CIRCULAR

Sub: Applicability of Payment of Gratuity Act 1972 to educational institutions under the Ministry of Education - reg.

The undersigned is directed to circulate the following Office Memorandum received from the Government of India, Ministry of Education, Department of Higher Education, Technical Coordination Section, New Delhi (copy enclosed) as detailed below:-

<table>
<thead>
<tr>
<th>S. No.</th>
<th>O.M No. &amp; Date</th>
<th>Received From</th>
<th>Subject</th>
</tr>
</thead>
</table>

This issues with the approval of Competent Authority.

Enc. As above.

Copy to:

1. US (FD-I/A&B)/US(RO)/SO (FD-I-A)/SO(FD-I/B)/CU/DC/IUC Sections with the request to take further action in the matter.
2. UGC Website.
3. UGC e-office.

(Anurag)
Under Secretary(Admn.)

(P.B. Sechulakshmi)
Section Officer (Admn.)
OFFICE MEMORANDUM

Subject: Applicability of Payment of Gratuities Act 1972 to educational institutions under the Ministry of Education-reg.

The undersigned is directed to inform that the issue of payment of gratuity to the employees covered under New Pension Scheme (NPS) in the Autonomous Bodies/Organizations under the Ministry of Education (MoE) has been examined in consultation with the Ministry of Finance (Department of Expenditure) and the Ministry of Labour & Employment (MoL&E).

2. The Department of Expenditure (DoE), vide OM No.1(16)/EV/2017 dated 02.12.2021 (copy enclosed), has advised this Ministry to instruct Autonomous Bodies/Organizations to adopt Payment of Gratuity Act, 1972 in consultation with MoL&E since CCS (Pension) Rules, 1972 are strictly meant for Central Government employees only. Further, vide O.M. No.R-13011/02/2022-SS.II dated 23.11.2022 (copy enclosed), the MoL&E has clarified that the Payment of Gratuity Act, 1972 is applicable to all employees of educational institutions, as the said Act does not have provisions for different set/category/class of employees and further that no separate notification is required to be issued by the Ministry of Education for applicability of the said Act (in case of NPS employees).

3. In view of the above, all Bureaus in both Departments of the Ministry of Education may like to direct the Autonomous Bodies/Organizations under their administrative control to take appropriate action accordingly.

Encl: As above.

(Kirti)
Deputy Director (TE)
Ph.: 23385935
Email: Kirti.15@gov.in

To

1. All BHs, D/o HE

2. All BHs, D/o SE&L - in respect of the educational institutions under the administrative control of D/o SE&L

Sh. N. Kanai
28/12/2012

Kirti
Subject: Clarification on employer’s contribution under NPS, applicability of death and retirement gratuity and additional relief in case of death, disability and invalidation to the employees of autonomous bodies of M/o Education covered under NPS - reg.

The undersigned is directed to refer to M/o Education’s OM No.19-1/2017-IFD, dated 26.08.2021 on the subject mentioned above and furnish the requisite clarification/comments on the issues noted as under:

(i) Whether the employer’s contribution is 10% or 14%.
   All the provisions of the notification dated 31.01.2019 of the DFS stands extended to the employees of CABs under MoE in terms of order dated 26.08.2021 and 21.10.2021 and not in terms of CCS (NPS) Rules, 2021.

(ii) Extension of Retirement/Death Gratuity benefits to the NPS borne employees under approximately 174 autonomous bodies.
    MoE may consider issuing instructions to their autonomous bodies to adopt Payment of Gratuity Act, 1972 administered by the MoE as Gratuity under CCS (Pension) Rules, 1972 may not be extended to the employees of autonomous bodies as these are strictly meant for Central Government employees. The issues relating to implementation of Payment of Gratuity Act in the autonomous bodies may be taken up directly with MoE either by the concerned AB or through MoE.

