CONFEDERATION OF CENTRAL GOVT. EMPLOYEES & WORKERS
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| **President:** Rupak Sarkar | **Secretary General: S.B. Yadav** |
| 09433310200 | 07905282373 / 07752829874 |

Ref: Confd. Commutation/2024   *Dated – 15.06.2024*

To

1) *Secretary (Pension),*
   Department of Pension & Pensioners' Welfare, Lok Nayak Bhawan,
   Khan Market, New Delhi-110003. Email : secy-arpg@nic.in

2) *The Secretary*
Department of Personnel & Training Ministry of Personnel,
P G and Pensions Government of India North Block,
New Delhi - 110 001 secy_mop@nic.in

3). *Finance Secretary & Secretary (Expenditure)*
   Ministry of Finance, Department of Expenditure, Room No. 129-A,
   North Block New Delhi-110001.Email: secyexp@nic.in

Sub : Request for Reducing periodicity for Restoration of Commutation of Pension, from 15 year's to 12 year's. -- reg..

Respected sir,

The Confederation of Central Government Employees and Worker's, having more than 130 Central Government Employees/PSUs employees Associations/Federations as its affiliates, would like to draw your kind attention towards the following facts in support of the subject cited above ,for considerations and issuance of necessary order's.

That the mortality rate has been reducing year by year and life expectancy has been increasing year after year . The interest rates varies from year to year .From 1973 to 2008 the mortality rate has been reduced over 41% and further reducing year after year as per the reports of Institute of Actuaries of India.

The mortality factor is published by the Institute of Actuaries of India in 1973 it was 0.02014 , in 2004 it was 0.013073 and in 2021 it was 0.006349 , which shows risk factor of less than 0.1% and life expectancy is 80 years as per Census department source: www.censusindia.gov.in/SRSpublications

"SRS Based Abridged Life Tables" which contains the estimates of Life Expectancy at various ages based on five year moving average data.

Expectation of life at age 60 years by sex, India, 2011-15 to 2013-17				
Period	*Mid-year*	*Total*	*Male*	*Female*
2011-15	*2013*	*18.0*	*17.1*	*18.9*

| 2012-16 | 2014 | 18.1 | 17.3 | 18.9 |
| 2013-17 | 2015 | 18.1 | 17.4 | 18.9 |

This interest rate on commuted value of pension is recoverable in 2.66 years. The Commuted Factor on the Next birthday after superannuation is 61 years, and the commutation value is 8.194 . Thus, total recovery period of the commuted amount is = 8.194 + 2.66 = 10.85 years. Even after full recovery, the pensioner keeps on paying for 15 years and thus he goes on to pay additionally for more than 4 years. (15 years minus 10.85 = 4.15 years). Thus, excess recovery is taking place for 4.15 years. We cannot have a risk factor for 4 years as the recovery of the commuted value of Pension is recovered in 10.85 years. While providing the Commutation amount the risk factor is already taken into account as per the mortality table of Institute of Actuaries of India.

Further the Central Pay Commissions have studied and recommended as follows:

1- **Central Pay Commission (CPC):** 5th CPC, headed by retired **Justice S. Ratnavel Pandian of Supreme Court**, whose recommendations were effective from 01.01.1996, had strongly recommended in Chapter 136 of its report reduction of the period of restoration of full pension to **12 years** but it was summarily rejected by the Government without recording any plausible reason. The relevant observations of the 5th CPC are reproduced below:

> *"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."*
>
> *"136.12 … …Having regard to all relevant factors, we recommend that the commuted portion of pension shall be restored after a period of **12 years** reckoned from the actual date of commutation. …".*

2- **Kerala Govt**: In the State of Kerala, 12 years has always been the norm. *Kerala Service Rules Part III (Pension Rules)-Commutation Pension, Appendix X* (Copy enclosed) clearly says that *"Restoration period of commutation is 12 years".*

3- **SECOND NATIONAL JUDICIAL PAY COMMISSION (Part III) Commission was headed by retired Justice P. V. Reddy of Supreme Court appointed by Hon'ble**

Supreme Court of India in the year 2021 has examined in detail on the subject of commutation of pension from page 88 to 112 of its report (Copy enclosed) Has recommend for reduction from 15 years to 12 years . Its important observations are as follows .

a) *From any angle, the Commission is of the prima facie view that the time of restoration of commuted value of pension is too long and a fresh look has to be taken in view of the long passage of time. It is axiomatic that the Government should not stand to gain or lose in the transaction which is basically in the nature of welfare measure. The period of restoration of commuted pension shall be such that the Government shall be able to recover the amount released in lumpsum with reasonable interest and the period of restoration determined shall not be such as to result in profit to the Government. The fact that the pensioner gets advantage in the form of lumpsum amount shall not be stretched too far.*

b) *Restoration period of **12 years** suggested by V CPC appears to be more than adequate. In fact as per the workings given by the Commission supra, it is seen that the lump sum paid in lieu of commutation stands recovered with interest rate of 8% p.a. within **11 years**. Even after giving due allowance to unforeseen contingencies, prima facie, it is reasonable to conclude that the restoration ought to take place on the expiry of 12 years and not beyond that.*

c) The judgment of Hon'ble Supreme Court rendered in the year 1986 [(1987) 1 SCC 142] had fixed 15 years for restoration of commutation, today has lost its relevance as 38 years has lapsed, in the present day context and cannot be taken as a binding precedent for all time to come. Hence restoration of the commuted value of pension should be done at least after 12 years instead of 15 years at present.

The policy of the Central Government towards its employees who have served the nation building for more than 30 years of service should sympathetic to its employees   and they should look after the welfare of employees and particularly pensioners as a model employer , the concept of profit making for central government on these issue should not be the criteria for fixing the commutation factor and restoration of commuted value of pension. **Hence ,the Confederation requests to kindly consider our requests in light of above submissions and arrange to cause an order for Reducing the PERIODICITY FOR RESTORATION OF COMMUTATION OF PENSION, FROM 15 YEARS to 12 YEARS** .

With regards,

Yours Sincerely,

(S B Yadav)
Secretary General

Annexures enclosed

1. Kerala Govt order's

2. Gujarat Govt order's

3. National judicial commission report page 88 to 112

4. Report of Actuaries Institute of India

Kerala Service Rules Part III
(Pension Rules)
Upto February 2011

I. Introduction

The Supreme Court in SLP (C) No. 9425/1984, held that Pension is a valuable right of an officer in recognition of the satisfactory discharge of duties and responsibilities while in service.

As per Rule 12(24) of KSRs Part –I, Pension includes Monthly Pension, Gratuity, and Death-cum-Retirement Gratuity.

Future good conduct is an implied condition for every grant of a pension. R 2 (A) & 90 (12) Part III.

No Pension or Gratuity or DCR Gratuity will be paid in the case of resignation, dismissal or removal from service. R 29 (a) & (b) P-III

The present Pension Rules (Simplified Pension Rules) were introduced with effect from 14/11/1966.

II Classification of Pension. R.32 PIII

Pensions are classified into four as shown below.
(a)   Compensation Pension
(b)   Invalid Pension
(c)   Superannuation Pension
(d)   Retiring Pension

Compensation Pension. R 33 to 41 P.III

When a permanent post is abolished, the person selected to be discharged will be given two options; either to accept another employment in Government service or to leave the service accepting pension benefits based on qualifying service so far earned by the individual. The pension granted as opted by the person, is called compensation pension.

Invalid Pension. R. 42 to 54 P III

When the Pension Sanctioning Authority has reasons to believe that an employee is suffering from a contagious disease or physical or mental disability or infirmity, which adversely affect the duties assigned to the person, he may be retired from service on invalid pension.   The Medical Examination can be conducted on the application of the employee, also. The person will be invalidated from service from the date as specified in the Medical Certificate, and pension is granted accordingly. A weight age towards qualifying service upto 5 years is allowed, and the total Q.S thus arrived at, should not be beyond the date of superannuation and should not be more than 30 years.

Note: No Medical Certificate is necessary for the last grade employees in the Forest Department, who have completed 55 years of age.

Superannuation Pension. R.60 PI & R 55 PIII
This is the pension on the compulsory retirement from service at a particular age. Every retirement will take effect on the afternoon of the last day of the month in which the date of birth of the officer comes off. If the date of birth is on the first day of the month, the retirement will be on the afternoon of the previous day. In the case of date of birth on a day other than the first day of the month, the retirement will be on the afternoon of the last day of that month.

Government vide their order in G.O (P)No.154/09/Fin dated 24.04.2009, have unified the date of superannuation of all Government employees and teachers as March 31st, i.e if the date of birth comes off on the April 1^{st,} the retirement will take effect on the AN of the previous day, and whose date of birth comes off after April 1st, will continue in service till the last day of the ensuing March and will retire on the afternoon of that day.

