

**SIXTY-FOURTH REPORT
COMMITTEE ON PETITIONS**

(SIXTEENTH LOK SABHA)

**MINISTRY OF COMMUNICATIONS
(DEPARTMENT OF TELECOMMUNICATIONS)
AND
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
(DEPARTMENT OF PENSION & PENSIONERS' WELFARE)
AND
(DEPARTMENT OF PERSONNEL & TRAINING)**

(Presented to Lok Sabha on _____)



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**COMPOSITION OF THE COMMITTEE ON PETITIONS
(2018-2019)**

Shri Bhagat Singh Koshyari -*Chairperson*

MEMBERS

2. Shri Suresh C. Angadi
3. Shri Om Birla
4. Shri Jitendra Chaudhury
5. Shri Ram Tahal Choudhary
6. Dr. K. Gopal
7. Shri C.P. Joshi
8. Shri Chhedi Paswan
9. Shri Kamlesh Paswan
10. Shri Arjun Charan Sethi
11. Shri Kodikunnil Suresh
12. Shri Dinesh Trivedi
13. Shri Rajan Vichare
14. Shri Dharmendra Yadav
15. Vacant

SECRETARIAT

- | | | |
|----------------------------|---|---------------------|
| 1. Shri Shiv Kumar | - | Joint Secretary |
| 2. Shri Raju Srivastava | - | Director |
| 3. Shri G.C. Dobhal | - | Additional Director |
| 4. Shri Harish Kumar Sethi | - | Executive Officer |

SIXTY-FOURTH REPORT OF THE COMMITTEE ON PETITIONS

(SIXTEENTH LOK SABHA)

INTRODUCTION

I, the Chairperson, Committee on Petitions, having been authorised by the Committee to present on their behalf, this Sixty-Fourth Report (Sixteenth Lok Sabha) of the Committee to the House on the Representation of Shri Arvind Sawant, M.P., Lok Sabha requesting to review his case of premature resignation from MTNL and other related issues.

2. The Committee considered and adopted the draft Sixty-Fourth Report at their sitting held on 7 February, 2019.

3. The observations/recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;

BHAGAT SINGH KOSHYARI,
Chairperson,
Committee on Petitions.

7 February, 2019

18 Magha, 1940 (Saka)

REPORT

REPRESENTATION OF SHRI ARVIND SAWANT, M.P., LOK SABHA REQUESTING TO REVIEW HIS CASE OF PREMATURE RESIGNATION FROM MTNL AND OTHER RELATED ISSUES.

Shri Arvind Sawant, M.P., Lok Sabha had forwarded a Representation dated 5.1.2018 addressed to the Hon'ble Chairperson, Committee on Petitions to review his case of premature resignation from MTNL and other related issues.

2. Shri Sawant, in his Representation, *inter-alia* stated that he was employed as Junior Technical Officer in Bombay Telephones (Department of Telecommunications; now MTNL) from 8.3.1976 to 31.1.1996 for a period of 19 years 10 months and 24 days. Consequent upon his nomination as Member of the Legislative Council of Maharashtra Legislature in February, 1996, he took oath of office as MLC on 8.2.1996. He has further stated that Department of Telecommunications had not rendered him adequate and fair advice which would have saved his pension entitlement for the service rendered by him in the Department and therefore, he resigned from the post on 1.2.1996. Shri Sawant, therefore, requested to review his case, as under:-

- (i) His resignation from Department of Telecommunications (DoT) be rescinded and vacated as *non est factum*.
- (ii) The shortfall period of 36 days in service may be adjusted either by giving him lien in the DoT for the period from 1.2.1996 to 7.3.1996; or by treating him on leave as may be due from 1.2.1996 to 7.3.1996.
- (iii) He may be allowed to seek Voluntary Retirement, w.e.f., 8.3.1996.
- (iv) His pension entitlement may be sanctioned on the aforesaid basis.

3. The Committee on Petitions took up the Representation for examination under Direction 95 of the Directions by the Speaker, Lok Sabha. Accordingly, the Representation received from Shri Arvind Sawant, M.P., was forwarded to the Ministry of Communications (Department of Telecommunications) and the Ministry of Personnel, Public Grievances & Pensions (Department of Pension & Pensioners' Welfare) for furnishing their comments on the issues raised therein.

4. In response thereto, the Ministry of Communications (Department of Telecommunications) vide their communications dated 13.2.2018 and 26.4.2018 furnished the following comments:-

- (i) *Shri Arvind G. Sawant, while working as JTO on deemed deputation in MTNL, Mumbai, resigned from service on 31.01.1996 to take the office of Member of Legislative Council in Maharashtra. At that point of time, he had not completed 20 years of qualifying service, which has precondition for taking Voluntary Retirement (Rule 48-A of Pension Rules).*
- (ii) *The unconditional resignation was accepted and his name was accordingly struck off from the Government service/Mumbai Telephones w.e.f. 31.01.1996 vide order dated 08.02.1996.*
- (iii) *The request of Shri Sawant for maintaining the lien in the Government service, was not acceded to by the Department of Telecom in consultation with Nodal Ministry i.e. Department of Personnel & Training (DoP&T) and the resignation of Shri Sawant was affirmed by DoT vide order dated 25.7.1996. Taking up of MLC by submitting resignation does not count as taking up service under the Government and resignation tendered by Shri Sawant was not considered as technical resignation.*
- (iv) *Since Shri Sawant has resigned from service for taking oath of MLC, he was not eligible for pension in terms of CCS (Pension) Rules, 1972. Further, as per Rule 26 of CCS (Pension) Rules, 1972, the resignation from service entails forfeiture of past services for pensionary benefits. The recent reference received from MTNL was disposed of accordingly vide letter dated 31.08.2016 and case was deemed as closed as the matter had attained finality twenty years ago.*
- (v) *On receipt of reference from Shri Anant Geete, Minister of Heavy Industries and Public Enterprises and the Hon'ble MoS(IC)/Comm., the matter was taken up with DoP&T.*
- (vi) *The DoP&T also examined the matter and has held that the case of Shri Sawant, Ex-JTO in MTNL regarding revoking the order of his resignation after almost 21 years and converting into Voluntary Retirement on the ground that Shri Sawant was not aware of the process of Voluntary Retirement during his service, is not in order with the extant Rules. Accordingly, after reviewing his case, request of the applicant was not acceded to by the MoS(Comm.) and VIP reference was also disposed of on 14.07.2017.*

- (vii) There are some direct differences between the Voluntary Retirement and Resignation. First, they are covered under different set of Rules. While in the former, precondition of 20 years of qualifying service is mandatory (Rule 48-A of CCS-Pension Rules), the latter does not prescribe minimum qualifying service. In case of Voluntary Retirement, the Government servant has to give three months notice in advance, which shall require acceptance by the Appointing Authority. But, no such precondition of three months is applicable case of latter. In other words, the resignation is generally accepted and there are least formalities in case of resignation. By tendering resignation except in cases of technical resignation to take up employment in Central Government, the past service stands forfeited for pensionary benefits (Rule 26 of CCS-Pension Rules). In present case, the applicant tendered resignation by knowing the consequences of his resignation. He neither submitted notice for Voluntary Retirement nor submitted any reference to convert resignation into VRS before acceptance of his resignation. The Rules of game may not be changed once the game is over. Similarly, the request of conversion of Resignation into VRS without following due procedure may not be allowed as it may upset the administrative laws/rules and cause chaos in effective implementation of Rules/Policy of Government of India. Further, his belated request (approx. delay of 21 years) in this regard seeking relaxation for conversion of resignation into VRS has already been declined by the DoP&T after reviewing his case in terms of facts of the case and relevant Rules i.e. CCS (Pension) Rules, 1972 applicable in the matter. As such, the repeated request of applicant is devoid of merit.
- (viii) The decision communicated by DoT in consultation with Department of Personnel & Training was taken in accordance with Rules.
- (ix) The reference received from MTNL was without any merit as Shri Sawant resigned from service and resignation entails forfeiture of past service. The reply of DoT was in accordance with Rules.