(iii) Option to avail benefits on death or invalidation or disability of subscriber during service.
    The CCS (NPS) Rules, 2021 are applicable only to the employees of Central government, the provisions contained therein are not directly applicable to the employees of CABs. The issue relating to applicability of these provisions to the employees of CABs is under consideration in this Department in consultation with DoP&PW. As such, MoE may await final decision of this Ministry in this regard.

2. This issues with the approval of Competent Authority.

(Gulyana Badhan)
Under Secretary to the Government of India
Tele: 0213093680

Ministry of Education
[Kind Attn: Ms. Kiran Arora, Under Secretary (IFD)]
Shastri Bhawan,
New Delhi 110001
भारत का सारांश
The Gazette of India

PUBLISHED BY AUTHORITY

ं 16]
नव दिसंबर, भागलपुर, अगस्त 19, 1997/स्पष्ट 29, 1919
No. 16] NEW DELHI. SATURDAY, APRIL 19, 1997/CIAITRA 29, 1919

यह भाषा लेखक द्वारा संपन्न दी गई है । इसका कहना है कि इस भाषा संक्षेपक दो, बन दे।
पुस्तक पर उपलब्ध Separatv Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—Section 3—Sub-Section (ii)

PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रीपत्रों (शहर विभाग की छःदिवस) द्वारा जारी किए गए सार्वजनिक अकेले दीर्घ अस्तित्ववालों
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

विधि और मामलय प्रविधि (विधि हार्दिक निर्देश)
(सामान्य विधियों)

सुचना

वर्ष दिसंबर, 22 मार्च, 1997

म. पा. 1015—सरकारी निर्देश, 1956 के निर्देश 6 के प्रति में सभी प्राधिकारी द्वारा यह सुचना दी गयी है।
कि फ्री ए. के. कोचिक, फ्रीडर्स ने उन्हें प्राधिकारी को उत्तर निर्देश के निर्देश 4 के प्राधिकार एक प्राधिकार इत्यादि के
निर्देशों में सम्बन्धित उनके द्वारा सरकारी निर्देश के द्वारे नियुक्ति पर खिलाड़ी भी सक्षम कर सकता।

MINISTRY OF LAW AND JUSTICE
(Department of Legal Affairs)
(legal Affairs)

NOTICE
New Delhi, the 22nd March, 1997

S.O. 1015.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that
application has been made to the said Authority, under Rule 4 of the said Rules, by Shri S. K. Kumbhak, Advocate for
appointment as a Notary to practise in Sarojini Nagar, N.C.T.
Delhi.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned
within fourteen days of the publication of this notice.

N. C. JAIN, Competent Authority & Addl. Legal Adviser

[No. P. 5(9)/97-Incl.]

872 GL/97—1 (2117)
15-2/2022-TC

No. R-13011/02/2022-SS.II
Government of India (भारत सरकार)
Ministry of Labour and Employment (रोजगार मंडळ)

Shram Shakti Bhawan, Rafi Marg,
New Delhi, dated: 23rd November, 2022

OFFICE MEMORANDUM

Subject: Applicability of the provisions of the P.G. Act, 1972 to 137 Autonomous Bodies/Organisations under the Ministry of Education for the employees covered under NPS – regarding.

The undersigned is directed to refer to Ministry of Education’s O.M. No.F.No.- 15-2/2022-TC dated 15.09.2022 on the subject cited above.

2. The matter has been examined in the Ministry of Labour and Employment in consultation with the office of the Chief Labour Commissioner (Central). The requirement for applicability of the Payment of Gratuity Act, 1972, under section 1(3)(c), is being fulfilled by gazette notification No. S.O. 1080 dated 03.04.1997 to be read with Payment of Gratuity (Amendment) Act, 2009 (Copies enclosed for ready reference) in educational institutions and therefore, is applicable to all OPS and NPS employees of institutions, as the Payment of Gratuity Act, 1972 does not have provisions for different set/category/class of employees (in instant case OPS and NPS employees). Hence, there is no need to issue a separate notification.

3. Further, the section 4(5) of the PG Act reads as “Nothing in this section shall affect the right of an employee to receive better terms of gratuity under any award or agreement or contract with the employer.”