This extended period of service will be reckoned for all service benefits such as Pay, DA, increment, higher grade, promotion, earning of leave and pensionary benefits.

Retiring Pension 56 P III
An employee who has completed 20 years of Q.S. is eligible to retire voluntarily from service. The person concerned must give notice at least three months before the date on which he desires to retire. The 'three months notice' is relaxed in deserving cases. A weightage up to 5 years is allowed towards Q.S.; and the Q.S. after adding weightage shall not be more than 33 years and that should not go beyond the original date of superannuation. When permission to retire from service is issued, it will become effective and accordingly the person will be relieved from the post, he is holding. Permission to retire voluntarily from service will be issued only after the service of the person is got verified by the Accountant General. A Govt. employee who is on LWA under R. 88 or Appendix 12 A or 12 C is also eligible to retire on retiring pension. For details see G.O (P)62/2010/Fin. dated 10.2.2010. This rule has effect to from 9.3.2010.

III Calculation of Pension
There will be six parts in a pension case of ordinary nature. They are summarized here under.

1. Qualifying Service: R 12(30) PI & R 9 to 31 & 57 PIII
This is the service that qualifies for the grant of pension. This is calculated as follows:

• Calculate length of service from the date of first entry in Government regular service till the date of ending of service, both days inclusive.

• Then deduct Non-qualifying Service, if any, of the following:
   (a) Service below the age of 18 years. (boy's service)
   (b) Period of suspension not treated as duty or leave other than LWA
   (c) Period of strike or break which is ordered not to be counted for pension.
   (d) In the case of invalid pension, period spent beyond the date of invalidation specified in the MC, unless otherwise ordered by Government.
   (e) LWA granted under Appendices XIIA, XIIB & XIIC, LWA under R 88 or 91 for higher studies, and LWA without MC. [See circular No. 72 / 2005/Fin dated 30/12/2005.
   (f) Service after superannuation

(g) Service prior to resignation (except for taking up other employment under Government), removal or dismissal from service.

(h) Contract service and service paid from Local Fund if not ordered otherwise.

(i) Service for which other pension is admissible.

(j) Foreign service, if pension contribution is not paid or not exempted.

(k) From 16.12.2009 period of thrown out from service for want of vacancy, if not regularised.

- <u>Add additional or special service, if any, of the following.</u>

(a) military service: service in the Armed Forces of India from 01/04/1946, whether pensionable or non-pensionable will be reckoned for civil pension on or after 14/11/1966, provided any bonus or gratuity received from Defence Department is refunded.

War/military service followed by Civil Service, with or without interruption, will be reckoned towards Q.S provided pensionary benefit received from the Defence Department is refunded. R 8(b).

(b) Full time work establishment service/Full time contingent Service followed by regular service, provided CPF, if any, received is refunded to Government. R 13&14 A.

(c) Apprentice service as Engineer Apprenticeship in the PWD and as Apprentice Compositors in the Government Press. R.15.

(d) Bar Service up to 10 years after the age of 25, provided service certificate from Presiding Court is produced. R. 25 (a)

(e) 50 % of part time teachers if absorbed into full time. This has effect from 27/05/1994. (G.O.(Ms) 5/ 95/ G.Edn dated 15/03/1995.
From 1/07/1988, part time Teachers who retire from service, will be granted pension a admissible to part time contingent employees. Gratuity is also granted under such provisions.

(f) Aided School Service followed by Government Service, provided Manager's portion of EPPF, if any, with interest is refunded. G.D. 7 to R 14 E

(g) Central Government Service /Service in the Autonomous bodies followed by State Government Service will be counted, subject to some conditions. (See note 2 to R 11 and G.O. (p) 651/03/Fin dated 6/12/2003).

(h) Edavagai/District Board Service followed by Government Service. R 14 C & D

(i) Provisional Service up to 30/09/1994, which qualifies for the grant of increment, will be counted. But, that service from 1/10/1994, will not be reckoned. GO(P) 2357/99/Fin Dated 25/11/1999.

(j) Past Service of Government employees/teachers in Panchayaths/ Muncipal Common Service/Universities etc. and vice versa will be reckoned under certain conditions. (GO(p) 228/01/Fin dated 2/02/21 and GO (P) 193/04/Fin dated 20/04/2004.

Rounding of qualifying Service. R 57 P III

(a) Q.S. required for minimum pension	: 10 years
(b) Q.S. required for minimum Pension in the case of handicapped personnel	: 3 years
(c) Q.S. for full (maximum) Pension	: 30 years
(d) Q.S. for minimum DCRG	: 5 years
(e) Q.S. for maximum DCRG	: 33 years

For the minimum and maximum benefits shown above, a condonation upto 364 days is allowed towards Q.S., ie, 9 years and one day will be reckoned as 10 years, 2 years and 1

day as 3 years in the case of handicapped, 29 years and 1 day as 30 years, 4 years and 1 day as 5 years, and 32 years and 1 day as 33 years.

In other cases, 6 months and above will be reckoned as one year, and fraction below 6 months will be ignored.

 Thus calculation of Q.S. will be as follows:
- Date following the date of retirement or death minus (in the order of year, month, days)
- Date of first entry in Government regular service.
- The result will be total length of service.
- Then deduct Non-qualifying service, if any.
- Add special/additional service, if any.
- Net result will be qualifying Service, and that Q.S. is rounded as explained above.

2. Average Emoluments. R 12(23) PI & R 63 P (III)
This is the average of ten months' duty pay (emoluments) immediately before retirement. (Emoluments include:(i) substantive pay, (ii) officiating pay, (iii) personal pay, (iv) dearness pay and (v) special pay in lieu of higher scale of pay, alone).

If there is any Non-qualifying period during the 10 months of Average Emoluments, an equal period will be taken before that period of 10 months. But, period of leave, except LWA without MC if any, during such 10 months, will be treated as period as if on duty.

3. Monthly Pension. R 64 P(III)
(a) For 30 years of QS (Full Pension): 50% of AE (maximum pension = 50% of Rs.59,840 = Rs.29,920/-
(b) For Q.S. of 10 years (3 years for handicapped) and above up to 29 years: 50% of AE ÷ 30 XQS (minimum pension from 1-07-2009 Rs.4500)

4. Death-cum-Retirement Gratuity 68 P III
This is lump sum payable to the Government Officer on his retirement or to his family on his death.
(a) The amount of DCRG is equal to half of the emoluments last drawn by the officer X No of years of Q.S. (maximum 16 ½ times emoluments last drawn or Rs. 7,00,000 whichever is less.) w.e.f. 1-07-2009.
Note: Emoluments = Pay + DA. DCRG is in addition to service gratuity or monthly pension.
(b)   (i) In the case of death while in service or for invalid person with a Q.S. below 24 years =12 times emoluments last drawn.
 (ii) If death occurs in the first year of service (2 months emoluments last drawn)
 (iii) If death occurs after first year, but before 5 years of service (6 times emoluments last drawn)

5. Family Pension : From 1-7-2009, family pension will be @ 30% of the pay last drawn by the officer subject to a minimum of Rs.4500 and maximum of Rs.17,960.

6. Higher rate of Family Pension. R.90 (4A) P III
(i) Higher rate of family pension at half of the pay last drawn or twice the amount of Family Pension admissible, whichever is less, will be paid to the family of a Government servant who dies while in service with not less than 7 years' qualifying service, for a maximum period of seven years or till the age of 62 in the case of superannuation at 55

years of age from the date following the date of death. (67 years of age in the case of superannuation at 60 years of age) whichever is earlier, and thereafter at normal rate.

(ii) In the case of death after retirement, but before completing 7 years, a higher rate of FP not exceeding the amount of pension sanctioned to the pensioner will be paid. But, if the amount of pension is less than the amount of Family Pension admissible, then the amount of Family pension will be paid.

7. Family Members eligible for F.P. R 90 (6) & (7) P III

(i) Wife in the case of male employee, till death or re-marriage whichever is earlier.

(ii) Husband in the case of female employee till death or remarriage whichever is earlier.

(iii) Eldest eligible child in the order of seniority irrespective of sex. Sons, and daughters including posthumous, up to 25 years of age or till employment/ marriage, whichever is earlier. (GO(p) 489/04/Fin dated 18/10/2004, GO (p) 1075/87/Fin dated 15/12/1987, and GO (p) 878/87/ Fin/Dated 29/10/1987).

(iv) Children suffering from physical/mental disorder or disability.

(v) Un-married daughter above 25 years of age till death.

(vi) Son/daughter adopted legally, before retirement.

(vii) Parents in equal shares.

(viii) Judicially separated wife/husband

(ix) Disabled divorced daughter

(x) Widowed disabled daughter from the date of death of her husband.