5. The Ministry of Personnel, Public Grievances & Pensions (Department of Pension & Pensioners' Welfare) vide their communication dated 9 November, 2018 furnished the following comments:-

"Based on a reference from Shri Anant Kumar Geete, Hon'ble Minister of Heavy Industries & Public Enterprises, Department of Telecommunications had forwarded a proposal to this Department vide their Note dated 8.5.2017 for conversion of resignation of Shri Arvind Sawant into VRS. While forwarding the above proposal, Department of Telecommunications stated that the request of Shri Sawant for maintaining the lien in the Government service was not acceded to by the DoT in consultation with the nodal

Department i.e. Department of Personnel & Training and the resignation of Shri Sawant was affirmed by DoT vide an order dated 25.7.1996. It was also mentioned by DoT that as per Rule 26 of CCS (Pension) Rules, 1972, the resignation from service entails forfeiture of past service for pensionary benefits. However, considering the peculiar circumstances of the matter, DoT in their note dated 8.5.2017, proposed to convert application of resignation into VRS (by condoning the delay of approximately 20 years) and to relax the standards of grant of VRS under Rule 48-A of the CCS (Pension) Rules, 1972 on completion of 20 years of service. The matter was considered in this Department and it was observed the matters regarding resignation and voluntary retirement from service are administered by Department of Personnel & Training (DoP&T). DoT was, therefore, advised to consult DoP&T in the above matter. This Department is not aware as to whether DoT consulted DoP&T thereafter and, if so, what was the view taken by DoP&T in this regard."

6. The Committee desired to know about the following details with regard to options for Resignation and Voluntary Resignation available to Government vis-a-vis MTNL employees:-

- (i) Relevant Rules, Guidelines , Instructions, and Government of India Decisions;
- (ii) Eligibility and pre-conditions to apply for Resignation/VRS;
- (iii) Eligibility for Pension and other benefits in such cases;
- (iv) Qualifying service including rounding off of the same;
- (v) Appointing/Accepting Authority for Resignation/ VRS;
- (vi) Appellate Authority, if any, to reconsider/review such matters;
- (vii) Time limit prescribed for accepting, approving and conveying of such requests; and
- (viii) Necessity of Vigilance Clearance in such cases and also the details of specific procedure being followed in the Ministry of Communication (DoT) to consider the cases related to Resignation and VRS of the employees of MTNL.

In pursuance thereof, the Ministry of Communications (Department of Telecommunications), in a written reply, submitted:-

"Resignation is an intimation in writing sent to the Competent Authority by the incumbent of post, of his intention or proposal to resign the office/post either immediately or from a future specified date. A resignation has to be clear and unconditional."

A resignation becomes effective when it is accepted and the Government servant is relieved of his duties. If a Government servant who had submitted a resignation, sends an intimation in writing to the appointing authority withdrawing his earlier letter of resignation before its acceptance by the appointing authority, the resignation will be deemed to have been automatically withdrawn and there is no question of accepting the resignation. In case, however, the resignation had been accepted by the appointing authority and the Government servant is to be relieved from a future date, if any request for withdrawing the resignation is made by the government servants before he is actually relieved of his duties, the normal principal should be to allow the request of the government servant to withdraw the resignation. If, however, the request for withdrawal is to be refused, the grounds for the rejection of the request should be duly recorded by the appointing authority and suitably intimated to the Government servant concerned.

Rule 48-A of CCS (Pension) Rules, 1972 states as under:-

- (1) At any time, after a Government servant has completed twenty years of qualifying service, he may, by giving notice of not less than three months in writing to the appointing authority, retire from service.

Copies of Government of India guidelines regarding Resignation and Voluntary Retirement along with relevant extracts from CCS Pension Rules, 1972 are enclosed (**Annexure- I**)

- (i) Resignation : no qualifying service.

VR : As per Rule 48-A of CCS Pension Rules, 1972, at any time after a Government servant has completed twenty years qualifying service, he may, by giving notice of less than three months in writing to the appointing authority, retire from service.

Eligibility for Pension and other benefits in such cases is minimum 20 years and the amount of Pension is determined as per Rule 49 of CCS (Pension Rules), 1972 (**Annexure II**).

The qualifying service commences from the day, when the official assumes the charge to a post (Rule 13 of the CCS Pension Rules, 1972). However, as per Rule 22 of CCS (Pension) Rules, 1972 read with GID (1), the period spent on pre-appointment training in cases of Group C and D employees where salary or nominal allowance has been paid, if training is followed by appointment may be treated as qualifying service. This means there should not be any interruption.

Any interruption, if any, cannot exceed joining time admissible under relevant Rules.

Later, the Department of Telecom vide letter No.36-14/88-NB/T/Pen.dated 25.06.1990 in consultation with DoP&PW issued advisory that if delay in issuing is purely administrative, the delay may be condoned. In such case, pre-appointment training can be treated as qualified.

Power to curtail notice period (of less than three months) is only vested with the Appointing Authority under Rule 48-A of CCS (Pension) Rules, 1972. The powers to relax the standards of Rule 48-A not vested in Appointing Authority. It is vested with D/o Personnel and Training in terms of Rule 88 of CCS (Pension) Rules, 1972. Rule 88 states that concurrence of the Department of Personnel in cases of relaxation is mandatory.

As per Rule 48-A, the notice of VR given under sub-rule (1) shall require acceptance by the Appointing Authority. Appointing authority is the Accepting Authority in case of resignation.

So far as the case of Shri Arvind Sawant is concerned, it may be seen that the appointment order of Shri Sawant, Ex-JTO/16152 was issued by then Director (Telecom) HQ, DOT, O/o.CGM, MH. Circle vide Order No.ST/95-2/JTO-Aptt/ Deptl Dated 30.11.89.

The resignation submitted by Shri A. G. Sawant was accepted by the then DGM(CCF), MH. Circle, DOT on 08.02.1996 w.e.f. 31.1.96. (Annexure-III).

No Appellate Authority to reconsider/review in such matter.

Prior Vigilance Clearance should be obtained before taking decision on the request for resignation reference DoPT OM dated 31st May, 1994."

7. On this issue, Department of Pension & Pensioners' Welfare of the Ministry of Personnel, Public Grievances & Pensions, in a written reply, also submitted:-

"A Government servant retiring in accordance with the provisions of the Central Civil Services (Pension) Rules, 1972 becomes eligible for pension after completing qualifying service of ten years under Rule 49. For qualifying service of less than 10 years, a lump sum service gratuity is payable.

A Government servant who has become eligible for pension or service gratuity under Rule 49 and has completed qualifying service of five years, is also granted Retirement Gratuity as per Rule 50.

The above Rules are equally applicable to the Government servants who take voluntary retirement.

Resignation entails forfeiture of past service. In this connection, Rule 26(1) of the Central Civil Services (Pension) Rules, 1972 is reproduced below:-

26. Forfeiture of service on resignation

- (1) Resignation from a service or a post, unless it is allowed to be withdrawn in the public interest by the appointing authority, entails forfeiture of past service. Pension and Gratuity under the Central Civil Services (Pension) Rules, 1972 is dependent on the length of qualifying service of the Government servant at the time of retirement. Since resignation entails forfeiture of entire past service, no pension or gratuity under the Central Civil Services (Pension) Rules, 1972 is payable to the Government servant on resignation from service.

As per Rule 13 of Central Civil Services (Pension) Rules, 1972, qualifying service of a Government servant commences from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity. As per the Rule 14(1) the service of a Government servant shall not qualify unless his duties and pay are regulated by the Government or under conditions determined by the Government.

A Government servant retiring in accordance with the provisions of the Central Civil Services (Pension) Rules, 1972 becomes eligible for pension after completing qualifying service of ten years, as per Rule 49. For qualifying service of less than 10 years, a lump sum service gratuity is payable.

A Government servant who has become eligible for pension or service gratuity under Rule 49 and has completed qualifying service of five years, is also granted Retirement Gratuity as per Rule 50.

As per Rule 49(3), in calculating length of qualifying service, fraction of a year equal to three months and above is treated as a completed one-half year and reckoned as qualifying service."

8. On this issue, the Department of Personnel & Training of the Ministry of Personnel, Public Grievances & Pensions, in a written reply, further submitted:-

"Rule 26 of CCS (Pension) Rules provides for Resignation and withdrawal of resignation.

