

©
Government of Kerala
കേരള സർക്കാർ
2012



Reg. No. രജി. നമ്പർ
KL/TV(N)/12/12-14

KERALA GAZETTE

കേരള ഗസറ്റ്

EXTRAORDINARY

അസാധാരണം

PUBLISHED BY AUTHORITY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്

Vol. LVII } വാല്യം 57 }	Thiruvananthapuram, Thursday തിരുവനന്തപുരം, വ്യാഴം	19th April 2012 2012 ഏപ്രിൽ 19 30th Chaithra 1934 1934 ചൈത്രം 30	No. } നമ്പർ } 799
----------------------------	---	---	----------------------

GOVERNMENT OF KERALA

Finance (Pension-B) Department

NOTIFICATION

G. O. (P) No. 226/2012/Fin. Dated, Thiruvananthapuram, 18th April, 2012.

S. R. O. No. 263/2012.—In exercise of the powers conferred by sub-section (1) of section 2 of the Kerala Public Services Act, 1968 (19 of 1968), read with section 3 thereof, the Government of Kerala hereby make the following rules further to amend the Kerala Service Rules, namely:—

RULES

1. *Short title and commencement.*—(1) These rules may be called the Kerala Service (8th Amendment) Rules, 2012.

(2) Save as otherwise provided in these rules, in rule 2,—

(i) sub-rule (1) shall be deemed to have come into force with effect on and from the 1st day of April, 2005;

(ii) clauses (i) and (ii) of sub-rule (2) shall be deemed to have come into force on and from the 1st day of July, 1978;

(iii) clause (iii) of sub-rule (2) shall be deemed to have come into force on and from the 1st day of July, 2004;

(iv) sub-clause (a) of clause (iv) of sub-rule (2) shall be deemed to have come into force on and from the 1st day of May, 1999;

(v) sub-clause (b) of clause (iv) of sub-rule (2) shall be deemed to have come into force on and from the 1st day of January, 2007;

(vi) clause (v) of sub-rule (2) shall be deemed to have come into force on and from the 1st day of October, 2006;

(vii) sub-clause (a) of clause (vi) of sub-rule (2) shall be deemed to have come into force on and from the 14th day of September, 2007;

(viii) sub-clauses (b) and (c) of clause (vi) of sub-rule (2) shall be deemed to have come into force on and from the 8th day of May, 2007;

(ix) Item (ii) of sub-clause (d) of clause (vi) of sub-rule (2) shall be deemed to have come into force on and from the 31st day of July, 2009;

(x) Item (iii) of sub-clause (d) of clause (vi) of sub-rule (2) shall be deemed to have come into force on and from 7th day of June, 2006;

(xi) sub-rule (3) shall be deemed to have come into force on and from the 1st day of March, 2006;

(xii) the remaining provisions shall come into force at once.

2. *Amendment of the Rules.*—In Part III of the Kerala Service Rules,—

(1) in rule 68, for the letters, figures, symbol and word ₹ “2.80 lakhs”, the letters, figures, symbol and word ₹ “3.30 lakhs” shall be substituted;

(2) in rule 90,—

(i) in sub-rule (4), for the existing proviso, the following provisos shall be substituted, namely:—

“Provided that in the case of death after retirement on or after the 1st day of July, 1978, the family pension shall be payable at a higher rate of twice the normal rate of family pension admissible, or the amount of pension sanctioned to the pensioner on retirement, whichever is less, for a period of 7 years or till the date on which the deceased pensioner would have attained the age of 62 years (65 years in the case of those who retired at the age of 58 years and 67 years in the case of those who retired at the age of 60 years) whichever is earlier and after that at normal rate till such period as provided in the rules:

Provided further that the amount of family pension at higher rate shall not exceed the pension sanctioned on retirement. If the amount of pension sanctioned to the deceased pensioner is less than the amount of normal rate of family pension admissible, the amount of family pension payable after death shall be the normal rate of family pension admissible.