(xi) Children of a deceased employee born out of a divorced/judicially separated wife under certain conditions. Ruling under R. 90 (7) P.III

Commutation Pension. Appendix X

A Pensioner can exchange a portion of his/her pension for lump sum. The maximum portion of pension that can be commuted is 40% of basic pension from 01-03-2006. No commutation will be allowed to a person against whom disciplinary case is pending. Commutation pension is calculated at, " commuted value of one rupee of pension at next birth day X portion of pension commuted X 12".

Relevant part of Commutation table is given below.
   55 years of age : Rs. 11.73
   56 years of age : Rs.11.42
   57 years of age : Rs. 11.10
   58 years of age : Rs. 10.78
   59 years of age : Rs. 10.48
   60 years of age: Rs. 10.13

Restoration period of commutation is 12 years. After the restoration no commutation shall be allowed.

In the following cases of commutation, MC is required.
1) Retirement on invalid pension
2) Application for commutation pension is submitted one year after retirement.
3) Persons in receipt of compassionate Allowance.

No MC is required in the following cases.
1. Retirement on superannuation
2. Retiring Pension (Voluntarily retirement).
3. Those who are granted Pension on absorption in a company or corporation
4. Compensation Pension

5. Pension sanctioned in whole or part on finalisation of departmental or judicial proceedings.
6. In the case of Anticipatory Pension.

IV   Miscellaneous:
Compulsory retirement on penalty. R6 P III

A Government servant who gets compulsory retirement as penalty may be granted pensionary benefits based on his qualifying service.

Retirement in Public Interest R 56 A P III
A Government servant who has completed 30 years of qualifying service, may be retired in the public interest, provided that a notice in writing is issued at least three months before the date on which he is required to retire in the public interest or 3 months pay and allowances in lieu of such notice, will be paid, to the employee.

Provisional Pension. R. 3 A P III
When any departmental or judicial proceeding is pending against an employee retired from service, a provisional pension shall be paid from the date of his retirement till the date of passing final order, an amount not exceeding the maximum pension admissible including Dearness Relief. It will be adjusted against the amount of final payment. No gratuity or DCRG will be paid before the conclusion of the inquiry and issuing of final orders.

Compassionate Allowance. R 5 P III
No pension may be granted to an employee dismissed or removed from service for mis conduct, insolvency or inefficiency; but compassionate allowance may be granted in deserving cases as special consideration, provided the allowance shall not exceed 2/3 of the pension which would have been admissible if the person had retired on the date of dismissal or removal. Since 1-09-1968, the minimum compassionate allowance shall not be less than minimum pension.

Residuary Gratuity R 69 P III
When a retired officer dies after retirement and the total pensionary benefits received by him prior to his death are less than the amount of 12 times of the last emoluments drawn by him, the deficiency may be granted to the family of the pensioner. This is called Residuary Gratuity. If a portion of pension was commuted before the death, the said benefit will not be allowed.

Anticipatory Pension R 116 (1) P III
If there is administrative delay in setling pension benefits, the pensioner will be paid anticipatory Pension, not exceeding the amount of admissible pension, for a period of six months in the first instance, and it will be extended further if the Accountant General considers so. DCRG is also paid not exceeding ¾ of its amount. When final payment is made, the amount of Anticipatory Pension, and Anticipatory DCRG paid already, will b e adjusted.

Extraordinary Pension or Gratuity. R 93 & App: XIII
When a Government Servant is injured or contracts disease or dies in the execution of official duties, extra ordinary Pension/Gratuity is paid to the person or to his family in addition to the normal pension benefits. It will not be admissible to a risk common to the human existence in the modern conditions of living. From 18/06/1984 minimum extra ordinary pension is Rs. 75.

Exgratia Pension

Those Government servants, who retire from service with less than 10 years qualifying service, are not eligible for statutory pension. They are eligible for service gratuity. Vide G.O. (p) 1851/99Fin dated 18/09/1999, Government introduced Exgratia Pension to provide relief to such persons. The scheme is optional. A person who opts for the scheme shall not be eligible for Service Gratuity, Dearness Relief or Family Pension. Consolidated amount of exgratia Pension admissible w.e.f 1.07.2009 is as below:

Qualifying Service		Amount admissible
1. 9 years	-	Rs.4050
2. 8 years	-	Rs.3600
3. 7 years	-	Rs.3150
4. 6 years	-	Rs.2700
5. 5 years	-	Rs.2250
6. 4 years	-	Rs.1800
7. 3 years and below	-	Rs.1350

The above rate is in force from 1-04-2005.

Pension for Part-Time Contingent Employees (up to 30.06.2009)

1. Age of retirement : 70 years
2. Qualifying Service for minimum Pension :10 years
3. Q.S. for full pension : 30 years
4. Q.S. for minimum DCRG : 5 years
5. Q.S. for maximum DCRG : 33 years
6. Minimum Pension from 1/07/2004 : Rs. 800
7. Maximum Pension from 1/07/2004 : Rs. 1500 (1/2 of basic remuneration)
8. Pro-rata pension granted in eligible case: : $\frac{\frac{1}{2} \text{ of BR x QS}}{30}$ (BR = basic remuneration)

9. DA is reckoned for DCRG
10. Minimum Family Pension : Rs. 700
11. Maximum Family Pension : Rs. 1200
12. Voluntary retirement is also allowed on Completion of 20 years Q.S.
13. Procedures are same as in the case of regular employees.
14. Part time invalid pension will be part time minimum pension.

Prepared by
K Natesan Asary, Member of Faculty, IMG

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REVISED PENSION RULES AT A GLANCE

1.   **Qualifying Service** (R 12 (30) P1 & R 9 to 31 P III)

(a)   for minimum pension   : 10 years
(b)   for maximum (full) pension   : 30 years
(c)   for minimum DCRG   : 5 years
(d)   for maximum DCRG   : 33 years
(e)   for minimum pension to handicapped : 3 years

2.   **Average Emoluments**: (R 12 (23) PI & R 63 P III)

Average of 10 months duty pay immediately before retirement

3.   **Pension** (R 64)

(a) for 30 years of qualifying service   : 50% of AE
(b) for qualifying service of 10 years to 29 years   : <u>50% of AE</u> x Q.S

                                    (Minimum pension w.e.f. 01-07-2009 Rs. 4500/-)

4.   Death-cum-Retirement Gratuity (R.68)

(a)   the amount of DCRG is equal to ½ the emoluments last drawn X No.
of years of Qualifying Service (maximum 16 ½ times emoluments last
drawn or Rs.3.30 lakh whichever is less) emoluments = last Pay + DA

(b)   (i) in the case of death while in service or for 12 times   emoluments
        invalid pension with a Qualifying service   last drawn
      of 5 years or more but below 24 years

        (ii)   if death occurs in the first years of service   2 months emoluments

        (ii)   if death occurs after first year, but   6 times emoluments
            before 5 years of service

5.   Family Pension w.e.f. 01-07-2009 (R.90)
30% of pay last drawn by the Officer subject to a minimum of Rs.4500/- and maximum of 30% of the highest pay in the State ie. Rs.17,960 (30% Rs.59840)

6.   Commutation Pension
Commuted value of one rupee of pension at next birthday X portion of pension commuted. (Maximum portion to be commuted 40%) X 12

COMMUTATION TABLE

               <u>Till 8-1-2002</u>
        55 years of age   : Rs.11.73
        56 years of age   : Rs.11.42
        57 years of age   : Rs.11.10
        58 years of age   : Rs.10.78

The restoration period of commutation will be 12 years.
For part time contingent employees (uoto 30.6.2009)

1. Date of retirement   - last date of the month in which
                                    they complete 70 years of age
2. Q.S. for minimum pension   - 10 years
3. Q.S. for maximum (full) pension   - 30 years
4. Q.S. for minimum DCRG   - 5 years
5. Q.S. for maximum DCRG   - 33 years
6. Minimum pension from 1-07-2004 - Rs. 800/-
7. Maximum pension from 1-07-2004 - Rs. 1500/- (1/2 of BR for 30 years QS)
8. Pro-rata pension is eligible as (1/2 x basic remuneration x QS) ÷ 30
9. DA is reckoned for granting DCRG
10. Procedure are same as in the case of regular employees.

Government of Gujarat
Finance Department
Govt. Resolution No–NVT/102010/D/66/P (PENSION CELL)
Sachivalaya, Gandhinagar.
Dated: 12/10/2022

Read: (1)   G.R. Finance Department No-NVT/1186/3041/p1, Dated: 06/12/1989

     (2)   G.R. Finance Department No-NVT/1186/3041/p1, Dated: 03/04/1990

     (3)   Gujarat Civil Service (Pension) Rules, 2002- Rule-101

     (4)   G.R. Finance Department No: NVT/102010/D/66/P, Dated: 02/11/2010

Introduction:

Commuted value of pension is being restored after 15 years vide GR mentioned at (1), (2) and (4) above and under the provision of Gujarat Civil Service (Pension) Rules, 2002, Rule-101 read at (3) above.

