

No.18017/1/2014-Estt(L)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

New Delhi, the 25th February, 2015

OFFICE MEMORANDUM

Subject: Amendment to Central Civil Service (Leave) Rules, 1972 - *Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PWD Act, 1995)*-regarding

The Central Civil Services (Leave) Rules, 1972 were amended vide the Department of Personnel and Training Notification No. 13026/1/2002-Estt(L) dated the 15/16th January, 2004 consequent to the *Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PWD Act, 1995)* which came into force from 7th February, 1996.

2. Section 47 of the PWD Act, 1995 provides that services of no employee can be terminated nor can he be reduced in rank in case the employee has acquired a disability during his service. The first proviso to the Section 47 lays down that if such an employee is not suitable for the post he was holding, he could be shifted to some other post. However, his pay and service benefits would be protected. The second proviso provides that if it is not possible to adjust such an employee against any post, he would be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier. Further, the Clause (2) of Section 47 provides that no promotion shall be denied to a person merely on ground of his disability. In *Kunal Singh v. Union of India, [2003] 4 SCC 524*, Hon'ble Supreme Court has observed that the very frame and contents of Section 47 of the PWD Act, 1995 clearly indicate its mandatory nature.

3. The issues relating to leave or absence of Government servants who have acquired a disability while in service are required to be dealt with in the light of the provisions of the Section 47 of *Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995*. The case of a disabled government servant who is declared fit to resume duty but who may not be able to perform the duties of the post he was holding earlier may be dealt with as per the first proviso to Section 47 of the PWD Act, 1995. The second proviso shall apply if it is not possible to adjust him against any existing post. In all such cases, the Government servant so adjusted shall be entitled to the pay scale and other service benefits attached to the post he was holding.

4. A disabled Government servant who is not fit to return to duty shall be adjusted as per second proviso to the Section 47 mentioned above, until he is

declared fit to resume duty or attains the age of superannuation whichever is earlier, with the same pay scale and service benefits. On being declared fit for resuming duty, the Government servant who is not fit for the post he is holding, may be adjusted as per the first proviso to Section 47.

5. Leave applied on medical certificate in connection with disability should not be refused or revoked without reference to a Medical Authority, whose advice shall be binding. The ceiling on maximum permissible leave laid down in Rule 12 may not be applied to leave on medical certificate applied in connection with the disability. Any leave debited for the period after a Government servant is declared incapacitated shall be remitted back into his/her leave account.

6. For a government servant who is unable to submit an application or medical certificate on account of disability, an application/medical certificate submitted by a family member may be accepted. The provisions relating to examination of disabled Government servants and the Medical Authorities competent to issue such certificates are also being amended.

7. Necessary amendments to the Central Civil Services (Leave) Rules, 1972 are being notified separately.


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