on the ground that such a facility is available to those who are appointed to Central Administrative Tribunal.

Our Recommendations

133.26 In view of the fact that the Supreme Court of India have already decided about a specific date from which service had to be counted for determination of pension and have also ordered counting of qualifying service to the extent of shortfall even prior to the specified date i.e. 26.9.1983, **we are not inclined to recommend counting of entire service rendered by canteen employees for calculation of pension.** As for the other suggestion, since on re-employment after superannuation, benefits of Contributory Provident Fund are extended, there is no case for counting the service rendered on re-employment for computation of pensionary benefits and we recommend accordingly.

RECKONABLE EMOLUMENTS

Historical background

133.27 Reckonable emoluments which are taken into account for computation of pension have two aspects viz. (a) the period over which the average is worked out, and (b) the elements of pay which form part of the emoluments. Earlier, pension was determined with reference to average emoluments drawn during the last 36 months of the employee's service. The position was liberalised w.e.f. 29.2.1976 when the period was reduced to 10 months. As regards the elements of pay to be included in emoluments, Liberalised Pension Rules, 1950 provided that only pay drawn against a substantive post shall be treated as emoluments. However, the rules in this regard were liberalised twice, once from 22.4.1960 when substantive pay plus half of the difference between substantive pay and the pay actually drawn in officiating or temporary capacity was reckoned as emoluments, and again from 15.6.1968 when all types of pay as

defined in FR 9(21) (including officiating pay) were reckoned as emoluments

Present position 133.28 At present, the average emoluments for the purpose of retiring/superannuation pension are calculated over a period of ten months immediately preceding retirement. The expression "emoluments" means the basic pay as defined in Rule 9(21)(a)(i) of the Fundamental Rules which a government servant was receiving immediately before his retirement or on the date of his death and also includes the Non-Practising Allowance admissible to Medical Officers as compensation for their having to forego private practice. Stagnation increments are also treated as emoluments for calculation of retirement benefits.

DEFINITION OF EMOLUMENTS

Demands 133.29 Various suggestions have been received by us from a large number of employees that the expression "emoluments" in the Pension Rules should be redefined as indicated below:

- (a) "Emoluments" should include the pay actually drawn at the time of retirement and the notional pay that an employee is likely to be entitled to as a result of fixation of pay in the revised scales of pay recommended by successive Pay Commissions.
- (b) Pension should be related to the average emoluments of the last ten months or to the pay last drawn by an employee, whichever is more beneficial.
- (c) Average emoluments for pension should be calculated on the maximum of the scale of pay of the post held by an employee at the time of his superannuation.

Notional pay on revision 133.30 Such revised scales of pay as may be recommended by Pay Commissions are normally extended only to those employees actually in service at the time the scales are introduced. However, as we have conceded the demand of past pensioners for complete parity in pension with reference to pension of 1.1.1986 retirees and modified parity, with reference to pension admissible on the minimum pay of the pay scale of the post held by the retiree at the time of retirement, as revised by us effective from 1.1.1996, **we recommend that the words "or notional pay that an employee is likely to be entitled to as a result of fixation of pay recommended by the Pay Commission" may be included in the definition of emoluments.**

Maximum of the scale 133.31 It is only in the case of Defence personnel below officer rank that pensionary benefits are computed with reference to the maximum of the scale of pay of the post from which they retire. This special dispensation has been extended in consideration of the fact that the age of superannuation of these personnel is substantially lower than that of civilian employees and is related to the rank held by them. For civilian employees establishing a relationship between pension and the maximum of the scale of pay would be neither rational nor logical. **We are, therefore, not inclined to accept this demand.**

Pay last drawn 133.32 As regards the suggestion that pension should be related to the pay

last drawn by an employee, the Fourth Pay Commission, which also considered this issue, came to the conclusion that this may not be beneficial to the employees in all cases and recommended continuance of the existing provisions.

Our Recommendations

133.33 We are of the view that the employees would be benefited to some extent if the pensionary benefits are computed with reference to the average emoluments drawn by them during the last six months of service. Such a proposition would not also burden the Government exchequer unduly, and we recommend accordingly.

INCLUSION OF ALLOWANCES IN EMOLUMENTS

Demands

133.34 A number of employees have represented that all additions to pay, such as personal pay, deputation pay, special allowance, interim relief, etc., as well as all normal allowances like dearness allowance, house rent allowance, city compensatory allowance, etc. should be included in the term "emoluments" for calculation of pensionary benefits.

Our Recommendations

133.35 Long-term benefits like pension should be related only to the basic pay of an employee, as has already been held by the Fourth Pay Commission. There are no circumstances which might warrant a review of this principle. We are, therefore, not in a position to accept these demands. Dearness allowance would, however, form part of the emoluments in the normal course whenever it is merged, either fully or partially, in the pay for the purpose of pensionary benefits.

RUNNING ALLOWANCE

Demands

133.36 Railway employees have urged before us that the benefit of addition of Running Allowance to their basic pay for pensionary benefits should also be extended to other than running staff. It has also been represented that Loco Inspectors who perform Foot Plate duty should be treated at par with Running Staff in regard to pensionary benefits.

133.37 Yet another section of the Railway employees have pointed out that the present practice of including various allowances, such as Night Duty Allowance, Running Allowance, etc. in the emoluments of specified categories of employees results in such employees receiving a higher pension in relation even to Group 'B' Officers. This, according to them, lacks justification and is anomalous. They have, therefore, demanded payment of a lump sum amount as a one-time relief to employees not entitled to these concessions.

Concept of Running Allowance

133.38 The concept of Running Allowance is peculiar only to those Railway employees who have been specifically categorised as "Running Staff" based on the duties performed by them.

133.39 Decisions relating to the Running Allowance Scheme have been arrived at only after a very detailed examination over a period of time by various committees and commissions.

<i>Our Recommendations</i>	133.40	It is logical that the arduousness and uncertain hours of work entailed in the performance of running duties over long periods of time should be properly reflected in the quantum of pension admissible. While a special dispensation would, therefore, be justified in the case of those employees specifically categorised as Running Staff, it will, however, not be rational to extend this concession to those not directly responsible or involved in actual train movement or to the stationary staff who are, in any case, not entitled to any Running allowance. Similarly, in view of the distinguishing features in the duties and service conditions of Loco Inspectors (who are also supervisors) in relation to Running Staff, there is no merit in the demand that Loco Inspectors who perform Foot Plate duty should be treated at par with the Running Staff in regard to pensionary benefits. On the same analogy, the question of paying a lump sum amount as a one-time relief to employees not entitled to the Running Allowance does not also arise.
<i>Night Duty Allowance</i>	133.41	Night Duty Allowance is paid to almost all the non-gazetted staff on the Railways, including supervisory personnel, for performing duties between 10.00 p.m. and 6.00 a.m. It has been clarified by the Railway Board that this allowance is not reckoned as pay for pensionary benefits. The contention in this regard is, therefore, not tenable.
<i>Past cases</i>	133.42	Prior to 1973, 75 per cent of the basic pay of Running Staff was added to their actual basic pay for computation of pensionary benefits, in lieu of the higher scales of pay to which they would otherwise have been entitled. The Third Pay Commission had recommended that this be reduced to 45 per cent. The Railway Board, however, enhanced it to 55 per cent in consultation with the Staff Side, and this decision was initially notified through administrative instructions. The amendment of a statutory provision by an administrative order not notified in the Gazette of India was challenged by certain employees before the Supreme Court. A formal notification amending the relevant codal provisions retrospectively from 1973 was thereafter issued only on December 5, 1988. It has, therefore, been demanded that the pensionary benefits of such of those Running Staff who retired between 1973 and December 5, 1988 should be computed only after the addition of 75 per cent, and not 45 per cent, of the basic pay.
<i>Court Orders</i>	133.43	We have been informed by the Railway Board that this issue had been agitated by some of the retired employees before various Benches of the Central Administrative Tribunal, which had given differing judgements. Government had, therefore, filed a Special Leave Petition in the Supreme Court, which had stayed the orders of the Tribunal in these cases. The matter is presently sub judice.
<i>Our Recommendations</i>	133.44	We are of the view that the demand is not justified because delay in the issue of a formal notification reducing the pay element for pensionary benefits retrospectively would not by itself confer a right on a retired employee to claim the benefit at the higher rate earlier in force, particularly when the decision had been arrived at only after consultation with and obtaining the concurrence of the representatives of the employees and had also been duly notified in the form of administrative instructions.

NOTIONAL ADDITION TO EMOLUMENTS

Demands

133.45 It has been represented that (i) the pension of those employees who superannuate without being promoted even once in their entire career should be computed after the notional addition of an increment for every five years' service rendered by them and (ii) the terminal benefits of those who superannuate after having rendered service in excess of six months after the drawal of the previous increment should be determined after giving them the benefit notionally of the next increment.

Our Recommendations

133.46 We have now introduced the ACP Scheme to take care of financial stagnation. Further, we have to preserve the sanctity of annual increments. We are, therefore, unable to accept both the demands.

Retirees born on 1st of a month

133.47 Under extant rules, employees are authorised their annual increments on the first day of the month in which it falls due. Employees whose birthday falls on the first of the month are required to retire in the afternoon of the last day of the preceding month. A number of employees have, therefore, urged that the benefit of the next increment should be allowed in such cases for computation of pensionary benefits so as to remedy an anomalous situation.

Our Recommendations

133.48 A somewhat similar proposal that persons born on the first of a month should superannuate only on the last day of the relevant month instead of on the last day of the preceding month has been considered by us elsewhere where we have recommended that the status quo should be maintained in the context of several court rulings on the subject. In the circumstances, it may not be appropriate to extend any additional benefit in the form of an increment to such employees born on the first of a month and we recommend accordingly.

PENSION FORMULA

Historical background

133.49 The third element which goes into computation of pension is the pension formula.

133.50 With effect from 1.1.1986, slab formula of calculation of pension was replaced by a uniform formula of 50% of average emoluments for full qualifying service of 33 years (pro rata less when the qualifying service was less than 33 years).

REVISION OF RATE OF PENSION

Demands

133.51 We have received a large number of demands from individuals and associations of employees and pensioners for raising the quantum of non-contributory pension from the existing 50% to amounts ranging from 60% to 100% of the salary last drawn. Before arriving at any decision on the question, the

Commission considered it appropriate to entrust a study aimed at assessing the post-retirement income requirements after taking into account the position obtaining in the private, public and international sectors, and identifying ways and means for payment of pension at higher rates than at present. This study was entrusted to Tata Economic Consultancy Services (TECS).

*Consultancy
Report*

133.52 After considering factors such as the finding of the World Bank (1994) that 100% of the net average lifetime wage may be a reasonable target pension level for households, the low per capita income, the fact that 95% of the employees were members of Groups 'C' and 'D', rapid increase in proportion of pensioners to the workers (system dependency rate), unsustainability of benefits offered by developing countries at rates higher than industrial countries, drain on Government resources etc., **the Consultants have calculated that the post retirement income requirement would be about 65% of the pre-retirement gross income.** TECS are also of the view that any increase in the pension replacement rate of the current non-contributory pension scheme will be financially unsustainable. **In the circumstances, a supplementary pension scheme, which could be contributory in nature, has been held to be a viable means of increasing post-retirement incomes.**

*Expenditure on
pensions*

133.53 Old age security systems all over the world have proved over-ambitious and have had to be restructured and scaled down because of the heavy drain on Government resources. In India also, the expenditure on pensions has been steadily on the increase from Rs.1218 crores in 1986-87 to Rs.5,864.28 Crores in 1994-95. The expenditure is expected to increase further in view of the following:

- (a) increased life expectancy both at birth and at higher ages;
- (b) higher rate of retirement in the next 10 years because of 57% increase in employment over the period 1957-71;
- (c) decrease in spread of salaries by successive Pay Commissions resulting in increase in average pension;
- (d) increase in promotion avenues leading to increase in final salaries and hence in pensions;
- (e) updating of pension of past pensioners;
- (f) indexation of pension against inflation; and
- (g) cent per cent neutralisation of the increase in cost of living in respect of all employees irrespective of their pay range.

NATIONAL PENSION FUND

Need for a Fund

133.54 The efforts of the Commission aimed at granting some kind of parity in pension between past and future retirees, allowing of commutation of pension at a higher rate than at present, reducing the period for restoration of the commuted portion of pension, inclusion of D.A. in the definition of emoluments for the purpose of computation of gratuity/death gratuity, payment of a higher

amount of death gratuity to the families of those who die after 12 years of service, payment of family pension at a uniform rate, etc. are likely to give much needed relief to pensioners. It may nevertheless be necessary to ensure a post-retirement income equal to about 65% of the gross salary received by an employee at the time of retirement. In order to achieve this objective without any additional burden on Government resources, the constitution of a Pension Fund to which employees should contribute regularly through monthly deductions from their salary, has been considered, as recommended by the Consultants.

Pension plans 133.55 TECS have indicated two separate and distinct pension plans. The first is the Defined Benefit Plan (DBP) in which the pension entitlement is specified as a component of salary per year of service and the second the Defined Contribution Plan (DCP) in which the size of employer's/employee's contribution is specified as a percentage of salary but the quantum of pension benefit is not specified. While the investment risk is borne by the employer in the DBP, the inflation and the interest rate risk is borne by the employee/employer in the DCP. In view of the world-wide preference for DBP, we would recommend its adoption. We would also like to add that the higher returns accruing on account of better management of the Fund may be accumulated and distributed to the subscribers at the end of their working life after making necessary provision for capital reserve.

Indexed pension 133.56 TECS have formulated two schemes which provide for indexed pension and nominal (unindexed) pension. Under the indexed pension scheme, a contribution of 5.85% of the salary (pay + DA) would entitle a new entrant to a pension of 0.5% for every year of contribution for a working life of 33 years and a retirement life of 16 years. If the age of retirement is raised to 60 years, the contribution required would be 5.31%. Under the nominal pension scheme, a 5.14% contribution would entitle a new entrant to a pension of 0.75% of the final salary for every year of contribution for a working life of 33 years. If the working life is 35 years, the contribution required would be 4.89%. **Indexed Pension is a preferable alternative to increase in the pension benefit rate. We, therefore, recommend adoption of the indexed pension plan.**

Our Recommendations 133.57 At present, pension obligations are being discharged by the Government on a Pay As You Go (PAYG) basis out of current revenues. Switch over to a Funded Plan, though desirable, would greatly affect the ways and means position of the Government because in addition to meeting its current liabilities, a provision will have to be made in the budget for reducing its PAYG liability. We are, however, of the firm view that a beginning has to be made right now to switch over to the funded plan before the situation becomes irretrievable as a result of the steep increase in pension expenditure. **We would, therefore, recommend that Government may set apart 17.73% of the salary of every new entrant in service from the financial year 1997-98 so that their pension liability is wholly met out of the proposed Pension Fund.**

Option 133.58 Contributory Pension plans are often mandatory because individuals may be myopic and not save for their retirement years. We, therefore, recommend that while enrolment of new entrants to the Pension Fund may be made mandatory, the existing mid-career employees may be given an option to join the Fund. Such of those mid-career employees who exercise the option would be required to contribute at a uniform rate of 6.5% of their salary (pay

DA) and a lump sum amount depending upon the length of their remaining service and on whether they opt for additional pension of 10% or 15% or 16.5% of the final salary.

- Armed Forces* 133.59 For the armed forces, for a 16.5% additional indexed pension, the contribution would be 18.6% of the salary for Personnel Below Officers Rank (PBOR) and 8.19% for Officers. The reason for the high rate of contribution is that the period over which they contribute is shorter than the civilians and the period over which they would draw pension is much longer. It is estimated that against the working life of 17 years in the Army, 15 years in the Navy and 20 years in the Air Force, PBOR draw pension for 37 years, on an average, in the Army, 39 years in the Navy and 35 years in the Air Force. The officers have a working life of about 30 years and they draw pension for about 23 years on an average. **In view of the higher rate of contribution, TECS have suggested adoption of the unindexed pension plan for the armed forces personnel. We agree with their suggestion and recommend accordingly.**
- Two separate Pension Funds* 133.60 TECS have recommended constitution of a separate Fund for those serving in the Armed Forces because they have a structure and practices different from those of civilian employees. They have also recommended two Pension Funds for civilian employees - one for Railway employees because they constitute about 50% of the civilian employees and 54.5% of the total expenditure is incurred on Railway pensions - and another for other civilian employees. **We agree with the above suggestions.**
- Tax exemption* 133.61 Contributions to the proposed Fund should be entirely exempted from Income Tax. The returns to the Fund should also be made non-taxable in line with the tax-exemption provided to other pension schemes, mutual funds, etc. The benefits to the pensioner would be taxable as it is like any other pension; unless of course our recommendation that pensions should be paid net of tax is accepted.
- Action by Government* 133.62 Government may initiate necessary action to introduce an enabling Act in Parliament for creation of the Pension Funds, amendment to the Income Tax Rules and Insurance Act.
- Management by Trust* 133.63 In order to enable the Fund to operate efficiently and profitably, **it should be kept outside the Government and managed by a Trust** comprising trustees who would be representatives of the contributors and the sponsor. 50% representation is common for employees. Each category of contributors such as current employees, pensioners, and women employees should be represented. The Central Government being the sponsor, will have the right to appoint its representatives who should be selected from the Ministries of Law, HRD, Finance and Economics.
- Rate of return* 133.64 While working out the rate of contribution and the benefits payable, TECS have assumed an 8% inflation rate and a 4% rate of real return, which implies a nominal return of 12.32%. This appears to be on the lower side, given the present rate of return of more than 16% on bonds floated by PSUs/non-banking financial institutions. **We feel that with better management of funds, the employees can reasonably aspire for 20% additional pension** from their contributions made to the Fund over a period of 33 years besides 50% non-

contributory pension from the Government thus making a total pension of 70% of their emoluments last drawn.

ADDITIONAL PENSION

Demands

133.65 Suggestions have been made that additional pension should be paid at the rate of two per cent of emoluments last drawn for each year of service rendered in excess of 33 years, which has been prescribed for full pension. We have given our careful consideration to the suggestion and noted the rates of pension per year of service prevalent in other countries and under the recently introduced Employees' Pension Scheme where full service rendered is counted for computation of pensionary benefits subject to a maximum of 60%. The existing scheme in terms of which pension is reduced proportionately if service rendered is less than 33 years but no increase is allowed for service rendered in excess of 33 years appears to us to be anomalous and unjustified *prima facie*. With a view to removing this anomalous situation and providing incentive for the long years of meritorious service, we recommend that additional pension at the rate of 0.5 per cent of emoluments for each completed six-monthly period of service or one per cent of emoluments for each year of service in excess of 33 years may be paid to Central Government employees.

OTHER DEMANDS

133.66 Suggestions relating to replacement of the pension scheme by a lump sum payment of retiral benefits equal to 150 times the last pay plus Dearness Allowance, re-introduction of the slab system of calculation of pension so as to secure a higher percentage of pension for employees in lower pay slabs, introduction of a pension scale with provision for annual increase, grant of pension at a higher rate initially and its gradual reduction, and additional pension on attaining specified ages on the pattern of Punjab Government have also been made.

Our Recommendations: Lump sum settlement.

133.67 We have carefully considered the above suggestions. The first suggestion virtually amounts to having a one-time settlement on retirement and is not substantially different from the CPF scheme under which the entire amount is disbursed to the employees at the time of retirement. The employees governed by the CPF scheme have, however, been brought on to the pension scheme unless they opted out of the scheme and those who have already retired have represented for giving them an option to switch over to the pension scheme. In view of the changed circumstances and desirability of maintaining a regular income to the pensioners for their subsistence and other members dependent on them, we do not recommend replacement of the pension scheme by any other scheme providing for payment of retirement benefits in lump sum.

Differential rates of pension

133.68 The pension structure having been rationalised over a period of time to bring about uniformity in the computation of pension of all categories of employees, the suggestion to introduce differential rates of pension for employees in different pay ranges appears to us to be a retrograde step and does not merit acceptance. Similarly, introduction of scale of pension providing for annual increment appears neither practical nor justified. The other suggestion that pension

should be paid at higher rates in the initial years of superannuation and be reduced progressively is devoid of merit and **we are unable to recommend acceptance of these suggestions.**

Liberalisation of pension with age

133.69 In view of our recommendations in the chapter on medical and other facilities for pensioners relating to provision of medical facilities for indoor treatment and payment of a fixed medical allowance for day-to-day treatment, we feel that these measures would be adequate to cater to the enhanced medical requirements of aged pensioners and **any liberalisation of the rates of pension with reference to the age is not called for. We recommend accordingly.**

MINIMUM PENSION

Historical background

133.70 Prior to 1.1.1964, there was no concept of minimum pension. With effect from the above date, the payment of pension was made subject to a minimum of Rs.25 per month. This was raised to Rs.40 per month w.e.f. 1.3.1970 and again to Rs.60 per month w.e.f. 1.1.1980. From 1.4.1982 onwards, pension plus dearness relief was to be not less than Rs.150 which was raised to Rs.160 per month w.e.f. 1.4.1983.

Present position

133.71 Although the Fourth Pay Commission had recommended the minimum pension of Rs.300 per month, the Government fixed the same at Rs.375 per month with effect from 1.1.1986.

Our Recommendations

133.72 We have recommended a minimum salary of Rs.2440 per month for the lowest functionary in the Government of India. We feel that 50 per cent of the minimum salary of the lowest post would be a reasonable amount to be prescribed as the minimum pension. **We accordingly recommend that the minimum pension should be fixed at Rs.1,220 per month.**

MAXIMUM PENSION

133.73 The amounts of maximum pension fixed from time to time by the Government are as under:-

Date of effect	Maximum amount of pension
Prior to 17.4.1950	6,000 per annum
17.4.1950	6,750 per annum
17.4.1956	8,100 per annum
01.1.1973	12,000 per annum
31.3.1979	1,500 per month
31.3.1985	Ceiling removed
01.1.1986	4,500 per month

REMOVAL OF CEILING ON PENSION

133.74 A suggestion has been made that the ceiling on pension be removed. We have taken note of the fact that the existing ceiling on pension is in any case related to the pay (Rs.9,000) of the highest functionaries in Government. **We are not in favour of having any ceiling on the amount of pension and accordingly recommend its abolition.**

PENSION ON DISMISSAL/REMOVAL/RESIGNATION

Present position 133.75 Dismissal or removal from service entails forfeiture of past service and consequent loss of pensionary benefits. Resignation from service also entails forfeiture of past service.

Demands 133.76 Suggestions have been made that retirement benefits should not be denied on dismissal or removal from service because pension has been held to be a deferred wage. It has also been suggested that forfeiture of pension should be limited to the cases of dismissal from service and in cases of removal from service, the employee should be granted 75% or 50% of pension to maintain himself and members of his family.