DoPT has issued executive instructions on resignation and withdrawal of resignation, details of which are given below:-

- (i) O.M. No. 39/6/57-Estt(A) dated 6.5.1958.*
- (ii) O.M. No. 28034/25/87-Estt(A) dated 11.2.1988.*
- (iii) Estt-A-II - DoPT O.M. 28034/4/94-Estt.(A) dated 31.5.1994.*
- (iv) O.M. No. 28035/2/2007-Estt(A) dated 4.12.2007.*

Rules for VRS:

At any time after a Government servant has completed 20 years qualifying service, he/she may, be giving notice of 3 months in writing to the Appointing Authority, retire from service and shall require acceptance by the Appointing Authority, provided that when Appointing Authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.

Rule 26 of CCS (Pension) Rules provides:-

- (1) Resignation from a service or a post, unless it is allowed to be withdrawn in the public interest by the appointing authority, entails forfeiture of past service.*
- (2) A resignation shall not entail forfeiture of past service if it has been submitted to take up with proper permission, another appointment, whether temporary or permanent, under the Government where service qualifies.*
- (3) Interruption in service in a case falling under sub-rule (2), due to the two appointments being at different stations, not exceeding the joining time permissible under the rules of transfer, shall be covered by grant of leave of any kind due to the Government servant on the date of relief or by formal condonation to the extent to which the period is not covered by leave due to him.*
- (4) The Appointing Authority may permit a person to withdraw his resignation in the public interest on the following conditions, namely :-*

- (i) that the resignation was tendered by the Government servant for some compelling reasons which did not involve any reflection on his integrity, efficiency or conduct and the request for withdrawal of the resignation has been made as a result of a material change in the circumstances which originally compelled him to tender the resignation;
 - (ii) that during the period intervening between the date on which the resignation became effective and the date from which the request for withdrawal was made, the conduct of the person concerned was in no way improper;
 - (iii) that the period of absence from duty between the date on which the resignation became effective and the date on which the person is allowed to resume duty as a result of permission to withdraw the resignation is not more than ninety days;
 - (iv) that the post, which was vacated by the Government servant on the acceptance of his resignation or any other comparable post, is available.
- (5) Request for withdrawal of a resignation shall not be accepted by the appointing authority where a Government servant resigns his service or post with a view to taking up an appointment in or under a private commercial company or in or under a corporation or company wholly or substantially owned or controlled by the Government or in or under a body controlled or financed by the Government.
- (6) When an order is passed by the appointing authority allowing a person to withdraw his resignation and to resume duty, the order shall be deemed to include the condonation of interruption in service but the period of interruption shall not count as qualifying service.
- (7) A resignation submitted for the purpose of Rule 37 shall not entail forfeiture of past service under the Government.

Rule 37 provides that:-

- (1) A Government servant who has been permitted to be absorbed in a service or post in or under a Corporation or Company wholly or substantially owned or controlled by the Central Government or a State Government or in or under a Body controlled or financed by the Central Government or a State Government, shall be deemed to have retired from service from the date of such absorption and

subject to sub-rule (3) he shall be eligible to receive retirement benefits if any, from such date as may be determined, in accordance with the orders of the Central Government applicable to him.

Explanation - Date of absorption shall be:

- (i) *In case a Government employee joins a corporation or company or body on immediate absorption basis, the date on which he actually joins that Corporation or Company or Body;*
 - (ii) *In case a Government employee initially joins a Corporation or Company or Body on foreign service terms by retaining a lien under the Government, the date from which his unqualified resignation is accepted by the Government.*
- (2) *The provisions of sub-rule (1) shall also apply to Central Government servants who are permitted to be absorbed in Joint Sector Undertaking, wholly under the Joint Control of the Central Government and the State Governments/ Union Territory Administrations or under the Joint Control of two or more State Governments/Union Territory Administrations.*
- (3) *Where there is a Pension Scheme in a body controlled or financed by the Central Government in which a Government servant is absorbed, he shall be entitled to exercise option either to count the service rendered under the Central Government in that body for pension or to receive retirement benefits for the service rendered under the Central Government in accordance with the orders issued by the Central Government.*

As per DoPT O.M. No 39/6/57-Estt(A) dated 6.5.1958, the appointing authority in respect of the service or post in question is the Competent Authority to accept resignation.

Further, Rule 26(5) of CCS (Pension) Rules, 1972 provides that request for withdrawal of a resignation shall not be accepted by the Appointing Authority where a Government servant resigns his service or post with a view to taking up an appointment in or under a private commercial Company or in or under a Corporation or Company wholly or substantially owned or controlled by the Government or in or under a Body controlled or financed by the Government.

Similarly, Rule 26(6) provides that when an order is passed by the Appointing Authority allowing a person to withdraw his resignation and to resume duty, the order shall be

deemed to include the condonation of interruption in service but the period of interruption shall not count as qualifying service.

Rule 26(4) (iii) of CCS (Pension) Rules, 1972 provides that the period of absence from duty between the date on which the resignation became effective and the date on which the person is allowed to resume duty as a result of permission to withdraw the resignation is not more than ninety days.

Rule 26(4) (ii) of CCS (Pension) Rules, 1972 provides that during the period intervening between the date on which the resignation became effective and the date from which the request for withdrawal was made, the conduct of the person concerned was in no way improper."

9. On being asked by the Committee about the impact of Resignation (other than Technical Resignation) on the Qualifying Service and Pension, the Ministry of Communications (Department of Telecommunications), in a written reply, submitted:-

"As per Rule 26(1) of CCS Pension Rules, 1972 resignation from a service or a post, unless it is allowed to be withdrawn in the public interest by the appointing authority, entails forfeiture of past service i.e. the Govt. servant will not be entitled for any pension, gratuity or terminal benefits (**Annexure-IV**)

A resignation becomes effective when it is accepted and the Government servant is relieved of his duties. The qualifying service commences from the day, when the official assumes the charge to a post (Rule 13 of the CCS Pension Rules, 1972). However, as per Rule 22 of CCS (Pension) Rules, 1972 read with GID (1), the period spent on pre-appointment training in cases of Group C and D employees where salary or nominal allowance has been paid, if training is followed by appointment may be treated as qualifying service. This means there should not be any interruption. And interruption, if any, cannot exceed joining time admissible under relevant Rules [GID 2]. Later, Department of Telecommunications vide letter No. 36-14/88-NB/T/Pen. Dated 25.06.1990 (GID 3) in consultation with DoP&PW issued advisory that if delay in issuing is purely administrative, the delay may be condoned. In such case, pre-appointment training can be treated as qualified."

10. On this issue, the Ministry of Personnel, Public Grievances & Pensions (Department of Pension & Pensioners' Welfare), in a written reply, submitted:-

"The resignation entails forfeiture of past service as per Rule 26(1) of the Central Civil Services (Pension) Rules, 1972."

11. The Committee, thereafter, desired to know as to whether an employee can request for conversion of his/her Resignation into VRS at a later stage after all the formalities are completed and the factual details along with the procedure and the time limit prescribed under the Rules. The Ministry of Communications (Department of Telecommunications), in a written reply, submitted:-

"No such provision is available in the Government of India Rules related to resignation."

12. On this issue, the Department of Personnel & Training of the Ministry of Personnel, Public Grievances & Pensions, in their written reply, also submitted before the Committee that there are no such Rules.

13. On being categorically desired to know the details of all such similar cases, wherein, an employee tendered his/her conditional/unconditional resignation to the Appointing Authority concerned and his/her case was re-considered and converted into VRS at a later stage, the Ministry of Communications (Department of Telecommunications), in a written reply stated that as per available record, there are no such cases.

14. On the issue, the Ministry of Personnel, Public Grievances & Pensions (Department of Pension & Pensioners' Welfare), in a written reply, submitted:-

"The Department of Pension & Pensioners' Welfare has no information regarding cases of conversion of resignation into VRS by the Appointing Authorities at a later stage."

15. The Committee, thereafter, desired to know as to whether in all such cases of acceptance of Resignation, prior Vigilance Clearance from the Competent Authority is mandatory and the clearance thereof to be accorded expeditiously. The Committee also desired to know as to whether the Vigilance Clearance was obtained in the instant case before acceptance the Resignation of Shri Sawant, M.P. The Ministry of Communications (Department of Telecommunications), in a written reply, submitted:-

"Yes, Vigilance Clearance is necessary. As per DoP&T O.M. No. 280344/4/94-Estt.(A) dated the 31st May, 1994, in all cases of acceptance of resignation, the Competent authority, shall insist , as a mandatory measure, on prior vigilance clearance, before

taking decision on the request for resignation. When an authority refers a case for vigilance clearance, the authority competent to accord vigilance clearance should ensure expeditious consideration of the request.