Note:—In the case of those who retire at the age of 58 and 60 years, the above provisos shall take effect from the 30th day of June, 1980”;

(ii) in sub-rule 4A for the words, “or till the date on which the employee would have reached the normal age of superannuation had he remained alive whichever period is shorter and at the ordinary rates thereafter till such period as provided in these rules”, the words “or till the date on which the deceased employee would have attained the age of 62 years, 65 years or 67 years as the case may be in respect of those who retire at the age of 55 years, 58 years or 60 years respectively whichever is earlier and thereafter at the normal rates till such period as provided in the rules” shall be substituted;

(iii) in sub-rule (4CC), clause (3) shall be renumbered as clause (4) and before clause (4) as so renumbered, the following clause shall be inserted, namely:—

“(3). The normal rate of family pension with effect from the 1st day of July, 2004 shall be 30% of the pay at the time of retirement/death while in service subject to minimum of ₹ 2400 per month and maximum of ₹ 16875 per month (i.e., 30% of maximum of the highest scale of pay in the State Government Service).”;

(iv) in sub-rule (6),—

(a) in Note 2, for the words “the spouse of the first marriage is not alive”, the words “the spouse of the first marriage is alive, but legally divorced or not alive” shall be substituted;

(b) after Note 4, the following Note shall be inserted, namely:—

Note 5:—Family pension shall be payable to the members specified in clauses (d), (e), (g), (j) and (k) of sub-rule (6) of this rule from the date or first month following the date of death of the pensioner or family pensioner as the case may be, only if the application in Form 6 along with the Eligibility Certificate or Medical Certificate as the case may be, is submitted to the pension sanctioning authority within two years of death of the employee or pensioner or family pensioner. In cases where the application along with the eligibility Certificate or Medical certificate are submitted after two years of death of the employee or pensioner or family pensioner, as the case may be, family pension

shall be payable with effect from the date of issue of Eligibility Certificate or Medical Certificate. Family pension shall be payable to the members specified in clauses (e), (g), (j) and (k) of sub-rule (6) of this rule only if their income is less than ₹ 6,000 per annum, subject to the conditions specified in sub-rule (6A) and sub-rule (7) of this rule.”;

(v) in sub-rule (6A), in clause (1) for the words, letters and figures “less than ₹ 4,800”, the words, letters and figures “less than ₹ 6,000” shall be substituted;

(vi) in sub-rule (7),—

(a) in clause (b), the following shall be added at the end, namely:—

“In the event of death of father and mother, who were both Government employees/pensioners, the children below the age of 25 years will be eligible to draw two family pension till they attain the age of 25 years or getting married or employed whichever is earlier subject to the following limits, provided both the parents were governed by these rules:—

(a) If both family pensions are in the higher rate or if one family pension is in the higher rate and the other in the normal rate, the total of the two shall not exceed 50% of the highest pay in the state scale i.e., 50% of ₹ 33,750 viz., ₹ 16,875.

(b) If both family pensions are in the normal rate, the total of the two shall not exceed 30% of the highest pay in the state scale, i.e., 30% of ₹ 33,750 viz., ₹ 10,125”;

(b) item (i) shall be omitted;

(c) for item (ii), except the proviso, the following shall be substituted, namely:—

“where the deceased employee/pensioner is survived by a widow/widower from a legally valid second marriage, but has left behind eligible son/daughter from the spouse of the first marriage, the eligible son/daughter of the first marriage shall be paid the share of family pension which the spouse of the first marriage would have received, if the spouse had been alive at the time of death of the employee/pensioner. While sharing family pension between the children of the first marriage and spouse/children of the second marriage, restoration of full family pension shall be allowed provided the share to the children of the first marriage/spouse or children of second marriage is no longer payable”;

(d) in the proviso,—

(i) in condition (i), for the words “to him for life and to her till marriage or till he/she starts earning a livelihood,” the words “to him/her for life or till he/she starts earning a livelihood” shall be substituted;

(ii) for condition (iv), the following shall be substituted, namely:—

“(iv)—Family pension shall be paid to the son/daughter who is suffering from any disorder or disability of the mind through a guardian nominated by the Government employee/pensioner/family pensioner as if he/she was a minor. In cases, where there is no valid nomination, family pension shall be paid through a guardian appointed on the basis of a defacto guardianship certificate issued by the Tahsildar or by the Local Level Committees under sections 13 and 14 of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999”;

(iii) for condition (v), the following shall be substituted, namely:—

“(v)—A certificate from a Medical Officer not below the rank of a Civil Surgeon to the effect that, he/she continues to suffer from disorder or disability of mind or continues to be physically crippled or disabled shall be produced every three years.”;

(iv) below condition (v) the following condition shall be inserted, namely:—

“(vi)—In the event of the death of the father and mother who were both Government employees/pensioners, such son/daughter of a pensioner shall be eligible to draw two family pensions, subject to the limits prescribed in clause (b) to this sub-rule provided both the parents were governed by these rules.”

