



CONFEDERATION OF CENTRAL GOVT. EMPLOYEES & WORKERS

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Ref: Confd./2024/ Restoration of Commutation/

Dated – 30.12.2024

To,

The Cabinet Secretary,
Government of India,
Rashtrapati Bhawan,
New Delhi-110001

Sub: Request for Reducing periodicity for Restoration of Commutation of Pension from 15 years to 12 years and providing new commutation table for Central Government employees and pensioners- Reg..

Respected Sir,

The Confederation of Central Government Employees and Workers, represents about 7 lakhs Central Government employees, who are working in various Departments of Central Government Departments viz., Postal, Income tax, AG'S, Audit, Survey, Census, GSI, CPWD, CGHS, SREE CHITHRA to which, 130 Associations & Federations are affiliates of Confederation of Central Government employees and Workers. The Confederation extends its warm Greetings and new year wishes.

The Confederation would like to draw your kind attention towards the orders issued by the Government of India in the year 1986 with regard to restoration of commutation of pension after 15 years by amending the Rule 10A of Central Civil Services (Commutation of Pension) Rules, 1981.

The said Rules were framed in the year 1986, which is 38 years old. In comparison to the parameters prevailing earlier in the year 1986, the current parameters have undergone a drastic change especially, the interest rate, life expectancy, mortality rate, death rate, actual values and risk factor which is at just 2%. The issue needs to be immediately revisited. In this regard, a detailed information is enclosed for your information and kind perusal.

The Commutation table number 2 is effective from the year 2006 and needs a revision due to various factors viz., the interest rate, life expectancy, mortality rate, death rate, actuarial values and risk factor. The Institute of Actuaries of India with the approval of IRDA has been reconstructing the mortality tables every eight years i.e. 2004, 2013 & 2021 and hence a new commutation table number 3 is overdue as 18 years period has lapsed.

The Confederation requests to kindly consider our request in light of details note submitted and arrange to cause an order for Reducing the periodicity for restoration of Commutation of Pension from 15 years to 12 years and providing new commutation table for Central Government employees and pensioners.

Yours Sincerely,

(S.B.Yadav)

Secretary General

Copy to

- 1) **The Secretary,
Department of Pension & Pensioners' Welfare,
Janpath Bhawan, B Wing, 8th Floor
New Delhi – 110001**

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

- 3) **Com Shiva Gopal Mishra
The Secretary Staff side (JCM)**

Detailed Note on Restoration of Commutation of pension after 12 years;

The Supreme court judgement in *Common Cause* (supra) of 1986 needs a fresh look into the matter as many parameters have changed in the last 38 years as under:

- 1) Commutation factor
- 2) The rate of interest
- 3) The life expectancy
- 4) The Mortality rate &
- 5) Death rate

Now that 38 years have lapsed, a fresh look into the matter is required and request your good self to re-examine the whole issue of 1986 orders. The following data is obtained through government websites or government orders.

Item	Year 1986	Year 2008	Year 2023
Commutation factor	10.46 (Retirement age 58 years)	8.194 (Retirement age 60 years)	8.194 (Retirement age 60 years)
Interest rate IRDA	12%	8%	7.1%
Life expectancy	57.7 years	66.1 years	70.42 %
Death rate	11.3 %	7.3%	7.3%
Mortality rate at age 61 years	0.2014 (1973)	0.01439	0.00695
Risk factor		0.046%	0.014

Hence, it quite clear that, in case of 2008 retiree, with a commutation factor of 8.194 plus two-year interest, the recovery works out to 10.2 years, taking into consideration the risk factor of just 2% it works out to 11 years restoration period.

- 2) Though the commutation is optional, the Government being a 'Model Employer', should view this as a welfare and not as a profit-making measure. The pensioner avails the commutation for their financial commitments only. The policy of the Government towards its employees who have served for the nation building for more than 30 years of service should be sympathetic towards its employees, particularly, pensioners. As a model employer, the concept of profit making for central government on this issue should not be the criteria for fixing the commutation factor and restoration of commuted value of pension.

Expert bodies recommendations:

State Governments:

Kerala state Government has adopted 12 years restoration and very recently after studying all these aspects, the Gujarat State Government has issued 13 years restoration.

5th Central Pay commission report:

The 5th CPC vide para number 136.10 (page 1822) had recommended for 12 years restoration of commutation after an in-depth study.

The Central Government has neither accepted this report nor rejected it, with an intimation of reasons of rejection, hence it has acquired a legal status.