Our Recommendations 133.77 We have considered the suggestions. The penalty of dismissal or removal from service has been introduced to provide for cases in which the continuance of a government servant in service is considered to be undesirable and is imposed on an employee only after holding an enquiry as provided for in the Central Civil Services(Classification, Control & Appeal) Rules, 1965 in which a government servant is afforded all opportunities to defend himself. There is, therefore, no case for the grant of retirement benefits to such employees at par with those who retire honourably. Besides, provisions also exist in the CCS (Pension) Rules, 1972 for the grant of a compassionate Allowance not exceeding two-thirds of pension or gratuity or both in deserving cases. **In view of the existence of the above said enabling provisions in the Pension Rules, we are not in favour of any further liberalisation in regard to payment of retirement benefits to employees who have been dismissed or removed from service and recommend accordingly.**

Resignation 133.78 It has been urged before us to make provision for payment of some pensionary benefits to those employees who quit government service on resignation.

Our Recommendations 133.79 We have given our careful consideration to the suggestion and noted that resignation from a service or post entails forfeiture of past service and the claim to both pension and retirement gratuity. While the Government can insist that pension be granted only subject to fulfilment of certain conditions such as reasonable length of service, etc., this does not appear to hold good in so far as retirement gratuity is concerned. We have noted that under the Payment of Gratuity Act, an employee who resigns is entitled to gratuity provided he has rendered at least five years' service. Persons appointed by the Government on contract are also extended the benefit of contributory Provident Fund to which both the employees and employers contribute @ 10% of employees' emoluments. We

feel that employees (whether permanent, quasi-permanent or temporary) who resign from service should be provided some compensation as a one-time payment for the service rendered under the Government. We accordingly recommend the following compensation:

Length of Service	Compensation payable
(a) Less than 5 years	Terminal gratuity at the rate of half a month's emoluments for each six monthly period of qualifying service.
(b) 5 years and more but less than 20 years	Terminal Gratuity at the rate of $\frac{3}{4}$ of a month's emoluments for each six monthly period of qualifying service ($\frac{1}{2}$ in lieu of service gratuity and $\frac{1}{4}$ in lieu of retirement gratuity).
(c) 20 years and more	Retirement benefits as on Voluntary Retirement.

SERVICE GRATUITY

Demands 133.80 Pension is not payable to an employee who retires from service before completion of ten years' qualifying service. Instead, a lump sum payment is made as service gratuity at the rate of half a month's emoluments for each completed six-monthly period of qualifying service. It has been suggested that the rate of Service Gratuity should be raised from one-half of emoluments to two-thirds of emoluments for each completed six-monthly period of qualifying service.

Our Recommendations 133.81 We have considered the suggestion. Permanent employees retiring with less than ten years' qualifying service are paid service gratuity at the rate of half a month's emoluments for each completed six monthly period of qualifying service. The service gratuity is in lieu of pension. Such employees are also paid retirement gratuity at the rate of $\frac{1}{4}$ th of emoluments for each completed six-monthly period of qualifying service, provided they have rendered not less than five years' service. The amount receivable by such employees shall increase substantially because of introduction of revised pay scales and the calculation of service and retirement gratuity on the basis of pay plus D.A., for which suitable recommendation has been made in this chapter. Accordingly, we do not recommend any change in the rate of service gratuity.

RETIREMENT GRATUITY

Historical background 133.82 Prior to introduction of Liberalised Pension Rules, there was no provision for death-cum-retirement gratuity (DCRG). With effect from 17th April, 1950 gratuity at the rate of $\frac{9}{20}$ of emoluments for each completed year of qualifying service, subject to a maximum of 15 times the emoluments, was introduced. The rate of gratuity was improved with effect from 22nd April, 1960 and was made one-fourth of emoluments for each completed six months' period of qualifying service. From 1.1.1973, the ceiling of 15 months' emoluments was raised to 16- $\frac{1}{2}$ times emoluments. The maximum emoluments for calculation of gratuity were Rs.4,000/- per month and the gratuity was subject to a ceiling of

Rs.50,000/- (maximum). Though the Fourth Pay Commission did not recommend any increase in the maximum limit of gratuity, the Government decided to increase the same from Rs.50,000/- to Rs.one lakh with effect from 1.1.1986.

Present position 133.83 Subsequently, in respect of Government servants who retired or died on or after 16th September, 1993, 20% of the basic pay was allowed to be treated as dearness pay for the purpose of reckoning emoluments for calculating retirement gratuity and death gratuity. On the basis of our Interim Report, 97% of basic pay (which was linked to average Consumer Price Index 1201.66 obtaining as on 1st July, 1993) was treated as Dearness Pay for the purpose of death and retirement gratuity in the case of Central Government employees who retired or died on or after April 1, 1995. The ceiling on retirement and death gratuity was raised from Rs.1 lakh to Rs.2.5 lakhs with effect from the same date.

Conditions of eligibility 133.84 Retirement Gratuity is admissible to a government servant who retires from service after completion of qualifying service of 5 years. Earlier, the basic condition for grant of 'Retirement Gratuity' (and Pension) was that the retiring Government servant should have held a post in a substantive capacity under Government at the time of his retirement. However, based on the recommendation of the Fourth CPC, provisions have been made by the Government for grant of pension and retirement gratuity to those Government servants who retire from service on superannuation or invalidation after rendering a continuous temporary or quasi-permanent service of ten years or more. As such, there is even now a difference in the entitlement to retirement gratuity for permanent and temporary government servants as the former is eligible for it at the time of retirement, if he has rendered 5 years of qualifying service, while in the case of the latter, this would be admissible on rendering 10 years of qualifying service.

Demands 133.85 The main demands raised by various associations relating to retirement gratuity are (i) that it should be calculated at the rate of half of emoluments for each completed six-monthly period of service instead of 1/4th as at present, (ii) that the full service rendered by an employee should be taken into account instead of restricting it to 33 years, (iii) that the ceiling on the amount of gratuity should be removed, (iv) that Dearness Allowance should be taken into account for computation of gratuity, (v) that the benefit of merger of DA should be extended from the date at which a particular index was reached and not subsequently, (vi) that the interim recommendation of the Fifth CPC recommending merger of DA as linked to index average 1201.66 should be made effective from 16.9.1993 when the constitution of the Commission was announced or from 9.4.1994 when the notification was issued, and (vii) that the merger of DA should have been recommended from the last day of the month instead of first day of the month as no one retires on the first of a month.

Our Recommendations 133.86 We have considered the above demands and suggestions carefully and taken note of the improvements made in the amount of gratuity over a period of time since its inception in 1950. Government have been merging a portion of DA with pay for the purpose of retirement and other benefits from time to time. Such merger has always been given effect from a date later than the date on which that particular level of Consumer Price Index (CPI) was reached. The difference in these two dates has ranged between 3 and 5 years earlier, but the Fifth CPC, while recommending merger of 97% DA w.e.f. 1.4.1995 in its interim report, reduced this period to 18 months. The practice of merging DA on ad hoc basis has led to

denial of benefit to thousands of employees who retired between the date of last revision of pay scales and the date of merger. Adoption of such a practice does not appear to be a satisfactory arrangement. We are of the view that the ad hoc policy followed so far needs to be discontinued. Considering the fact that gratuity is a one-time payment for services rendered, and the system of calculation of gratuity on the basis of pay plus DA is in vogue in the public and private sector, we recommend that the definition of emoluments may be revised to include DA on the date of retirement for calculation of all kinds of gratuities (retirement, death, service, terminal).

Rate of gratuity 133.87 With the introduction of revised pay scales and inclusion of DA in the definition of emoluments, the amount of gratuity shall be increased substantially. **We are, therefore, not inclined to recommend any change in the rate of gratuity or counting of service beyond 33 years for payment of gratuity.**

Ceiling 133.88 With the inclusion of DA in the definition of emoluments for calculation of gratuity, the amount of gratuity receivable shall undergo a change every six months when the rates of DA are revised. Any ceiling fixed now shall become unrealistic and would only deprive the retiring employees of their rightful due. **We, therefore, recommend removal of ceiling on all kinds of gratuities.**

Past cases 133.89 For the grant of any benefit, prescription of a cut-off date is essential. In view of Supreme Court's judgement upholding the right of the Government to prescribe a cut-off date and a policy decision of this Commission that all our recommendations shall have prospective effect, **we do not recommend any change in our earlier recommendations of merger of 97% DA for computation of gratuity w.e.f. 1.4.1995 and its applicability to those who retired or died on or after 1.4.1995.**

<p>TERMINAL BENEFITS FOR TEMPORARY/QUASI-PERMANENT EMPLOYEES</p>

Introduction 133.90 Temporary and Quasi Permanent Government servants other than those retiring on superannuation/invalid pension/voluntary retirement with less than 20 years of qualifying service are governed by the provisions of Central Civil Service (Temporary Service) Rules, 1965 and are eligible to the payment of only Terminal Gratuity at the following rates:-

Length of Service	Terminal Gratuity
(a) Below 5 years	Nil
(b) 5 years and above but less than 10 years	Half a month's pay for each completed year of service
(c) 10 years and above	One month's pay for each completed year of service subject to a maximum of 15 months pay or Rs.15,000, whichever is less.

<i>Present position</i>	133.91	The above rates of Terminal Gratuity are in force prior to Fourth Pay Commission. The Fourth CPC did not recommend any change in the above rates of Terminal Gratuity.
<i>Demands</i>	133.92	The Department of Pension and Pensioners' Welfare made a reference to us seeking our recommendation whether temporary/quasi-permanent employees who had rendered not less than 10 years' service in Government prior to their absorption in a Public Sector Undertaking (PSUs)/Autonomous Body (ABs) before 1.4.1988 should be extended the benefit of pension at par with permanent Government employees and those with less than 10 years' qualifying service should be given pro-rata service gratuity and retirement gratuity.
<i>Past cases</i>	133.93	We have considered the matter carefully in the light of information furnished by the Government. Confirmation was delinked from availability of permanent posts w.e.f. 1.4.1988. The temporary/quasi-permanent employees who got absorbed in PSUs/ABs prior to 1.4.1988 did not get this benefit retrospectively because of serious implications involved in the matter of seniority which was earlier linked to confirmation, and reopening of a large number of past cases. Keeping in view the sanctity of the cut-off date and the serious implications involved in the acceptance of the suggestion, we do not recommend reopening of the past cases.
<i>Our Recommendations</i>	133.94	As the distinction between temporary/quasi permanent government servants having rendered a qualifying service of not less than 10 years for eligibility to pensionary benefits on retirement on superannuation/invalidment/absorption in PSUs/ABs has already been removed, we recommend that such a distinction should also be done away with in regard to payment of terminal benefits to those with less than 10 years qualifying service. The terminal benefits payable to such employees should be at par with permanent employees because employees remain temporary due to administrative delays.

Family Pension

HISTORICAL BACKGROUND

*Initial
notification,
1950*

134.1 A Family Pension Scheme was notified by the Government of India in April, 1950 in terms of which the family of an employee who had rendered 25 years of service was entitled to family pension equal to 50% of the pension entitlement. The family pension was admissible for a total period of 10 years, subject to a maximum of 5 years beyond the date of retirement. The period of service for eligibility to family pension was reduced from 25 years to 20 years with effect from 1.4.1957. After their confirmation, the employees had the facility to nominate the recipients of the Family Pension.

*New Scheme,
1964*

134.2 This scheme was replaced by a new Family Pension Scheme in 1964 and was made applicable to all regularly appointed employees who were in service on 31.12.1963 and had opted for the scheme and to all Government servants who entered service thereafter. The scheme was also extended from 22.9.1977 to pre-1.1.1964 retirees, to implement a judgement of the Supreme Court.

*Amendments in
1977*

134.3 Initially, the scheme was contributory and all eligible employees were required to surrender two months' gratuity in order to avail themselves of the benefits. No contribution was, however, required to be made by those unmarried employees who retired or died without leaving a surviving family. The Family Pension Scheme was made non-contributory with effect from 22.9.1977 and the requirement of having to surrender a part of the gratuity was dispensed with.

PRESENT POSITION

134.4 Presently, the benefits of the Family Pension Scheme, 1964 as incorporated in the Central Civil Services (Pension) Rules, 1972 are admissible only to the spouse for life and children up to the age of 25 years. Children suffering from a disability of the mind or those who are physically crippled or disabled are, however, entitled to family pension for life. The condition that the children should

be dependent on the employee so as to be eligible to the family pension was dispensed with in 1993, which means that even if an eligible child starts earning, he or she would still be entitled to family pension up to the age of 25 years. In the case of a girl child alone, the eligibility to family pension ceases on her attaining the age of 25 years or on her marriage, whichever is earlier. The benefit of family pension is also extended to a spouse married to the pensioner after his retirement.

EXISTING RATES

134.5 The Fourth Pay Commission had recommended a minimum monthly family pension of Rs.300, which was raised to Rs.375 by the Government. The Commission had also recommended payment of family pension equal to 15% of the basic pay in the case of those whose basic pay was above Rs.1,500 per month. This was, however, raised to 20% by the Government for those whose pay was between Rs.1,501 and Rs.3,000 per month. The rates of family pension effective from 1.1.1986 are as follows:-

	Pay of Govt. Servant	Amount of Family Pension	Family Pension computed as a %age of Pension
(a)	Up to Rs.1,500 p.m.	30% of pay subject to a minimum of Rs. 375 p.m.	60
(b)	Rs.1,501-3,000 p.m.	20% of pay subject to a minimum of Rs. 450 p.m.	40
(c)	Above Rs.3,000 p.m.	15% of pay subject to a minimum of Rs. 600 and maximum of Rs. 1,250 p.m.	30

HIGHER RATES OF FAMILY PENSION

134.6 A higher rate of family pension is admissible if the deceased employee/pensioner had rendered not less than seven years' continuous service. The family pension at the enhanced rate is payable from the date following the date of death while in service or after retirement for a period of seven years or for a period up to the date on which he/she would have attained the age of 65 years had he/she survived, whichever is earlier. The family pension at higher rate is not admissible if a pensioner dies after attaining the age of 65 years. The higher rates are:-

- (a) In case of death in service : Twice the amount of normal rate of

- family pension or fifty per cent of the pay last drawn, whichever is lower.
- (b) In the case of death after retirement : Twice the amount of normal rate of family pension or fifty per cent of pay drawn at the time of retirement or the amount of pension authorised on retirement, whichever is the least.

RATES OF FAMILY PENSION

- Demands* 134.7 Almost all the pensioners' associations and unions of employees have complained to the Commission that the existing rates of family pension are grossly inadequate to maintain even a single person and have urged that the rates should be revised upwards, between 50% and 100% of pay last drawn.
- Our recommendations* 134.8 The existing rates of family pension which are linked to the pay drawn by an employee at the time of death while in service or retirement would appear to be inadequate to cater to the needs of the family of the deceased employee/pensioner. Revision thereof is justified because there are certain fixed costs of an establishment which do not get halved and the family continues to incur them even after the demise of a pensioner. There would also appear to be no rationale for prescribing different percentages of family pension with reference to different pay slabs because all families suffer equal hardships on the death of a bread winner. Taking the above and other relevant factors into consideration, we recommend that the existing varying rates of family pension (30%, 20% and 15%) may be replaced by a uniform rate of 30% of pay for all categories of employees.

LINKAGE OF FAMILY PENSION TO PENSION

- Demands* 134.9 Suggestions have been made that the quantum of family pension should be related to the amount of pension and it should be paid between 50% and 100% of pension drawn or admissible in case of death while in service.
- Our recommendations* 134.10 The suggestion for linkage of family pension with the amount of pension was considered by the Fourth CPC. It was observed by the Commission that the acceptance of the suggestion would, in a large number of cases, place the family of an employee with a shorter span of service at a considerable disadvantage. It would also entail evolution of a different formula for computation of the amount of family pension for employees not entitled to pension i.e. those who die without completing ten years' service necessary for eligibility to pension. We are inclined to agree with the observations of our predecessor. In this view of the matter and our emphasis being on simplification of procedures, we recommend that the family pension should continue to be related to the pay last drawn by the deceased employee.

MINIMUM FAMILY PENSION

- 134.11 A minimum family pension ranging between Rs.1,000 and

Demands

Rs.3,000 has been demanded. It has also been suggested that the amount of minimum pension should be not less than the minimum pay of the lowest post in the Government of India or the minimum wages.

*Our
recommendations*

134.12 We have tried our best to ascertain the data taken into account by the Government or the principles followed by the previous Pay Commissions while determining the quantum of minimum pension/family pension for the purpose of arriving at a suitable amount to be recommended by us as minimum pension/family pension but without any success. An inference could perhaps be drawn that the Government had considered 50% of the minimum pay of the lowest post as a reasonable amount when it fixed the minimum pension/family pension at Rs.375 against the amount of Rs.300 recommended by the Fourth Pay Commission. Since we have recommended retention of the rate of pension at 50%, we feel that 50% of the minimum pay of the lowest post would be a reasonable amount of minimum family pension. As we have recommended Rs.2,440 as the minimum pay for the lowest post, we recommend Rs.1,220 as the minimum family pension. This would apply to past family pensioners also. This formula could possibly be accepted as a reasonable one for establishing some nexus between minimum pay and minimum pension.

CEILING ON FAMILY PENSION

Demands

134.13 Removal of ceiling of Rs.1,250 on the family pension has been urged before us on the ground that the ceiling operated harshly against senior officers and the family pensioners were being deprived of their legitimate due.

*Our
recommendations*

134.14 The ceilings on pension, family pension and gratuity are unusual features of civil service retirement benefits and there is a very big drop in income when, for instance, a civil servant drawing a pension of Rs.4,500 per mensem expires. The family of the same civil servant is paid a family pension of just Rs.1,250 per month. It is one of fundamental tenets of a social security scheme that the beneficiary should have the assurance that in the event of his death, his widow and children would have the necessary wherewithal to live in reasonable comfort. However, with the meagre amount of family pension, this last desire of a deceased employee can hardly be met. The old assumption that civil servants in higher grades could save a great deal is no longer valid, with the substantial increase in the cost of living. Considering the fact that the number of employees against whom the existing ceiling operates harshly is not very significant, we are inclined to accept the suggestion for removal of ceiling on family pensions and recommend accordingly.

FAMILY PENSION AT ENHANCED RATES

Demands

134.15 It has been suggested that the period for payment of family pension at enhanced rates may be raised from 7 to 15 years or till the life-time of the family pensioner.

*Our
recommendations*

134.16 Prior to the Third CPC, the period of seven years was restricted till the employee would have attained the age of superannuation. By this restriction, the families of those who died just before their normal date of

retirement, were deprived of family pension at enhanced rates for full seven years. This anomaly was removed on the recommendation of the Third CPC and the benefit was extended for a period of seven years or till the employee/pensioner would have attained the age of 65 years, whichever was earlier. The period of seven years for entitlement to family pension at enhanced rates is considered to be an adequate period for a family to get adjusted to the changed circumstances. There is, therefore, no strong justification for granting family pension at enhanced rates either for 15 years or for the life-time of the spouse. Accordingly, we do not recommend any change in the existing condition of eligibility of seven years' service or in period of seven years for entitlement to family pension at enhanced rates. However, in view of our recommendation to increase the age of superannuation to 60 years, the family pension at enhanced rates should be admissible for a period of seven years or till the employee/pensioner would have attained the age of 67 years, had he survived.

DEFINITION OF FAMILY

- Demands* 134.17 It has been urged before us that the restriction on payment of family pension to married daughters of a deceased employee/pensioner be removed.
- Recommendations on a,* 134.18 Currently, family pension is payable to sons up to 25 years of age, irrespective of marital status and gainful employment, whereas in case of daughters, it is payable up to 25 years of age or up to the date of marriage, whichever is earlier. This distinction smacks of gender bias against daughters. We recommend that family pension should be payable to both sons and daughters up to 25 years of age or up to the date of their marriage, whichever is earlier.
- Condition of dependency* 134.19 Further, considering the non-contributory nature of family pension and the fact that it is paid ex gratia for sustenance of the dependents, we are of the view that payment of family pension should be discontinued when the eligible son/daughter starts earning a sum of Rs.2,440 from employment in Government, the private sector, self employment etc. and we recommend accordingly.

FAMILY PENSION TO WIDOWED/DIVORCED DAUGHTER

- Demands* 134.20 Suggestions have also been made for extension of the benefit of family pension to the widowed/divorced daughters of a deceased employee.
- Our recommendations* 134.21 We have considered the suggestion and are of the view that widowed and divorced daughters need to be provided some relief. We recommend that they be included in the definition of family for payment of family pension up to 25 years of age or up to the date of their remarriage or till they start earning a minimum wage of Rs.2,440, whichever is earlier.

FAMILY PENSION ON REMARRIAGE

- Demands* 134.22 It has been urged before us that the existing condition in terms of which payment of family pension is terminated on the re-marriage of a widow should be removed.
- Our recommendations* 134.23 Having regard to the fact that eligibility for family pension passes to the next eligible child of the deceased employee, we are unable to agree to the suggestion for continuance of family pension to the widow on remarriage. However, if the widow undertakes to maintain the dependent children on her re-marriage, family pension should continue to be paid. In the latter case, family pension shall be payable to the widow till the last eligible son/daughter of the deceased employee attains the age of 25 years or starts earning a minimum wage of Rs.2,440 from any source including self-employment or gets married, whichever is earlier.

FAMILY PENSION TO PARENTS, BROTHERS AND SISTERS

- Demands* 134.24 Several pensioners' associations have suggested that parents, dependent brothers and sisters may be included in the definition of "family" for the purpose of eligibility to family pension.
- Parents* 134.25 We have noticed that a provision exists in the CCS (Extraordinary Pension) Rules and Liberalised Pensionary Awards for grant of dependent pension to parents in those cases where the deceased government servant had left behind neither a widow nor a child. With a view to bringing about uniformity in the matter of dependent pension in the CCS (Pension) Rules, Extraordinary Pension Rules and Liberalised Pensionary Awards, we recommend that only those parents who were wholly dependent on the Government servant when he was alive, may be included in the definition of family where the deceased employee had left behind neither a widow nor a child. Such parents shall be eligible for family pension at ordinary rate, i.e. 30% of the pay of the deceased employee.
- Our recommendations* 134.26 As for inclusion of brothers, sisters and other relatives in the definition of "family", an employee's desire to discharge wider family obligations is no doubt admirable, but it is hardly fair that such obligation should be discharged at public cost. In view of the non-contributory nature of family pension, we are not inclined to recommend inclusion of brothers, sisters and other relatives in the definition of "family" for eligibility to family pension.

IMPLEMENTATION OF RECOMMENDATION OF FOURTH PAY COMMISSION

- 134.27 While dealing with a large number of demands from several quarters for widening the definition of "family" for eligibility to family pension, we came across a classic example of lack of uniformity in the definition of family in various service rules as analysed by the Fourth Pay Commission in Paragraph 6.15 of Part-II of its report and the recommendations made in Paragraph Nos. 6.16 and 6.17 raising certain vital questions. As per our information, the remedial measures are yet to be taken by the Government. In view of the relevance and importance of the questions raised, we would like to reiterate their recommendations as mentioned above and urge upon the Government to consider the issues as early as possible and

take remedial measures.

UPDATING OF FAMILY PENSION OF PAST FAMILY PENSIONERS

Demands

134.28 All pensioners' associations which submitted their memoranda and which appeared before the Commission to tender oral evidence brought to our notice the glaring disparities in the amount of family pension being drawn by family pensioners belonging to different Pay commission periods and urged that there should be complete parity in the amount of family pension, irrespective of the date of retirement/death of the Government servant. They also suggested the application of revised rates of family pension in respect of pre-1.1.1986 family pensioners as introduced w.e.f. 1.1.1986 before updating their pension on the basis of a formula to be recommended by the Commission for the post-Fifth Pay Commission retirees.