(e) Explanations (a) and (b) shall be omitted;

(f) Explanations (c) and (d) shall be relettered as (a) and (b) respectively and after Explanation (b) as so relettered, the following explanation shall be inserted, namely:—

“(c)—A certificate to the effect that the family pensioner has not yet started earning his/her livelihood shall be furnished to the Treasury Officer every month.”;

(3) in Appendix X, in part A, in rule 3, for the words “one-third” the words “forty per cent” shall be substituted and proviso thereto shall be omitted.

By order of the Governor,

V. P. Joy,

Principal Secretary to Government.

Explanatory Note.

(This does not form part of the notification, but is intended to indicate its general purport.)

As per the proviso to rule 90(4), Part III, Kerala Service Rules, in case, where the family pension exceeds the service pension to a retired Government employee, the family pension shall be limited to the amount of service pension. Modification has been issued to this rule vide G. O. (P) No. 456/79/(41)/Fin., dated 5th May, 1979 to the effect that when the amount of pension sanctioned to the deceased is less than the amount of normal family pension admissible, the amount of family pension payable after death will be the normal family pension and not the original family pension sanctioned to the deceased. Rule 90 (4A), Part III, Kerala Service Rules has also been modified to the effect that in the case of death while in service, the higher rate of family pension will be paid for a period of seven years or till the date on which the employee would have attained the age of 62 years, whichever is earlier. In the event of death after retirement also, higher rate of family pension will be paid up to the date on which the deceased pensioner would have attained the age of 62 years (7 years after retirement at 55 years had he survived or for a period of seven years whichever is less). So also, as per G. O. (P) No. 3001/98/Fin. dated 25th November 1998, with effect from 1st March 1997, it was decided that, the normal rate of family pension shall not be less than 30% of the last pay drawn by the pensioner at the time of retirement. The pension and other related benefits of pension/family pension have been revised pursuant to revision of pay scales of Government employees with effect from 1st July 2004 as per G. O. (P) No. 180/06/Fin., dated 18th April, 2006.

Item (i) to sub-rule (7) of rule 90, Part III, Kerala Service Rules provided that where the deceased employee is survived by more than one widow, the family pension will be paid to them in equal shares, which implies that a deceased Government employee can have more than one widow. As per the conduct rules of State Government employees, one cannot marry a second time unless his first wife has died or is divorced. As the existing rule is not in conformity with Government Servant's Conduct Rules, the above clause have been deleted vide G. O. (P) No. 190/07/Fin. dated 8th May, 2007. The provision to share family pension between the child of the first marriage and spouse/child etc. of the second marriage is provided in rule 90(7) (ii) Part III, Kerala Service Rules. When all the children of the first marriage become ineligible, as per (Central Civil Service) pension rules, there is provision to restore full family pension to the spouse/child of the 2nd marriage, but there is no such provision in State Government Pension Rules. Similar provision was introduced in the State Government Pension rules as per the Government Order mentioned above.

Note 2 to rule 90 (6) stipulates that legal marriage after retirement shall also be considered for the purpose of family pension and necessary certificate/ documents from the authorities concerned duly certified by the Notary Public of the locality to the effect that the spouse of the first marriage is not alive and the marriage of the deceased Government servant with the applicant was lawful and legally valid one shall be produced. In O.P. No. 10684 of 1989, High Court of Kerala observed that if second marriage is a legally valid one, the spouse cannot be considered as alien to the family and is therefore eligible for family pension. Hence, Government have decided to sanction family pension to the spouse of the legally valid second marriage even when the spouse of the first marriage is alive, but legally divorced. Hence, Government have decided to issue necessary modifications to Note 2 to rule 90 (6), Part III, Kerala Service Rules.

In Circular No. 10/2000/Fin., dated 17th February, 2000, it was clarified that family pension shall be extended to the category of family pensioners such as parents, unmarried daughters above 25 years age, and physically or mentally disabled children only from the date of eligibility certificate. But since the Honourable High Court of Kerala observed that date of occurrence of eligibility is more relevant in sanctioning family pension to disabled children, in G. O. (P) No. 88/07/Fin., dated 1st March, 2007, it was ordered that family pension shall be payable to the above category from the date of death of the pensioner or family pensioner, as the case may be, only if the application in form 6 along with the eligibility certificate is submitted to the pension sanctioning authority within 2 years of the death of the employee/pensioner. In cases where the application along with eligibility certificate are submitted after 2 years of the death of the employee/pensioner/family pensioner, as the case may be family pension will be payable only with effect from the date of issue of the eligibility certificate.