Various employee organizations and pensioner associations of the state had made representations to reduce the period for restoration of the commuted value of pension and the same was under active consideration of the Government.

Resolution:

After careful consideration, Government is pleased to resolve the restoration of commuted value of pension after 13 years under Rule-101 of Gujarat Civil Service (Pension) Rules, 2002.

This order takes effect from Dt.24/09/2022. This benefit shall also be admissible to the pensioners who have already received commuted value of part of their pension. In case of the pensioners who have received commuted value of part of their pension and completed 13 years or more, their pension will be restored from the month of October, 2022.

The above amendment in Rule-101 of Gujarat Civil Service (Pension) Rules, 2002 shall be incorporated by separate notification. Other rules and instructions regarding this matter shall continue to be applicable.

By order and in the name of the Governor of Gujarat,

(Dipal Hadiyal)
Deputy Secretary to Government,
Finance Department

To,

- The Secretary to the Hon'ble Governor, Rajbhavan ,Gandhinagar,
  The Principal Secretary to Hon'ble Chief Minister, Gandhinagar.
  The Personal Secretaries to all Hon'ble Ministers/State level Ministers,
  Parliamentary Secretaries ,Sachivalaya , Gandhinagar.
  The Personal Secretary to the Hon 'bleLecader of Opposition, Gujarat
  Vidhansabha ,Sachivalaya, Gandhinagar.
- The Secretary, Gujarat Legislative Secretariat ,Gandhinagar,
- The Secretary, Gujarat Vigilance Commission, Gandhinagar,
- The Secretary, Gujarat Civil Service Tribunal ,Gandhinagar,
- The Secretary, Hon'ble Gujarat High Court , Ahmedabad.
- The Secretary, Gujarat Subordinate Staff Selection Board ,Gandhinagar.
- The Secretary, Gujarat Public Service Commission, Ahmedabad,
  All Departments of Secretariat/All HoDs/All Head of Offices.
  The Accountant General-I (Audit), Gujarat State, Ahmedabad/Rajkot,
  The Accountant General -11 (A&E), Gujarat State, Ahmedabad /Rajkot
  The Examiner, Local Fund Accounts /All Dist. Assistant Examiners,
  All District Collectors/District Development Officers,
  The Director, Pension & Provident Fund, Gandhinagar,
  The Pension Payment Office, Ahmedabad,
  All District Treasury Officers/Sub Treasury Officers,
  The Pay and Accounts Officer, Gandhinagar/Ahmedabad,
  The Pay and Accounts Officer, SSNNL ,Gandhinagar/Vadodara,
  The Resident Audit Officer ,Gandhinagar/Ahmedabad,
  All Boards/Corporations/Universities /Public Sector Undertakings of the
  Government,
  All Officers/branches in Finance Department,
  The System Manager, Finance Department - For placing on the website.
  Select file, P br., Finance Department.

- By letter

CHAPTER–III

COMMUTATION AND RESTORATION
OF COMMUTED PENSION

I.   **COMMUTATION OF PENSION**

1.   Presently, the pension is calculated at 50% of the last drawn pay of the officer subject to commutation, if any, as stated earlier (See Part-I, Vol. II page 2 Para 4 of the Report). Every pensioner is eligible to commute a percentage of his monthly pension for a lumpsum payment, which is the commuted value of that percentage of pension. On commutation, the commuted portion of pension is exchanged for the lumpsum payment called commuted value. Commuted amount of pension is thus a recoverable advance/loan repayable periodically over a certain period. On Commutation, there is reduction in the amount of monthly pension for a certain number of years (presently and since long it is 15 years).

1.1   Rule 5 of the CCS (Commutation of Pension) Rules, 1981 prescribes the limit of commutation of pension. It is 40% of the basic Pension; however, in the case of Judicial Officers it is 50% of the basic pension as per the recommendations of FNJPC (Chapter 22, Para 22.48 of the Report) as approved by Hon'ble Supreme Court in AIJA v UOI, AIR 2002 SC 1752, para 37 at page 1770.

1.2   Rule 8 of the CCS (Commutation of Pension) Rules provides for Calculation of commuted value of Pension which reads :

> The lumpsum payable to an applicant shall be calculated in accordance with the Table of the values prescribed from time to time and applicable to the applicant on the date on which the commutation becomes absolute.

1.3   Rule 6 lays down the dates on which the commutation of pension becomes absolute. In the case of a government servant who is due to retire on superannuation, it becomes absolute on the date following his retirement as provided for in Rule 6(1) (i-a) read with Rule 13(3).

1.4   The 'Table' as mentioned in Rule 8 has been defined under Rule 3(1) (m) as to mean a table appended to these rules. The Table appended to the said rules is the one which provides for commutation value expressed in 'number of years purchase' based on the age at the next birthday and the same is also referred to as Commutation Factor. Commutation Factor is used to calculate the lumpsum amount which is paid immediately to the beneficiary in exchange of future pension payment. For ready reference, the Table is extracted hereunder:

CCS (COMMUTATION OF PENSION) RULES, 1981]

TABLE
COMMUTATION VALUES FOR A PENSION OF Rs. 1 PER ANNUM

Effective from 1st January, 2006 (Annexure 5.1.2 of VIth CPC Report)
[See Rules 3 (1) (m) 8, 26 (7), 28 (5), 29 (1) and 29 (2)]

Age next birthday	Commutation value expressed as number of year's purchase	Age next birthday	Commutation value expressed as number of year's purchase	Age next birthday	Commutation value expressed as number of year's purchase
20	9.188	41	9.075	62	8.093
21	9.187	42	9.059	63	7.982
22	9.186	43	9.040	64	7.862
23	9.185	44	9.019	65	7.731
24	9.184	45	8.996	66	7.591

25	9.183	46	8.971	67	7.431
26	9.182	47	8.943	68	7.262
27	9.180	48	8.913	69	7.083
28	9.178	49	8.881	70	6.897
29	9.176	50	8.846	71	6.703
30	9.173	51	8.808	72	6.502
31	9.169	52	8.768	73	6.296
32	9.164	53	8.724	74	6.085
33	9.159	54	8.678	75	5.872
34	9.152	55	8.627	76	5.657
35	9.145	56	8.572	77	5.443
36	9.136	57	8.512	78	5.229
37	9.126	58	8.446	79	5.018
38	9.116	59	8.371	80	4.812
39	9.103	60	8.287	81	4.611
40	9.090	**61**	**8.194**		

[Basis : LIC (94-96) Ultimate Tables and 8.00% interest]

The Table extracted above is the revised one, revised vide notification no.42/23/10-P. & P.W. (G) dated 09.11.2010 w.e.f. 01.01.2006. The pre-revised table which was effective from 1st March 1971 was "based on a rate of interest of 4.75 per cent p.a.". It may be noted at this juncture that on a comparison of the two Tables, the commutation factor got reduced from 9.81 to 8.194 for those aged 61 years at next birthday. In terms of percentage, there is reduction in commuted amount to the extent of 16.5%.

1.5 More or less similar rules of commutation prevail in almost all the States.

1.6 The Commutation factor as mentioned in the table above takes into account the following:

a)   longevity of life in number of years which is computed using the mortality table called LIC (94-96) ultimate;

b)   interest @ 8%; and

c)   the risk factor (which has not been specifically stated in the table).

1.7   In the revised Table noted above, the commutation factors have been revised downwards (from 9.81 to 8.194 for the age of 61 at next birthday) and the quantum of interest has been substantially increased from 4.75% to 8%. The lowering of commutation factor from 9.81 to 8.194 from the age of 61 years at next birthday has resulted in reduction of commuted amount to the extent of 16.5%.

1.8   The commutation amount is calculated[7] in the following manner:

Lumpsum Payable	=	Commutation Factor offered for commutation (as applicable depending on the age next birthday)	x	12	x	Amount of Pension (portion of the pension to be commuted)

Illustration :

A Judicial Officer drawing pay in Level J-7 of this Commission's Pay Matrix (Table-I at page 71 Vol. I of part I of the Report)/Government Officer drawing pay in Level 15 of Pay Matrix under VII CPC, @ Rs.2,11,300/- per month at the time of retirement on attaining the age of 60 years who opts to commute 50% of his pension.