Central Government Expert institution:

The Institute of Actuaries of India established under the Finance Ministry Government of India with the approval of IRDA has been reconstructing the mortality tables every eight years i.e. 2004, 2013 & 2021. As far as mortality rate and actuarial values are considered the IRDA is an expert institution.

As far as life expectancy and death rate has been published by the Census department, which is a Central Government department, an expert institution.

The Interest rates are fixed by the IRDA & RBI from time to time, which are expert bodies.

Judicial Expert body:

The 2nd National Judicial National Pay Commission appointed by Hon'ble Supreme Court of India in the year 2020 chaired by Hon'ble Justice PV Reddy (Former Judge of the Supreme Court of India) with Shri. R. Basant (Former Judge of the High Court of Kerala) as Member and Shri. Vinay Kumar Gupta as Member Secretary, have studied all the aspects, including, the IPS officers' case and recommended for 12 years restoration of commuted value of pension, which is an expert body, appointed by the Hon'ble Supreme Court of India

Hence the data of these expert bodies / expert institution shall be taken into the account for the purpose of restoration of commutation of pension in 12 years and the concerned Central Government Departments shall examine the Government data provided us and call for the records from them and re-examine the whole issue of restoration of commutation of pension of the 1986 orders and Rule 10A of Central Civil Services (Commutation of Pension) Rules, 1981 in light of the details provided by us and the expert institutions records.

The details are provided items wise for your kind perusal: -

Interest rates & recovery period

- 1) The Govt arbitrarily raised the rate of interest telescopically from 4.75% to the market rate of 8% for the post-1.9.08 retirees. The Government is charging simple interest rates to its employees like Housing Loan, Car Advance, etc. We assume that similarly in case of commutation restoration it is charging simple interest rate. RBI Repo rates which are currently 6.5%. In the past, RBI Repo rate had dipped down to 4%. The interest rates fell drastically from the year 2019 to 2023, but the same was not passed on its employees when the SBI housing loan in the market was at 6%, the Government has charged 8% interest rates for its employees.

The LIC and Banks are charging the interest rates of 6.1 % for its pensioners, whereas the central government charges 8% interest rates.

The IRDA had fixed the interest rates of 7.1% with effect from 2020 onwards.

During the commutation table 1 in the year 1973 the GPF interest rate was at 5.8 % the interest on commutation table was fixed at 4.75 % Government extended an interest subsidy for its employees.

Further, in the Supreme court common cause case Writ Petition No. 3958-61 of 1983, the following observation in para number 7 of page 2 and Supreme court case no KHC 828 of 1987 para number 9 was made.

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

"by the example of life insurance, equally unjust it would be to in dealing with a matter of this nature, it is not appropriate to be guided to adopt the interest basis.

On the other hand, the conclusion should be evolved by relating it to the 'years of purchase' basis and an addition of two years necessary for the recovery of interest".

This principle is accepted by 5th CPC vide para number 136.10 (page 1822)

This clearly shows that in case of 1986 retiree, with a commutation factor of 10.46 plus two-year interest recovery as per the supreme court observations works out to 12.5 years of recovery with risk factor in to consideration it works out to 14 years of restoration period.

In case of 2005 retiree, with a commutation factor of 9.81 plus two-year interest recovery works out to 11.8 years of recovery with risk factor in to consideration, it works out to 13 years of restoration period.

In case of 2008 retiree, with a commutation factor of 8.194 plus two-year interest recovery works out to 10.2 years of recovery with risk factor in to consideration, it works out to 11 years of restoration period.

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 (131 months). Even after full recovery, the pensioner keeps on paying for 15 years and thus, he/she 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.

Risk Factor:

- 1) The risk factor is already taken into the account while providing the commutation amount and formulating commutation table. The Institute of Actuaries of India has clarified that by taking 8% interest, the commutation factor at age 60 years and next birthday at 61 years works out to 8.56 without taking into the account the mortality rate and other death benefits and after taking into both mortality rate and other death benefits, it works out to 8.194 (reference: Para number 1.10 of the 2nd National Judicial Pay Commission report.).

If a person opts for commutation of pension say 40%.
His pension basic pay is Rs 40000
He should get Rs $40000 \times 120 \text{ months} \times 40\% = 19.2$ lakhs.
He gets only Rs 15.73 lakhs applying factor of 8.194.

The reason is that the risk factors are taken into account & interest rate of 8% into account.