In the case of Shri Arvind Sawant, Vigilance Clearance was obtained (Letter dated 7.2.1996) (Annexure-V)"

16. On this issue, the Department of Personnel & Training of the Ministry of Personnel, Public Grievances & Pensions, in their written reply, submitted:-

"DoPT O.M. 28034/4/94-Estt. (A) dated 31.5.1994 provides that in all cases of acceptance of resignation, the competent authority, shall insist, as a mandatory measures, on prior vigilance clearance, before taking a decision on the request for resignation."

17. As per Rules, a Resignation becomes effective not merely when it is accepted by the Authority concerned, but only when the officer is actually relieved of his duties, Shri Sawant had tendered his unconditional resignation on 31.1.1996 as advised by MTNL and the same was accepted on 8.2.1996. The name of Shri Sawant was deleted from the records w.e.f. 31.1.1996 vide DOT letter dated 8.2.1996. In his regard, the Committee desired to know the date on which Shri Arvind Sawant was intimated about acceptance of his Resignation and the date on which he was actually relieved from the services of MTNL. The Ministry of Communications (Department of Telecommunications), in a written reply, submitted:-

"Shri Sawant had submitted resignation from service w.e.f. 31.01.1996 (A/N) vide his letter dated 06.02.1996 and the Department allowed to resign him with effect from 31.01.1996 and struck-off from the date 31.01.1996 vide DoT letter dated 08.02.1996."

18. As per Rule 32(1) of the CCS (Pension) Rules, 1972, *"the Head of Office in consultation with the Account Officer is required to issue a certificate regarding qualifying service after completion of 18 years of service and again 5 years before the date of retirement of any employee. Further, the service verification certificate should invariably be issued to the Government Servant in the prescribed Proforma"*. In this regard, the Committee also enquired as to whether the services of Shri Sawant was verified by the Head of Office and provide a copy of the required service Verification Certificate issued to him, the Ministry of Communications (Department of Telecommunications), in a written reply, submitted:-

"At that time verification of qualifying service was to be done after 25 years of the service or 5 years before the retirement as per Rule – 32 of CCS Pension Rules, 1972.

Rule 32 (1) of CCS(Pension) Rules, 1972 has been amended for verification of qualifying service after eighteen years service and five years before retirement as per Department of P&PW Notification dated 21.12.2012 and 29.08.2014(Annexure-VI)."

19. On the issue, the Ministry of Personnel, Public Grievances & Pensions (Department of Pension & Pensioners' Welfare), in a written reply, submitted:-

"The certificate regarding qualifying service is required to be issued by the Head of Office in the concerned Department, i.e. the Department of Telecommunications. It may, however, be mentioned that as per Rule 32(1) of CCS (Pension) Rules, as existing in the year 1996 (when Shri Sawant tendered his resignation), the said certificate of qualifying service was required to be issued after completion of 25 years of service."

20. Similarly, there is Rule 49(3) under Rules ibid which provides for rounding off of Qualifying Service for deciding Pension/Gratuity of an outgoing employee by calculating in completed half-yearly basis. Fractions equal to three months and above is treated as one half-year and fraction of less than 3 months will be ignored (e.g., 19 years + 9 months = 40 six-monthly periods or say 20 years). The Committee, thereafter, desired the Ministry to explain as to whether the service of 19 years and 10 months and 24 days (short of 36 days) rendered by Shri Sawant could be rounded off to 20 years by applying the above Rule to give him benefit of minimum Qualifying Service, if his request for conversion of his Resignation into VRS is accepted by the Appointing Authority. The Ministry of Communications (Department of Telecommunications), in a written reply, submitted:-

"Rule 49 of CCS (Pension) Rules, 1972 deals with the amount of Pension and states as under:-

(1) In the case of a Government servant retiring in accordance with the provisions of these rules before completing qualifying service of ten years, the amount of service gratuity shall be calculated at the rate of half month's emoluments for every completed six monthly period of qualifying service.

(1A), (2), (2A) xxx xxx xxx

- (3) *In calculating the length of qualifying service, fraction of a year equal to [three months] and above shall be treated as a completed one half-year and reckoned as qualifying service.*

This Rules speaks on determining amount of pension including Service Gratuity, DCRG and therefore, applies in cases on retirement only and does not apply in cases of resignation. Resignation govern by Rule 26 of CCS (Pension) Rules, 1972 and stated as under:-

- (1) *Resignation from a service or a post, unless it is allowed to be withdrawn in the public interest by the appointing authority, entails forfeiture of past service.*

For voluntary retirement under Rule 48 A of CCS (Pension) Rules, qualifying service of 20 years is mandatory before a Government servant submits notice."

21. On the issue, the Ministry of Personnel, Public Grievances & Pensions (Department of Pension & Pensioners' Welfare), in a written reply, submitted:-

"A Government servant retiring in accordance with the provisions of the Central Civil Services (Pension) Rules, 1972 becomes eligible for pension after completing qualifying service of ten years, as per Rule 49. In case the request of Shri Sawant for conversion of Resignation into Voluntary Retirement is accepted by the Appointing Authority and in case he had a service of 19 years, 10 months and 24 days which qualifies for pension, then his total qualifying service for the purpose of pension and gratuity would be rounded off to 20 years in accordance with Rule 49(3) of the CCS (Pension) Rules."

22. The Committee when asked the Ministry of Communications (Department of Telecommunications) to elaborate the reasons/hindrances as to why the request of Shri Sawant for conversion of his Resignation into VRS could not be rescinded and vacated as *non est factum* by giving him lien or by treating him on leave as may be due to him from 01.02.1996 to 07.03.1996 or by rounding off his Qualifying Service or treating his absence of 36 days, wherein he was nominated as MLC, as foreign service as in the case of Union office bearers. The Ministry of Communications (Department of Telecommunications), in a written reply, submitted:-

"Matter was taken up with DoPT (being the Competent Authority to clarify or relax the standards) in 1996 on the issue to maintain lien, the Department of Personnel & Training clarified the settled position that Shri Sawant cannot be Government servant and

Legislator at the same time and rejected requested for maintaining lien with Government post.

Matter was again referred to DoPT for conversion of his Resignation into VRS in terms of Rule 88 of CCS(Pension) Rules, 1972 and DoPT informed vide ID note dated 27.06.2017 that the same was not acceded to."

23. On this issue, the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training), in a written reply, submitted:-

"Rule 26 of CCS (Pension) Rules, 1972 does not provide for conversion of resignation into VRS.

Lien is retained when a Government employee is joining other Government Department."

24. Shri Arvind Sawant, M.P., had mentioned that there were Members in the Maharashtra Legislative Council during that period who were elected from Teachers Constituency being Lecturers, Professors in Government and Government recognized, aided Schools/Colleges and who were allowed to keep their lien. The Committee then desired the Ministry of Communications (Department of Telecommunications) to ascertain and intimate as to whether any employee elected/nominated to a Legislature was allowed to retain his/her lien at any point of time. The Ministry of Communications (Department of Telecommunications), in a written reply, submitted:-

"No such information is available."

25. On the issues, the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training), in a written reply, submitted:-

"Lien is retained when a Government Employees is joining other Government Department."

26. In order to have a holistic view in the matter, the Committee took oral evidence of the representatives of the Ministry of Communications (department of Telecommunications) and the Ministry of Personnel, Public Grievances & Pensions (Department of Pension & Pensioners' Welfare and Department of Personnel & Training) on 3 January, 2019.

27. The Committee also afforded an opportunity to Shri Arvind Sawant, M.P., Lok Sabha to make a presentation before the Committee on the issue. Accordingly, on 3 January, 2019, Shri Arvind Sawant was invited before the Committee to hear his view in the matter.