Reasons for disparities

134.29 We have given our careful consideration to the submissions made by the pensioners' associations on behalf of family pensioners and taken note of the fact that family pension, except in cases of death while in service, is authorised by the pension sanctioning authorities in the Pension Payment Order issued to the pensioner at the rates prevalent at the time of authorisation, whereas it is actually disbursed several years thereafter on the death of the pensioner, by which time rates of family pension undergo a change. The disparities in the amount of family pension exist because of (i) prevalence of different rates of family pension at different points of time, (ii) denial of benefits of improved rates of family pension to past pensioners, (iii) imposition of artificial ceilings on the amount of family pension, (iv) denial of benefits of refixation of family pension on the basis of pay in the revised scales of pay, (v) different rates of neutralisation for the rise in the cost of living index etc.

Our recommendations

134.30 While we are in favour of imparting a greater equity between past and present family pensioners, it may not be advisable to go in for complete parity at this juncture because of the financial implications. With a view to achieving this objective, we would recommend that all the pre-1.1.1986 family pensioners may be brought to the level of 1.1.1986 (Fourth CPC) by notional fixation of pay of the deceased employee from one Pay Commission to the subsequent Pay Commission in the same way as was done for serving employees and then apply the rates of family pension as may be introduced on implementation of Fifth CPC's recommendations. Once the past family pensioners are brought on to the level of Fourth CPC, they should be given the same treatment in regard to quantum of fitment weightage as may be given to the serving employees. If the amount of family pension fixed in the manner indicated above, falls short of 30% of the minimum pay of the post held by the deceased employee, as revised by the Fifth CPC, the family pension would be stepped up to 30% of the minimum pay of the post held by the deceased. The family pension of post-1.1.1986 family pensioners shall be revised in the manner indicated in the next paragraph without notional fixation of pay of the deceased employee in the Fifth CPC's pay scales. Except notional fixation, the post-1.1.1986 family pensioners shall be entitled to all the benefits which have been extended to pre-1.1.1986 family pensioners. The methodology suggested above would ensure total

parity between family pensioners of pre-1986 and post-1986 periods and modified parity thereafter, which is intended to do away with the unequal treatment meted out to the family pensioners all these years.

134.31 While the work relating to grant of total parity up to 1.1.1986 by notional fixation of pay of the deceased employee and modified parity thereafter shall have to be undertaken by the pension sanctioning authorities, which may take some time, it would be desirable to grant immediate relief to the family pensioners. To achieve this objective, pension disbursing authorities may be authorised to consolidate the pension by adding (a) existing basic family pension; (b) Dearness Relief as on 1.1.1996; (c) Interim Reliefs I and II; (d) 20% of basic family pension. The total is to be stepped up to 30% of the minimum pay of the post held by the deceased employee, as revised by the Fifth CPC, wherever consolidated pension falls short of the above percentage. The consolidated pension shall be the basis for grant of Dearness Relief in future.

134.32 There may be cases where it may not be possible for the pension sanctioning authorities to fix the pay of the deceased employees notionally, because of non-availability of records due to such records having been weeded out or other administrative problems. In such cases the family pension may be revised with reference to the minimum pay of the post held by the deceased, as revised by the Government on our recommendations

DEATH GRATUITY

Present position

134.33 In addition to family pension, families of Government employees who die while in service, are entitled to death gratuity which is calculated with reference to the number of years of qualifying service rendered by the deceased employee at the time of his/her death. Prior to 1.1.1986, only permanent Government employees were entitled to gratuity. But on the recommendations of Fourth CPC, death gratuity has been made admissible with effect from 1.1.1986 at the following scale irrespective of whether the deceased employee was permanent, temporary or quasi-permanent:

	Qualifying service	Amount of death gratuity
(a)	Less than one year	Two times the pay
(b)	One year and above but less than five years	Six times the pay
(c)	Five years and above but less than 20 years	Twelve times the pay
(d)	Twenty years and above	Half of the pay for each completed six monthly period of service subject to a maximum of 33 times the pay and monetary ceiling of Rs.2.5 Lakhs.

134.34 It has been submitted that the family of a Government servant who dies in harness with a service of five years or more but less than 20 years, is paid 12 times the emoluments as death gratuity, whereas the family of another Government servant who dies after rendering service of 20 years or more is paid gratuity at the rate of half the emoluments for each completed six monthly period of service which works out to one month's emoluments for each year of service. In the event of a Government servant dying just before completing 20 years of service, his family is put to a loss because of the restriction of 12 times the emoluments. It has, therefore, been urged that this anomaly may be rectified.

134.35 We have considered the submission and taken note of the fact that prior to Fourth CPC, there were three slabs namely, (a) Less than one year, (b) one year or more but less than five years, and (c) five years and above. On the recommendations of Fourth CPC, the third slab was modified to 'five years and above but less than 20 years' and the fourth slab of '20 years and above' was introduced on the ground that the family of an employee who died after completion of 20 years or more service was at a disadvantage as compared to the family of an employee who died after taking voluntary retirement. We have noted that in the existing scheme, the family of an employee who dies with service just short of 20 years is placed at par with the family of an employee who dies after more than five years service, which does not seem to be appropriate. We are, therefore, convinced of the need to revise the existing slabs which may be modified as under:-

	Qualifying service	Amount of death gratuity
(a)	Less than one year	Two times the emoluments
(b)	One year or more but less than five years	Six times the emoluments
(c)	Five years and more but up to 12 years	Twelve times the emoluments
(d)	Above twelve years	Half of emoluments for each completed six monthly period of qualifying service subject to a maximum of 33 times the emoluments.

OTHER BENEFITS

134.36 Apart from family pension and death gratuity, the families of the deceased employees also get other benefits such as the insurance cover available under the Central Government Employees' Group Insurance Scheme (CGEGIS) and Deposit Linked Insurance Scheme. We have separately recommended in the relevant chapter doubling of the rate of contribution and corresponding increase in the insurance cover in case of death. We have also recommended in the chapter on General Provident Fund for raising the benefit under Deposit Linked insurance Scheme from the existing Rs.30,000 to Rs. one Lakh. We have tried our best to

improve the condition of family pensioners within the available resources by making suitable recommendations in this chapter with the hope that they would be able to lead a more decent life.

CONCLUSION

134.37 The principles enunciated by the Commission for future revision of pension are contained in our chapter on Pension Structure. Those principles shall apply equally for revision of family pensions in future.

Special Benefits in case of Death and Disability

PRESENT PROVISIONS

*Death due to
natural causes*

135.1 Cases of death of Central Government employees dying in harness due to natural causes not attributable to government service are covered under the Central Civil Services (Pension) Rules, 1972, and their families are entitled to the normal family pension and death gratuity, in addition to the accumulations in the Provident Fund accounts, compensation admissible under the Central Government Employees Group Insurance Scheme and the Deposit-linked Insurance Scheme.

*Death and
disability
attributable to
service*

135.2 Employees who sustain injuries or contract diseases or die or are disabled or incapacitated on account of causes which are accepted as attributable to or aggravated by government service are, however, eligible for certain special benefits under the Central Civil Services (Extraordinary Pension) Rules. The benefits available under these rules, which are applicable to all persons paid from Civil Estimates, other than those to whom the Workmen's Compensation Act applies, have been amended and liberalised from time to time. In terms of the rules currently in force, apart from the death gratuity and other entitlements under the Provident Fund Rules and Group Insurance Scheme, a consolidated Extraordinary Family Pension is admissible to the extent indicated below, in the event of death of an employee who holds a pensionable post, irrespective of whether the deceased employee had completed seven years' service or not:

Basic Pay of employee
at time of death

Monthly Extraordinary
Family Pension

Government servant holding a pensionable post

- a) If the widow of the deceased employee is childless:

Not exceeding Rs.1,500	50% of basic pay
Exceeding Rs.1,500 but not exceeding Rs.3,000	40% of basic pay subject to a minimum of Rs.750
Exceeding Rs.3,000	30% of basic pay, subject to a minimum of Rs.1,200 and maximum of Rs.2,500

b) If the widow of the deceased employee has a child or children:

In all cases	60% of basic pay, subject to a minimum of Rs.750 and maximum of Rs.2,500
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Employees not holding a pensionable post and dying in harness are also entitled to the Extraordinary Family Pension under these Rules, but at reduced rates ranging from 15 per cent to 30 per cent of the basic pay depending on the pay drawn by them at the time of death if the surviving widows are childless and at a fixed rate of 40 per cent of the basic pay if the surviving widows have children, subject to a minimum of Rs.500 and maximum of Rs.1,500.

Disability benefits

135.3 Similarly, employees who are disabled or incapacitated due to causes not attributable to government service and are discharged from service are covered under the Central Civil Services (Pension) Rules, 1972, and are entitled to service pension for the actual service rendered up to the date of invalidation. If such service is less than ten years, service gratuity is paid in lieu of pension at the rate of half a month's emoluments for every completed half-yearly period of service. If, however, the disability leading to discharge is established as attributable to government service, the provisions contained in the Central Civil Services (Extraordinary Pension) Rules apply, and a Disability Pension at the prescribed rates is admissible. This consists of two elements, the service element and the disability element. The former compensates for the service rendered up to the date of invalidation and the latter for the functional incapacity suffered by the employee as assessed by a medical board. In the case of cent per cent disability, the Disability Pension admissible is equal to the normal rates of family pension, i.e. 30%, 20% or 15% depending on the basic pay drawn by the employee at the time of his invalidation. For lower percentages of disability, the monthly disability pension is proportionately lower, subject to the conditions prescribed in this regard. If, however, the employee is retained in service notwithstanding his disability, he is entitled to receive the capitalised value of the disability element calculated on the basis of the commutation table.

Death in air accidents

135.4 Death of a government servant as a result of an accident, while travelling by air on duty, is also treated as being due to 'special risk of office' for the purpose of the Central Civil Services (Extraordinary Pension) Rules. If the death occurs while travelling on duty by commercial flights operated by Indian Airlines and other carriers, compensation would be payable by the airline concerned in terms of international conventions. If, however, the journey on duty is performed by service aircraft, the family of the deceased employee would also be entitled to an ex gratia payment equal to the compensation available to families

of similar personnel travelling by Indian Airlines as fare paying passengers. However, the compensation, which is presently Rs. 5 lakhs, has to be approved and sanctioned, in each individual case, with the concurrence of the Finance Ministry.

*Liberalised
pensionary
awards*

135.5 Separate orders have been issued by Government to provide for the grant of Liberalised Pensionary Awards in cases of death or disability arising as a result of (a) attack by or during action against extremists, anti-social elements, etc. and (b) enemy action in international war or border skirmishes. The benefits admissible to the family in the event of death of an employee are as follows:-

- a) If the employee is survived by his widow, she will be entitled to family pension, for life or until her remarriage, equal to the pay last drawn by him.
- b) In the event of remarriage of the widow, the family pension will be reduced and will be equal to that admissible normally under the Central Civil Services (Pension) Rules, 1972.
- c) If there is no surviving widow, but the employee has left behind a child or children, all children together shall be entitled to family pension at rates ranging from 30 to 50 per cent prescribed in this regard with reference to the basic pay of the employee at the time of death. The family pension to the children is to be regulated as in the case of normal family pension admissible under the Central Civil Services (Pension) Rules, 1972.
- d) On remarriage of the surviving widow or when there is no surviving widow and the family pension is paid only to the children, each child shall also be entitled to receive, in addition, a Children's Allowance of Rs.100 p.m. in cases where the deceased employee was in receipt of pay less than Rs.2,200 and of Rs.150 p.m. in cases where the pay at the time of death was Rs.2,200 and above.
- e) If the government servant dies as a bachelor or widower without children, a dependant pension equal to 75% or 56.25% of the pay last drawn depending on whether both the parents are alive or only one of them, is admissible to the parents without reference to the pecuniary circumstances.
- f) Where family pension or dependant pension is paid in terms of these orders, no other family pension or dependant pension will be admissible under any other orders or rules in consideration of the death of the same deceased government servant.

Disability benefits

135.6 If the government servant is discharged from service on account of injuries sustained in these operations, he will be paid a disability pension, which will consist of a service element and a disability element. The former will be equal to an amount of the retiring pension, including the pension equivalent of retirement gratuity which he would have been entitled to on the basis of his pay on the date of injury but counting service up to the date on which he would have retired in the

normal course. The disability element for 100 per cent disability will be equal in amount to the pay last drawn by the government servant minus the service element, and be subject to a maximum of Rs.1,000 p.m.. The disability element will be proportionately reduced for lower percentages of disability.

Ex gratia payments

135.7 In the absence of specific provisions in the rules for payment of compensation to families of Central Government employees killed in acts of terrorist violence, various departments had adopted different schemes for compensating their employees. Whereas some of them paid compensation under Workmen's Compensation Act, certain others had resorted to ex gratia payments on a case by case basis. On consideration of this question by the Committee of Secretaries in the context of escalating terrorist activities in Punjab, orders were issued in November 1988 to the effect that, while the then existing procedures followed by different departments might be continued, they should, however, ensure that an amount of at least Rs.50,000 was paid to the families, after excluding any payments ordinarily made in cases of death not attributable to service but including any amount payable in cases of death attributable to service. All such cases of ex gratia payments were also to be referred to the Department of Pension and Pensioners' Welfare for prior clearance to ensure consistency in approach in deciding the quantum of compensation. Subsequently in May 1990, these orders were also extended to the families of Central Government employees killed in terrorist violence in Jammu & Kashmir.

Position in Central Police Organisations

135.8 On the other hand, families of personnel of the Central Police Organisations killed in the course of performance of their duties due to violence by armed hostiles, extremists, terrorists, etc. are paid ex gratia grants in terms of separate orders issued by the Ministry of Home Affairs, which have also been reviewed and amended from time to time. The ex gratia payment presently admissible is Rs. 2 lakhs and any compensation payable under the Central Government Employees' Group Insurance Scheme or ex gratia payments made by the State Governments concerned (which were taken into account in computing the net compensation prior to 1993) are to be excluded.

Armed Forces Personnel

135.9 Families of members of the Armed Forces killed in similar circumstances are, however, not entitled to any ex gratia payments, but only to the liberalised pensionary benefits similar to those admissible to civilian employees in terms of the Liberalised Pensionary Awards. In addition, they are also covered by the contributory Army Group Insurance Scheme, which provides death benefit of Rs.3.85 lakhs for Officers and Rs.1.65 lakhs for personnel Below Officers Ranks.

Ministry of Information and Broadcasting

135.10 Subsequent to May 1990, Government also separately approved the (a) enhancement of ceiling on ex gratia payment to families of employees killed as a result of terrorist acts or encounters with anti-social elements to Rs. 5 lakhs; and (b) payment of further compensation of up to Rs.5 lakhs, on a case by case basis from sundry government sources, such as Prime Minister's Relief Fund, Chief Minister's Relief Fund, etc., the total compensation and ex gratia being restricted to Rs.10 lakhs, only in respect of the employees of the Ministry of Information and Broadcasting.

DEMANDS AND SUGGESTIONS RECEIVED

*Liberalisation of
benefits*

135.11 We have received a large number of demands and suggestions, particularly from the Central Police Organisations, that the benefits admissible under the schemes for the payment of extraordinary pension, Liberalised Pensionary Awards and ex gratia should be substantially liberalised. These mainly relate to increase in the quantum of benefits, removal of present distinctions and disparities in payment of extraordinary pension to the surviving dependants of different categories of employees, payment of full pension to employees discharged from duty without reference to the actual service rendered by him, payment of disability pension equal to the pay last drawn, removal of disparities in the rates of Children's Allowance under the Liberalised Pensionary Awards scheme, removal of restriction on grant of liberalised pensionary awards to disabled personnel who seek voluntary retirement, enlargement of the scope of Liberalised Pensionary Awards, extension of the provisions of the Liberalised Pensionary Awards scheme to personnel who are killed in accidents while performing official duties, extension of the scheme of ex gratia payments even to those who suffer cent per cent disability in actual operations at par with those who are killed, etc.

*Reference from
Government*

135.12 Apart from these demands and suggestions, the Department of Pension and Pensioners' Welfare has also made a separate reference to us requesting recommendations on a comprehensive policy that could be adopted in regard to ex gratia payments in cases of death in various circumstances in any part of the country, which could replace all isolated decisions that might have been taken in the past by various individual ministries or by government for different disturbed regions in the country.

OUR VIEWS AND SUGGESTIONS

*Principle of
Attributability*

135.13 We have considered these demands and suggestions very carefully. As a general rule, it would be appropriate to retain the present distinction in the benefits admissible to employees who sustain injuries or contract diseases or die or are disabled or incapacitated on account of causes which are accepted as attributable to or aggravated by government service and to those who die in harness only due to natural causes not attributable to government service. In the context, however, of the perceptible increase in violence-related incidents over the years, involving the use of explosive devices in public places, kidnapping for ransom resulting in the death of the victim, etc. government employees could become unwitting victims of such incidents, though they may strictly not be on government duty or business at the relevant time. Considering the fact that the employees are in no way responsible for the death or injuries suffered in such incidents, we are of the view that it may not be inappropriate, from a humanitarian angle, to make an exception only in such cases though there may be no causal connection, as prescribed in the rules, between the death or disability and government service so that the principle of attributability could be conceded. We recommend accordingly.

*Results of our
examination*

135.14 We observe that benefits in the event of death, disability or discharge from service are presently regulated in terms of three different sets of rules or administrative instructions, depending on the circumstances. Certain ministries and departments like the Ministry of Information and Broadcasting have

also secured additional benefits which have not been extended uniformly to all employees. Whereas the rules and orders relating to Extraordinary Family Pension and Liberalised Pensionary Awards are fairly explicit, though complex, it would appear that decisions on the question of ex gratia payments had been arrived at in the past only in isolation as and when certain situations arose, and this fact has also been accepted by the Department of Pension and Pensioners' Welfare themselves. There is, therefore, the likelihood of an element of ad-hocism and even of decisions being influenced by subjective considerations, particularly when these are taken on a case to case basis. Regulation of benefits under different sets of rules or instructions could also result in avoidable confusion. There is, therefore, clearly a need for a comprehensive policy and a single set of rules to regulate the quantum of compensation in cases of death or disability under different circumstances, which should be clearly spelt out so as to remove any confusion which might lead to delays in disbursement of the admissible benefits. This would also ensure rationalisation and simplification.

135.15 Further, as has been pointed by the Department of Pension and Pensioners' Welfare, there is always an unfortunate possibility that acts of terrorism can take place or disturbed conditions prevail in any part of the country. Central Government employees could also be unwitting victims of such acts even if they may not be actively engaged in the discharge of their official duties at the relevant time. There is, therefore, also a case for enlarging the scope and applicability of various benefits presently available under the three different schemes, so as to cater to certain other unnatural situations not presently envisaged.

*Our
recommendations*

135.16 For determining the compensation payable for death or disability under different circumstances, these could be broadly categorised as follows:-

- Category 'A'** Death or disability due to natural causes not attributable to government service. Examples would be chronic ailments like heart and renal diseases, prolonged illness, accidents while not on duty, etc.
- Category 'B'** Death or disability due to causes which are accepted as attributable to or aggravated by government service. Diseases contracted because of continued exposure to a hostile work environment, subjected to extreme weather conditions or occupational hazards resulting in death or disability would be examples.
- Category 'C'** Death or disability due to accidents in the performance of duties. Some examples are accidents while travelling on duty in government vehicles or public transport, a journey on duty is performed by service aircraft, mishaps at sea, electrocution while on duty, etc.
- Category 'D'** Death or disability attributable to acts of violence by terrorists, anti-social elements, etc., whether in the performance of duties or otherwise. Apart from cases of death or injury sustained by personnel of the Central Police

Organisations while employed in aid of the civil administration in quelling agitation, riots or revolt by demonstrators, other public servants, including police personnel, etc., bomb blasts in public places or transport, indiscriminate shooting incidents in public, etc. would be covered under this category.

Category 'E' Death or disability arising as a result of (a) attack by or during action against extremists, anti-social elements, etc. and (b) enemy action in international war or border skirmishes and war-like situations, including cases which are attributable to (i) extremist acts, exploding mines, etc. while on way to an operational area; (ii) kidnapping by extremists; and (iii) battle inoculation as part of training exercises with live ammunition.

135.17 As a measure of rationalisation, and based on our recommendations on Family Pensions, we recommend that compensation for death and disability under the different circumstances enumerated above may be regulated as follows:-

Category	Benefit/Compensation recommended
I	Cases of Death
A)	Normal Family Pension admissible under the Central Civil Services (Pension) Rules, 1972, equal to 30% of the basic pay of the deceased employee.
B)	Extraordinary Family Pension admissible under the Central Civil Services (Extraordinary Pension) Rules, equal to 60% of the basic pay of the deceased employee.
C)	Extraordinary Family Pension admissible under the Central Civil Services (Extraordinary Pension) Rules, equal to 60% of the basic pay of the deceased employee plus ex gratia of Rs.5 lakhs.
D)	Family Pension admissible under the Liberalised Pensionary Awards Scheme, equal to the pay last drawn by the deceased employee plus ex gratia of Rs.5 lakhs.
E)	Family Pension admissible under the Liberalised Pensionary Awards Scheme, equal to the pay last drawn by the deceased employee plus ex gratia of Rs.7.5 lakhs.
II	Cases of Disability (100%) resulting in discharge from service
A)	Normal Retiring Pension and gratuity admissible for the actual service rendered under the Central Civil Services

(Pension) Rules, 1972 equal to 50% of the average emoluments during the last six months.

- B) Normal pension and gratuity admissible under the Central Civil Services (Pension) Rules, 1972, without insisting on the requirement of minimum service of ten years plus Disability Pension equal to the normal Family Pension, i.e. 30% of the basic pay.
 - C) Normal Pension and gratuity admissible under the Central Civil Services (Pension) Rules, 1972, without insisting on the requirement of minimum service of ten years plus Disability Pension equal to the normal Family Pension, i.e. 30% of the basic pay.
 - D) Disability pension, comprising a service element equal to the retiring pension and gratuity to which the employee would have been entitled to on the basis of his pay on the date of invalidation but counting service up to the date on which he would have retired in the normal course and a disability element equal in amount to normal family pension, subject to the condition that the aggregate of the service and disability elements shall not be less than 80% of the pay last drawn.
 - E) Disability pension, comprising a service element equal to the retiring pension and gratuity to which the employee would have been entitled to on the basis of his pay on the date of invalidation but counting service upto the date on which he would have retired in the normal course and a disability element equal in amount to the pay last drawn subject to the condition that the aggregate of the service and disability elements shall not exceed the pay last drawn.
-

135.18 A graded structure of compensation has been proposed by us keeping in view the hardships and risks involved in certain assignments, the intensity and magnitude of the tragedy and deprivation that families of government employees experience on the demise of the bread-winner in different circumstances, the expectations of the employer from the employees to work in extreme circumstances, etc. The benefits now proposed will provide an additional security and insurance to employees who are required to function under trying circumstances and are exposed to different kinds of risks in the performance of their duties and will be mutually exclusive of such other benefits as may be admissible under other schemes, such as the Group Insurance Scheme, General Provident Fund, etc. It is also only appropriate that such compensation as has been now recommended should be financed wholly by the Government without any contribution from the employees.