There is no necessity of once again taking the risk factor, for calculation of restoration period, however, the details are provided for your kind information to prove that risk factor is at 2% only as per the government data.

Life expectancy:

- 2) The life expectancy has been increasing over the years from 1986 to 2023. The life expectancy which was at 57.7 years in 1986 stands at 70.42 years as in 2023,

as per the census department data, hence the risk factor has reduced over the years.

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.

Mortality rate:

3) The Institute of Actuaries of India with the approval of IRDA has been reconstructing the mortality tables every eight years i.e. 2004, 2013 & 2021.

The normal retirement age is taken at 60 years and restoration period of 11 years and one year grace period for risk factor, the mortality table as per the data of Institute of Actuaries and approved by IRDA is produced below:

AGE	Year	Risk factor		Year	Risk factor		Year	Risk factor	
61	2004	0.01439		2013	0.01243		2021	0.00695	
62	2004	0.0159		2013	0.01341		2021	0.00761	
63	2004	0.01761		2013	0.0145		2021	0.00835	
64	2004	0.01952		2013	0.01569		2021	0.00916	
65	2004	0.02162		2013	0.01701		2021	0.01007	
66	2004	0.02272		2013	0.01846		2021	0.01108	
67	2004	0.02562		2013	0.02006		2021	0.0122	
68	2004	0.02882		2013	0.02182		2021	0.01345	
69	2004	0.03237		2013	0.02375		2021	0.01484	
70	2004	0.03629		2013	0.02586		2021	0.01639	
71	2004	0.04539		2013	0.02816		2021	0.01813	
72	2004	0.05064		2013	0.03067		2021	0.02007	
73	2004	0.05064		2013	0.03341		2021	0.02224	
	Total	0.38154			0.27523			0.17053	
	Average	0.046			0.02			0.014	

Hence, the average risk is very less than 2%.

Risk factor for 12 years recovery period is just 3 months.

As per the data published by the Institute of Actuaries of India approved by IRDA, the risk factor is very less and as per the LIC table itself.

The instances of Officers and other Government servants dying before the age of 75 years are quite few in number. Even the commutation table based on LIC 1994-96 Ultimate table 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 up to 78 years. In spite 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.

Absolutely, there is no risk factor involved after 11 years, as the pensioner has repaid the principal and interest part. Even for those pensioners who are in the age group of 60 to 71 years, the risk factor is less than 2%.

The Govt. of India, Dept. of Finance. has submitted Action Taken Report ATR which was laid on the table of both the houses of Hon'ble Parliament on 8th December 2022 on the recommendations of the 110th report of Parliamentary standing Committee, relating to Pensioner's grievances.

According to the recommendation No.2.26, the Finance Ministry GOI has rejected for sanction of Additional Quantum of Pension from 65 years to 80 years @ 5% to 20%, (on the ground as per the Office Memo dt.2.5.2022 of Dept. of Economic Affairs, and as per the OD Note dt.1.6.2022 of Dept. of Expenditure) stating that

"Further, with the improvement in health infrastructure and demographic changes, the overall life expectancy is expected to further go up". i.e. the pensioners age life expectancy.

On one hand the Govt. has rejected for sanction of additional quantum of pension to 65 years and above, due to increase in life expectancy of the pensioners due to health infrastructure, on the other hand it is fleecing the pensioners pension amount in the name of commutation of recovery of pension over and above (10) years in the name of life risk factor/mortality rate.

2nd National Judicial Pay Commission:

The 2nd National Judicial Commission appointed by Hon'ble Supreme Court of India chaired by Justice PV Reddy (Former Judge of the Supreme Court of India) with Shri. R Basant (Former Judge of the High Court of Kerala) as Member and Shri. Vinay Kumar Gupta as Member Secretary has studied all the aspects including the IPS officers case and recommended for 12 years restoration of commuted value of pension which is an expert body appointed by the Supreme court of India has noted the two important paras of this report para number 13 and 13.1 which is reproduced it here:

13.0 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.

2nd National Judicial Commission recommendations are as below :

1. Restoration period of 12 years suggested by Vth 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.
2. 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.