28. During the course of his interaction with the Committee, Shri Arvind Sawant, M.P., *inter alia* submitted before the Committee the following facts:-

"Letter dated 20.2.1996 of General Manager addressed to the DDG (Personnel), Department of Telecom which inter alia stated that- "One of our officials namely Shri Arvind Sawant was nominated by the Governor of Maharashtra as a Member of the Legislative Council. The official had submitted a request that he should be allowed to go as MLC on Foreign Service and his lien should be kept with the Department. Since, there was no earlier incidence like this, we accepted his resignation. The official has since taken oath as MLC, it is understood that he is requesting to explore the possibility of being in Foreign Service as in the case of Union Office bearers. This may kindly be examined and decision communicated to us keeping in view the fact that the official was not elected on a party basis but nominated by the Governor of the State of Maharashtra".

"Letter dated 23.9.2010 of Senior Manager (Personnel) addressed to Director (Staff), Department of Telecom which inter alia stated that- "Please find enclosed an application on the above subject from Shri Arvind Sawant, a DoT employee on deemed deputation with the MTNL who had resigned from his service on 31 January, 1996 to take the office of Member of Legislative Council in Maharashtra. The official, on his appointment as a Phone Inspector after completion of training from 8 March, 1976 to 4 November, 1976 joined his duties on 1 February, 1977 with the break in period of 2 months 28 days, his total length of service including the lien period is 19 years 7 months and 26 days. The request to the official at the time of his resignation to keep his lien in the post in the MTNL, who went to take oath of office as MLC, was not acceded to by the DoT. Since the official was a DoT employee, when he resigned on 31 January, 1996, his break in service period from 5.11.1976 to 13.11.1977, due to administrative reasons, may kindly considered to be condoned which will bring his total length of service to 19 years, 10 months and 24 days, thus falling short of 1 month 6 days to make him eligible for a payment of pension under CCS (Pension) Rules, 1972 after rounding off as 20 years. It is, therefore requested to examine the case once again favourably. This has got the approval of the Competent Authority".

OBSERVATIONS/RECOMMENDATIONS

RECONSIDERATION OF THE CASE OF SHRI ARVIND SAWANT TO CONSIDER HIS RESIGNATION AS VOLUNTARY RETIREMENT

29. The Committee note that Shri Arvind Sawant, while working as JTO on deemed deputation in the Mahanagar Telephone Nigam Limited, Mumbai, after completion of his service of 19 years 10 months and 24 days, tendered his resignation on 31.01.1996 to take the office of Member of Legislative Council, Maharashtra. At that point of time, he had not completed 20 years of qualifying service, which was the pre-condition for seeking Voluntary Retirement as per Rule 48-A of the CCS (Pension) Rules, 1972.

30. The Committee also note that the unconditional resignation of Shri Sawant was accepted by the Competent Authority and his name was accordingly struck off from the Government service/Mumbai Telephones, w.e.f., 31.01.1996. The request of Shri Sawant for maintaining his lien in the Government service was not acceded to by the Department of Telecom (DoT) in consultation with the Nodal Ministry i.e., the Department of Personnel & Training (DoPT). The resignation of Shri Sawant was also affirmed by the DoT, as taking up the position of MLC by submitting resignation does not count as taking up service under the Government and, therefore, the resignation tendered by Shri Sawant could not be considered as a technical resignation. By tendering resignation except in cases of technical resignation to take up employment in Central Government, the past service stands forfeited for Pensionary benefits as per Rule 26 of CCS (Pension) Rules, 1972. In the instant case, Shri Sawant tendered resignation by knowing the consequences of his resignation. He neither submitted the notice for Voluntary Retirement nor submitted any reference to convert his resignation into VRS before acceptance of his resignation.

31. The Committee further note from the submissions made by the DoPT which also examined the matter and held that the case of Shri Sawant regarding revoking the Order of his Resignation after almost 21 years and converting it into Voluntary Retirement on the ground that Shri Sawant was not aware of the process of Voluntary Retirement during his service, is not in order with the extant Rules and therefore, the request of the applicant to convert his Resignation into Voluntary Retirement was not acceded to as it may upset the Administrative Laws/Rules and could cause chaos in the effective implementation of Rules/Policy of the Government of India.

32. The Committee also observe that based on a reference from Shri Anant Kumar Geete, Hon'ble Minister of Heavy Industries & Public Enterprises, the Department of Telecommunications had forwarded a proposal to the Ministry of Personnel, Public Grievances & Pensions (Department of Pension & Pensioners' Welfare) for conversion of the resignation of Shri Arvind Sawant into VRS and to relax the standards for grant of VRS under Rule 48-A of the CCS (Pension) Rules, 1972 on completion of 20 years of service. However, after reviewing his case, the request of Shri Arvind Sawant to convert his resignation into VRS was not acceded to by the Minister of State (Comm.) and the relevant VIP reference was disposed of on 14.07.2017.

33. The Committee further observe from a letter dated 20.2.1996 of the General Manager addressed to the DDG (Personnel), Department of Telecom, wherein it was stated that since, there was no earlier incidence like this, the MTNL accepted his resignation. It was requested to examine the case keeping in view the fact that the official was not elected on a Party basis but actually nominated by the Governor of the State of Maharashtra and also to explore the possibility of being in Foreign Service as in the case of Union Office Bearers to retain his lien with the Department.

34. The Committee also observe from a letter dated 23.9.2010 of the Senior Manager (Personnel) addressed to Director (Staff), Department of Telecom, wherein, it was

requested to examine the case once again favourably to consider the total length of service rendered by Shri Arvind Sawant, i.e., 19 years, 10 months and 24 days, to make him eligible for the payment of Pension under the CCS (Pension) Rules, 1972 after rounding off as 20 years which had the approval of the Competent Authority. The Department of Telecom had not considered the averments made in the aforesaid letter(s) of the General Manager and the Senior Manager.

35. In view of the aforementioned sequence of events and also the fact that Shri Arvind Sawant, M.P., had not contested any election and was nominated for becoming a Member of Legislative Council by the Hon'ble Governor of Maharashtra which would always remain as a matter of distinguishable pride for the MTNL, the Committee urge the Ministry of Communications (Department of Telecommunications), the Ministry of Personnel, Public Grievances & Pensions (Department of Pension & Pensioners' Welfare and the Department of Personnel & Training) to reconsider the case of Shri Arvind Sawant to treat his Resignation as a Voluntary Retirement and allow him to avail all the consequential benefits, including the drawal of Pension, as applicable in the case of an employee who retire from service on attaining the age of superannuation. For this purpose, the shortfall in the qualifying service for being eligible for drawal of Pension could be considered for appropriate condonation, as a Special Case, not to be quoted as a precedent. The Committee would like to be apprised of the conclusive action taken by the Authorities concerned in this regard within three months from the date of presentation of this Report to the House.

NEW DELHI;
7 February, 2019
18 Magha, 1940 (Saka)

BHAGAT SINGH KOSHYARI,
Chairperson,
Committee on Petitions.

Government of India/Pranav Sarkar
 Ministry of Personnel, Public Grievances & Pensions
 (Karmik, Lok Sakshayat, Pratha Pension Mantralaya)
 Department of Personnel & Training
 (Karmik Aur Prasikshan Vibhag)

New Delhi, the 11 Feb. 1988

OFFICE MEMORANDUM

Subject: Resignation from Service - Procedure in respect of

The undersigned is directed to state that instructions have been issued from time to time on the above subject. These instructions have now been consolidated for facility of reference and guidance of all the Ministries/Departments of the Government of India.

Format
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 resig-
 nation

1. Resignation is an intimation in writing sent to the competent authority by the incumbent of a post, of his intention or proposal to resign the office/post either immediately or from a future specified date. A resignation has to be clear and unconditional.

Circum-
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 under
 which
 resigna-
 tion

should
 be
 accepted.

2. It is not in the interest of Government to retain an unwilling Government servant in service. The general rule, therefore, is that a resignation of a Government servant from service should be accepted, except in the circumstances indicated below :

(i) Where the Government servant concerned is engaged on work of importance and it would take time to make alternative arrangements for filling the post, the resignation should not be accepted straightway but only when alternative arrangements for filling the post have been made.