          Commutation amount on the basis of pre-revised table:
1.   Last drawn pay   Rs. 2,11,300/-

2.   Basic/Gross Pension   Rs. 1,05,650/-
       (50% of last drawn pay)

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[7] Section 24 item 12 (Commutation of Pension), para 9 of Swamy's Handbook 2020

| 3. | Commutation (maximum to the extent of 50% of basic/gross pension) | Rs. 52,825/- |

| 4. | Commutation factor (on 'years of purchase' basis as prescribed in the table under the CCS(Pension) Rules, on retiring at the age of 60 years) | 9.81 |

| 5. | Commutation Amount (Rs. 52825 x 9.81 X 12) | Rs. 62,18,559/- say 62,18,600/- |

Commutation amount on the basis of revised table:

| 1. | Last drawn pay | Rs. 2,11,300/- |
| 2. | Basic/Gross Pension (50% of last drawn pay) | Rs. 1,05,650/- |

| 3. | Commutation (maximum to the extent of 50% of basic/gross pension) | Rs. 52,825/- |

| 4. | Commutation factor (on 'years of purchase' basis as prescribed in the table under the CCS(Pension) Rules, on retiring at the age of 60 years) | 8.194 |

| 5. | Commutation Amount (Rs. 52825 x 8.194 X 12) | Rs. 51,94,176/- say 51,94,200/- |

Difference :

Commuted amount as per **pre-revised** table   Rs. 62,18,600/-

Commuted amount as per **revised** table   <u>Rs. 51,94,200/-</u>
                                   Difference   <u>Rs. 10,24,400/-</u>

Percentage change $\underline{10,24,400}_{x} 100 = 16.473\%$
                         62,18,600

Percentage change $\dfrac{10,24,400}{51,94,200}$ x 100 = 19.72%

P.N. : The commutation factor is as per the commutation table relevant to the age next birthday.

It shows that the commutation amount based on **revised** table is 16.473% less than the commutation amount based on **pre-revised** table. The other way round we can say that the commutation amount based on **pre-revised** table is 19.72% more than the commutation amount based on **revised** table.

1.9 It is noticed by the Commission that the actual amount of commutation sanctioned by the Government purportedly based on the Table works out to be less than the Net Present Value/Discounted Value of Commutation.

1.10 In this context, we would like to refer to the information made available by **the Institute of Actuaries, Navi Mumbai** engaged in publishing and updating mortalities table from time to time in association with the insurance industry vide e-mail dated 27.08.2020 in reply to the query raised by the Commission vide letter dated 20.07.2020. The Institute of Actuaries has clarified that the value of Re.1 per annum, payable annually for 15 years @ 8% per annum interest, without consideration of mortality, death benefits or other benefits would be 8.56, meaning thereby that the lumpsum value of Re.1 payable annually for 15 years discounted by interest @8% per annum is Rs. 8.56. That is to say, the commuted value of pension taken at the age of 60 years is less than the Net

Present Value (NPV)/ discounted value, the commutation factor being 8.194 and Net Present Value being 8.56.

1.11 To explain further, let us take the example as given in para 1.8 above:

Commuted portion of pension per month   Rs.52,825/-

Annual amount   Rs.52,825 x 12 = Rs.6,33,900/-

Commuted value of Pension   Rs.633900 x 8.194=Rs. 51,94,176/-

The Net Present Value (NPV)/discounted value of Rs.6,33,900/- paid annually for 15 years @ 8% interest is Rs.54,25,850/- (calculated with the help of Net Present Value Calculator). Accordingly, the commuted value of pension i.e. Rs.51,94,176/- is less than the Net Present Value of Pension i.e. Rs.54,25,850/- by Rs.2,31,674/- (Rs.54,25,850 − 51,94,176). The reason for commutation value being less by Rs.2,31,674/- than the Net Present Value is not known, may be, it is on account of considerations of risk factor involved before the commutation amount is recovered in full.

1.12 On Commutation, there is reduction in the amount of monthly pension, which becomes operative from the date of receipt of commuted value by the pensioner.

II. RESTORATION OF COMMUTED PENSION

2. Presently, the restoration of commuted pension takes place after a period of 15 years from the date of commutation. Whether the 15 year period is reasonable or not and whether prescription of less number of years would be proper and appropriate is the question that has engaged the attention of this Commission.

2.1 The Commission had addressed a letter to the Department of Pension & Pensioners' Welfare, Ministry of Personnel, Public Grievances and Pensions on 17.07.2019 requesting to furnish the basis on which period of 15 years has been fixed for restoration of pension. In the reply dated 29.07.2019, the Department of Pension & Pensioners' Welfare has stated :

> The 15 year period for restoration of commutation of pension was decided by the Supreme Court vide its judgment in WP No. 3958-61 of 1983 Common Cause Society & Ors. vs. UOI in 1986. Accordingly, this Department issued an OM 34/2/86-P&PW dated 05.03.1987.

3. The Supreme Court in *Common Cause-Registered Society and others v UOI* (1987) 1 SCC 142 in para 5 of the judgment observed:

> "5 : The petitioners have contended that the commuted portion of the pension is ordinarily recovered within about 12 years and, therefore, there is no justification for fixing the period at 15 years. Commutation brings about certain advantages. The commuting pensioner gets a lump-sum amount which ordinarily he would have received in course of a spread over period subject to his continuing to live. Thus, two advantages are certainly forthcoming out of commutation – (1) availability of a lump sum amount, and (2) the risk factor. Again many of the State Governments have already formulated schemes accepting the 15 year rule. In this background, we do not think we would be justified in disturbing the 15- year formula so far as civilian pensioners are concerned."

3.1 Further, the Supreme Court, in para 9 of the judgment observed:

"9 : 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. An addition of two years to the period necessary for the recovery on the basis of years of purchase justifies the adoption of the 15-year rule. ...."

4.   In para 136.9 of the report, the V CPC has observed thus as regards the restoration of commuted pension:

"....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."

In the same para, the Commission noted the observations of the Supreme Court in the Common Cause case quoted in para 3.1 above.

4.1   In the year 1997, the V CPC recommended the restoration of the commuted portion of pension after 12 years instead of 15 years. Para 136.10 is extracted below:

"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."

(emphasis added)

4.2   This recommendation of V CPC however, did not find favour with the Central Government, for reasons which are not known.

5.　　　　It may be mentioned at this juncture that in the State of Kerala the restoration period has been allowed to be 12 years from the year 1971 onwards.

5.1　　　　Rule 6A of the Kerala Pension (Commutation) Rules provide for restoration of commuted portion of pension. It reads:

> "6A(1)The commuted portion of pension shall be restored from the first of the month following the month in which a period of twelve years elapses from the date of commutation, i.e., the date of reduction in pension after commutation in cases where commutation is done at retirement at the age of 55, and in other cases the term for restoration shall be determined with reference to the commutation factor (rounded) in each case.
>
> (2) No Pensioner shall be entitled to commute his Pension, again on the ground that the commuted portion has been restored to him."

5.2　　　　Rule 6A thus provides that the commuted portion of pension shall be restored from first of the month following the month in which a period of 12 years elapses from the date of Commutation where commutation is done at retirement at the age of 55 years and in other cases the term for restoration shall be determined with reference to the commutation factor (rounded) in each case. It means that a person who retires at the age of more than 55 years, the restoration of commuted pension shall take place before the expiry of 12 years.

5.3　　　　As per Commutation Table, Annexure III to the Kerala (Pension Commutation) Rules, the commuted portion of pension stands restored on the expiry of 10 years for retirees at the age of 60 years (the factor being 9.81 and rounded off to 10).

6.　　　　Rule 10-A of the CCS (Commutation of Pension) Rules 1981 (inserted vide notification dated 09.11.2010) provides that the commuted amount of pension shall be restored on completion of 15 years from the date of reduction of pension

on account of commutation having become operative in accordance with Rule 6. Whether there are weighty reasons for retention of 15 years for restoration of commuted pension is not clear.

7. Before proceeding further, we would like to refer to the judgment of Division Bench of Delhi High Court in *Forum of Retired IPS Officers (FORIPSO) v UOI* 2019 SCC ONLINE Del 6610 decided on 17.09.2019, wherein it was held that in exercise of powers of judicial review, the period of restoration of commuted pension as adopted by the Government cannot be faulted, especially in view of the judgment of the Supreme Court referred to earlier.

7.1 It was observed at para 17 :

> **"17. Pension, Commutation of pension etc., are policy matters, which are examined and decided on the basis of recommendations of the Pay Commissions by the authorities."**
> (emphasis added)

8. At the Consultative Conferences, it has been represented that there is every justification for reducing the period **from** 15 years **to** 10 to 12 years and that the 15 years period prescribed long back is too long in view of the present scenario of increased life expectancy resulting in reduction of risk factor and falling bank interest rates.