Pension is deferred salary:

The Kerala High Court has in an extremely laudable judgment titled *Abhilash Kumar R & Ors vs Kerala Books and Publication Society & Ors.* in WP (C) No. 11306 of 2015 and connected cases that was pronounced as recently as on August 5, 2022 has held that the right to pension is a constitutional right and that pension cannot be paid to retired employees merely at the whims and fancies of the employers. The Single Judge Bench of Justice VG Arun minced absolutely no words to hold that, "Pension is no longer a bounty to be paid at the whims and fancies of the employer. On the other hand, pension is deferred salary, akin to property under Article 300A. The right to pension, if not a fundamental right, is definitely a constitutional right. A retired employee cannot be deprived of this right, save by authority of law."

The Supreme Court directed to disburse pension to a deceased employee's widow who has been litigating for over a decade. "Pension as is well known, is the deferred portion of the compensation for rendering long years of service. It is a hard-earned benefit accruing to an employee, in the nature of property," the bench comprising Justices R. Subhash Reddy and Hrishikesh Roy observed. (CIVIL APPEAL NO.6953 OF 2021 (Arising Out of SLP (C) No.15113 OF 2018)

Concluding :

Commutation of pension literally means payment of a lump sum amount in lieu of a portion of pension surrendered voluntarily by the pensioner based on a duration of period in relation to age. This is purely an optional facility provided by the Government to the pensioner. The duration is fixed with reference to age as number of years purchased. Though the commutation is optional the government should view it as a welfare measure being a model employer, not as a profit-making measurer, the pensioner takes it for their financial commitments only.

The policy of the Government towards its employees who have served the nation building for more than 30 years of service should be more sympathetic to its employees and the restoration of commuted value of pension after 12 years is justified in view of above justification provided.


(S.B. Yadav)
Secretary General

Request for Commutation Table 3

1. The first ever Commutation Table-1, was based on the Mortality Rates prevailing in 1970. Mortality Rates Table of LIC for the period 1970-73 the Mortality Rates as 0.01258 for age 55 and 0.02014 for age 60. The interest rate charged used to be 4.75%.
2. Although mortality rates continued to decline over the years, it was only 38 years later on 2.9.08 that Commutation Table-1 was revised. The considering the following factors Commutation Table-3 shall be constituted:
 - a) The interest rates have come down to 7.1% from the year 2020 onwards from 8 % in the year 2008.
 - b) The mortality rate in in 2008 was 0.011721 further decreased considerably from the year 2008 to 2021 at 0.006948 as per the mortality table <https://actuariesindia.org/mortality-table> the mortality rate at 60 years next birthday 61 years.
 - c) The life expectancy was at 66 years in 2008 has increased considerably to 70.62 years in 2024.
 - d) Recovery period of 11 years instead of 15 years adopted in 2008.

Expired table is used:

- 3) A glaring fact is exposed by the foot note in the Commutation Table-2 (Copy enclosed) which says “[Basis: LIC (94-96) Ultimate Tables and 8.00% interest]”. The cited “LIC 1994-96 Ultimate Tables” (Copy enclosed) as downloaded from IAI website: <https://actuariesindia.org/mortality-assured-lives-lic1994-96-ultimate-rates-applicable-31122004>. It is clearly printed on top of this Table that it was “applicable up to 31.12.2004”, proving unquestionably that Commutation Table-2, issued on 2.9.08, was ab-initio defective and invalid as it was based on a data which had expired 4 years ago.

The successor to the expired “LIC 1994-96 Ultimate Tables” was the “Mortality modified Table effective from 1/1/2005 was issued by the Institute of Actuaries IAI which is a government agency, but the same values existing in 2004 table was used actually no modification had taken place. (Copy enclosed). The same table of 2004 is used by the government, in spite of the fact that new tables are published in the year 2013 and 2021. Even today the same expired table is used by the government.

The Institute of Actuaries of India with the approval of IRDA has been reconstructing the mortality tables every eight years i.e. 2004, 2013 & 2021.

The normal retirement age is taken at 60 years and restoration period of 11 years and one year grace period for risk factor, the mortality table as per the data of Institute of Actuaries and approved by IRDA is produced below.

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66	2004	0.02272		2013	0.01846		2021	0.01108	
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72	2004	0.05064		2013	0.03067		2021	0.02007	
73	2004	0.05064		2013	0.03341		2021	0.02224	
	Total	0.38154			0.27523			0.17053	
	Average	0.046			0.02			0.014	

The commutation table no 3 shall take the account of IRDA interest rate of 7.1 %, mortality rate as on 1/4/2021 as published by The Institute of Actuaries of India with the approval of IRDA and life expectancy as published by Census department/ LIC of India.


(S.B.Yadav)
Secretary General