*Determination of
extent of
disability*

135.19 The benefits proposed in cases of invalidation from service relate to 100 per cent disability. For lower percentages of disability, the benefits shall be

proportionately lower as at present. We, however recommend, as a measure of further rationalisation and simplification, that the extent of disability or functional incapacity may be determined in the following manner for purposes of computing the disability element forming part of the benefits:

Percentage of Disability as assessed by Medical Board	Percentage to be reckoned for computation of Disability Element
Less than 50	50
Between 50 and 75	75
Between 76 and 100	100

Benefits to employees retained in service

135.20 We do not recommend any changes in the benefits admissible to those employees who are disabled or incapacitated but nevertheless continue to be retained in government service.

135.21 On consideration of the other demands submitted to us, we recommend the following:-

Removal of certain distinctions

- a) In consideration of the fact that family pension at a uniform rate is admissible to all widows in terms of the Central Civil Services (Pension) Rules regardless of whether they have children or not, **the present distinction between widows without children and those with children for determining the quantum of Extraordinary Family Pension may be removed.**
- b) Benefits at higher rates are presently admissible to employees holding pensionable posts in relation to the holders of non-pensionable posts, who are covered under the Contributory Provident Fund Scheme. The Fourth CPC had recommended that all employees who were in service as on January 1, 1986 and were governed by the Contributory Provident Fund Scheme should be deemed to have come over to the pension scheme, unless they specifically opted to continue under the Contributory Provident Fund Scheme. There is also an increasing trend towards introduction of pension schemes for their employees even by organisations and enterprises where the Contributory Provident Fund Scheme is presently applicable. In the circumstances, and also given the fact that there may not be many employees in government who may still be governed by the Contributory Provident Fund Scheme, **the present distinction between holders of pensionable and non-pensionable posts may be removed and families of holders of non-pensionable posts who die in harness may be extended the same benefits**

as have now been recommended, subject to the condition that the employer's contribution to the Provident Fund is surrendered to Government.

*Benefits to
parents*

- c) The Central Civil Services (Extraordinary Pension) Rules presently provide that if a deceased government servant leaves behind neither a widow nor a child, the award under the Rules may be made to the father and mother individually or jointly and in the absence of the father and mother to minor brothers and sisters, individually or collectively, if they are largely dependent on the government servant for support and are in pecuniary need. The Extraordinary Family Pension shall now, however, exceed half of the pension that would have been admissible to a childless widow. On the other hand, in terms of the Liberalised Pension Awards Scheme, if the government servant dies as a bachelor or widower without children, a dependant pension equal to 75 per cent or 56.25 per cent of the pay last drawn is admissible to the parents without reference to their pecuniary circumstances, depending on whether both of them are or only one of them is alive. In order to bring about a measure of uniformity between these two sets of rules and orders, the Dependant Pension may be paid at the rate of 75 per cent of the pay last drawn if both parents are alive and at the rate of 60 per cent if only one of them is alive.

*Children's
allowance*

- d) In the context of the proposed enhancement of the rate of family pension admissible under the Liberalised Pensionary Awards to 60 per cent of the basic pay, the present practice of payment of a Children's Allowance in addition to the admissible family pension to the children on the remarriage of the surviving widow or when there is no surviving widow may be discontinued.

*Benefits in cases
of voluntary
retirement*

- e) We are unable to accept the demand that there should be no restriction on grant of liberalised pensionary awards to disabled personnel who seek voluntary retirement having regard to the fact that the emphasis of government is on rehabilitation of disabled employees and providing them suitable employment.

*Modification of
findings of
Medical Boards*

135.22 It has been brought to our notice that findings of medical boards constituted to determine the extent of disability are often modified by sanctioning authorities on the advice of non-medical functionaries. It has, therefore, been urged that if there are any reservations in accepting the recommendations of medical boards, another board should be constituted for a final determination of the extent of disability, which should be binding. We are of the view that the findings of medical boards on the extent of disability should be treated as final and binding unless the employee himself seeks a review, by preferring an appeal to an authority immediately superior to the one which constituted the board. In case the appeal is accepted and a review medical board is constituted, the findings of that board should be binding on all parties. Further, the extent of

disability as determined and accepted should be treated as final and the employee should not be required, as at present, to appear before medical boards periodically merely for the purpose of obtaining a certificate that the disability continues to persist to the same extent as initially assessed to enable the continued drawal of the disability pension.

*Delegation of
Powers*

135.23 The Border Security Force have suggested that the Director General of the Force should be delegated powers to issue sanctions under the Liberalised Pensionary Awards in consultation with the Financial Adviser in respect of his personnel. Now that we have rationalised the benefits admissible under different schemes, which would be uniformly applicable to all employees, and in order to ensure timely relief to the bereaved families and employees who may be invalidated from service, detailed guidelines and instructions based on our recommendations may be issued by Government and powers to grant all kinds of pensions in terms of these instructions delegated to the Heads of Departments and Offices to be exercised, where necessary, in consultation with the Financial Advisers.

Commutation of Pension

INTRODUCTION

136.1 The provisions in the Pension Rules permitting Central Government employees to commute a portion of their pension and receive a lump sum amount equivalent to the commuted value at the time of superannuation have been in force for a long time, though these have been modified from time to time. Commutation of pension enables employees to meet major commitments arising at the twilight of their career, such as acquisition of a house, marriage of children, etc.

EXTENT OF COMMUTATION

Present position

136.2 The commuted value of pension is calculated with reference to a commutation table based on the mortality rates among government pensioners and a concessional rate of interest of 4.75 per cent per annum. The table, which has been revised on three occasions in November 1963, November 1967 and March 1971 after the promulgation of the Liberalised Pension Rules, indicates the commutation values for a pension of Rupee one per annum expressed as the number of years' purchase with reference to the age of the pensioner on his next birthday. Based on the commutation table currently in force, the commuted value of pension receivable by an employee retiring at the normal age of 58 years is equal to 10.46 years' purchase. The commuted value decreases as the age of the pensioner increases. The maximum portion of the pension that can be commuted has been revised periodically and a government servant can presently commute, in exchange for a lump sum payment, a fraction not exceeding one-third of the pension. Based on the portion actually commuted, his monthly pension is correspondingly reduced.

*Demands
received*

136.3 We have received a large number of suggestions that (a) commutation of up to 50 per cent of one's pension may be permitted; (b) the percentage of pension to be commuted may be related to an employee's length of

service, those with longer years of service being permitted to commute a proportionately higher portion of their pension; and (c) the facility of commutation may not be extended to those employees who retire after having rendered less than twenty years' service.

*Our
recommendations*

136.4 Apart from enabling employees to meet their major domestic commitments, returns from the investment of the lump sum amount received on commutation of a portion of the pension supplement the income of those employees who retire on superannuation or invalid pension after having rendered lesser years of qualifying service and are, therefore, not entitled to full pension. In our view, withdrawal of the facility of commutation in respect of such employees would be a harsh measure and even a retrograde step. Commutation has also been traditionally linked to the quantum of pension, which is determined with reference to the length of qualifying service rendered by an employee. Consequently, the length of service rendered by an employee is already reflected in the amount of pension to which he is entitled. **In the circumstances, we are unable to accept the suggestions that the facility of commutation should not be extended to those employees who retire after having rendered less than twenty years' service and that those with longer years of service should be permitted to commute a proportionately higher portion of their pension.**

*Maximum
percentage*

136.5 Prior to April 1950, the maximum pension that could be commuted by a civilian Central Government employee was 50 per cent. This was reduced to one-third of the pension with effect from April 17, 1950 following the incorporation of provisions in the Liberalised Pension Rules for the payment of Death-cum-Retirement Gratuity. We have been informed by the Department of Pension and Pensioners' Welfare that Government had also received representations from time to time for raising the ceiling on commutation to 50 per cent, and that no changes in the existing scheme of commutation were contemplated at present. Considering the present trends of late marriages and the fact that opportunities are presently available for entry into government service at a comparatively higher age than was the position earlier, major responsibilities remain to be discharged even after retirement in many cases. Even at present, Officers and Personnel Below Officers Ranks in the Armed Forces are permitted to commute up to 43 per cent and 45 per cent of their pension respectively. Judges of the Supreme Court and High Courts have also been provided the facility to commute up to 50 per cent of their pension. In the circumstances, and also having regard to the fact that the ceiling on commutation has remained unchanged for nearly five decades now, there is, unarguably, a case for a review of the present provisions in this regard.

*Our
recommendations*

136.6 We are, however, not in favour of increasing the ceiling to 50 per cent, as suggested. Apart from the fact that the pensionary benefits of Central Government employees, including the commuted value of their pension, would increase substantially on acceptance of our recommendations on revised scales of pay, it would also be necessary to ensure that retired government servants receive a regular and reasonable amount as pension for their sustenance. This would be particularly essential in the context of the break-up of the joint family system, the trend towards dispersal of families and the disquieting changes in social mores and attitudes. **After taking all relevant factors into account, we recommend that civilian employees in Central Government may be permitted to commute up to 40 per cent of their pension.**

RESTORATION

Present position

136.7 Till April 1985, the reduction in the monthly pension on account of commutation was a lifetime commitment and a pensioner was entitled to draw only the reduced pension during his entire retired life. In 1983, writ petitions (nos. 3958-61 of 1983) were filed in the Supreme Court by "Common Cause", a registered society espousing issues of public interest, and three retired government servants praying, inter alia, for issue of a direction that an appropriate scheme rationalising the provisions relating to commutation to facilitate the restoration of the commuted value of pension after the commutation amount paid in lump sum, along with the interest element was fully adjusted by that portion of pension which was not drawn monthly, be brought into force. In pursuance of the judgement (December 1986) of the Supreme Court on these writ petitions, orders were issued, to be effective from April 1, 1985, providing for the restoration of that portion of pension commuted by civilian and defence pensioners after a period of 15 years. The decision was based, inter alia, on the consideration that several State Governments had amended the rules relating to commutation to enable restoration, after a similar period of 15 years, the full pension of those who had commuted a part of their pension. It has been represented to us by a large section of employees that the full pension should instead be restored after a period of ten to twelve years. Other suggestions are that the commuted portion of pension should be restored (a) after a shorter period of seven years as recommended by the Fourth CPC, (b) progressively in three equated instalments after the lapse of 5, 10 and 15 years; and (c) on the pensioner attaining the average age of survival assumed in the computations and not after the entire lump sum amount paid as the commuted value along with interest thereon is fully recovered, as at present.

Recommendations of Fourth CPC

136.8 We find that the Fourth CPC had not specifically recommended the restoration of the commuted portion after seven years. It had only suggested that government may examine the feasibility of introducing a scheme which would enable restoration after a short period of seven years or so, both for civilian and defence pensioners. We have been informed by the Department of Pension and Pensioners' Welfare that, in pursuance of this recommendation, two commutation plans, providing for restoration after 7 years and 14 years, were proposed to be offered to the employees. The scheme is stated to have been shelved and a decision taken to maintain the status quo because application of the revised commutation factors resulted in a loss to the civilian personnel other than those in Group 'D' as well as the defence personnel, this being more pronounced and of the order of 2 to 28 per cent in the case of Defence Officers and of 12 to 40 per cent in respect of Personnel Below officers' Ranks.

Our recommendations

136.9 We are also unable to accept the suggestions that the commuted portion of the pension should be progressively restored in three equated instalments spread over 15 years or on a pensioner attaining the average age of survival assumed in the computations because it would be contrary to the basic principles governing the scheme of commutation. Apart from the fact that the commuted value is not fully adjusted in five or ten years, it would be incorrect, in our view, to restore the commuted portion without taking into account the element of interest, which, in any case, is levied only at the concessional rate of 4.75 per cent per

annum. The following observation of the Supreme Court in the Common Cause case would also be of relevance in this context:

".....in dealing with a matter of this nature, it is not appropriate to be guided by the example of life insurance, equally unjust it would be to adopt the interest basis. On the other hand, the conclusion should be evolved by relating it to the 'years of purchase' basis and an addition of two years necessary for the recovery of interest".

136.10 As mentioned earlier, the commuted value of pension receivable currently by an employee retiring at the normal age of 58 years is equal to 10.46 years' purchase. We have, however, separately recommended that the age of superannuation be raised from 58 to 60 years. Consequently, the commutation value in respect of employees superannuating at the age of 60 years and commuting a portion of pension within a period of one year would be equal to 9.81 years' purchase. After adding thereto a further period of two years for recovery of interest in terms of the observations of the Supreme Court, **it would be reasonable to restore the commuted portion of the pension after 12 years, instead of 15 years as at present. We recommend accordingly.** In arriving at this decision, we have also taken note of the fact that several State Governments, such as Kerala, Madhya Pradesh, Orissa and Punjab, now permit restoration after a similar period of 12 years.

*Reckoning of
period for
restoration*

136.11 A related issue is whether the period on expiry of which the commuted portion should be restored is to be reckoned from the date (a) of retirement in terms of the judgement of the Supreme Court, (b) of submission of the application, or (c) from which the commutation commences after processing the application. It has been submitted that it would be more appropriate to reckon the period from the date of submission of the application because the commutation becomes absolute and the pensioner becomes entitled to receive the commuted value as soon as this is done. Yet another suggestion received by us is that, because the payment of commuted value is delayed on account of administrative reasons, the commuted amount payable for the period of such delay should be deducted from the lump sum amount due to the pensioner, and the full pension restored on expiry of the prescribed period reckoned from the date of retirement.

*Our
recommendations*

136.12 We have carefully considered these suggestions. The decision of the Supreme Court that the commuted portion should be restored 15 years after the date of retirement was based on the assumption that commutation is applied for at the time of retirement itself and not subsequently. Apart from the fact that commutation can be applied for any time after one's retirement, a pensioner continues to draw the full pension till such time as the commuted value is disbursed to him and the reduction in pension commences only on payment thereof. In the circumstances, it is but logical that, when the commutation itself is applied for only subsequent to retirement, the period for restoration should be reckoned from actual date of commutation and not from the date of retirement. Besides since the commutation value is computed with reference to the age of the pensioner on his next birthday, the commutation factor remains constant for a year and changes only after the birth anniversary. In the context of our general emphasis on simplifying and rationalising procedures, we are also unable to accept the suggestion that the commuted amount payable for the period of any administrative delays should be

deducted from the lump sum amount due to the pensioner and the full pension restored on expiry of the prescribed period reckoned from the date of retirement. Having regard to all relevant factors, we recommend that the commuted portion of pension should be restored after a period of 12 years reckoned from the actual date of commutation. We would, however, urge Government to ensure that the commuted value is disbursed promptly to the pensioners, and in any case not later than 90 days from the date of submission of the necessary application.

COMMUTATION TABLE

*Revision of
Commutation
Table*

136.13 The commutation table having been last revised more than two decades ago in March 1971, it has been represented that it should be reviewed and revised, taking into account factors such as increase in longevity, improvements in pay structure, rise in consumer price index and devaluation of the rupee. It has also been suggested that the table should be revised to enable payment of the commuted value at twice the present number of years of purchase without levying any notional interest on the commuted value. While improvements in the pay structure suggested by us, inter alia, take into account the changes in the consumer price index during the period intervening between two pay revisions, their impact would in any case be reflected in the commuted value payable with reference to the revised scales of pay suggested by us. The suggestion that the commuted value should be paid at twice the number of years of purchase, waiving the interest element, would not also appear to be logical. The rate of interest assumed for the purpose is also substantially lower than the rate of interest of 12 per cent paid by Government on employees' subscriptions to the Provident Fund and that paid on its own borrowings.

136.14 we have been informed by the Department of Pension and Pensioners' Welfare that the question of revision of the current commutation table was considered on three occasions in the years 1975, 1978 and 1982. The reviews then undertaken revealed that whereas there had been little improvement in the mortality rates, the rates of interest had increased significantly and the former was found to be not adequate enough to compensate for the latter. According to the Department, revision of the commutation table would consequently have resulted in a net reduction in the commutation value, which would have put pensioners to loss. The Department has further informed us that determination of the commuted value with reference to variable multiplier factors had ceased to be relevant after the Supreme Court judgement providing for restoration of the commuted portion after 15 years and because of the commutation factors were no longer linked to the prevailing interest rates. They have therefore, suggested adoption of a common multiplier of 10 or 12 for all civilian Central Government employees irrespective of their age at the time of submission of the application for commutation and exclusion of members of the Armed Forces from this dispensation.

*Our
recommendations*

136.15 On careful consideration, we are unable to accept the suggestion because it is not based on any actuarial studies and can best be considered to be an ad hoc solution. Besides, the exclusion of the Armed Forces personnel, as proposed, would be contrary to the views expressed by the Apex Court in the Common Cause case that the same benefits as were applicable to the civilian pensioners should also be extended to the members of the Armed Forces. As we

have pointed out earlier in the chapter on "Central Government Employees' Group Insurance Scheme", based on various studies and such statistics of life expectancy and mortality as are available as well as the improvements in health delivery systems, it would not be unreasonable for us to assume that life expectancy would have improved further during the Eighties and early Nineties, with a corresponding decline in mortality rate. The question of revision of the commutation table having been last considered as early as 1982, there would appear to be a case for a detailed review of the mortality rates with a view to devising a commutation scheme based on current data, which would be more representative and closer to ground realities. Till such time as this is done, we would recommend that the status quo may be maintained.

FAMILY PENSION

*Commutation of
Family Pension*

136.16 It has also been urged that commutation of family pension should be permitted. We feel that a clear distinction ought to be made between pension and family pension. Pension is considered to be a property and deferred wage, and the basic concept of the commutation scheme is that the amount paid as lump sum should be recovered over a period of time by a reduction in the monthly pension. On the other hand, family pension is essentially a social security scheme devised by government for the welfare of the families of deceased government servants and pensioners. The right to receive family pension also passes from the spouse to the children, all of whom have an interest in the family pension. We do not, therefore, recommend commutation of family pension.

Pension Structure

INTRODUCTION

*Terms of
reference*

137.1 We are required to examine the existing pension structure for pensioners including death-cum-retirement benefits. Though the words "past pensioners" have not been mentioned in para 2(c) of our Terms of Reference, yet we have included them in the scope of our enquiry because we are of the opinion that pensioners both past and future are a homogeneous class. This view has also been held by the Supreme Court in its judgement dated 17.12.1982 in the case of D.S. Nakara and others versus Union of India. The death-cum-retirement benefits for civilian employees have been considered by the previous four CPCs. For the personnel of the armed forces, these benefits were considered for the first time by the Third CPC, followed by the Fourth CPC.

POPULATION OF PENSIONERS

*Distribution of
pensioners*

137.2 According to the information contained in the brochure of the Central Pension Accounting Office entitled "CPAO Highlights 1994-95", there were 32.33 lakh pensioners, including family pensioners, as on April 1, 1995, of which 16.66 lakhs were defence pensioners. The number of family pensioners in the year 1993-94 as intimated by the Department of Pension and Pensioners' Welfare was estimated to be 4.5 Lakhs (both civil and defence). The Ministry/Department-wise break-up of pensioners for the period 1990-91 to 1994-95 is given in the following Table.

Department-wise Distribution of Pensioners (including Family Pensioners)					
	(Number in Lakhs)				
Ministry/ Department	1990-91	1991-92	1992-93	1993-94	1994-95
Defence (including the armed forces)	15.74	15.85	16.00	16.13	16.66
Railways	06.86	07.26	08.19	08.63	09.00

Department-wise Distribution of Pensioners (including Family Pensioners)					
	(Number in Lakhs)				
Postal	01.51	01.58	01.65	01.72	02.09
Telecom	00.43	00.47	00.51	00.58	00.66
Other Civil	02.79	03.06	03.37	03.64	03.92
Departments*					
Total	27.33	28.22	29.72	30.70	32.33

* Includes Freedom Fighters numbering 1.62 Lakhs (approximately) upto the year 1994-95.

137.3 Slab-wise break-up of those civil pensioners who retired during the financial years 1993-94 and 1994-95 is given in the following Table.

Slabwise Distribution of Pensioners (including Family Pensioners) who retired during the financial years 1993-94 and 1994-95				
Basic pension	Superannuation pension		Family pension	
	1993-94	1994-95	1993-94	1994-95
Upto Rs 500	5,374	3,976	1,562	1,705
501-1,000	9,763	9,477	2,051	2,456
1,001-1,500	4,502	4,558	350	336
1,501-2,000	2,332	2,207	12	21
2,001-2,500	792	808	5	7
2,501-3,500	298	353	-	-
3,501-4,500	117	122	-	-
Total	23,178	21,501	3,980	4,525

PENSION EXPENDITURE

Department-wise
break-up

137.4 The expenditure on pensions has been increasing over the years. The details of Central Government pension expenditure as per appropriation accounts and as contained in the brochure of Central Pension Accounting Office "CPAO Highlights 1994-95" for the period 1990-91 to 1995-96 are as under.

Department-wise Break-up of Expenditure on all Pensioners, 1990-1996.						
Ministry/ Department	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96 (RE)
(Expenditure in crores of Rupees)						
Defence	1,670.12	1,840.07	2,312.77	2,530.76	2,730.83	3,200.00
Railways	902.10	1,050.71	1,260.96	1,487.85	1,686.00	2,090.00
Civil #	533.70	662.97	785.24	908.42	1,037.77	1,108.65
Postal	150.27	182.23	203.59	227.43	253.41	313.84
Telecom	60.46	72.27	85.66	105.02	156.27	199.44
Total	3,316.65	3,808.25	4,648.22	5,259.48	5,864.28	6,911.93

Includes Rs. 103.86 crores towards pension to Freedom Fighters

LANDMARKS IN DEVELOPMENT

Nakara case

137.5 The general practice in the past was to give the benefit of improvements in pension structure from a prospective date. A major change in the rules governing grant of pension was the introduction of the slab system for calculation of pension with effect from March 31, 1979. This liberalisation came up for consideration before the Supreme Court. The Apex Court in its judgement dated 17.12.1982 in the case of D.S. Nakara versus Union of India (AIR 1983, SC 130) held that all Central Government pensioners were entitled to pension w.e.f. 1.4.1979 as computed under the slab system, irrespective of the date of their retirement. **This was the first time that the benefit of improvements in the pension structure was extended to pensioners who had retired prior to the date from which improvements became effective.** The following improvements in pensionary benefits were extended to past pensioners in terms of Nakara judgement:-

- Application of slab system for calculation of pension;
- Calculation of average emoluments over the preceding ten months instead of thirty six months;
- Benefit of qualifying service up to 33 years instead of 30 years;
- Raising the ceiling on pension to Rs. 1,500 per mensem;
- Extension of benefit of minimum pension.