Encl: As above.

(B.K. Biswas)
Under Secretary to the Govt. of India
Tel.: 23769503

To,

Department of Higher Education
[Kind Attn.: Ms. Kirti, Deputy Director,
Ministry of Education
Technical Coordination Section
Shastri Bhavan, Room No. 536, C Wing,
R.P. Road, New Delhi-110001.]
15-2/2022-TC

THE CICERETTE OF INDIA: APRIL 19, 1997/CITTRA 29, 1919 [PART II—SEC. 3(ii)]

ANNEXURE

BEFORE SHRI P. R. DAVE, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL CENTRAL, AHMEDABAD

Reference (ITC) No. 11 of 1990

ADJUDICATION

BETWEEN

Assistant Engineer,
Post & Telegraph, Mehsana . . . .First party.

AND

The workmen employed under it . . . .Second party.

In the matter of reinstating Shri Narotam Jeena-bhai Parmar, a casual labour of Asstt. Engg. P&T Satellite Project, Mehsana with full back wages.

APPEARANCES:

Shri B. N. Joshi, learned Advocate—for the first party.

Kum. Ashaben Gupta, learned Advocate—for the second party.

AWARD

By an Order No. L-40012/91/89-D-2(B) dated 31st January, 1990, the Desk Officer, Labour Ministry, Government of India, New Delhi has referred an industrial dispute as stated in the Schedule of above order between the above parties u/s. 10(1) of the I.D. Act, 1947, initially to the Industrial Tribunal of Shri V. H. Thakore and subsequently to the Industrial Tribunal of Shri Bhatt and finally, it was transferred to this Tribunal by an appropriate order of the Government.

Before this matter can be heard and finally disposed of, Shri N. J. Parmar, the concerned workman has filed a Prahats Ex. stating that the Telecommunication is not an “industry” according to Supreme Court’s order dated 2nd February, 1996 and, therefore, the second party may be granted permission to withdraw the reference with leave to approach proper forum for his dispute as prayed for in the interest of justice in view of above, I pass the following order :

Permission is granted to withdraw the reference to second party with leave to approach proper forum for his dispute as prayed for in the interest of justice and the reference is disposed of accordingly with no order as to costs.


P. R. DAVE, Presiding Officer

New Delhi, the 3rd April, 1997

S.O. 1080.—In exercise of the powers conferred by clause (c) of sub-section (3) of section 1 of the Payment of Gratuity Act, 1972 (39 of 1972), the Central Government hereby specified the educational institutions in which ten or more persons are employed or were employed on any day preceding 12 months as a class of establishments to which the said Act shall apply with effect from the date of publication of this notification:

Provided that nothing contained in this notification shall affect the operation of the notification of the Ministry of Labour S.O. No. 239 dated the 8th January, 1982.

F. No. S-42013/1/95-SS.II

J. P. SHUKLA, Under Secy.
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 31st December, 2009/Pausa 10, 1931 (Saka)

The following Act of Parliament received the assent of the President on the 31st December, 2009, and is hereby published for general information:—

THE PAYMENT OF GRATUITY (AMENDMENT) ACT, 2009
(No. 47 of 2009)

[31st December, 2009.]

An Act further to amend the Payment of Gratuity Act, 1972.

1. (1) This Act may be called the Payment of Gratuity (Amendment) Act, 2009.

$39of1972.$

(2) It shall be deemed to have come into force on the 3rd day of April, 1997.

2. In the Payment of Gratuity Act, 1972 (hereinafter referred to as the principal Act), in section 2, for clause (e), the following clause shall be substituted, namely:—

"(e) "employee" means any person (other than an apprentice) who is employed for wages, whether the terms of such employment are express or implied, in any kind of work, manual or otherwise, in or in connection with the work of a factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act applies, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity;".
J. After section 13 of the principal Act, the following section shall be inserted, namely:

"13A. Notwithstanding anything contained in any judgment, decree or order of any court, for the period commencing on and from the 3rd day of April, 1997 and ending on the day on which the Payment of Gratuity (Amendment) Act, 2009, receives the assent of the President, the gratuity shall be payable to an employee in pursuance of the notification of the Government of India in the Ministry of Labour and Employment vide number S.O. 1080, dated the 3rd day of April, 1997 and the said notification shall be valid and shall be deemed always to have been valid as if the Payment of Gratuity (Amendment) Act, 2009 had been in force at all material times and the gratuity shall be payable accordingly:

Provided that nothing contained in this section shall extend, or be construed to extend, to affect any person with any punishment or penalty whatsoever by reason of the non-payment by him of the gratuity during the period specified in this section which shall become due in pursuance of the said notification."

V. K. BHASIN,

Secy. to the Govt. of India.
MINISTRY OF PERSONNEL, PUBLIC GRIFVESANCES
AND PENSIONS

(Department of Personnel & Training)

New Delhi, the 7th August, 1997

S.O. 2149.—In exercise of the powers conferred under sub-
section (8) of section 24 of the Code of Criminal Procedure
1973 (Act No 2 of 1973), the Central Government hereby
appoints Shri S. K. Seneja, Advocate (7th House No. P-263
(II Floor), Vikaspuri, New Delhi as Special Public Pros-
cutor for conducting RC 715/96-SIU-V/SIC/II New Delhi
case FIR No. 111 dt. 22-4-96 PS Smaliha, Dist. Panipat
relating to the murder of Sushil Kumar in the Sessions Court
and any other matter connected therewith or incidental thereto
in any other courts.

[No 225/28/93/AVOJII]
HARI SINGH, Under Secy.
AWARD

By Order No. L-120112.25-91-I.R. (B-2) dated 1-8-1990 the Central Government, in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal

"Whether the action of the management of Bank of Baroda in terminating the services of Shri Pradip Kumar Singh is justified? If not, to what relief is the workman entitled?"

2. The Order of reference was received in this Tribunal on 7-8-1990. After notice to the parties, they filed their respective written statements, rejoinder and documents. Thereafter the workman stopped appearing to take further step in the case, despite several adjournments.

3. On 9-6-97 Sri S. K. Pawar, Manager (I) appearing on behalf of the management filed a petition stating therein that the workman is not interested to contest the case further. Thereafter, registered notice was issued to the workman. But neither the workman nor his authorised representative appeared. It appears that neither the workman nor his representative is interested in prosecuting the case.

4. Under the above circumstances, I render a ‘No Dispute’ award in the reference.

TARKESHWAR PRASAD, Presiding Officer

JUDGMENT

J. P. SHUKLA, Under Secy.

New Delhi, the 20th August, 1997

S.O. 2218.—In exercise of the powers conferred by clause (c) of sub-section 3 of section 1 of the Payment of Gratuity Act, 1972 (39 of 1972), the Central Government hereby specifies the trusts or societies, registered under the Societies Registration Act, 1860 (21 of 1860), or under any other law with respect to societies for the time being in force in any State, in which ten or more persons are employed or were employed for wages on any day of the year preceding 12 months as a class of establishments to which the said Act shall apply with effect from the date of publication of this notification in the Official Gazette.

J. P. SHUKLA, Under Secy.

New Delhi, the 20th August, 1997

S.O. 2218.—In exercise of the powers conferred by clause (d) of sub-section (1) of Section 5 of the Payment of Gratuity Act, 1972 (39 of 1972), the Central Government hereby exempts the Nuclear Power Corporation of India Limited, Mumbai, as establishment of the Central Government, has applied for exemption under sub-section (1) of the Section 5 of the Payment of Gratuity Act, 1972 (39 of 1972). (herein after referred to as the said Act);

And whereas in the opinion of the Central Government the gratuity benefit receivable by the employees of the establishment are not less favourable than the benefits conferred under the said Act;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 5 of the said Act the Central Government hereby exempts the Nuclear Power Corporation of India Limited, from the operation of the provisions of the said Act from the date of publication of this notification in the Official Gazette.

J. P. SHUKLA, Under Secy.