(ii) Where a Government servant, who is under suspension submits a resignation, the competent authority should examine, with reference to the merit of the disciplinary case pending against the Government servant, whether it would be in the public interest to accept the resignation. Normally, as Government servants are placed under suspension only in cases of grave delinquency, it would not be correct to accept a resignation from a Government servant under suspension. Exceptions to this rule would be where the alleged offences do not involve moral turpitude or where the quantum of evidence against the accused Government servant is not strong enough to justify the assumption that if the departmental proceedings were continued, he would be removed or dismissed from service, or where the departmental proceedings are likely to be so protracted that it would be cheaper to the

the public exchequer to accept the resignation.

In those cases where acceptance of resignation is considered necessary in the public interest, the resignation may be accepted with the prior approval of the Head of the Department in respect of Group 'C' & 'D' posts and that of the Minister in charge in respect of holders of Group 'A' and 'B' posts. In so far as Group 'B' officers serving in Indian Audit and Accounts Department are concerned, the resignation of such officers shall not be accepted except with the prior approval of the Comptroller and Auditor General of India. Concurrence of the Central Vigilance Commission should be obtained before submission of the case to the Minister in charge/Comptroller and Auditor General, if the Central Vigilance Commission had advised initiation of departmental action against the Government servant concerned or such action has been initiated on the advice of the Central Vigilance Commission.

3. A resignation becomes effective when it is accepted and the Government servant is relieved of his duties. If a Government servant who had submitted a resignation, sends an intimation in writing to the appointing authority withdrawing his earlier letter of resignation before its acceptance by the appointing authority, the resignation will be deemed to have been automatically withdrawn and there is no question of accepting the resignation. In case, however, the resignation had been accepted by the appointing authority and the Government servant is to be relieved from a future date, if any request for withdrawing the resignation is made by the Government servant before he is actually relieved of his duties, the normal principle should be to allow the request of the Government servant to withdraw the resignation. If, however, the request for withdrawal is to be refused, the grounds for the rejection of the request should be duly recorded by the appointing authority and suitably intimated to the Government servant concerned.

Rules governing temporary Government servants

/refer to Rule 5(1) of the CCS (TS) Rules, 1965, or does not

4. Since a temporary Govt. servant can sever his connection from Govt. service by giving a notice of termination of service under Rule 5(1) of the Central Civil Services (TS) Rules, 1965, the instructions contained in this Office Memorandum relating to acceptance of resignation will not be applicable in cases where a notice of termination of service has been given by a temporary Govt. servant. If, however, a temporary Govt. servant submits a letter of resignation in which he does not even mention that it may be treated as a notice of termination of service, he can relinquish the charge of the post held by him only after the resignation is duly accepted by the appointing authority and he is relieved of his duties and not after the expiry of the notice period laid down in the Temporary Service Rules.

Withdrawal of resignation - after it has become effective and the Government servant has relinquished the charge of his earlier post, and is governed by the following statutory provisions in sub-rules (4) to (6) of Rule 58 of the CES (Pension) Rules 1972 which corresponds to rule 41(3) of the Civil Service Regulations 1955.

Withdrawal of resignation from Govt. service.

For withdrawal of the resignation has been made as a result

The procedure for withdrawal of resignation of a person to withdraw his resignation in the public interest on the following conditions, namely:-

- (i) that the resignation was tendered by the Government servant for some compelling reasons which did not involve any reflection on his integrity, efficiency or conduct and the request for a material change in the circumstances which originally compelled him to tender the resignation;
- (ii) that during the period intervening between the date on which the resignation became effective and the date from which the request for withdrawal was made, the conduct of the person concerned was in no way improper;
- (iii) that the period of absence from duty between the date on which the resignation became effective and the date on which the person is allowed to resume duty as a result of the submission to withdraw the resignation is not more than ninety days;
- (iv) that the post, which was vacated by the Government servant on the acceptance of his resignation or any other comparable post, is available;
- (v) Request for withdrawal of a resignation shall not be accepted by the appointing authority where a Government servant resigns his service or post with a view to taking up an appointment in or under a private commercial company or in or under a co-operation or company wholly or substantially owned or controlled by the Government or in or under a body controlled or financed by the Government;
- (6) When an order is passed by the appointing authority allowing a person to withdraw his resignation and to resume duty, the order shall be deemed to include the condonation of interruption in service but the period of interruption shall not count as qualifying service."

.../...

6. Since the G.S. (Pension) Rules, 1972 are applicable only to holders of permanent posts, the above provisions could apply only in the case of a permanent Government servant who had resigned his post. The cases of withdrawal of resignation of permanent Government servants which involve relaxation of any of the provisions of the above rules will need the concurrence of the Ministry of Personnel, Public Grievances and Pensions as per Rule 25 of the G.S. (Pension) Rules, 1972.

Withdrawal of resignation by Quasi-permanent Government servants.

7. Cases of quasi-permanent Government servants requesting withdrawal of resignation submitted by them would be considered by the Department of Personnel and Training on merits.

Release of Govt. servants for appointment in Central Public Enterprises.

8. A Government servant who has been selected for a post in a Central Public Enterprises/Central autonomous body may be released only after obtaining and accepting his resignation from the Government service. Resignation from Government service with a view to secure employment in a Central public enterprise with proper permission will not entail forfeiture of the service for the purpose of retirement/terminal benefits. In such cases, the Government servant concerned shall be deemed to have retired from service from the date of such resignation and shall be eligible to receive all retirement/terminal benefits as admissible under the relevant rules applicable to him in his parent organisation.

When resignation of technical formalities.

9. In cases where Government servants apply for posts in the same or other departments through proper channel and on selection, they are asked to resign their previous posts for administrative reasons, the benefit of past service may, if otherwise admissible under rules, be given for purposes of fixation of pay in the new post treating the resignation as a 'technical formality'.

(S. K. Parthasarathy)
Joint Secretary to the Govt. of India

To
All Ministries/Departments of the Govt. of India

No. 28034/25/87-Estt (A) New Delhi, dt. 12.6.1988

Copy forwarded to :-

1. Central Vigilance Commission, 3 Dr. Rajendra Prasad Road, New Delhi.
2. Comptroller & Auditor General of India.

.../-

3. Secretary, UPSC, New Delhi.
4. Lok Sabha/Rajya Sabha Secretariat, New Delhi.
5. Commissioner for Linguistic Minorities, Allahabad.
6. All Accountants General of States.
7. Director of Audit C.R., AGCF, Building, New Delhi.
8. Director of Audit, Commerce, Works & Miscellaneous, IP Estate, New Delhi.
9. All the attached and subordinate offices of MHA and Ministry of Personnel, Public Grievances and Pensions.
10. All Union Territory Administrations.

(V.K. Chherian)
DESK OFFICER

Copy to :-

PS to Secretary/JS (E)/MHA/A13/11/59c

Retirement on completion of 20 years' qualifying service

(1) At any time after a Government servant has completed twenty years' qualifying service, he may, by giving notice of not less than three months in writing to the appointing authority, retire from service.

⁴ Provided that this sub-rule shall not apply to a Government servant, including scientist or technical expert who is -

(i)	on assignments under the Indian Technical and Economic Cooperation (ITEC) Programme of the Ministry of External Affairs and other aid programmes,
(ii)	posted abroad in foreign based offices of the Ministries/Departments,
(iii)	on a specific contract assignment to a foreign Government,

unless, after having been transferred to India, he has resumed the charge of the post in India and served for a period of not less than one year.

(2) The notice of voluntary retirement given under sub-rule (1) shall require acceptance by the appointing authority :

Provided that where the appointing authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.

¹(3) - Omitted

2(3-A)	(a)	Government servant referred to in sub-rule (1) may make a request in writing to the appointing authority to accept notice of voluntary retirement of less than three months giving reasons therefor ;
	(b)	on receipt of a request under clause (a), the appointing authority subject to the provisions of sub-rule (2), may consider such request for the curtailment of the period of notice of three months on merits and if it is satisfied that the curtailment of the period of notice will not cause any administrative inconvenience, the appointing authority may relax the requirement of notice of three months on the condition that the Government servant shall not apply for commutation of a part of his pension before the expiry of the period of notice of three months.

(4) Government servant, who has elected to retire under this rule and has given the necessary notice to that effect to the appointing authority, shall be precluded from withdrawing his notice except with the specific approval of such authority :

Provided that the request for withdrawal shall be made before the intended date of his retirement.