9. There can be no denial of the fact that commutation has its own advantages for the pensioners because a lumpsum amount is available. From the point of view of the Government, interest on the lumpsum amount made available to the pensioner is a factor to be taken into account. The risk factor is another relevant aspect that goes into the estimate of recovery period. That means, if the

pensioner dies before complete recovery of the commuted amount (lumpsum paid to him), the Government will not be able to recover the amount commuted in full. At the same time, it needs to be noted that the liability to pay pension ceases and the family pension payable thereafter is much less. Be that as it may, the risk factor has to be viewed in the light of improved longevity of life especially of those in service and other professions who have in addition to the salary income the benefit of assured and qualitative medical facilities. The instances of Judicial Officers and other Government servants in higher income bracket dying before the age of 75 years are quite few in number. Even the commutation table based on LIC 1994-96 Ultimate (extracted above) adopted by the Government of India w.e.f. 01.01.2006 for the purpose of arriving at the commutation amount proceeds on the basis of longevity to the extent of additional 18 years. Whereas the superannuation is at the age of 60 years, the longevity is upto 78 years. Inspite of this, some allowance towards unforeseen contingencies needs to be provided, though in practical terms, the cases of non-recovery of full amount with interest would be very limited.

9.1 As is evident from the Commutation Table in para 1.4 above, the commutation factors in the Table are based on the longevity and the interest rates. In recent times, both these elements have undergone a change. The longevity has improved and the interest rates have steeply fallen.

9.2 As noted earlier the **Institute of Actuaries of India, Navi Mumbai** had made information available vide e-mail dated 27.08.2020 (in response to this Commission's request dated 20.07.2020), wherein the estimated life span of a

person aged 60 years in terms of table LIC (94-96) ultimate, (the basis of Commutation Table in para 1.4 above) is stated to be approximately 18 years and in terms of table LIC (96-98), it is 21 years. It means that a person's expected life is 78 years in terms of table LIC (94-96) Ultimate and 81 years in terms of table LIC (96-98) Ultimate.

9.3 To a query raised by the Commission "Whether and to what extent these tables have bearing on the restoration period for the commuted pension", it was clarified as follows:

> The factor itself does not have a bearing on the restoration period. The restoration period would always be determined by the rules of the scheme. However, one should be aware whether the commutation factors reflect the pension payment period, restoration period and other attributes of the pension that is being exchanged for the lump sum.

> A simple example is if a 15 year period is being commuted (i.e. full pension benefit is restored after that) then a commutation factor should consider the value of a 15 years' worth of pension only. As an example, the value of a flat 1 Rs. per annum, payable annually, payment for 15 years at 8% interest, without consideration of mortality, death benefits or other benefits, would be 8.56.

9.4 Further this Commission has sought information from the office of the **Registrar General, India, VS-SRS Division, Data Dissemination Unit, New Delhi**. The contents of the reply dated 24.08.2020 received are extracted here under:

> "SRS Based Abridged Life Tables" which contains the estimates of Life Expectancy at various ages based on five year moving average data. The information sought by you is as follows:

Expectation of life at age 60 years by sex, India, 2011-15 to 2013-17				
Period	Mid-year	Total	Male	Female
2011-15	2013	18.0	17.1	18.9
2012-16	2014	18.1	17.3	18.9
2013-17	2015	18.1	17.4	18.9

Website : www.censusindia.gov.in/SRSpublications

9.5 The Government is legitimately entitled to get adequate interest on the lumpsum amount released by way of commutation. There has been a gradual and steep fall in the interest rate. The interest rate in respect of Government bonds and securities has been on the decline when compared to the past. On the Government bonds/securities, the interest which earlier used to be 8% to 9% is now only 5% to 6%. Even when the States get advances from Central Government to overcome deficit finances, the rate of interest paid on such borrowings is much less than 8%. Further, the interest rates on fixed/term deposits offered by Public Sector and the Private Sector Banks for Senior Citizens (aged 60 years and above) is between 5% and 6% per annum at present, though it used to be 8% or more earlier. Moreover, the home loans are now available at interest rates less than 7% (HDFC-6.7%, LIC Housing 6.9%, SBI – 6.7%, DHFC-6.5%).

10. Viewed from any angle, the Commission is of the *prima facie* view that the time of restoration of commuted value of pension is too long and a fresh look has to be taken in view of the long passage of time. It is axiomatic that the Government should not stand to gain or lose in the transaction which is basically in the nature of welfare measure. The period of restoration of commuted pension shall be such that the Government shall be able to recover the amount released in lumpsum with reasonable interest and the period of restoration determined shall not be such as to result in profit to the Government. The fact that the pensioner gets advantage in the form of lumpsum amount shall not be stretched too far.

11.   The Commission would like to amplify its prima-facie view that the period of restoration of full pension needs to be reduced by referring to the following **illustrative example**:

A Judicial Officer drawing pay in Level J-7 of this Commission's Pay Matrix/ Government Officer drawing pay in Level 15 of Pay Matrix under VII CPC, @ Rs.2,11,300/- per month at the time of retirement on attaining the age of 60 years:

1.	Last drawn pay	Rs. 2,11,300/-	
2.	Basic/Gross Pension (50% of last drawn pay)	Rs. 1,05,650/-	
3.	Commutation to the extent of 50% of basic/gross pension	Rs. 52,825/-	
4.	Commutation factor (on 'years of purchase' basis as prescribed in the table under the CCS(Pension) Rules, on retiring at the age of 60 years)	8.194	
5.	Commutation Amount (Rs. 52825 x 8.194 X 12)	Rs. 51,94,176/- say 51,94,200/-	**(A)**
6.	[8]Interest	Rs.17,19,696/-	**(B)**
7.	Total (A) + (B)	Rs.69,13,896/-	**(C)**
8.	Recovery of commuted amount (Rs. 52,825/- pm x 12)	Rs. 6,33,900/- per year	**(D)**
9.	Period prescribed for restoration of commuted pension	15 years	
10.	Total amount recovered in 15 years	Rs. 95,08,500/-	**(E)**

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[8] Apparently the Govt. is calculating interest @8% on the commuted amount as seen from the commutation table above vide para 1.4 page 3.
In any case it would be appropriate that the Government should be able to recover the amount with interest at a reasonable rate.
The details of interest calculation @8% and the recovery of commutation amount with interest thereon and the period by which it is recovered is indicated below in para 12.

(Rs. 6,33,900 x 15)

11. Period of recovery of the commuted
     amount with interest (C ÷ D)   69,13,896/- ÷ 6,33,900/-
                               (C)   (D)
                               10.906 years
                               (130.83 months)

12.   The detailed calculation as to the commutation amount, interest

thereon and the recovery period is as under:

S. No. Months	Principal O/s at the beginning of the month	Principal payment per month	Principal outstanding at the end of the month	Interest due per month
	(A)	(B)	(A-B) = (C)	(D)
1.	51,94,200	52,825	51,41,375	34,628
2.	51,41,375	52,825	50,88,550	34,276
3.	50,88,550	52,825	50,35,725	33,924
4.	50,35,725	52,825	49,82,900	33,572
5.	49,82,900	52,825	49,30,075	33,219
6.	49,30,075	52,825	48,77,250	32,867
7.	48,77,250	52,825	48,24,425	32,515
8.	48,24,425	52,825	47,71,600	32,163
9.	47,71,600	52,825	47,18,775	31,811
10.	47,18,775	52,825	46,65,950	31,459
11.	46,65,950	52,825	46,13,125	31,106
12.	46,13,125	52,825	45,60,300	30,754
13.	45,60,300	52,825	45,07,475	30,402
14.	45,07,475	52,825	44,54,650	30,050
15.	44,54,650	52,825	44,01,825	29,698
16.	44,01,825	52,825	43,49,000	29,346
17.	43,49,000	52,825	42,96,175	28,993
18.	42,96,175	52,825	42,43,350	28,641
19.	42,43,350	52,825	41,90,525	28,289
20.	41,90,525	52,825	41,37,700	27,937
21.	41,37,700	52,825	40,84,875	27,585
22.	40,84,875	52,825	40,32,050	27,233
23.	40,32,050	52,825	39,79,225	26,880
24.	39,79,225	52,825	39,26,400	26,528
25.	39,26,400	52,825	38,73,575	26,176
26.	38,73,575	52,825	38,20,750	25,824
27.	38,20,750	52,825	37,67,925	25,472
28.	37,67,925	52,825	37,15,100	25,120
29.	37,15,100	52,825	36,62,275	24,767
30.	36,62,275	52,825	36,09,450	24,415
31.	36,09,450	52,825	35,56,625	24,063
32.	35,56,625	52,825	35,03,800	23,711
33.	35,03,800	52,825	34,50,975	23,359
34.	34,50,975	52,825	33,98,150	23,007
35.	33,98,150	52,825	33,45,325	22,654
36.	33,45,325	52,825	32,92,500	22,302
37.	32,92,500	52,825	32,39,675	21,950
38.	32,39,675	52,825	31,86,850	21,598
39.	31,86,850	52,825	31,34,025	21,246