RECOMMENDATIONS OF FOURTH PAY COMMISSION

137 6 On the recommendations of Fourth Pay Commission, the benefit of the following improvements in pensionary benefits was also extended to all existing pensioners

- i) Additional relief ranging between 10% and 15% of the amount of pension plus graded relief to those in receipt of pension upto Rs.500 per mensem;
- ii) Stepping up of graded relief to about 75% of pensioners in receipt of pension above Rs 500 per mensem without any ceiling;
- iii) Difference between amount of pension calculated at 50% of average emoluments and the slab system;
- iv) Consolidation of pension by merging basic pension, graded relief, additional relief and difference between pension calculated at 50% and slab system and treating the consolidated amount of pension as the basis for the grant of relief in future;
- v) Extension of benefit of minimum pension;
- vi) Payment of Dearness Relief at the same rates as admissible to serving employees after index average 608.

CONCEPT OF PARITY IN PENSION/EQUALISATION OF PENSION/ONE RANK ONE PENSION

The Concept

137 7 The concept of parity, which is also known by the term Equalisation of Pension, means that past pensioners should get the same amount of pension which their counterparts retiring on or after 1.1.1996 from the same post will get irrespective of the date of retirement or the emoluments drawn at the time of retirement of the past pensioners. The concept of parity in pension presupposes the existence of a universally acceptable system by which comparison can be drawn between past and current retirees. The only possible manner in which this can be made possible is by introducing the system of Rank Pension or one pension for one grade. At present the system of Rank Pension is in vogue only for personnel below officer rank in the armed forces. Under this system, if the person has held the rank, from which he retires for ten months or more, his pension is calculated with reference to emoluments at the maximum of the scale of pay attached to the rank irrespective of the actual pay drawn by him. If he has not held the said rank for the minimum period of ten months, his pension is computed with reference to maximum pay of the next lower rank which he held for ten months.

*Defence
Minister's
Committee*

137 8 The demand for One Rank One Pension for the Ex-Servicemen was considered by the high-level empowered Committee under the Chairmanship of Defence Minister, with which some Members of Parliament and retired armed forces officers were also associated. The Committee did not recommend

acceptance of the demand of One-Rank-One-Pension. However, on its recommendations, the Government sanctioned One Time Increase in pension to pre-1.1.1986 ex-servicemen

REASONS FOR DISPARITY IN PENSIONS

137.9 Apart from making ad hoc improvements in pensionary benefits, there has also been a practice of merging the full dearness allowance or a part thereof in the pay, for working out the reckonable emoluments for computation of pension. The merger of DA has been done from time to time since the pay scales recommended by the First Pay Commission came into force. Government servants who retire after revision of pay scales get more pensionary benefits. This is due to the reason that revised pay scales are higher than the pre-revised scales on account of merger of DA in pay and also other benefits in fixation of pay in the revised scales of pay. The other reasons responsible for disparity in pensions are:

- i) Lack of a regular scheme of DA to serving employees or DR to pensioners prior to 1.1.1973. They were granted DA/DR on ad hoc basis from time to time and these were also confined to low-paid employees/pensioners only.
- ii) Latent anomalies created by the scheme of D.A. itself introduced on the recommendations of Third Pay Commission.
- iii) Lack of correlation between DA to serving employees and DR to pensioners.
- iv) Grant of Interim Relief to serving employees at various points and these were counted as emoluments for pension.
- v) Grant of DR on additional pension which became admissible on the merger of DA at index averages 272, 320 and 568, resulting in over compensation against rise in the cost of living.

PRESENT POSITION

*Extent of
disparity*

37.10 Mainly because of the reasons mentioned in the preceding paragraph, past pensioners are in receipt of varying amounts of pension though they had retired from broadly comparable posts with the same length of qualifying service. The difference in the amount of basic pension alone between pre-1.1.1986 and post 1.1.1986 retirees up to the level of Director works out to Rs.500 and more, whereas in respect of officers of the rank of Joint Secretary and above, the difference ranges between Rs.850 and Rs.1240. If the dearness relief and interim reliefs are added to the basic pension, the difference would range between more than two-and-a-half times and more than two times of the above amounts respectively, because of varying percentages of neutralisation.

Parity demanded

137.11 All the pensioners' associations and unions of employees which appeared before us to tender oral evidence made a forceful plea to grant absolute parity in pensions of past and future retirees on the ground that such a principle had

already been conceded in the case of Judges of Supreme Court, High Courts, Comptroller and Auditor General of India and to a great extent in respect of personnel of armed forces up to certain levels by the grant of One Time Increase (OTI)

Position in armed forces

137.12 We have given our most sympathetic consideration to the submissions made and also taken note of the fact that at the time of grant of OTI, pension of all the pre-1973 defence pensioners was brought up to the level of post-1.1.1973 retirees. In the case of Sepoy pensioners, pension of pre-1986 retirees was stepped up to 95% differential with reference to pension of post-1.1.1986 retirees. In the case of the other personnel below officer rank, their pension was stepped up with reference to the pension admissible on 1.1.1986 but with a slight reduction in a graded manner by Rs.10 per month if the length of service was 15 years and by an additional Rs.2 p.m. for every additional year of service up to 24 years of service. It is thus clear that the principle of near parity in pension has already been accepted between pre and post-1986 retirees for ranks up to N/Subedar with 24 years of service, but pension of officers has been depressed considerably. There is complete parity in pension among Judges of the Supreme Court, High Court and Comptroller and Auditor General of India, irrespective of the date of their retirement.

Our view

137.13 While it is desirable to grant complete parity in pension to all past pensioners irrespective of the date of their retirement, this may not be feasible straightaway as the financial implications would be considerable. The process of bridging the gap in pension of past pensioners has already been set in motion by the Fourth CPC when past pensioners were granted additional relief in addition to consolidation of their pension. This process of attainment of reasonable parity needs to be continued so as to achieve complete parity over a period of time.

Our Recommendations

137.14 As a follow up of our basic objective of parity, we would recommend that the pension of all the pre-1986 retirees may be updated by notional fixation of their pay as on 1.1.1986 by adopting the same formula as for the serving employees. This step would bring all the past pensioners to a common platform or on to the Fourth CPC pay scales as on 1.1.1986. Thereafter, all the pensioners who have been brought on to the Fourth CPC pay scales by notional fixation of their pay and those who have retired on or after 1.1.1986 can be treated alike in regard to consolidation of their pension as on 1.1.1996 by allowing the same fitment weightage as may be allowed to the serving employees. However, the consolidated pension shall be not less than 50% of the minimum pay of the post, as revised by Fifth CPC, held by the pensioner at the time of retirement. This consolidated amount of pension should be the basis for grant of dearness relief in future. The additions to pension as a result of our recommendations in this chapter shall not, however, qualify for any additional commutation for existing pensioners.

Immediate relief to pensioners

137.15 While the work relating to revision of pension of pre 1.1.1986 retirees by notional fixation of their pay shall have to be undertaken by the pension sanctioning authorities to be completed in a time-bound manner, we suggest that the pensioners should be provided some relief immediately on implementation of our recommendations. The pension disbursing authorities may be authorised to consolidate the pension by adding (a) basic pension; (b) personal pension, wherever admissible; (c) dearness relief as on 1.1.1996 on

basic pension only; (d) Interim Relief (I and II) and (e) 20% of basic pension. The consolidated pension shall be not less than 50% of the minimum pay, as revised by the Fifth CPC, of the post held by the pensioner at the time of retirement. This may be stepped up by the pension disbursing authorities, wherever feasible, to the level of 50% of the minimum pay of the post held by the pensioner at the time of retirement.

*Procedure for
very old cases*

137.16 There may be cases where it may not be possible for the pension sanctioning authorities to fix the pay of the very old retirees notionally because of non-availability of records due to such records having been weeded out or other administrative problems. In such cases the pension may be revised with reference to the minimum pay of the post held by the pensioner, as revised by the Government on our recommendations.

ONE-RANK-ONE-PENSION

Demands

137.17 It has been suggested that the principle of one-rank-one-pension, irrespective of the date of retirement, should be implemented in respect of all Central Government employees.

Our Recommendations

137.18 We have considered the suggestion and find that the system of rank pension is in vogue only for personnel below officer rank in the armed forces. We have also noticed that the concept of one-rank-one-pension is being used by the defence pensioners as a slogan for bringing about parity in pensions of past and future retirees. In the case of civilian pensioners, the concept of rank is not very well defined, as there has been a large number of pay scales and hence designations. Moreover, pension of civilian employees has always been a function of emoluments drawn and qualifying service rendered at the time of retirement. As such grant of one pension for all those who retired in a particular pay scale is not considered justified. We do not find any merit in the suggestion and recommend continuance of the existing procedure of determining pension on the basis of emoluments and qualifying service.

REVISION OF PENSION WITH REFERENCE TO MINIMUM/MAXIMUM OF THE REVISED PAY SCALES

Demands

137.19 Some of the pensioners' associations have suggested that pension of past retirees should be revised with reference to the maximum pay of the post held by the pensioner at the time of retirement, as revised by the Fifth CPC on the ground that pension of personnel below officers rank is determined with reference to the maximum pay of rank held by them for a minimum period of ten months before retirement. Some other association has suggested revision of pension of past pensioners by following the same formula as applied for revision of pay of the serving employees subject to the condition that the pension should not be less than that admissible on the minimum pay of the post, as revised by Fifth CPC, held by the pensioner at the time of retirement.

*Modified parity
conceded*

137.20 We have given our careful consideration to the suggestions. While we do not find any merit in the suggestion to revise the pension of past retirees with reference to maximum pay of the post held at the time of retirement, as revised by

the Fifth CPC, there is force in the argument that the revised pension should be not less than that admissible on the minimum pay of the post held by the retiree at the time of retirement, as revised by the Fifth CPC. We have no hesitation in conceding the argument advanced by pensioners that they should receive a pension at least based on the minimum pay of the post as revised by Fifth Pay Commission in the same way as an employee normally gets the minimum revised pay of the post he holds. We recommend acceptance of this principle which is based on reasonable considerations.

*Principle
enunciated*

137.21 The Commission has decided to enunciate a principle for the future revision of pensions to the effect that **complete parity should normally be conceded up to the date of last pay revision and modified parity (with pension equated at least to the minimum of the revised pay scale) be accepted at the time of each fresh pay revision**. This guiding principle which we have accepted would assure that past pensioners will obtain complete parity between the pre-'86 and post-'86 pensioners but there will be only a modified parity between the pre-'96 and post-'96 pensioners. The enunciation of the principle would imply that at the time of the next pay revision, say, in the year 2006, complete parity should be given to past pensioners as between pre-1996 and post-1996 and modified parity be given between the pre-2006 and post-2006 pensioners.

<p>RETROSPECTIVE EFFECT TO THE PRINCIPLE FOR REMOVAL OF DISPARITY IN PENSION OF PRE-1986 AND POST-1986 PENSIONERS/FAMILY PENSIONERS</p>
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Demands

137.22 The All India Central Services Pensioners' Association, Thiruvananthapuram has requested the Commission for giving retrospective effect to the formula which may be recommended by us for removal of disparity in pension/family pension of pre-1986 and post-1986 pensioners/family pensioners. The Association has also requested that pension/family pension of past pensioners/family pensioners may be revised in such a way that it is not less than the pension/family pension based on the minimum pay of the post held by the pensioner, as revised by the Fifth CPC.

*Observations of
Supreme Court*

137.23 We have considered the prayers made by the Association and taken note of the observations of the Supreme Court made in its order dated 19.9.95 in Writ Petition No 1026 of 1988. The Apex Court directed the Association to represent before the Government, in case the recommendations of the Commission were in favour of the Association, for making those recommendations applicable with reasonable retrospectivity. The Apex Court said so because the Writ Petitions were pending in the Court for the last about one decade.

Our stand

137.24 The Commission would invite the attention of the Government to its Demi-official communication No.50/4/94-PC(Coord) dated 17.1.1996 addressed to all the Secretaries and Heads of Departments clarifying that the Fifth CPC had no intention of re-opening past cases or in making any recommendation with respect to rectification of anomalies with retrospective effect and that all our recommendations will have prospective effect from our recommended date only. The Administrative Ministries were requested to settle the past cases at their level and clarify to the concerned judicial authorities the restriction on the scope of jurisdiction of the Commission whenever such matters came up for hearing. In this

view of the matter, it would not be desirable for us to make any recommendation for giving retrospective effect to the formula for removal of disparity in pension/family pension of pre-1986 pensioners/family pensioners now recommended by us. This aspect of the matter may be decided by the Government.

*Demand
conceded*

137.25 As for the other part of the prayer made by the Association, we have already made in this Chapter a suitable recommendation that the revised pension/family pension shall be not less than that admissible on the minimum pay of the post held by the pensioner at the time of retirement or death, as the case may be, as revised by the Government on our recommendations.

MINIMUM PENSION

Basis in the past

137.26 We have not been able to obtain the basis for fixing the minimum pension from time to time. The minimum pension fixed from time to time was as under:

Date of effect	Rupees per mensem
January 1, 1964	25
March 1, 1970	40
March 1, 1980	60
April 1, 1982	Pension plus relief to be not less than Rs. 150.
April 1, 1983	Pension plus relief to be not less than Rs. 160.
January 1, 1986	375

The benefit of minimum pension fixed from March 1, 1970 and onwards was extended to past pensioners also.

*Our
recommendations*

137.27 As on 1.1.1996, the minimum pension plus Dearness Relief plus Interim Reliefs I and II works out to Rs. 1030. We are of the view that minimum pension needs to be raised. We have separately recommended the minimum salary of Rs. 2,440 for the lowest post in the Government. We feel that 50% of minimum salary would be a reasonable amount to be fixed as minimum pension. We accordingly recommend that wherever the existing pension together with dearness relief admissible at index average 1510, first two interim reliefs and the fitment weightage recommended by us works out to less than Rs. 1,220, the same should be raised to Rs. 1,220 per mensem. This minimum shall also apply to future pensioners.

BENEFITS TO EMPLOYEES NOT GOVERNED BY PENSION SCHEME

Introduction

137.28 With the exception of a few specified categories of employees in certain departments, Central Government employees are, by and large, governed by the Pension Scheme. Persons appointed on contract for specified periods,

superannuated employees who are reemployed in government, and some of the personnel in scientific and technical organisations who entered service at a comparatively advanced age were earlier entitled instead to the benefits of the Contributory Provident Fund (CPF) Scheme. In pursuance, however, of the recommendations of the Fourth CPC, all CPF beneficiaries still in service on January 1, 1986 were deemed to have come over to the Pension Scheme on that date unless they specifically exercised an option to continue to be governed only by the provisions of the CPF Scheme.

137.29 Prior to November 16, 1957, Railway employees were also not covered by the Pension Scheme but by the State Railways Provident Fund (SRPF) Scheme, similar in scope and content to the CPF Scheme. Following the extension of the Pension Scheme applicable to other Central Government employees to them with effect from November 16, 1957, only such of those employees as did not opt to switch over to the Pension Scheme continued to be covered by the SRPF Scheme.

Present position 137.30 The present position, therefore, is that the large majority of Central Government employees are governed only by the provisions of the Central Civil Services (Pension) Rules, 1972. Apart from those who superannuated prior to January 1, 1986 and opted to continue to be governed either by the CPF Scheme or the SRPF Scheme, the provisions of these schemes are now applicable only to those appointed on contract for specified periods, superannuated employees who are reemployed in government, and those employees in regular service as on January 1, 1986 who had specifically opted to continue under the contributory scheme.

Difference in benefits 137.31 The Pension Scheme has been periodically liberalised conferring additional benefits on Central Government pensioners. Those covered by the contributory provident fund schemes, however, are entitled to receive from Government at the time of their superannuation only the matching contribution of 8.33 per cent along with interest at the applicable rate, which has progressively increased from 7 per cent in 1974 to 12 per cent during 1985-86. Dearness Relief sanctioned to pensioners from time to time is also not extended to them. It has, therefore, been a long-standing demand of the CPF/SRPF beneficiaries that the benefits which had accrued to the pensioners as a result of the periodical liberalisation of the Pension Scheme should also be appropriately extended to them.

Fourth CPC's Recommendations 137.32 The Fourth CPC had considered this question in some detail and had observed that since the pension and contributory provident fund schemes were structurally different, equality of benefits under the two schemes was not feasible. Recognising, however, that the CPF/SRPF beneficiaries who had superannuated on comparatively lower scales of pay deserved some relief, the Commission had recommended, inter alia, that (a) all CPF/SRPF beneficiaries who had retired prior to March 31, 1985 on a basic pay of up to Rs. 500 per month may be paid an ex gratia of Rs. 300 per month, which would be in addition to the benefits already received by them under the contributory scheme, and of Rs. 150 per month to the widows and dependant children of deceased beneficiaries; (b) the ex gratia amount may be reviewed as and when dearness relief is sanctioned to pensioners; (c) those who opted to continue to be governed by the contributory scheme even after January 1, 1986, should not be eligible on their superannuation to the ex gratia payment recommended for the retired CPF/SRPF beneficiaries; and (d)

Government may consider the feasibility of giving an option to all other CPF/SRPF beneficiaries to come over to the Pension Scheme with effect from January 1, 1986, subject to their refunding the entire Government contribution received by them at the time of superannuation, inclusive of interest thereon. Government, however, accepted only the recommendation in regard to payment of ex gratia of Rs. 150 per month to the widows and dependant children of deceased beneficiaries.

List of demands

137.33 We have received a very large number of representations from individuals (particularly Railway employees), the All India Retired Railwaymen's Federation, the All India Retired Railwaymen (PF Terms) Association and a host of other associations urging that the recommendation of the Fourth CPC on payment of ex gratia to the surviving CPF/SRPF beneficiaries should be implemented retrospectively with effect from January 1, 1986 and that its quantum should also be increased so as to be equal to the minimum pension. Other demands are that the ex gratia amount admissible to the widows and dependent children of deceased employees should be enhanced and CPF/SRPF beneficiaries should be given another option to switch over to the Pension Scheme on their refunding the contribution made by Government. Some beneficiaries have also suggested that the fresh option should be extended without insisting upon the refund of the Government contribution but subject to adjustment of the ex gratia that should have been paid to them with effect from January 1, 1986 in terms of the recommendation of the Fourth CPC.

Reasons for non-acceptance of Fourth CPC's Recommendations

137.34 We have been informed by the Department of Pension and Pensioners' Welfare that the recommendations of the Fourth CPC relating to the payment of ex gratia to the surviving CPF/SRPF beneficiaries and extension of a fresh option to them to switch over to the pension scheme were not accepted by Government, mainly in consideration of the additional financial burden that this would entail and the likely repercussions in other sectors which had adopted the CPF Scheme.

Judgement of Supreme Court

137.35 In 1986 and 1989, a batch of writ petitions and a special leave petition had also been filed in the Supreme Court by the All India Retired Railwaymen (PF Terms) Association and a number of other individuals praying for relief on this account. In their submissions, the petitioners had largely relied upon decision of the court in the Nakara Case on treatment of past and future pensioners alike, whenever the pensionary benefits were liberalised leading to the pension structure itself being altered. Dismissing this analogous cluster of petitions, in its judgement of July 1990 ((1990) 4 SCC 207), the Supreme Court had held inter alia that those who did not opt for the Pension Scheme had ample opportunity to choose between this scheme and the SRPF scheme and that the cut-off dates prescribed from time to time for exercising an option were not arbitrarily chosen but had a nexus with the purpose for which the option was given. The Court had observed that those who retired on a pension alone were treated as a homogeneous class in the Nakara case, and it was never held that those who were governed by the Contributory Provident Fund scheme also formed a homogeneous class along with those governed by the Pension Scheme.

137.36 According to the Apex Court, the government's legal obligation under the Railway Contributory Provident Fund ended on the retirement of an employee, whereas it began on retirement under the Pension Scheme. The rules governing the Provident Fund Scheme being entirely different from those governing

the Pension Scheme, the legal position enunciated by the Court was that the rights of each individual employee governed by the former finally crystallised on his retirement whereafter no continuing obligation remained while, on the other hand, the obligation continued till the death of employees governed by the latter. The Court had, therefore, held that it would not be reasonable to argue that what was applicable to those covered by the Pension Scheme must also be equally applicable to those governed by the Provident Funds Scheme and that to say legally that the State's obligation towards employees governed by the CPF Scheme is the same as that towards those who retired on a pension would amount to legislation by enlarging the circumference of the obligation and converting a moral obligation into a legal one. Referring to the view of the Fourth CPC in recommending only ex gratia benefits to the CPF/SRPF beneficiaries was that the pension and provident fund schemes were structurally different, the Apex Court had, however, observed that the ex gratia may be suitably increased.

*Proposal of
Ministry of
Railways*

137.37 According to the information made available to us by the Ministry of Railways, a proposal initiated by them in 1992 for the grant of ex gratia pension to the pre-1986 SRPF beneficiaries on a graded scale ranging from Rs 375 to Rs 750 per month had been under consideration since then in consultation with the Department of Pension and Pensioners' Welfare and the Department of Expenditure and a decision had been taken recently by the Prime Minister that our recommendations on this question should be awaited. We have also been informed that, apart from the option given to them in 1957 to switch over to the Pension Scheme, the SRPF beneficiaries were extended similar options whenever substantial changes were effected in the pension structure for Central Government employees. In all, such options were made available on twelve occasions in the past, the last being in May, 1987.

*Views of Nodal
Ministry*

137.38 While agreeing with the proposal submitted by the Ministry of Railways in this regard in 1992, the Department of Pension and Pensioners' Welfare had, however, suggested that (a) the payment proposed being ex gratia in nature, it should not be described as pension so as to avoid possible legal complications; (b) it should be only prospective; (c) the benefit should be confined only to those who had completed at least twenty years of continuous service prior to superannuation so as to avoid any discrimination against temporary employees in the pensionable establishment who had retired without any pension; (d) the ex gratia may be sanctioned at a flat rate instead of on a graded scale.

137.39 In so far as the question of enhancement of the quantum of ex gratia payment to the widows and dependants of deceased CPF/SRPF beneficiaries is concerned, the Department is of the view that though there is no correlation between the quantum of ex gratia payment and the minimum family pension admissible to the families of those deceased employees governed by the Pension Scheme, some relativity between the two shall have to be maintained. Any increase in the minimum family pension should, therefore, be reflected in the ex gratia payment as well. According to the Department, in the context of the fact that the outgo on account of ex gratia payments would decrease progressively over a period of time because the Contributory Provident Fund Scheme has been abolished for Central Government employees with effect from January 1, 1986 and that the families of those employees who opted to continue under the scheme even after this date are in any case not entitled to the ex gratia payments, there may not be a strong case, even from the budgetary angle, to maintain too much of a differential between

the ex gratia payment to the widows and dependant children of CPF/SRPF beneficiaries and the minimum family pension.

*Reservations of
Finance Ministry*

137.40 The proposal of the Ministry of Railways had not, however, found favour with the Ministry of Finance (Department of Expenditure) primarily on the ground that the financial implications of payment of ex gratia ranging from Rs. 375 to Rs. 750 per month to the 1.20 lakh CPF/SRPF beneficiaries would be in the region of about Rs. 125 crores per annum and that acceptance of the proposal would also lead to similar demands from the CPF beneficiaries in the public sector undertakings and autonomous bodies.