(5) Omitted vide notification GSR No.928 (E), dated 21st December, 2012 [F.No.38/80/08-P&PW(A)]

(6) This rule shall not apply to a Government servant who -

(a)	retires under <u>Rule 29</u> , or
(b)	retires from Government service for being absorbed permanently in an autonomous body of a public sector undertaking to which he is on deputation at the time of seeking voluntary retirement.

EXPLANATION. - For the purpose of this rule the expression "*appointing authority*" shall mean the authority which is competent to make appointments to the service or post from which the Government servant seeks voluntary retirement.

Footnote : 1. Deleted by G.I., Dept. of Per. & A.R., Notification No. 32/2/83-Pension Unit, dated the 26th August, 1983. Takes effect from the 10th September, 1983.

2. Inserted by G.I., Dept. of Per. & A.R., Notification No. 31/3/80-Pension Unit, dated the 5th March, 1981.

3. Inserted by G.I., M.F., Notification No. 7(2)-E.V(A)/73, dated 28th November, 1978.

4. Inserted by G.I., Dept. of P. & P.W., Notification No. 38/15/85-Pension Unit, dated the 1st July, 1985, published as S.O. No. 3324 in the Gazette of India, dated the 20th July, 1985 and takes effect from that date.

5. Substituted vide G.I., Dept. of P. & P.W., Notification No. 2/18/87 P. & P.W. (PIC), dated the 20th July, 1988. Published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988.

Amount of Pension

¹(1) In the case of a Government servant retiring in accordance with the provisions of these rules before completing qualifying service of ten years, the amount of service gratuity shall be calculated at the rate of half month's emoluments for every completed six monthly period of qualifying service.

{{(1A) The dearness allowance admissible on the date of retirement shall also be treated as emoluments for the purpose of sub-rule (1).} Inserted vide notification GSR No.928 (E), dated 21st December, 2012 [F.No.38/80/08-P&PW]

(2)	[In the case of a Government servant retiring in accordance with the provisions of these rules after completing qualifying service of not less than ten years, the amount of pension shall be calculated at fifty per cent of emoluments or average emoluments, whichever is more beneficial to him, subject to a minimum of three thousand and five hundred rupees per mensem and maximum of forty-five thousand rupees per mensem.]; Substituted vide notification GSR No.928 (E), dated 21st December, 2012 [F.No.38/80/08-P&PW]	
(2A)	In addition to pension admissible in accordance with sub-rule (2), after completion of eighty years of age or above, additional pension shall be payable to the retired Government servant in the following manner:-	
	Age of Pensioner	Additional pension
	From 80 years to less than 85 years	20% of basic pension
	From 85 years to less than 90 years	30% of basic pension
	From 90 years to less than 95 years	40% of basic pension
	From 95 years to less than 100 years	50% of basic pension
	100 years or more	100% of basic pension
	*substituted vide notification GSR No.928 (E), dated 21st December, 2012 [F.No.38/80/08-P&PW]	

²(3) In calculating the length of qualifying service, fraction of a year equal to ³[three months] and above shall be treated as a completed one half-year and reckoned as qualifying service.

²(4) The amount of pension finally determined under Clause (a) or Clause (b) of sub-rule (2), shall be expressed in whole rupees and where the pension contains a fraction of a rupee it shall be rounded off to the next higher rupee.

⁴(5) & (6) Deleted

Footnote : 1. Substituted vide G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988. Published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988. Takes effect from 1st January, 1986.

2. Substituted by G.I., Dept. of Per. & A.R., Notification No. F. 38 (4)-Pen. (A)/80, dated the 8th August, 1980.

3. Substituted by G.I., Dept. of Per. & A.R., Notification No. 32/4/83-Pension Unit, dated the 26th August, 1983. Takes effect from 28th June 1983.

4. Deleted by G.I., Dept. of Per. & A.R., Notification No. F. 38 (4)-Pen. (A)/80, dated the 8th August, 1980.

5. Substituted vide G.I., Dept. of P. & P.W., Notification No. 2/18/87-P. & P.W. (PIC), dated the 20th July, 1988. Published as S.O. No. 2388 in the Gazette of India, dated the 6th August, 1988. Takes effect from 1st January, 1986.

Annex 3
5/10-5
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7

DEPARTMENT OF TELECOMMUNICATION

O/o Dy.General Manager (CCF)
Maharashtra Telecom Circle,
Telephone House, 2nd floor,
V.S.Marg, Dadar (West),
Bombay-400 028.

C. E/ST/PF-16152/JTO/95-96

Dated: 6/2/1996.

Sub: RESIGNATION.

Shri.A.G.Sawant, JTO, St.No.16152, attached to SDE(QCS)WDL under GM(N)Unit, an employee of the Department of Telecommunication who is deemed to be on deputation to Mahanagar Telephone Nigam Ltd. Bombay without deputation allowances as per the letter No.1-116/89 NCG dated 25.2.86, issued by Dy.Director General (T), New Delhi is allowed to resign with effect from 31.1.96 A/N and his name is hereby struck-off from the date (i.e. 31.1.96 A/N).

P. S. Satyavardhan Singh

Dy.General Manager (CCF)
Maharashtra Telecom Circle

Copy to:

1. ACM(A-I)MTNL with 5 spare copies.
2. SDE(QCS)wadala/DWD : one copy may be kept in P & one copy in C/R file of the official.
3. AO (C)N/AO (W)N.
4. CAO (N)MTNL Bombay/CAO (Maharashtra Circle)Bombay
5. Vigilance Officer
6. E.O.MTNL & E.O.MTC.
7. Guard file/Staff file/DA; Master Data.

प्रमुख (प्रशा-1/3)
Deputy Manager (A-1/3)
एच.टी.एन.एल., मुंबई-28
MTNL, Mumbai-28

26. Forfeiture of service on resignation

Footnote : 1. Substituted by G.I., M.F., Notification No. F. 6 (12)-E. V (A)/72, dated the 7th April, 1977.

- (1) Resignation from a service or a post, unless it is allowed to be withdrawn in the public interest by the appointing authority, entails forfeiture of past service.
- (2) A resignation shall not entail forfeiture of past service if it has been submitted to take up, with proper permission, another appointment, whether temporary or permanent, under the Government where service qualifies.
- (3) Interruption in service in a case falling under sub-rule (2), due to the two appointments being at different stations, not exceeding the joining time permissible under the rules of transfer, shall be covered by grant of leave of any kind due to the Government servant on the date of relief or by formal condonation to the extent to which the period is not covered by leave due to him.
- (4) The appointing authority may permit a person to withdraw his resignation in the public interest on the following conditions, namely :-

(i)	that the resignation was tendered by the Government servant for some compelling reasons which did not involve any reflection on his integrity, efficiency or conduct and the request for withdrawal of the resignation has been made as a result of a material change in the circumstances which originally compelled him to tender the resignation ;
(ii)	that during the period intervening between the date on which the resignation became effective and the date from which the request for withdrawal was made, the conduct of the person concerned was in no way improper ;
(iii)	that the period of absence from duty between the date on which the resignation became effective and the date on which the person is allowed to resume duty as a result of permission to withdraw the resignation is not more than ninety days ;
(iv)	that the post, which was vacated by the Government servant on the acceptance of his resignation or any other comparable post, is available.

(5) Request for withdrawal of a resignation shall not be accepted by the appointing authority where a Government servant resigns his service or post with a view to taking up an appointment in or under a private commercial company or in or under a corporation or company wholly or substantially owned or controlled by the Government or in or under a body controlled or financed by the Government.

(6) When an order is passed by the appointing authority allowing a person to withdraw his resignation and to resume duty, the order shall be deemed to include the condonation of interruption in service but the period of interruption shall not count as qualifying service.

¹[(7) A resignation submitted for the purpose of Rule 37 shall not entail forfeiture of past service under the Government.]

Footnote : 1. Inserted by G.I., Dept. of P. & P.W., Notification No. 4/15/88-P. & P.W. (D), dated the 9th October, 1991, published as S.O. No. 2740 in the Gazette of India, dated the 2nd November, 1991.