40.	31,34,025	52,825	30,81,200	20,894
41.	30,81,200	52,825	30,28,375	20,541
42.	30,28,375	52,825	29,75,550	20,189
43.	29,75,550	52,825	29,22,725	19,837
44.	29,22,725	52,825	28,69,900	19,485
45.	28,69,900	52,825	28,17,075	19,133
46.	28,17,075	52,825	27,64,250	18,781
47.	27,64,250	52,825	27,11,425	18,428
48.	27,11,425	52,825	26,58,600	18,076
49.	26,58,600	52,825	26,05,775	17,724
50.	26,05,775	52,825	25,52,950	17,372
51.	25,52,950	52,825	25,00,125	17,020
52.	25,00,125	52,825	24,47,300	16,668
53.	24,47,300	52,825	23,94,475	16,315
54.	23,94,475	52,825	23,41,650	15,963
55.	23,41,650	52,825	22,88,825	15,611
56.	22,88,825	52,825	22,36,000	15,259
57.	22,36,000	52,825	21,83,175	14,907
58.	21,83,175	52,825	21,30,350	14,555
59.	21,30,350	52,825	20,77,525	14,202
60.	20,77,525	52,825	20,24,700	13,850
61.	20,24,700	52,825	90,81,875	13,498
62.	19,71,875	52,825	19,19,050	13,146
63.	19,19,050	52,825	18,66,225	12,794
64.	18,66,225	52,825	18,13,400	12,442
65.	18,13,400	52,825	17,60,575	12,089
66.	17,60,575	52,825	17,07,750	11,737
67.	17,07,750	52,825	16,54,925	11,385
68.	16,54,925	52,825	16,02,100	11,033
69.	16,02,100	52,825	15,49,275	10,681
70.	15,49,275	52,825	14,96,450	10,329
71.	14,96,450	52,825	14,43,625	9,976
72.	14,43,625	52,825	13,90,800	9,624
73.	13,90,800	52,825	13,37,975	9,272
74.	13,37,975	52,825	12,85,150	8,920
75.	12,85,150	52,825	12,32,325	8,568
76.	12,32,325	52,825	11,79,500	8,216
77.	11,79,500	52,825	11,26,675	7,863
78.	11,26,675	52,825	10,73,850	7,511
79.	10,73,850	52,825	10,21,025	7,159
80.	10,21,025	52,825	9,68,200	6,807
81.	9,68,200	52,825	9,15,375	6,455
82.	9,15,375	52,825	8,62,550	6,103
83.	8,62,550	52,825	8,09,725	5,750
84.	8,09,725	52,825	7,56,900	5,398
85.	7,56,900	52,825	7,04,075	5,046
86.	7,04,075	52,825	6,51,250	4,694
87.	6,51,250	52,825	5,98,425	4,342
88.	5,98,425	52,825	5,45,600	3,990
89.	5,45,600	52,825	4,92,775	3,637
90.	4,92,775	52,825	4,39,950	3,285
91.	4,39,950	52,825	3,87,125	2,933
92.	3,87,125	52,825	3,34,300	2,581
93.	3,34,300	52,825	2,81,475	2,229
94.	2,81,475	52,825	2,28,650	1,877
95.	2,28,650	52,825	1,75,825	1,524
96.	1,75,825	52,825	1,23,000	1,172
97.	1,23,000	52,825	70,175	820
98.	70,175	52,825	17,350	468

	Total Payable after payment of Commuted Amount		Total Interest Due	17,19,696
			17,350 + 17,19,696 = 17,37,046	
99.	17,37,046	52,825	16,84,221	--
100.	16,84,221	52,825	16,31,396	--
101.	16,31,396	52,825	15,78,571	--
102.	15,78,571	52,825	15,25,746	--
103.	15,25,746	52,825	14,72,921	--
104.	14,72,921	52,825	14,20,096	--
105.	14,20,096	52,825	13,67,271	--
106.	13,67,271	52,825	13,14,446	--
107.	13,14,446	52,825	12,61,621	--
108.	12,61,621	52,825	12,08,796	--
109.	12,08,796	52,825	11,55,971	--
110.	11,55,971	52,825	11,03,146	--
111.	11,03,146	52,825	10,50,321	--
112.	10,50,321	52,825	9,97,496	--
113.	9,97,496	52,825	9,44,671	--
114.	9,44,671	52,825	8,91,846	--
115.	8,91,846	52,825	8,39,021	--
116.	8,39,021	52,825	7,86,196	--
117.	7,86,196	52,825	7,33,371	--
118.	7,33,371	52,825	6,80,546	--
119.	6,80,546	52,825	6,27,721	--
120	6,27,721	52,825	5,74,896	--
121.	5,74,896	52,825	5,22,071	--
122.	5,22,071	52,825	4,69,246	--
123.	4,69,246	52,825	4,16,421	--
124.	4,16,421	52,825	3,63,596	--
125.	3,63,596	52,825	3,10,771	--
126.	3,10,771	52,825	2,57,946	--
127.	2,57,946	52,825	2,05,121	--
128.	2,05,121	52,825	1,52,296	--
129.	1,52,296	52,825	99,471	--
130.	99,471	52,825	44,646	--
131.	44,646	44,646	--	--
		69,13,896		

The above calculations in the Table take into the account the method/procedure which the Government normally follows while extending advances i.e. the principal amount is recovered first and then the interest is calculated and recovered.

The calculations in the Table reveal that the commutation amount of Rs.51,94,200/- with interest thereon @ 8% per annum amounting to Rs.17,19,696/- (total Rs.51,94,200/- + Rs.17,19,696/- = Rs.69,13,896/-), stands recovered in 131 months i.e. less than 11 years.

However, presently the recovery continues for 15 years i.e. 180 months and a sum of Rs.95,08,500/- is recovered from the pensioner.

Excess recovery amounts to :

(95,08,500 – 69,13,896)   =   Rs.25,94,604/-
   (E)   –   (C)

Amount recovered 52,825 x 180	-	Commutation amount + Interest Rs.51,94,200/- + Rs.17,19,696/-	=	Excess recovery
Rs.95,08,500/-	**-**	**Rs.69,13,896/-**	**=**	**Rs.25,94,604/-**

12.1 Therefore, as calculated above, the entire commutation amount with interest @ 8% per annum stands recovered in less than 11 years (leaving apart the interest earned on monthly reduced amount of pension which is in addition thereto). In any case it would not go beyond 12 years even after providing for some unforeseen contingencies and *prima facie* no disadvantage is going to be caused to the Government as well as to the Pensioners.

13. At this stage, we may refer to an important piece of information that has come to the notice of the Commission as contained in the communications exchanged between the Forum of Retired IPS Officers (FORIPSO) and the Department of Pension and Pensioners' Welfare. In reply to the letter addressed to the Secretary FORIPSO, Department of Pension & Pensioners' Welfare, Ministry of Personnel, Public Grievances & Pensioners, Govt. of India in letter no. F.No. 42/1/2014-P&PW(G) dated 06.03.2014, stated thus:

> Although the commuted portion is recovered in 12 years, Supreme Court directed restoration of commuted value after 15 years observing that two advantages were forthcoming out of commutation: (1) availability of lump sum amount and (2) risk factor

The Government of India, Department of Pension & Pensioners' Welfare has thus accepted broadly that the commuted portion is recovered in 12 years.

13.1 Further, in reply to RTI query from a retired IPS Officer, the Department of Pension & Pensioners' Welfare, in its letter no. F.No.42/6/2014-P&PW(G) dated 07.04.2014, clarified thus:

(1) DoPPW has recommended to the Finance Ministry/Deptt. of Expenditure to reduce the period of restoration of commuted pension.

(2) The Department of Expenditure did not concur to the DoPPW's proposal dated 25.10.2012 for reducing the period of restoration of commuted pension. Department of Expenditure also suggested for a study on the commutation table by an expert institution i.e. IRDA.

(3) DoPPW recommended to reduce the period from 15 years to 13 years.

(4) The period of 15 years has been decided by the Supreme Court issued by order no. 34/2/86-P&PW dated 05.03.1987.

P.N. : Instead of words "issued by order no.34/2/86-P&PW dated 05.03.1987" the correct wording is "and the Department issued order no.34/2/86-P&PW dated 05.03.1987".

14. As stated above, the V CPC had recommended restoration of Commuted Pension after a period of 12 years, however the same was not accepted by the Central Government at that point of time without disclosing the reasons.