*Results of our
examination*

137.41 We have considered this question carefully. In terms of the unambiguous judgement of the Supreme Court, the CPF/SRPF beneficiaries, being a distinct category, cannot obviously claim, legally and technically, such benefits as have been extended to the pensioners. Further, an option having been given to the SRPF beneficiaries on as many as twelve occasions to switch over to the Pension Scheme, it cannot also be argued that they were not given a reasonable opportunity to do so. It is, however, a fact that employees governed by the Pension Scheme, including past pensioners, have been extended substantial benefits in pursuance of the recommendations of successive Pay Commissions and in the light of the judgement of the Supreme Court in the Nakara case. On the other hand, those covered by the CPF Scheme have had to remain content with the lumpsum amounts received by them at the time of superannuation. The gap between the CPF/SRPF beneficiaries and the employees covered by the Pension Scheme would widen further and the differences would be accentuated as a result of the substantial improvements that we have proposed in the pension structure. It is also somewhat anachronistic that while the payment of an ex gratia has been agreed to in the case of families of deceased CPF/SRPF beneficiaries, this should have been denied to the surviving employees who are exposed as much to the impact of inflation. In the circumstances, we are of the considered view that a sympathetic and humanitarian approach is called for in this case. Though it would be inappropriate to accept the principle of parity between the surviving CPF/SRPF beneficiaries and pensioners, ex gratia payments could, however, be extended to the former.

137.42 We have also taken note of the reservations of the Department of Expenditure on the Railway Ministry's proposal. The financial implications of the proposal computed by the Department are based on the assumption that there are about 1.20 lakh CPF/SRPF beneficiaries. This was, however, an estimation made by the Fourth CPC as far back as in 1986. A decade having elapsed since then, the number of beneficiaries would not have remained static and is likely to be significantly lower. According to an assessment made by the Ministry of Railways, the number of surviving SRPF beneficiaries in 1991 was only 60,000 and this is likely to have dwindled further between 1991 and 1996. While data on the number of surviving CPF beneficiaries is not readily available, it would not be unreasonable to assume that there would have been a corresponding reduction in their numbers as well since 1986. As regards the apprehension of the Department that acceptance of the proposal would lead to similar demands from the CPF beneficiaries in the public enterprises and autonomous bodies, the present trend in the public, and even in the private, sector is to introduce pension schemes for the employees in replacement of the CPF Scheme and, following the launching of the Employees' Pension Scheme in November 1995, a large number of public sector employees have switched over to the Pension Scheme, which has the inherent

advantage of providing an assured and regular monthly income. In the changed circumstances, therefore, the impact, if any, in other sectors would be considerably minimised.

Our Recommendations 137-43 After careful consideration of all relevant factors, we make the following recommendations :-

- (a) Having due regard to the fact that the pension scheme and the contributory provident fund scheme were structurally different, we do not concede the demand of the CPF/SRPF beneficiaries for total parity with employees governed by the pension scheme. The Apex court has also held (1990) 4 SCC 207) that the rules governing the provident fund and its contribution are entirely different from the rules governing pension. It would not therefore, be reasonable to argue that what is applicable to the pension retirees must also equally be applicable to PF retirees.
- (b) The ex gratia may be sanctioned at a flat rate because more than 98 per cent of CPF/SRPF retirees who are sought to be extended the benefit of ex gratia payment belong to Groups 'C' and 'D' who had retired on comparatively lower scales of pay.
- (c) The benefit may be confined only to those who had rendered at least twenty years of continuous service prior to their superannuation, so as to avoid any discrimination against temporary employees in the pensionable establishments who had retired without any pension.
- (d) An ex gratia amount may be sanctioned @ Rs. 600 per month, which is approximately 50% of the amount of minimum pension recommended by us separately for those covered by Pension Rules. Dearness Relief payable from time to time shall also be admissible.
- (e) The ex gratia payment, Dearness Relief and Interim Reliefs I and II already received by those who had retired on pay of upto Rs. 500 per month may be so adjusted that the total ex gratia amount is not less than Rs. 600 per month.
- (f) With a view to maintaining some relativity between family pension and ex gratia to the widows and dependants of the CPF/SRPF retirees, we recommend that the ex gratia payment to the surviving widows and dependant children of CPF/SRPF beneficiaries may be enhanced to Rs. 600 per month plus Dearness Relief as admissible from time to time.
- (g) The benefits now proposed will not be admissible to those CPF/SRPF beneficiaries who were in service on January, 1986 and specifically opted to continue to be governed by the CPF/SRPF scheme.
- (h) In view of the fact that CPF/SRPF retirees had already been given adequate number of options to switch over to the pension scheme as and when substantial improvements were made in the pension scheme

and the practical difficulties involved in retrieval of records and adjustments to be made, the demands for another option to switch over to the pension scheme on their refunding the contribution made by the Government or without insisting upon the refund of the Government contribution subject to adjustment of the ex gratia that should have been paid to them with effect from January 1, 1986 in terms of recommendation of the Fourth CPC, are not accepted.

- (i) The payment proposed being ex gratia in nature, it should not be described as "pension"
- (j) All our recommendations shall have prospective effect.

Dearness Relief / Interim Relief to Pensioners

DEARNESS RELIEF

Historical background

138.1 Prior to August 1, 1973, there was no regular scheme for compensating pensioners for erosion in the real value of their pensions due to increase in prices. However, on four occasions between April 1, 1958 and January, 1973, certain temporary/ad hoc increases were sanctioned by the Government as a compensation against price rise which was considered to be a temporary phenomenon, as the prices were expected to stabilise. Having this aspect in mind, the various Commissions and Committees appointed by the Government recommended compensation mainly to low paid employees/pensioners, who according to them were likely to be more affected by the price rise.

Ad hoc increases in pension

138.2 The first temporary increase, ranging between Rs.10 and Rs.12.50, was sanctioned in April, 1958. The second ad hoc increase ranging between Rs.5 and Rs.10 was sanctioned in October, 1963. The third ad hoc increase @ Rs.10 per mensem with an overall ceiling of Rs.220 on pension plus ad hoc increase was sanctioned in September, 1969. The fourth ad hoc relief ranging between Rs.15 and Rs.35 was sanctioned in January, 1973.

138.3 The Third CPC conceded the demand of pensioners for protecting their pension from erosion on account of possible increases in the cost of living. It however, did not accept the suggestion that relief to the pensioners should be allowed at the same rate as was applicable to the serving employees, as the family and other responsibilities of a pensioner were not considered to be of the same order as of a serving employee. Having regard to the above considerations, they recommended that all future pensioners, irrespective of the amount of pension drawn by them should be given a relief at the rate of 5% of their pension subject to a minimum of Rs.5 and a maximum of Rs.25 per mensem for every 16 point rise in the 12 monthly average of the All India Working Class Consumer Price Index (1960=100).

138.4 The above recommendation of the Third CPC was implemented by the Government. A modification in the scheme was made from December 1, 1980 when Government decided to give Dearness Relief (DR) to pensioners for every 8 point increase in index average (a) 2.5% of pension subject to a minimum of Rs 2.50 and a maximum of Rs 12.50 per mensem.

Merger of DA with pay for pensionary benefits

138.5 The above scheme provided for neutralisation of about 62 per cent to pensioners drawing pension upto Rs. 500 per mensem. With the merger of DA up to index average 272 with pay for pensionary benefits with effect from September 30, 1977, the neutralisation went up to 85 per cent for the pensioners who retired thereafter because no change was made in the formula for the grant of DR in the case of those retiring on or after September 30, 1977 and they got the benefit of DR even on additional pension which became admissible on the merged DA. Two more mergers of DA with pay upto index average 320 and 568 took place on January 31, 1982 and March 31, 1985, raising the neutralisation to 100 and 178 per cent respectively because of no change in the formula for the grant of DR. It would thus be seen that pensioners drawing pension up to Rs. 500 and retiring on or after the dates of merger were over-compensated with every merger of DA with pay for the purpose of pensionary benefits ranging between 85 and 178 per cent, whereas the DR to pensioners drawing pension above Rs. 500 per mensem was pegged to Rs.12.50 for every 8 point increase in index average providing a neutralisation of 62 per cent.

Quantum of rationalisation

138.6 Between 1.1.1973 and 31.12.1985 (the intervening period between Third and Fourth Central Pay Commissions), the index average rose from 200 to 608 points resulting in the grant of 51 instalment of DA to the serving employees and an equal number of instalments of DR to pensioners. While the serving employees drawing pay upto Rs. 400 got 4% of their pay for every 8 point increase (total $51 \times 4 = 204\%$), the pensioners irrespective of the amount of pension got 2.5% for every 8 point increase (total $51 \times 2.5 = 127.5\%$). Thus, there was a gap of 76.5% in the quantum of neutralisation, thereby eroding the real value of the pension. The percentage of neutralisation provided to the serving employees vis-a-vis pensioners as per scheme of the Third Central Pay Commission is indicated below :-

Serving Employees		Pensioners	
Pay(Rs)	percentage of neutralisation	Pension	Percentage of neutralisation
(a) Upto Rs. 400	100	(a) upto Rs.500	62(before merger)
(b) Rs. 401-1000	75	upto Rs.500	85 (After merger upto Index Average 272)

Serving Employees		Pensioners	
Pay(Rs)	percentage of neutralisation	Pension	Percentage of neutralisation
(c) Rs 1001-2750	45	upto Rs.500	100 (After merger up to Index Average 320)
(d) Rs. 2751-3500	35	upto Rs.500	178 (After merger up to Index Average 568)
		(b)Above Rs.500	62

Anomalies discussed

138.7 Prior to 1.1.1986, there was no correlation between the scheme of DA to serving employees and the scheme of DR to pensioners, resulting in many anomalies in as much as progressive merger of DA in pay for computation of retirement benefits not only brought in uneven benefits between past and future pensioners but also resulted in some cases in future pensioners drawing less pension as compared to their counterparts who had retired earlier. To reduce the impact of such anomalous situations, the Fourth CPC while recommending additional relief for past pensioners, aimed at reducing the gap in amount of pension of past and future pensioners, also recommended upgradation of DR to the level of 75% for those who were in receipt of pension above Rs.500 per mensem.

Introduction of personal pension

138.8 Another methodology followed by the Government to lessen the impact of uneven benefits between past and future pensioners was to allow the pensioners retiring on or after 30.9.1977 and 31.1.1982 to exercise an option to avail themselves of the merger at index average 272 and 320. At the time of merger of DA at index average 568 with effect from 31.3.1985, no option was allowed but a new system of grant of personal pension representing the difference between pension calculated at CPI 320 plus DR between CPI 320 and 568 on the one hand and pension calculated at CPI 568 on the other was introduced.

Rationalisation of Scheme of Dearness Relief

138.9 To overcome further anomalies, the Fourth CPC rationalised the scheme of DR to pensioners and related the same to the scheme of DA to serving employees. It recommended adoption of slabs for regulating DR to pensioners at 50% of the slabs prescribed for regulating DA to serving employees and calculation of DR/DA at the same percentage. This was done with a view to ensuring that while pension was 50% of pay, pension plus DR thereon should be 50% of pay plus DA. This system ensured that in the event of any portion of DA being treated as Dearness Pay in future, the pension of future retirees with reference to pay plus DP would be exactly equal to the pension plus DR of a pensioner who retired before merger.

Graded/Dearness Relief to

138.10 All pensioners associations which appeared before us have urged that the concept of cent per cent neutralisation against increase in prices should be

Pensioners

recommended, because price increase affects them much more than serving employees. The income of pensioners is already less than 50% of what they drew at the time of retirement and all perquisites such as subsidised residential accommodation, residential telephone, leave travel concession, medical facilities, transportation, news papers/magazines etc have also disappeared

*Full
neutralisation of
cost of living*

138.11 We have considered the submissions and taken note of the fact that while recommending the grant of DA to serving employees, the First and Second CPCs generally proceeded on the assumption that DA was an expedient intended to deal with a temporary phenomenon of rising prices. Subsequent events have shown a continuous upward trend in prices leading to the recommendation of a regular scheme of DA to serving employees and DR to pensioners by the Third CPC. From the very beginning, the employees in higher pay brackets and pensioners drawing pension above Rs.500 have received the benefit of only partial neutralisation, resulting in tremendous erosion of their pay/pension. It would be unrealistic to assume that the personnel in higher pay brackets have any cushion left in their salaries in the face of continued sharp rise in prices. Similar is the case of pensioners who are being deprived of cent per cent neutralisation against rise in prices for no substantive reason. The erosion in the value of pension of past pensioners has been a matter of great concern and a large number of pensioners have urged us to fully protect the purchasing power of their pension by accepting the concept of cent per cent neutralisation. Having regard to the fact that the long term aim of a pension policy should be to provide a reasonable standard of living which could be deemed to be satisfactory, we recommend that the pensioners/family pensioners should be given relief against price rise on the same scale as is being recommended for serving employees. In other words, they should receive the benefit of full neutralisation of cost of living.

ADDITIONAL RELIEF TO PAST PENSIONERS

138.12 With a view to equalising their pension with reference to the pension of post-1.1.1986 retirees, pre-1986 pensioners have suggested the grant of graded relief on the pattern of Tamil Nadu Government, which has sanctioned varying percentages of graded relief for pensioners who retired at different points of time. Since we have conceded the demand for complete parity in pension of past retirees with reference to pension of post-1.1.1986 retirees by notional fixation of their pay, the need for grant of graded relief has become unnecessary.

MERGER OF PERSONAL PENSION WITH PENSION FOR DR

138.13 Pensioners who retired between 31.3.1985 and 31.12.1985 and who were granted personal pension have requested for merger of their personal pension with pension so as to become entitled for drawal of Dearness Relief which is presently being paid on basic pension only. We have given our sympathetic consideration to the demand made by this section of pensioners who retired between 31.3.1985 and 31.12.1985. We have taken note of the fact that personal pension was granted to the above retirees whose pension plus D.R. between CPI 320 and 568 worked out to be more than pension at CPI 568. This was done to ensure that future retirees drawing the same emoluments and having rendered the same length of service did not draw pension which was less than

that of their counterparts who had retired earlier. Though the Fourth CPC had recommended the payment of a lump sum amount in lieu of personal pension so that this did not continue as a separate element in the rationalised pension structure, the Government decided not to accept the recommendation on the ground of financial implications and the personal pension continues to be paid as a separate element without any D.R. thereon.

CAT reference 138.14 The Department of Pension and Pensioners' Welfare have referred this matter to the Commission vide their D.O. No 38/4/96-P&PW(A) dated 21.5.1996 in pursuance of an order dated 15.3.1996 made by the Bombay Bench of the Central Administrative Tribunal in O.A. No.643/95 in the case of L.G. Vaishampayan versus UOI.

Our recommendations 138.15 Since we have conceded the principle of complete parity in pension of past pensioners up to 1.1.1986 and modified/reasonable parity thereafter, the pension of all the past pensioners who retired up to 31.12.1985 shall be refixed by notional fixation of their pay without taking into account the element of D.A. which was treated as D.P. and the element of personal pension would automatically go away. All the past pensioners shall get the same amount of pension as admissible to a post-1.1.1986 retiree, provided they had the same length of qualifying service and emoluments.

FUTURE MERGER OF DEARNESS RELIEF WITH PENSION

Demands 138.16 Suggestions have been made for removal of anomalies arising out of merger of DA with pay after the recommendations of the Third CPC and also due to its restriction to low paid employees. Another suggestion made relates to maintenance of complete parity between pensioners and serving employees in regard to merger of DA or a portion thereof with basic pay and merger of DR and corresponding portion thereof with pension.

Our recommendations 138.17 We have given our careful consideration to the suggestions. Since we have recommended recomputation of pension of past pensioners by notional fixation of their pay in the revised scales of pay as on 1.1.1986, in the same way as was done for serving employees, the anomalies which had crept in due to (a) adoption of different rates of neutralisation for serving employees and pensioners, (b) merger of DA with pay for the purpose of computation of pensionary benefits without changing the formula for grant of D.R., etc., would be removed. As for the other submission, in view of the correlation established between DA and DR, we would recommend that DR on pension should be merged with pension simultaneously, whenever DA is merged with pay for the purpose of computation of retirement benefits for serving employees and further DR allowed on the consolidated pension (pension plus merged DR).

PERIODICITY OF PAYMENT OF DEARNESS RELIEF

Demands 138.18 It has been urged before us that the periodicity for grant of DR should be reduced from the existing six months to two months and the 12-monthly index average should also be reduced to six months.

Our recommendations 138.19 Having regard to the fact that there is a correlation between the

scheme of DA for serving employees and DR for pensioners. we would recommend that whatever changes are made in future in time and points factors in sanction of DA, the same should equally apply to DR. No special dispensation is considered necessary for pensioners alone

DR TO RE-EMPLOYED PENSIONERS/FAMILY PENSIONERS

Demands 138.20 Suggestions have been made that DR should continue to be paid to re-employed pensioners and employed family pensioners so as to maintain the real value of pension

Our Recommendations 138.21 We have considered the suggestions and are of the view that D.R. should be paid to employed family pensioners and re-employed pensioners, where their pay is fixed at the minimum of the pay scale of the post of re-employment, ignoring the entire pension. In other cases of re-employment, DR shall be payable on pay plus non-ignorable portion of pension as is the case at present and we recommend accordingly

INTERIM RELIEF TO PENSIONERS

Historical background 138.22 The practice of sanctioning Interim Relief to serving employees has been in vogue since 1957. The Second CPC had recommended Interim Relief of Rs. 5 per month w.e.f. 1st July, 1957 to all employees drawing basic pay not exceeding Rs.250 per month. The Third CPC had also recommended three instalments of Interim Relief w.e.f. 1.3.1970, 1.10.1971 and 1.8.1972. The amount of all the three instalments of Interim Relief ranged between Rs.29 and Rs.70 and its payment was restricted to employees drawing basic pay not exceeding Rs.1250. In the case of the Fourth CPC, Government sanctioned the first instalment of Interim Relief ranging between Rs.50 per month and Rs.100 per month w.e.f. 1.6.1983. Another instalment of Interim Relief equal to 10% of basic pay, subject to a minimum of Rs.50 per month, was sanctioned w.e.f. 1.3.1985. Before the appointment of the Fifth CPC, Central Government employees were sanctioned Interim Relief at a uniform rate of Rs.100 per month w.e.f. September 16, 1993. On an interim recommendation by us, another instalment of relief equal to 10% of basic pay subject to a minimum of Rs.100 was sanctioned w.e.f. 1.4.1995. The third instalment of relief equal to 10% of basic pay subject to a minimum of Rs.100 was sanctioned w.e.f. 1.4.1996 on our recommendations

Our recommendations 138.23 While the practice of granting Interim Relief to serving employees has been in existence for about four decades, it was for the first time that we recommended the grant of Interim Relief to pensioners in October, 1994 at a uniform rate of Rs.50 per month in the light of Interim Relief of Rs.100 per month sanctioned to serving employees w.e.f. 16.9.93. On the same analogy, we recommended a further instalment of Interim Relief equal to 10% of the basic pension/family pension, subject to a minimum of Rs.50 per month, for the pensioners/family pensioners. The pensioners were actually granted the first and second instalment by the Government with effect from 1.4.1995. On our recommendation made in the Third Interim Report, the third instalment of Interim Relief equal to 10% of basic pension subject to a minimum of Rs.100 per month

was also sanctioned to all the pensioners and family pensioners with effect from 1.4.1996.

Nature of IR

138.24 The nature and scope of Interim Relief was considered in detail by the Third CPC which held that it would be inappropriate to treat Interim Relief as though it were a Dearness Allowance because the two concepts differed. While the Dearness Allowance was determined almost solely by the cost of living, it could not be treated as pay also. The CPC was of the view that Interim Relief should be treated *sui generis* and it would be termed neither as pay nor allowance nor as wage.

Our views

138.25 In para 7 of our second Interim Report, we had also held that **Interim Relief only represented a provisional arrangement during an intervening period and was primarily intended to provide some relief to employees pending a comprehensive determination of their salary structure and other benefits.** It was, therefore, necessarily *ad hoc* in character. The same analogy which was applicable for serving employees was applied to pensioners as well and recommendations were made to the Government accordingly.

DATE OF EFFECT

Demands

138.26 We received several thousand representations from individual pensioners and their associations urging us to make an interim recommendation to the Government to modify the date of effect of grant of first instalment of interim relief to pensioners at a uniform rate of Rs.50 per month from 16.9.1993, as also for maintaining the rationality of the formula for sanction of DA/DR which is necessary to avoid anomalies in the pension of retirees retiring at different points of time.

Our Recommendations

138.27 The rationalisation in regard to payment of Dearness Relief on pension based on the same formula as evolved for the payment of Dearness Allowance to serving employees after 1.1.1986 de-facto established the nexus between wages and pension in the context of the general feeling and persistent demand by pensioners that disparities in the pensions of the retirees retiring at different points of time needed to be minimised. In the circumstances and in order to avoid any anomalies that may result, once it was accepted that payment of Interim Relief to pensioners was justified, it would not be appropriate to extend this from a date different from that applicable to serving employees. However, in view of the fact that the first instalment of I.R. was sanctioned *suo motto* by the Government to serving employees w.e.f. 16.9.1993 prior to the appointment of the Commission, we had, while recommending in October, 1994 an interim relief of Rs.50 per month for pensioners/family pensioners, taken a conscious decision not to specify the date from which this was to be paid but decided to leave this to the Government. **In the circumstances, we do not consider it desirable to re-open the issue at this stage.** We are also of the view that it would not be appropriate for us to make a *suo motto* recommendation on this issue. **We would, however, urge upon the Government to ensure in future that benefits intended both for serving employees and pensioners are extended uniformly from a common date.** We hope and trust that the nexus between serving employees and pensioners with regard to grant of I.R. is now firmly established and shall subsist.

Pension Procedure

INTRODUCTION

- Position of Rules* 139.1 The pension cases of Central Government Civilian employees are processed in accordance with the instructions contained in Central Civil Services (Pension) Rules, 1972, which stipulate that preparation of pension papers should start two years before the date of retirement on attaining the age of superannuation. The work is undertaken in three stages. The first stage covers verification of service, the second involves making good of omissions in the service book and the third consists of obtaining the application form for pension from the Government employee. In order to ensure that a retiree gets his pension as early as possible, Government of India has evolved a simplified pension payment procedure and the Central Pension Accounting Office has been created by relieving Comptroller and Auditor General of India of the responsibility of payment and accounting of central civil pensions. A data-bank on computer has also been created to enable post-payment check of pension payments.
- Payment through Banks* 139.2 The scheme for payment of pension to Central Government Civil Pensioners through Public Sector Banks is already in operation since 1977. Supervision over pension disbursement in a district is carried out by one nominated branch of a bank, which is known as the Link Branch. The Pension Payment Order (PPO) is despatched to Central Pension Accounting Office (CPAO), on the last working day of the month preceding the month of retirement of an employee. After countersigning, CPAO despatches it to the Link Branch by 20th of the month and by 23rd of the month, it reaches the paying branch. The pensioners who are not covered under the scheme of payment of pension through banks can switch over to this scheme and an elaborate procedure for this purpose has been laid down.
- Certificates required for payments* 139.3 For receiving payment of pension, a pensioner/family pensioner is required to furnish three certificates namely (i) non-employment/re-employment certificate, (ii) life certificate and (iii) remarriage/marriage certificate. These certificates are required to be furnished each year and crediting of pension is discontinued for the month of November and onwards in the cases of non-production of certificates. Only basic pension is paid and payment of DR on

pension is withheld if only life certificate is furnished but non-employment/re-employment certificate is not furnished. Although demands were made that life certificate should not be insisted upon, and a certificate issued by a Registered Medical Practitioner or an office bearer of a pensioners' association should be accepted for the purpose, but we feel that the existing procedure is reasonable.