As per G. O. (P) No. 482/06/Fin., dated 28th November, 2006, the income limit for receipt of family pension in the case of parents and unmarried daughters above the age of 25 years was enhanced to ₹ 6,000 p.a. from ₹ 4,800 p.a. In the case of widowed disabled daughters and divorced disabled daughters also, the income limit was prescribed as ₹ 6,000 per annum vide G. O. (P) No. 166/08/Fin. dated 10th April, 2008.

As per note 3 to rule 90 (4), Part III, Kerala Service Rules, in the event of death of the parents who are both Government employees the minor children will be eligible to draw two family pension, subject to a total of ₹ 500 per annum provided both were governed by the Kerala Service Rules. As the rate of family pension has undergone revision as per G. O. (P) No. 670/89/Fin., dated 20th June, 1989, G. O. (P) No. 365/94/Fin., dated 1st June, 1994, G. O. (P) No. 3001/98/Fin.

dated 25th November, 1998 and G. O. (P) No. 180/06/Fin., dated 18th April, 2006, it was ordered vide G. O. (P) No. 425/07/Fin., dated 14th September, 2007, that the children below the age of 25 years shall be eligible to draw 2 family pension, subject to the following limits:—

- (1) If both family pensions are in the higher rate or one family pension is in the higher rate and the other in the normal rate, the total of the two shall not exceed 50% of the highest pay in the State scale i.e., 50% of ₹ 33,750 viz., ₹ 16,875.
- (2) If both family pension are in the normal rate, the total of the two shall not exceed 30% of the highest pay in the State scale i.e., 30% of ₹ 33,750 viz., ₹ 10,125.

As per G. O. (P) No. 50/06/Fin., dated 31st January, 2006, modifications were made to the condition (i) to the proviso to rule 90 (7) (ii). The Subject Committee while considering the above amendment in its meeting on 18th March, 2008 had recommended to amend the rules to the effect that the physically disabled daughters of Government employees will also be eligible for family pension even if they are married. Granting the benefit of family pension to the disabled son of Government employee after his marriage and at the same time denying this benefit to the disabled daughter on account of her marriage is discrimination and hence Government have decided to extend the benefit recommended by the Subject Committee to the married but physically or mentally disabled daughters also by amending condition (1) of proviso to rule 90 (7) (ii), Part III, Kerala Service Rules.

Rule 90 (7), Part III, Kerala Service Rules inter-alia, provides that family pension to physically/mentally disabled son/daughter shall be paid through the guardian as if he or she were a minor. As per G. O.(P) No. 249/06/Fin., dated 7th June, 2006 it has been ordered that no guardianship will be required for physically challenged persons who attain majority for getting family pension. Vide G. O.(P) No. 313/09/Fin., dated 31st July, 2009, in the absence of valid nomination under rule 90 (7) (iii) of Part III, Kerala Service Rules, Family Pension shall also be payable through a guardian appointed on the basis of guardianship certificate issued by the Local Level Committee under sections 13 and 14 of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

As per G. O. (P) 717/02/Fin., dated 19th November, 2002, Government issued orders to delete the explanation (a) under rule 90 (7) of Part III, Kerala Service Rules. Accordingly, the explanations were also modified.

The notification is intended to achieve the above object.

To

- The Principal Accountant General (Audit), Kerala, Thiruvananthapuram.
- The Accountant General (A&E), Kerala, Thiruvananthapuram.
- All Heads of Departments and Offices/All Departments (All sections) of the Secretariat.
- The Secretary, Kerala Legislature Secretariat (with C.L.).
- The Secretary, Kerala Public Service Commission (with C.L.).
- The Registrar General, High Court of Kerala (with C. L.).
- The Registrar, University of Kerala/Cochin/Calicut/Kannur and M.G. University (with C. L.).
- The Secretary, Kerala State Electricity Board (with C.L.).
- The General Manager, Kerala State Road Transport Corporation, Thiruvananthapuram (with C.L.).
- The NORKA Department.
- All Secretaries/Special Secretaries/Additional Secretaries/Joint Secretaries/Deputy Secretaries/Under Secretaries to Government.
- The Secretary to Governor.
- The Private Secretaries to Chief Minister and other Ministers.
- The Private Secretary to the Hon'ble Speaker.
- The Director of Public Relations, Thiruvananthapuram.
- The Additional/Deputy Secretary to Chief Secretary.
- The Director of Treasuries, Thiruvananthapuram.
- The District Treasuries/Sub Treasuries.
- The General Administration (SC) Department.
- The Public Relations Department.
- ✓ The Nodal Officer, www.finance.kerala.gov.in
Stock File/Office Copy.