15. The VI CPC in its Report of March, 2008 dealt with the subject under the head "Recommendations relating to Commutation" in paragraphs 5.1.34, 5.1.35 and 5.1.36 of the Report. At para 5.1.34 the judgment of the Supreme Court has been summarized. Para 5.1.34 reads:

"Earlier, the amount of pension commuted was not restorable. Consequently, a pensioner was eligible to draw only the commuted amount of pension for the remainder of the retired life. The position changed with effect from April 1, 1985 on account of judgment passed in December, 1986 by the Supreme Court in Writ Petitions No. 3958-61 of 1983. In this judgment, the Supreme Court had directed restoration of the commuted value of pension once the commutation amount along with the interest element thereon was recovered fully. Accordingly, orders were issued for restoring the commuted amount of pension after 15 years. These orders were made effective retrospectively from April 1, 1985."

15.1 Then, the VI CPC referred to the demands for reducing the period of restoration of full pension at para 5.1.35 and observed thus:

> "....As mentioned earlier, the Fifth CPC had recommended such restoration after 12 years. The Fifth CPC had simultaneously recommended revision of the commutation table that was last revised in March, 1971. The commutation table is based on the mortality rates then extant amongst Government pensioners and a concessional rate of interest of 4.75% per annum. Department of Pension and Pensioners Welfare had considered the issue of revision of the current commutation table many times. These reviews revealed that whereas the mortality rates had not increased significantly, the rates of interest had become much higher. Another factor which has to be considered in any revision is that the commutation is now restored after a period of 15 years. Hence, any improvement in the age of life expectancy of Government pensioners beyond 15 years will cease to have any effect on computation of the commutation value. **The present commutation table is more advantageous to the retiring employees and till the time, the commutation table is suitably revised to present the correct picture, there may not be any justification for decreasing the period of restoration.** The Commission had commissioned the Centre for Economic Studies and Policy, Bangalore for evolving a new commutation table keeping in view all the relevant factors. This table is given in Annex 5.1.2 of the Report. The Government should modify the commutation table being used for purposes of commuting pension, accordingly. All future cases of commutation of pension should be considered as per the revised commutation table annexed to the Report which may be revised periodically by the Government keeping in view the interest rates and the mortality table. Since the commutation under the proposed scheme will be in consonance with the prevailing market rates of interest and the mortality factor, it should be possible to outsource the entire process of making payment on this account...."
>
> (emphasis added)

15.2 Then follows the conclusion regarding restoration period at para 5.1.36 which reads:

> "In view of the aforesaid, the Commission does not propose any change in the maximum percentage of commutation allowed or in the period of restoration."

15.3 The Commission (VI CPC) got a fresh commutation table prepared by taking the help of an expert body and the same was adopted by the Government of India.

16. On perusal of the observations of the VI CPC in the above paragraphs i.e. 5.1.35 and 5.1.36, this Commission is of the view that the revised

commutation table suggested by the VI CPC does not lead to the necessary conclusion that the period of restoration should be after 15 years. In this context, we would like to point out that the Table annexed to the report of VI CPC and adopted by the Government of India w.e.f. 01.01.2006 is only for quantifying the lumpsum amount qualifying for commutation based on the table. The same has been worked out by the commutation factor referred to as 'number of years of purchase' vis a vis 'the age of superannuation'. *Prima facie* it appears that it does not take within its fold the restoration aspect i.e. the period of restoration of full pension. However, as already noticed, the VI CPC has reached the conclusion that in view of the Commutation Table formulated by it, no change in the period of restoration is required. The nexus between Commutation Table and the restoration period has not been made clear. In other words, it is not clear as to how the conclusion as to the period of restoration has been drawn from the Commutation Table.

17.   In any case, as we observed earlier, there is a need to have a fresh look as regards the period of recovery of the commuted value of pension notwithstanding what the Hon'ble Supreme Court observed more than three decades ago and the conclusion of VI CPC recorded 12 years back. It is not known whether any exercise was undertaken to have a relook at restoration by VII CPC because there is no mention of Commutation factor and restoration in the VII CPC report. Unless the relevant particulars are forthcoming and the basis is disclosed in detail by the Government, the Commission is not in a position to make a definite recommendation in this regard.

18. Though the Commission is not equipped with full data to reach a definite conclusion, based on the study of Commission and informal consultations held with experts, the Commission's *prima facie* view is that restoration should take place after 12 years, if not earlier. The Government of India's stand based on the observations of the Hon'ble Supreme Court in the year 1986 needs to be further examined by the Hon'ble Court at this point of time.

18.1 In the light of above discussion, while the Commission does not express a firm view as regards the reasonableness of the existing rule regarding the period of restoration, the Commission feels that the issue needs to be revisited and the Government of India may be called upon to place the material before this Hon'ble Court which justifies the conclusion that the period of 15 years for restoration is reasonable and the situation is no different even now. Of course, in resolving this issue, mathematical accuracy is not expected. Diverse factors of relevance enter into the arena of consideration, some of which we have indicated earlier. The present day scenario as contrasted with the situation existing three decades ago has to be necessarily kept in view. Therefore, it is suggested that the issue may be decided by the Hon'ble Supreme Court after the stand of the Government of India is made known with all the relevant particulars.

Conclusion:

i.   Restoration period of 12 years suggested by V CPC appears to be more than adequate. Infact as per the workings given by the Commission supra, it is seen that the lump sum paid in lieu of commutation stands recovered with interest rate of 8% p.a. within 11 years. Even after giving due allowance to unforeseen contingencies, prima facie, it is reasonable to conclude that the restoration ought to take place on the expiry of 12 years and not beyond that.

ii.   Prima facie it appears that the judgment of Hon'ble Supreme Court rendered in the year 1986 [(1987) 1 SCC 142] has lost its relevance in the present day context and cannot be taken as a binding precedent for all time to come. There are certain general observations which were primarily meant to give a quietus to the issue of commutation at that point of time, keeping in view the offer made by the Central Government for the first time to confer the benefit of commutation and restoration of full pension after a certain period.

iii.   The issue regarding the restoration period needs to be examined *denovo* after issue of notice to Government of India (Department of Pension and Pensioners' Welfare) and on consideration of the material placed before the Hon'ble Court.

End of the Report

SHRI R. BASANT
Former Judge High Court of Kerala
MEMBER

JUSTICE P. V. REDDI
Former Judge Supreme Court of India
CHAIRMAN

SHRI VINAY KUMAR GUPTA
District Judge, Delhi
MEMBER-SECRETARY

Institute of Actuaries of India
Statutory body established under an Act of Parliament

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Mortality For Annuitants - LIC (A) (1996-98) Ultimate Rates

Published Mortality Tables

[Within the meaning of Regulation 4 of IRDA (Assets, Liabilities and Solvency Margin of Insurers) Regulations, 2000]

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Mortality for Annuitants - LIC (a) (1996-98) Ultimate Rates			
Age (x)	Mortality rate (q_x)	Age (x)	Mortality rate (q_x)
20	0.000919	70	0.024301
21	0.000961	71	0.027410
22	0.000999	72	0.030862
23	0.001033	73	0.034656
24	0.001063	74	0.038793
25	0.001090	75	0.043272
26	0.001113	76	0.048093
27	0.001132	77	0.053257
28	0.001147	78	0.058763
29	0.001159	79	0.064611
30	0.001166	80	0.070802
31	0.001170	81	0.077335
32	0.001170	82	0.084210
33	0.001171	83	0.091428

Mortality for Annuitants - LIC (a) (1996-98) Ultimate Rates			
Age (x)	Mortality rate (q_x)	Age (x)	Mortality rate (q_x)
35	0.001246	85	0.106891
36	0.001308	86	0.115136
37	0.001387	87	0.123723
38	0.001482	88	0.132652
39	0.001593	89	0.141924
40	0.001721	90	0.151539
41	0.001865	91	0.161495
42	0.002053	92	0.171794
43	0.002247	93	0.182436
44	0.002418	94	0.193419
45	0.002602	95	0.204746
46	0.002832	96	0.216414
47	0.003110	97	0.228425
48	0.003438	98	0.240778
49	0.003816	99	0.253473
50	0.004243	100	0.266511
51	0.004719	101	0.279892
52	0.005386	102	0.293614
53	0.006058	103	0.307679
54	0.006730	104	0.322087
55	0.007401	105	0.336836
56	0.008069	106	0.351928
57	0.008710	107	0.367363
58	0.009397	108	0.383139
59	0.010130	109	0.399258
60	0.010907	110	0.415720
61	0.011721	111	0.432524

Mortality for Annuitants - LIC (a) (1996-98) Ultimate Rates			
Age (x)	Mortality rate (q_x)	Age (x)	Mortality rate (q_x)
63	0.012120	113	0.467159
64	0.012833	114	0.484989
65	0.013889	115	0.503163
66	0.015286	116	0.521678
67	0.017026	117	

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