*Transfer of
Pension*

139.4 Facilities exist and procedure has also been laid down for expeditious transfer of pension payment from one branch/bank to another. Such applications fall under three categories, namely (i) transfer from one branch to another of the same bank at same station or at different station, (ii) transfer from one bank to another at the same station and (iii) transfer from one bank to another at different stations. CPAO has already streamlined the procedure, concerning transfer of PPOs, in 1994 and in cases where transfers involve two branches of the same public sector bank, a mere intimation to CPAO now suffices. The CPAO is also streamlining the procedure of transfer where it is sought from one pension disbursing branch to another branch of a different Public Sector Bank. It is contemplated that even in such cases, the transfer may be effected by the paying branch, without waiting for the prior approval of CPAO. Since for the purpose of accounting and reimbursement of commission, sanction of CPAO for such transfer will be necessary, the process is proposed to be completed within a period of three months. **The proposed changes will meet the problem of delays in transfer of pension.**

EXPEDITIOUS SETTLEMENT OF PENSIONARY BENEFITS

*On
Superannuation*

139.5 If existing provisions are followed scrupulously by the pension sanctioning authorities, there can be no occasion for any delay in the sanction of a pension. Since we have received memoranda complaining about delay requesting for settlement of pension within three months of retirement, **there is a need to reiterate the existing instructions to pension sanctioning authorities, CPAO and Pension Disbursing Authorities.**

*Interest on
Delayed Payment*

139.6 In spite of adequate provisions for timely finalisation of final/provisional pension, complaints about delay in finalisation of pension continue. **The Government should, therefore, not only hold the Heads of Offices personally accountable for any delay in the sanction of pensions, but should also make provisions for payment of interest on delayed payments. This interest should be paid when the delay caused is not attributable to the retired employee and in cases where some period of delay is attributable to the retired employee himself, that period could be deducted from the total period of delay on which interest is to be paid. Where delay is attributable to the negligence of some government employee, the interest paid to the pensioner should be deductible from the salary of such employee(s).**

*For Retirement
other than
Superannuation*

139.7 Detailed procedure has not been formulated in cases of retirement other than on superannuation, in the absence of which it becomes difficult to pinpoint delay on a particular authority. A need has, therefore, been felt that in other cases of retirement like voluntary retirement, detailed procedure should be laid down by the Government so that pension is finalised within a reasonable time. In case of voluntary retirement, the processing of pension papers could be started

immediately on receipt of the notice for voluntary retirement. Initiating the pension sanctioning procedure only after the actual date of voluntary retirement delays the entire process. Even if an employee subsequently withdraws his notice for voluntary retirement, the work done for processing his pension papers will not be a waste. **We recommend that the process of sanctioning of pension should commence immediately when the notice for voluntary retirement is accepted by the competent authority.** The Department of Pension and Pensioners' Welfare should also prepare a time frame for processing pension papers in such cases, as has been done in case of retirements on superannuation.

*Disciplinary
Proceedings at
retirement*

139.8 A demand has been made that disciplinary proceedings against retiring Government servants should be completed expeditiously within a period of six months. **While we feel that it may not be possible to complete disciplinary proceedings within six months of retirement in all cases, but all out efforts need to be made to complete such proceedings within this period.**

PENSION PAYMENTS

*Pension Payment
Order*

139.9 It has been represented that PPO should contain the names of the children also, so that family pension could be commenced on the death of the family member. We have examined the format of the PPO prescribed at present. The PPOs issued prior to 1.1.90 did not contain many details which are considered essential for sanction of Family Pension to children and also for revision of pension when necessary. **The Department of Pension and Pensioners' Welfare and CPAO should take initiative to have all such pre-1.1.90 PPOs revised. Even in case of post-1.1.90 PPOs, the scale of post last held by the pensioner needs to be indicated. The existing column in the present PPO form which shows "post/grade/rank last held-----" needs to be modified to provide for a specific mention of scale of pay.**

*DR to
Pensioners on
News report*

139.10 It has been demanded that Dearness Relief (DR) to pensioners should be sanctioned on the basis of announcement in the newspapers, without waiting for a copy of the orders. It has been brought to our notice that Indian Banks Association issues an advertisement through newspapers, whenever Dearness Relief is sanctioned to pensioners and this gives full details about DR to be paid to different types of pensioners in different pension ranges. The demand that DR should be paid without waiting for a copy of the orders indicates that paying branches do not always act on the basis of this advertisement. **This situation can be improved if the copy of the orders of the Government on DR and its rates is printed in the newspaper directly by the Government, with a clear direction to paying branches that DR should be sanctioned without awaiting further official communications. We recommend accordingly.**

*Special Treatment
to Pensioners'
Accounts*

139.11 A special treatment by the banks has been demanded by pensioners in the shape of higher rate of interest, removing the requirement of minimum balance, etc. However, we feel that such demands cannot be considered because for the banks, a pensioner's account is like any other saving bank account. **As such, all the rules and regulations applicable in the case of Saving Bank accounts will equally apply to pensioners.** The facilities that banks normally give to its Saving bank account holders e.g. cheque book, minimum amount, multiple withdrawal, withdrawal by messengers, etc. are also available to

pensioners. There is no case for a higher rate of interest.

*Withholding
Payments on
Non-vacating of
accommodation*

139.12 CCS(Pension) Rules provide for withholding of 10% of DCRG subject to a maximum of Rs 1000 out of the gratuity amount and four months' advance licence fee for the official accommodation of a retiring Government servant. Normally, retention of Government accommodation is permitted for a period of four months from the date of retirement. Licence Fee is also recoverable out of DR on pension. In spite of these provisions, Government has been facing a lot of difficulty in getting the official accommodation vacated by the retired employees. Railways have, therefore, prescribed other measures like withholding of DCRG and Complimentary Passes, imposition of penal rent etc. to ensure that the accommodation is vacated within the stipulated time. Since these measures have been very useful, it is felt that similar provisions need to be made for other departments of Government as well, to ensure prompt vacation of the official accommodation immediately after completion of the prescribed period after retirement.

MISCELLANEOUS DEMANDS

*Payment through
Post Offices*

139.13 It has been demanded that definition of 'Disbursing Authority' should include Post Offices as well. In this regard, we feel that the procedure for payment of pension through banks has been streamlined and delay in payment of pension eliminated. Switching back to Post Offices or Treasuries may not be advisable in the interest of the smooth payment of pension. It will increase the paper work, accounting difficulties will be tremendous and it will involve a greater cost to the Government as the service charges of the Department of Posts for disbursement are considerably higher in comparison to the Banks. The proposal is, therefore, not favoured.

*Through Service
Money Orders*

139.14 Pensioners, who are unable to be present at the treasury, Bank or Post Office to collect their pension are paid their pension through service money orders, but a ceiling of Rs.500 per month as pension is prescribed for this purpose. A demand has been made to increase this ceiling. The ceiling was fixed long back and even the minimum pension including DR has risen to around Rs.1130 which is likely to be increased further after implementation of our recommendations. The ceiling should, therefore, be revised so as to cover those employees who are in receipt of minimum pension and are living in remote rural areas which are inaccessible to Banks. A ceiling of Rs.1500 would be justified.

*Nominations for
Arrears of Family
Pension*

139.15 As per payment of Arrears of Pension (Nomination) Rules, 1983, a pensioner, to whom any pension is payable by the Government may nominate any person to receive the life-time arrears of his pension after his death. A suggestion has been made that such nomination facility should also be extended in case of family pensioners. We do not consider the demand to be justified.

Pension Adalats

139.16 A demand has been made for establishment of Pension Adalat in each State or constitution of separate benches in all the administrative tribunals and High Courts and in the Supreme Court to deal with cases of pensioners. The Department of Pension and Pensioners' Welfare, however, feel that service grievances of Central Government pensioners are already being looked into by benches of the CAT who are pronouncing their judgement, within a reasonable

time. The establishment of separate benches for pensioners has, therefore, not been favoured.

139-17 **We feel that the system of Pension Adalat is very effective in finalising disputed cases of pensions and should be introduced for Central Civil Pensioners as well. Existence of CAT to deal with pension disputes is not considered as a substitute for Pension Adalats. The Pension Adalats should be constituted as an effective measure for redressal of the grievances of pensioners. Such Adalats should also function for settling the cases of field formations and meet at least once in a quarter. Pensioners should be allowed to present their cases before such Adalats through any other person/representative of Pension Association, as they themselves may not be conversant with the rules.**

Medical and Other Facilities for Pensioners

MEDICAL FACILITIES

Introduction

140.1 All Central Government Pensioners are extended CGHS facilities through its dispensaries. Even those pensioners who are residing in areas/cities not covered by CGHS are allowed to select any dispensary for availing themselves of OPD facilities. In case of indoor treatment, they are referred to Central Government hospitals, recognised private hospitals/CGHS-referral hospitals and the expenditure incurred on their indoor treatment is reimbursed by the CGHS. Pensioners are allowed to make a onetime lump sum payment equal to 10 years' contribution for getting a CGHS card issued for their whole life. Senior citizens of the age group of 60 and above are allowed to take treatment in the dispensaries on out-of-turn basis.

Rate of Contribution

140.2 The rate of contribution for the pensioners is the same as in case of serving employees. However, pensioners have an option to pay contribution based on the last pay drawn at the time of retirement or the amount of their pension. In case they opt for the latter, certain facilities like direct consultation by Specialists, Nursing Home, etc. are regulated in accordance with their pension and not on their pre-retirement pay.

Non-availability of benefits under CS(MA) Rules

140.3 Pensioners are, however, not covered under Central Services (Medical Attendance) Rules, 1944 and All India Services (Medical) Rules, 1954. Thus, pensioners who are not living in a CGHS covered area/city face tremendous difficulties in getting proper medical attendance. Fourth CPC had considered this difficulty and recommended that medical facilities, including domiciliary treatment, be made available to all pensioners. It suggested that the Government may examine the modalities of introducing a special comprehensive medicare scheme for pensioners, which should provide facilities similar to those available under CGHS.

*Follow up to
Fourth CPC's
Recommendations*

140.4 In an attempt to implement the recommendations of the Fourth CPC, the Department of Pension and Pensioners' Welfare constituted a committee to review the medicare facilities available to pensioners. The committee, inter alia, examined a tentative scheme prepared by General Insurance Corporation of India. However, the scheme was not recommended for adoption due to the high rate of premium, non-coverage of domiciliary out-door treatment, exclusion of existing pensioners, possibility of misuse, etc. The committee recommended a cash allowance of Rs 50 p.m. to cover the cost of medicines for the treatment of minor ailments, along with payment of 50% of the annual premium to be paid by pensioners for obtaining a medical insurance policy for themselves and the members of their families.

*Proposal of the
Ministry of
Health*

140.5 The Ministry of Health and Family Welfare proposed a fixed medical allowance of Rs. 50 p.m. to pensioners for taking care of their day-to-day expenditure on medicines and consultations for out-door treatment.

*Suggestion by
SCOVA*

140.6 The Standing Committee of Voluntary Agencies (SCOVA) also constituted a sub-committee for considering the question of medical facilities to pensioners. The report of the sub-committee was discussed in the meetings of SCOVA held in December, 1993 and September, 1994. The considered view of the sub-committee was that the CGHS facilities were the best and should be extended to cover more areas. It made the following important recommendations:-

- i. There should be a compulsory linkage of pensioners living in areas not covered by CGHS facilities, with the CGHS. They should have themselves registered with the nearest CGHS dispensary for treatment requiring hospitalisation for major surgeries. For domiciliary treatment of pensioners living in areas not covered by CGHS, a fixed medical allowance should be considered.
- ii. Extension of the Central Services (Medical Attendance) Rules to pensioners would involve administrative and financial problems. An analogy with the State Governments may not be applicable because of the diversity in distribution of the pensioners' population.
- iii. The possibility of pooling of medical facilities in various Departments of the Government such as Railways, Defence and Telecommunications should be considered.
- iv. The Government should explore the possibility of utilisation of the medical facilities made available by the State Governments to their pensioners and vice-versa on a reciprocal basis.

140.7 Government of India in the Ministry of Finance, considered various recommendations including payment of medical allowance and reimbursement of a portion (50%) of the premium paid on medical policy, but could not come to any conclusion. Department of Pension and Pensioners' Welfare, therefore, referred the matter to us.

Position in State Governments 140.8 Various State Governments in the country have already taken steps to improve medical facilities to pensioners. Monthly medical allowance at varying rates has been sanctioned by the State Governments of Kerala, Tamil Nadu and West Bengal. The State Government of Rajasthan has evolved a Pensioners' Medical Concession Scheme. Under the scheme, out-patient and indoor treatment facilities are provided in Government hospitals and clinics. In case of outdoor treatment, allopathic medicines, vaccines etc. which are ordinarily not available in Government hospitals, are provided to the pensioners free of charge from the medical shops or stores recognised under the scheme. The supply of medicines is however, restricted to Rs 1500 in a financial year, but this may be increased up to Rs 3000 under special circumstances.

Position in PSUs 140.9 Various Public Enterprises have already introduced schemes of medical care for employees retiring from their organisations. One such scheme introduced by the Minerals and Metals Trading Corporation Limited provides medical facilities to all categories of employees (and their spouses) retired from the organisation, provided they are not gainfully employed after their retirement. The scheme is extended on the basis of annual contribution at varying rates for different categories of employees ranging from Rs.30 for employees retired on last basic pay less than Rs 500, to Rs. 150 for those who retired with last basic pay of Rs 3000 or more. Reimbursement of both indoor and outpatient treatment is given by the organisation on production of bills, receipts/cash memos etc. For OPD treatment, the employee is required to nominate the Medical Practitioner from where the medical treatment is proposed to be taken on a regular basis. A total annual ceiling of Rs 1200 is imposed on outdoor treatment, which is reduced to Rs 600 on the death of the retired employee or the spouse. For indoor treatment, full reimbursement is given if the treatment is obtained from Government hospital/Public Sector Undertaking hospital. If the treatment is received in private nursing homes, the reimbursement is restricted to the rate applicable in a local Government hospital.

Demands 140.10 A large number of demands have been made and these can be grouped into three broad categories: (i) pensioners covered under CGHS (ii) Pensioners not covered under CGHS and (iii) Pensioners covered under the Railway Employees Health Scheme.

PENSIONERS COVERED UNDER CGHS

Extension of CGHS Network 140.11 Demands have been made for a massive expansion of the CGHS network, so as to cover all district headquarters in the country and be able to extend CGHS facilities to all pensioners not covered by the scheme. The Ministry of Health have indicated that large scale expansion may not be possible due to resource constraints, but have agreed to cover all the State Capitals in a phased manner. While realising the difficulties of the government, we recommend that expansion of CGHS facilities should ensure coverage of all State Capitals in a very short period. Since CGHS is already recognising more and more private hospitals and nursing homes for indoor treatment, such recognition should not be confined to cities where CGHS exists, but should cover all State Headquarters and gradually all the District Headquarters. Such recognised hospitals should be authorised by CGHS to directly accept the pensioners enrolled with CGHS for indoor treatment/hospitalisation.

<i>Rate of Contribution to CGHS</i>	140.12	It has been represented that the subscription under CGHS is on the high side and that it should be completely waived off in the case of pensioners. A demand has also been made that a life-long CGHS card should be provided on payment of 7 years' contribution instead of 10 years. However, considering the fact that the rate of CGHS subscription has been revised from 1st April, 1994 after a gap of 40 years and taking into account the rising cost of medicare, we do not feel that any change in the rate of contribution for pensioners is necessary. Similarly, no reduction in quantum of contribution for a life long CGHS card is recommended.
<i>Facility to choose a CGHS dispensary</i>	140.13	Pensioners would like to be allowed to take treatment in any of the CGHS dispensaries of their choice and convenience, irrespective of their place of residence. Although pensioners should be given a choice to register themselves in any one of the CGHS dispensaries depending on their convenience, they should, therefore, be entitled to visit only that dispensary in the country, as has been demanded.
<i>Regular Medical Check-up</i>	140.14	A demand has been made for regular medical check-ups and supply of medicines at the residence of the pensioner, once he attains the age of 68 years. It has also been demanded that CGHS doctors should respond to emergency calls on telephone in such cases. Pensioners are already being given priority in CGHS dispensaries and the card provided to them is of a different type/colour. This may be more of a hindrance than help. We feel that pensioners should not be provided a card of different colour. All required information about the entitlements of a pensioner should be indicated on his CGHS card, so that he does not face any difficulty about his entitlements like nursing home facility, direct consultation with specialists, etc.
<i>P&T Dispensaries</i>	140.15	P&T pensioners are not being provided indoor treatment facilities, as is the case with those covered by CGHS. P&T pensioners registered with a P&T dispensary are not able to avail themselves of indoor facilities as the P&T department has decided not to extend indoor treatment facilities in their dispensaries. P&T Pensioners are, however, given an option in the beginning itself to register themselves with CGHS. Once they enrol themselves with P&T dispensaries, no shifting to CGHS is allowed. We feel that the facilities provided to pensioners under P&T dispensaries should be at par with those provided in a CGHS dispensary. In case it is not possible for the P&T department to do so, its dispensaries should not register the P&T pensioners from the beginning itself and the CGHS dispensaries should take care of P&T pensioners in the same manner as in case of other civil pensioners.

PENSIONERS NOT COVERED UNDER CGHS
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<i>Present Position</i>	140.16	At present a pensioner can have himself enrolled with the CGHS dispensary even if he is not residing in an area covered by one. However, this facility is not beneficial to them, as it is not possible for a pensioner to take OPD facilities from such a dispensary on day-to-day basis, if he is not residing in the vicinity. This facility is beneficial only in case of indoor treatment, as the pensioner registered with a CGHS dispensary is entitled to take indoor treatment in any Government hospital or private hospital recognised by CGHS for this
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purpose. Delegations are already available to CMO Incharge of the dispensary to accord permission for hospitalisation in such cases. Reimbursement cases of such hospitalisation are referred to CGHS headquarters. Still, pensioners feel difficulty in getting indoor treatment through a CGHS dispensary, if the dispensary to which he is registered is situated at a different station. Difficulties are also being faced by the pensioners in settlement of their reimbursement claims from CGHS.

Demand

140.17 In view of the difficulties experienced by pensioners in getting appropriate medical attention and care, as it is restricted at present through CGHS network alone, the question of giving a fixed medical allowance to the pensioners and to provide facilities for indoor treatment to them has been under consideration of the Government for a long time. The Ministry of Health and Family Welfare had proposed a fixed medical allowance of Rs.50 p.m. to pensioners for day-to-day expenses on medicines and consultation for OPD treatment. Department of Pension and Pensioners' Welfare recommended a lump sum payment of Rs.250 p.m. for ailments not requiring hospitalisation in case of those pensioners who were residing in a non-CGHS area. They also recommended the reimbursement of Rs.3,000 per person (pensioner and his/her dependants) subject to an upper ceiling of Rs.7,000 per year towards cost of insurance for covering hospitalisation. Various suggestions have also been received by the Commission for payment of medical allowance to pensioners as a percentage of the pension subject to minimum of Rs.50 for each dependant and further subject to a maximum of Rs.250.

*Our
recommendations*

140.18 We have given due consideration to the various suggestions made to us in this regard and recommend that pensioners residing in an area not covered by CGHS, should be given a fixed amount of medical allowance @ Rs.100 p.m. for meeting the expenditure on day-to-day medical expenses that do not require hospitalisation. In addition, CS(MA) Rules, 1944 should be extended to pensioners, in a restricted manner so as to facilitate reimbursement of expenditure on hospitalisation in a Government hospital/private hospital recognised under CGHS or under CS(MA) Rules for the purpose. Such reimbursement claim should be settled in full by the respective Ministry/department of the pensioner under the provisions of CS(MA) Rules.

HEALTH SCHEME FOR RAILWAY PENSIONERS

Provisions

140.19 A liberalised health scheme for retired railway employees has been introduced in September, 1988. Under this scheme, retired railway employees can avail themselves of medicare facilities from 122 Railway hospitals and 670 Health Units throughout the country. Free outdoor and indoor treatment in any of the railway hospitals/health units is provided to the retired employee, his/her spouse and dependent parents on the same scale and terms and conditions as are applicable to serving employees. However, in case of indoor treatment and special investigation for dependent children, a charge equal to 10% of the prescribed schedule charges for outsiders is levied. Reimbursement to pensioners is restricted to the extent of 50% of the expenditure incurred on admissible items by the pensioners. Retiring railwaymen are required to pay a one-time contribution equal to the basic pay last drawn by them in order to avail themselves of the liberalised medical facilities.

Demands

140.20 We have received a number of demands about the inadequacy of the Railway Employees' Health Scheme. The scheme is limited to railway hospitals and health units, which are not available at all stations. The demand has been made that railway pensioners should be allowed to avail themselves of medical aid from any railway hospital in any part of the country on production of medical card. They also want Railway Travel Passes to the nearest railway hospital/unit for availing themselves of medical facilities if they are living at a place where no hospital/unit exists. We do not recommend any concessional travelling facilities to railway pensioners for getting medical facilities of primary nature in dispensaries/units on a day-to-day basis. Passes can be given to pensioners only in cases where a reference is made by the Doctor of the local unit for inpatient treatment/hospitalisation or for any specialised treatment of a chronic ailment. The facility of passes to pensioners for this purpose should be at par with serving railwaymen.

Beneficiaries' contribution

140.21 A demand has been made for removal of the differences in the rates of contribution between CGHS and Liberalised Pension Scheme for retired railway employees. It has been suggested that since serving railwaymen are exempted from making any contribution for availing themselves of the medical facilities in railways, ex-railwaymen should also be given similar exemption from making any contribution for the medical facilities provided to them. We have considered this demand and feel that since serving railwaymen are not required to pay any contribution, it has become a source of grievance for other Central Government employees and even retired railwaymen. We, therefore, strongly recommend that the serving railwaymen should be asked to pay contribution at the same rate at which it is charged under the Central Government Health Scheme. In case of Railway pensioners, the contribution under Liberalised Health Scheme is slightly lower in comparison to the rates in case of CGHS. We recommend that a uniform rate of contribution at par with CGHS rates be enforced. With such enforcement of a uniform rate of contribution for all serving railwaymen and ex-railwaymen, the differences in the facilities provided to the two categories should also be removed. Thus, reimbursement in case of ex-railwaymen which is restricted to 50% of the expenditure on admissible items should be raised to 100% reimbursement, as in case of serving railwaymen.

Option to Family Pensioners to join

140.22 Better facilities have been demanded in railway medical units/hospitals. It has been suggested that family pensioners should be allowed to avail themselves of all medical facilities in railway hospitals in the event of death of the pensioner. We recommend the extension of medical facilities to family pensioners after the death of the pensioners. This should be allowed even in cases where the pensioner had not joined the health scheme during his lifetime.

POOLING OF EXISTING MEDICAL FACILITIES

Demand

140.23 Apart from CGHS, Railways and P&T medical schemes, facilities are also being provided by the Armed Forces, Ordnance Factories, Central Police Organisations etc. A demand about the pooling of these facilities for Central Government employees has been made. Central Government pensioners have also been demanding pooling of these facilities for pensioners. None of the

Departments is willing to extend the medical facilities available in their departments to employees or pensioners of other departments

*Our
recommendation*

140.24 In this regard, we recommend that pooling of the facilities provided by different Central Government departments can be considered for the restricted purpose of providing health care to Central Government pensioners alone. Once the medical allowance recommended by us is sanctioned, pressure on existing infrastructure for day to day ailments will not be there. However, for the purpose of reference for hospitalisation and reimbursement of medical expenditure thereon, it is felt that the doctors/Medical Officers working in dispensaries of different Central Government departments should be recognised as Authorised Medical Attendants (AMAs) under the CS(MA) Rules, in addition to the existing AMAs already recognised under the said Rules. These AMAs can work as referral doctors for hospitalisation/in-door treatment. Moreover payment of medical reimbursement bills for such hospitalisation can be made by the respective departments on the referral recommendations and scrutiny of bills by these AMAs. Thus, medical officers of all the Central Government departments including those in CPOs, Armed Forces, Railways, etc. shall need to be directed and authorised to accept this additional responsibility for the sake of Central Government pensioners.

OTHER FACILITIES

*Pensioners'
Welfare*

140.25 A large number of demands have been received by us on different welfare aspects of Central Government pensioners like establishment of a Pensioners' Welfare Fund, provision of old age homes, library and Reading Room facilities, Travel concessions, HRA/CCA, etc. We recommend that pensioners should be encouraged to form voluntary organisations of their own and then avail themselves of benefits under existing welfare schemes of the Ministry of Welfare and other departments. Establishment of Old Age Homes, opening of libraries/reading rooms, etc. are facilities that can be created in this manner. Membership of the Central Government Libraries which is exclusively restricted to serving Central Government Employees should also be opened up to pensioners.

*Travel
Concessions*

140.26 We have received representations for increasing the extent of concession available to senior citizens in railway fares from the existing 25% to 50%. Similarly, extension of this concession to all pensioners or at least those who are of the age of 60 years and above has also been demanded. There is a suggestion that LTC be extended to pensioners. In the case of Railway pensioners, there is a demand for increasing the number of PTOs and redefining the term 'Attendant'.

*Our Recommen-
dations*

140.27 We do not find any merit in the demand for extending travel concessions to pensioners. We, however, feel that the age of 65 years currently used to define a senior citizen seems to be arbitrary. Now that Government is likely to approve of 60 years as the age of superannuation, that could be taken as the cut off point for defining old age. The existing 25% concession in railway fare should, therefore, be allowed to persons above 60 years of age, instead of 65 years as at present.

HRA/CCA to Pensioners

140.28 The demand for payment of HRA and CCA to pensioners, was considered by Department of Pension and Pensioners' Welfare who did not agree to the demand in principle and also in view of the huge expenditure involved. We endorse this view. Since pensioners are free to stay in any part of the country and Government have no right to utilize their services, they have no claim for payment of HRA/CCA.

Housing

140.29 A demand has been made for a "National Housing Policy for Pensioners", including provisions for subsidized housing schemes and out-of-turn allotment of houses to superannuating employees on hire purchase basis. Based on the recommendation of Fourth CPC, Ministry of Urban Affairs and Employment issued directions to States/UTs for protecting the interests of pensioners while allotting plots/flats through Housing Boards, etc. In this regard, we feel that governmental efforts should be directed to ensure that a government servant acquires a house during his service period itself. For this purpose, we have recommended simplification of procedure for grant of HBA, increasing the quantum of advance and linking it with the cost of construction. We, therefore, do not feel any need for a separate housing policy for pensioners.

Vacation of Pensioner's House

140.30 A demand has been made for effective legal provisions to ensure vacation of houses of pensioners occupied by tenants. Rent and tenancy being a state subject, the Ministry of Urban Affairs and Employment has formulated a Model Rent Control Legislation (MRCL), which inter alia incorporates a provision for recovery and immediate possession to certain specified categories of people. The Department of Pension and Pensioners' Welfare should take up the matter with the State Government to ensure that each State passes a legislation on the lines of MRCL. **Immediate possession of the residential accommodation of a retiring employee should be ensured by prompt summary action within a stipulated time frame.**

MISCELLANEOUS DEMANDS

Continued social involvement of pensioner with the department

140.31 A demand has been made for permitting pensioners in Departmental meets at par with serving employees. We recommend that wherever possible, the retirees should be encouraged to participate in the socio-cultural activities of the department. In fact, Departments should themselves devise certain programmes like sports events, veterans' meets etc. especially for old retirees of the department.

Children's Education Facilities

140.32 Extension of Children Education Allowance to pensioners' children has been demanded. At present, the payment of the Allowance is admissible only up to the end of the academic session in which the event of retirement takes place. We do not regard it as a general problem of pensioners, as those retiring on attaining the age of superannuation will not generally have children in the age group of 5-20 years. In so far as voluntary retirement cases are concerned, the Government servants themselves opt for it knowing fully well the details of benefits available under the scheme. **We, therefore, do not find any merit in the demand.**

Warm send-off at retirement

140.33 A demand has been made that pensioners should be given a parting gift up to a cost of Rs 1,000. We feel that retiring employees should

always be given a warm send-off, even if it entails some contingent expenditure on the part of the department. A suitable farewell function should be organised and it should be presided over by the Head of the Department/office. The retiring employee should be given an opportunity to express his sentiments at that crucial moment of his life. The occasion should also be used to reiterate the continued concern of the department towards its retiring employees.

Other demands

140.34 Demands have also been made for payment of loans, special pay for adopting small family norms and funeral grant, age relaxation to children of pensioners in matter of employment, allotment of gas agencies, ration shops, petrol pumps, public telephone booths etc. to pensioners, provision of telephone connections on priority basis, car allowance, etc. We do not find merit behind such demands and, therefore, do not recommend these for consideration by the government.

Brochure on Pensioners

140.35 In conclusion, we recommend that the Department of Pension and Pensioners' Welfare should print a brochure every year, incorporating all the changes brought in the rules about pensions and pensioners' welfare. Such a brochure should be given wide circulation and may be priced reasonably.

Other matters Concerning Pensioners

141.1 Central Government pensioners have raised several issues for consideration of the Commission which can appropriately be discussed in this chapter.

*Removal of
restrictions on
commercial
employment*

141.2 Suggestions have been made for removal of restrictions on acceptance of commercial employment within two years of retirement. It has been urged that instead of requiring all Group 'A' officers to obtain prior permission, sensitive posts could be identified in each Ministry/Department and that mere intimation of acceptance of employment should suffice in other cases. Instances of any violation could instead be appropriately dealt with under the enabling provisions of the Pension Rules.

*Views of Fourth
CPC*

141.3 This question was also considered by the Fourth CPC, which suggested a review of the existing rules and procedures. No changes were, however, made in the relevant rules by government in pursuance of this recommendation.

Our Recommendations

141.4 The suggestion that Rule 10 of the CCS (Pension) Rules, 1972 should be repealed has been considered by us in the context of the Voluntary Retirement Scheme. Our recommendations made in the aforesaid Chapter would be equally applicable in cases of retirement on superannuation.

*Deduction of
Pension from last
pay drawn*

141.5 It has been urged that pension should not be deducted from the pay fixed on re-employment since this is paid for services rendered in the past by the employee and that the pay last drawn before retirement should be protected. We have considered the suggestion carefully and do not find any merit in the suggestion that on re-employment of a pensioner pay last drawn before retirement should be protected and pension should also be allowed to be drawn separately. The existing instructions regulating pay fixation on re-employment appear to be quite satisfactory and may be continued. However, ignorable portion of pension for

pay fixation, wherever applicable, may be raised to Rs.1,500 from the existing amount of Rs.500. Similarly, the existing ceiling of Rs 8,000 p m on pay and gross pension/pension equivalent of retirement benefits may be revised to the maximum salary payable to a Secretary to the Government of India in the revised pay scales, recommended by us

*Bar on extension
in service*

141 6 The practice of granting extension in service to persons who have attained the age of superannuation creates a class of public servants who are prepared to compromise their integrity to any extent for the purpose of earning an extension in service. Since the extensions are granted in short spells, the official concerned works essentially "on daily wages" and is willing to do anything to please his superiors. Such behavior is especially pernicious at very senior levels where the entire bureaucracy can be manipulated by a clever politician by keeping every crucial official on extension. No fearless and independent advice can be rendered by such civil servants. In order to restore the dignity of the officers and to prevent the abuse of their high office, it is recommended that the provision relating to grant of extension in service be deleted from the Rules. No one in Government should have the power to grant such extension under any circumstances whatsoever. This single recommendation will, more than anything else, build up the morale of the civil services to a high point. We recommend it in the strongest terms possible for Government's consideration

*Re-employment
as Consultants*

141 7 Re-employment of pensioners as Consultants only may be considered for a period not exceeding one year, for work which is considered to be of a time-bound nature, such as review and revision of manuals, departmental inquiries, etc. on which adequate and undivided attention cannot be paid by the serving officers because of their other preoccupations. No other kind of re-employment should be permitted, except that of ex-servicemen, for which the status-quo may continue.

*Utilisation of
pensioners for
specific tasks*

141 8 Suggestions have been made for gainful utilisation by Government of services of experienced pensioners on payment of honorarium and provision of incentives, such as preferential allotment of petrol pumps, gas agencies, fair price shops etc. to them. It is an admitted fact that pensioners have rich and varied experience and are very talented in various spheres because of their exposure to diverse and complex problems dealt with in Government Departments. Their experience should be utilised to the extent possible by enlisting their services in handling court cases, departmental enquiries, adult education programmes, etc. Because of their intimate knowledge about the department's functions, pensioners can better project a department's case before a judicial body than a standing counsel who is always hard pressed for time and may not always appreciate the complexities involved. Similarly, pensioners can, if they are properly organised, motivated and financed, launch a major offensive against illiteracy especially in the rural areas where most of them tend to settle down. But we are not in favour of preferential allotment of petrol pumps, gas agencies, fair price shops, etc. to them.

<i>Government employees permanently absorbed in public enterprises</i>	141.9	Central Government employees are often sent on deputation in public interest to Central Public Sector Undertakings, on their own volition applying in response to advertisements, and get permanently absorbed there. Such employees are deemed to have retired from service from the date of absorption.
<i>Restoration of full pension after 15 years</i>	141.10	Suggestions have been made for restoration of full pension after 15 years from the date of absorption and grant of Dearness Relief, Interim Relief etc., on restoration of pension.
<i>Restoration of 1/3rd portion of fully commuted pension</i>	141.11	The question of restoration of 1/3rd portion of the fully commuted pension was considered by the Supreme Court in Writ Petition (C) No 11855 of 1985. The Apex Court in its judgement dated 15th December, 1995 held that a clear-cut distinction was made in Rule 37-A of the CCS (Pension) Rules itself between 1/3rd portion of pension to be commuted without any condition attached and 2/3rd portion to be received as terminal benefits subject to the condition that the Government servant will surrender his right of drawing 2/3rd of his pension. The Court held that in so far as commutation of 1/3rd of pension was concerned, the petitioners as well as the petitioners in the Common Cause case stood on a similar footing with no difference. That being the position, the denial of benefit given to the Common Cause petitioners to the present petitioners (absorbed employees) violated Articles 14 and 16 of the Constitution. The reasoning for restoration of 1/3rd commuted portion in the case of Common Cause petitioners equally applied to the restoration of 1/3rd commuted pension in the case of absorbed employees as well. In view of the fact that the absorbed employees had received the commuted value (terminal benefits) on the condition of surrendering of their right of drawing 2/3rd of their pension, there was no justification for restoring the full commuted pension. The judgement of the Apex Court has been implemented by the Government by issue of O.M. No.4/3/86-P&PW(D) dated 30.9.1996.
<i>Payment of Dearness Relief to re-employed pensioners</i>	141.12	The payment of Dearness Relief is suspended if the pensioner/family pensioner is employed/re-employed under the Central/State Government or re-employed/employed/permanently absorbed in a Central or State Government company, corporation, undertaking or autonomous body or in the RBI or any public sector bank or in GIC, LIC etc. Dearness Relief is revived after the spell of such re-employment/employment. Having regard to the fact that Dearness Relief on pension is paid to restore the pension to its original value which is eroded by the rise in the cost of living, the demand appears to be logical. If the Dearness Relief is not paid, the person concerned gets a diminished pension in terms of real value. In the case of absorbed employees who had commuted their full pension, only 1/3rd will be restored in implementation of the Judgement of the Apex Court dated December 15, 1995. In their case, 1/3rd of their pension will be treated as full pension which should be taken into account for payment of Dearness Relief. With a view to maintaining the original value of the pension, we are of the view that payment of DR/IR should not be suspended where pay is fixed at the minimum of the pay scale during employment/re-employment of a pensioner/family pensioner.

*Giving of option
to absorbed
employees to
come over to
pension scheme*

141 13

It has also been urged that the absorbed employees may be given an option to come over to the pension scheme, subject to their refunding the 2/3rd commuted value of pension with simple interest at the rate of 6% per annum. The Fourth CPC had recommended that the feasibility of giving such an option to the absorbed employees may be considered. A similar recommendation was made by the Commission for the CPF retirees in Chapter 9 of its Report. The CPF beneficiaries who were still in service on 1.1.1986 were deemed to have come over to the pension scheme on that day unless they specifically opted to continue under the CPF scheme. The Government did not accept the recommendation of the Commission because of administrative problems. In view of the practical difficulties involved in allowing an option to switch over to the pension scheme at such a distant date, we are not inclined to recommend giving an option to CPF retirees and the absorbed employees to switch over to pension scheme.

*Taking past
service into
account for
pensionary
benefits*

141 14

Suggestions have been made that the past service rendered in a PSU prior to appointment in the Central Government should be taken into account for pensionary benefits, which should be determined on the basis of the combined service rendered in the PSU and the Government.

*Mobility between
Sectors*

141 15

After liberalisation of the economy, there is a greater need for exchange of experience among Government, private and public sectors. We are of the considered view that mobility between various sectors needs to be encouraged despite wide disparities in pay and pension structures between Government and Public Sector Undertakings and among different PSUs themselves. With a view to attracting suitable manpower from the PSUs, we feel that such of the public sector employees who opt to be absorbed permanently in Central Government departments may be allowed to count their past service rendered in the PSU before absorption for the purpose of computation of pensionary benefits on their retirement on superannuation from Government service, provided the concerned PSU discharges its liability of pension and other pensionary benefits for the services rendered in the PSU. We, however, do not recommend reopening of past cases.

141 16

On the same analogy, Government employees who join PSUs should also be allowed to have their past service in Government counted in the PSUs for the purpose of computation of retirement benefits. For this purpose, Government could enter into a reciprocal agreement with its PSUs.

*Permission to
retain
Government
accommodation*

141 17

Suggestions have been made to permit a retiring officer to retain Government accommodation for a period of 2 years or till such time as he is able to make alternative arrangements.

Our Recommendation

141 18

In view of the fact that the present concession of retention of residential accommodation has been extended as a welfare measure and that there is already an acute shortage of government accommodation for allotment to eligible and serving employees, acceptance of the suggestion would only further aggravate

the existing shortages. The date of retirement on superannuation is known to every Government employee well in advance and it is desirable that he finalises his plans well in time so that he does not continue in the accommodation allotted by Government while in service. We do not find any merit in the suggestion and do not recommend any change in the existing practice being followed.

*Eligibility for
memberships of
Housing
Organisations*

141.19 Suggestions have also been made to relax Rule 3 of the Central Government Employees Welfare Housing Organisation, in terms of which pensioners who had retired not more than 5 years earlier than the date of announcement of a scheme are also eligible to be considered for allotment of houses/flats along with those about to superannuate. It has been suggested that pensioners should be eligible for allotment regardless of the date of their superannuation and of the fact whether they were already in possession of residential accommodation allotted by the Delhi Development Authority and other similar housing bodies.

141.20 Army Welfare Housing Organisation and Indian Railway Welfare Organisation, which construct houses for the Armed Forces personnel and railway employees respectively, enrol the serving employees and pensioners as members irrespective of the date of their retirement subject to fulfillment of other eligibility conditions such as not owning a house at a place where dwelling units are proposed to be constructed. In the case of IRWO, a minimum of 20 years' service before retirement is insisted upon. Since CGEWHO is also patterned on the lines of AWHO and IRWO which confer membership on a pensioner irrespective of his date of retirement, there is no justification for restricting the membership only to pensioners who retired not more than five years earlier. It would, therefore, be desirable to remove the restriction of 5 years for conferment of membership in case of CGEWHO. We are, however, not in favour of removing or relaxing the other conditions of eligibility.

*Special
savings deposit
scheme for
pensioners*

141.21 A deposit scheme for retiring employees of Government and Public Sector undertakings was introduced in the year 1989. Under this scheme, a retired employee can deposit a minimum amount of Rs.1,000 and thereafter in multiples thereof which should not exceed the total amount received as retiral benefits. Interest is paid half-yearly on 30th June and 31st December at the rate of 10% per annum which is totally exempt from Income Tax. The account under the scheme can be opened within 3 months of receipt of retirement benefits. Part or full withdrawal in multiples of Rs.1,000, and on a single occasion in a calendar year is permissible 3 years after opening the account. Premature withdrawal on completion of one year but before the expiry of 3 years is also permissible; interest in such an event is payable at the rate of 4%. If interest has already been paid @ 10%, the difference is adjustable.

*Demand and
recommendation*

141.22 Suggestions have been made to revise the rate of interest under this scheme to at least 24%. We have given careful consideration to the suggestion made by pensioners and their associations. We have also taken note of the fact that serving employees who subscribe to the General Provident Fund are paid interest @ 12% per annum which is totally exempt from Income-Tax. They are also

allowed withdrawals liberally from the fund. With a view to ensuring that the retired employees are freed from the botheration of obtaining certificates of interest accrued on their investments from different agencies and claiming refunds of the tax deducted at source, we feel that the rate of interest on special savings/deposit scheme for retiring employees of the Government needs to be raised to the same rate which is allowed on General Provident Fund. No other change is recommended in the scheme.

Creation of Pensioners' Welfare Fund

141.23 Suggestions have been made for creation of a Pensioners' Welfare Fund on the pattern of the Compassionate Fund of the Government of India under which relief is provided to the surviving families for financing welfare schemes for pensioners. In view of the Government's precarious financial position, it is proposed that whatever facilities already exist for the serving employees may be allowed to be shared by the pensioners, without creating a separate welfare fund for the pensioners.

Facilities for Pensioners' Associations

141.24 It has been urged that pensioners' associations should be allowed the same facilities as are allowed to associations of serving employees. We have considered the suggestion and feel that the number of associations representing pensioners needs to be reduced drastically so that they can function effectively. Unless this is done it may not be possible for the Government to extend facilities to thousands of associations. We are, therefore, of the view that a mechanism needs to be evolved to grant some sort of a recognition to the pensioners' associations who are capable of espousing their cause. Such of the associations which are granted recognition may be provided facilities to the extent possible, including provision of accommodation for housing their offices.

Implementation of judgements towards relating to pensioners

141.25 Suggestions have been made by various associations of pensioners that the judgements granting relief in individual cases should be extended to other similarly placed pensioners without requiring them to approach the courts for similar relief. It has also been suggested that the Government should be restrained from filing appeals against judgements pronounced in favour of pensioners.

Our Recommendations

141.26 While we do not endorse the idea of placing fetters on the discretion of the Government to file appeals before the appropriate Court, we feel there is some scope for avoiding litigation by a judicious application of mind. We are of the view that court judgements, when delivered on merits, should not only be implemented invariably but their benefits should also be extended to similarly placed persons without requiring them to resort to litigation. However, in those cases where judgements have been delivered in favour of an aggrieved party on technical grounds but not on merits, and the Government is of the opinion that the judgement is against the pronounced policy of the Government or its implementation would have adverse effect on the economy of the country because of enormous financial implications which the public exchequer cannot absorb, it should have the discretion to file an appeal before the appropriate Court. The above recommendations are being made keeping in view the limited resources which are at the disposal of the Government.

141.27 A Standing Committee of Voluntary Agencies (SCOVA) was constituted in July 1986 under the Department of Pension & Pensioners' Welfare with the following objectives:-

- 1) To provide a feedback on programme implementation of the Department.
- 2) to discuss and critically examine new policy initiatives, and
- 3) to mobilise voluntary effort to supplement the Government action.

141.28 The Additional Secretary in the Department of Pension & Pensioners' Welfare functions as the Convener and Member Secretary of SCOVA. The Fourth CPC had suggested broad-basing of the objectives listed at SI.No. (2) and (3) above so as to highlight various problems of pensioners.

141.29 The pensioners' associations which appeared before the Commission expressed their satisfaction at the functioning of the SCOVA but felt that it should meet more frequently than at present to discuss problems afflicting the pensioners. The Commission had received the maximum number of memoranda from the pensioners and their associations and it became difficult for it to decide which associations should be called to tender oral evidence. With a view to providing an effective forum to the pensioners and their associations for redressal of their grievances, we feel that **SCOVA should meet more frequently and at least once in three months. We are also of the view that SCOVA should be a multi-tier institution and it should have the same machinery for implementation of the decisions taken as in the case of JCM including that of reference to Board of Arbitration wherever a disagreement is recorded, and the requirement of going to Parliament where a particular Award is not to be implemented by Government. Unless the SCOVA becomes an effective institution for providing redressal of disputes and complaints with respect to pensionary matters, courts would continue to be flooded with petitions. The Department of Pension and Pensioners' Welfare may evolve a suitable mechanism to regulate the number of pensioners' associations and identify effective ones which should only be consulted on policy matters concerning the pensioner community.**

141.30 There should also be a well-considered policy for nominating **representatives of pensioners on various committees and other fora of Government where issues relating to the welfare of pensioners are likely to be discussed and debated. This will give them a feeling of involvement in decision making.**

153.31 While most of the State Governments adopt the recommendations of the Central Pay Commissions in regard to pensionary benefits, others set up their own Pay Commissions for determination of the pensionary benefits of their employees. Suggestions have been made by a number of pensioners' associations that there should be complete parity in retiral benefits among employees of Central and State Governments and autonomous organisations which are financed wholly or partly by the Central or State Governments. While there can be little doubt about the usefulness and advantage of having a uniform pattern of retirement benefits for the employees of Central and State Governments and autonomous

organisations, we feel it would not be appropriate for us to put fetters on the discretion and authority of State Governments or autonomous organisations to determine the conditions of service and quantum of pensionary benefits to their employees, taking into account their own financial position and the peculiar circumstances of each State.