महानगर टेलीफोन निगम लिमिटेड (म.न.ट.न.)
भारत सरकार का विभाग

प्रेषः

तत्कालीन अधिकारी
मुख्य महासूचक, का. का. पालिका,
महानगर टेलीफोन निगम लिमिटेड (म.न.ट.न.)
टेलीफोन हाउस, 14 वीं मंजिल
प्रभादेवा, कोलकाता-700 028

(क्र. 11)
विभा. प्र. सहाराथक सांख्यिकी (अंतर)
म. न. ट. न. लि. लि. लि. लि.
बडला टेलि. दुर्लभाजी केंद्र
जि. द. ओ. लि. लि. लि. लि.
दाहर, गुल-4700 014

त. वी. 115/एन. वी. ओ. 95-06/15

वर्ग, दिनांक 7/2/96

विषय: श्री. अरविंद आ. सांतन तत्कालीन मामला ।

तदर्थ: आपका दिनांक 4/2/96 का पत्र संख्या N/ST/PH/6152

निम्नलिखित अधिसूचना के विरुद्ध आप का तारीख तक तत्कालीन रूप से कोई मामला
अनिवार्य नहीं है।

तथापि आपका के विरुद्ध कोई अनुमानित मामला चल रहा है अथवा उसके विरुद्ध अनुमानित
मामला अर्पित है इसी अनिवार्य रूप से आपका के संगत अनुमानित अधिकारी से
प्राप्त करें।

नाम पदनाम स्टाफ नं.

① श्री. अरविंद आ. सांतन कबिरा दूरसंचार 16152
अधिकारी

7/2/96

महानगर टेलीफोन निगम लिमिटेड (म.न.ट.न.)

प्राप्ति/070/1991

32. Verification of qualifying service after [eighteen years]* years service, [and]^ [five years]* before retirement

(1) On a Government servant completing [eighteen years]* of service [and]^ on his being left with five years of service before the date of retirement, whichever is earlier, the Head of Office in consultation with the Accounts Officer shall, in accordance with the rules for the time being in force, verify the service rendered by such a Government servant, determine the qualifying service and communicate to him, in Form 24, the period of qualifying service so determined. substituted vide

^[(1A) For the purposes of verification of service, the Head of Office shall follow the procedure provided in clause (a) of rule 59.]

^ Substituted/inserted vide GSR 628(E), dated 1st September, 2014, Government of India, Department of Pension & Pensioners' Welfare Notification No.1/19/2013-P&PW(E), dated 29th August, 2014

*Substituted by G.S.R. No.928(E), G.I Deptt. of P&PW Notification No.38/80/2012 dated 21st December, 2012

(2) Notwithstanding anything contained in sub-rule (1), where a Government servant is transferred to another department from a temporary department or on account of the closure of the department he had been previously serving or because the post he held had been declared surplus, ¹[] the verification of his service may be done whenever such event occurs.

Footnote : 1. Deleted by G.I., Dept. of Per. & A.R., Notification No. 6 (1), Pen. (A)/79, dated the 19th May, 1980.

²(3) The verification done under sub-rules (1) and (2) shall be treated as final and shall not be reopened except when necessitated by a subsequent change in the rules and orders governing the conditions under which the service qualifies for pension.

Footnote : 2. Substituted by G.I., M.F., Notification No. 4 (2)-E. V (A)/77, dated the 12th December, 1977.

88. Power to relax

Where any Ministry or Department of the Government is satisfied that the operation of any of these rules, causes undue hardship in any particular case, that Ministry or Department, as the case may be, may, by order for reasons to be recorded in writing, dispense with or relax the requirements of that rule to such extent and subject to such exceptions and conditions as it may consider necessary for dealing with the case in a just and equitable manner :

Provided that no such order shall be made except with the concurrence of the ¹[Department of Pension & Pensioner's Welfare].

Footnote : 1. Substituted by G.I., Dept. of P. & A.R., Notification No. 6 (2)-Pen. (A)/79, dated the 1st August, 1980.

13. Commencement of qualifying service

Subject to the provisions of these rules, qualifying service of a Government servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity :

Provided that officiating or temporary service is followed without interruption by substantive appointment in the same or another service or post :

Provided further that -

(a)	in the case of a Government servant in a Group 'D' service or post who held a lien or a suspended lien on a permanent pensionable post prior to the 17th April, 1950, service rendered before attaining the age of sixteen years shall not count for any purpose, and
(b)	in the case of a Government servant not covered by clause (a), service rendered before attaining the age of eighteen years shall not count, except for compensation gratuity.
* (c)	the provisions of clause (b) shall not be applicable in the cases of counting of military service for civil pension under Rule 19

* Inserted vide Notification No. 28/19/2001-P&PW(B) dated 11-11-2003 published as so no. 3205 in Gazette of India dated 22-11-2003.

**MINUTES OF THE FIFTY-FOURTH SITTING OF THE COMMITTEE ON PETITIONS
(SIXTEENTH LOK SABHA)**

The Committee on Petitions met on Thursday, 3 January, 2019 from 1530 hrs. to 1700 hrs. in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

Shri Bhagat Singh Koshyari - Chairperson

MEMBERS

2. Shri Dinesh Trivedi
3. Shri Jitendra Chaudhury
4. Shri Ram Tahal Choudhary
5. Shri Suresh C. Angadi
6. Shri Chhedi Paswan
7. Shri Rajan Vichare

SECRETARIAT

1. Shri Raju Srivastava - Director
2. Shri G. C. Dobhal - Additional Director

SPECIAL INVITEE

Shri Arvind Sawant, M.P., Lok Sabha

WITNESSES

MINISTRY OF COMMUNICATIONS (DEPARTMENT OF TELECOMMUNICATIONS)

1. Shri Ravi Kant - Advisor (S)
2. Shri P. K. Purwar - CMD, MTNL
3. Shri A. K. Singh - DDG (Pers.)
4. Shri R. K. Tondar - Director (Staff)

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES & PENSIONS
(DEPARTMENT OF PENSION & PENSIONERS' WELFARE
AND
DEPARTMENT OF PERSONNEL & TRAINING)

- | | | | |
|----|---------------------------|---|------------------------------|
| 1. | Shri K. V. Eapen | - | Secretary (Pension) |
| 2. | Smt. Sujata Chaturvedi | - | Additional Secretary (Estt.) |
| 3. | Shri Sanjiv Narain Mathur | - | Joint Secretary (Pension) |
| 4. | Shri Harjit Singh | - | Director (PP) |

MINISTRY OF STEEL

2. At the outset, the Hon'ble Chairperson welcomed the Members of the Committee to the sitting of the Committee.

[Special Invitee, Shri Arvind Sawant, M.P., Lok Sabha was, then, ushered in]

3. After welcoming Shri Arvind Sawant, M.P., Lok Sabha, the Chairperson drew his attention to Direction 55(1) of the Directions by the Speaker and invited him to express his views contained in Representation *inter alia* on the aspect of review his case of premature resignation from MTNL and other related issues.

4. Shri Arvind Sawant put forth some of the important aspects of his case before the Committee, as under:-

- (i) He was employed as Junior Technical Officer in Bombay Telephone (Department of Telecommunications which was later on rechristened as MTNL) from 8.3.1976 to 31.1.1996 (i.e., for a period of 19 years 10 months and 24 days).
- (ii) In the year 1996, the then Hon'ble Governor of Maharashtra nominated him as a Member of the Legislative Council and he took oath as MLC on 8.2.1996 and subsequently tendered his resignation from MTNL with effect from 31.1.1996.
- (iii) As there was a shortfall of 23 days for completion of 20 years of qualifying service, he requested for keeping his lien in the Company. However since there was no such precedence, in reply to his request, he received a communication dated 6.2.1996 from the Company which *inter alia* stated that - "*With reference to the above-mentioned subject, it is to state that the letter submitted by you is a conditional one and hence cannot be considered. Therefore, you are hereby requested to submit an unconditional resignation letter immediately so as to process the case further.*"

- (iv) Subsequently, he again requested the Company to revoke his resignation and to keep his lien so as to enable him to join the Company after his tenure as MLC is over.
- (v) He also referred to a letter dated 20.2.1996 of the General Manager addressed to the DDG (Personnel), Department of Telecom which *inter alia* stated that- "One of our officials namely Shri Arvind Sawant was nominated by the Governor of Maharashtra as a Member of the Legislative Council. The official had submitted a request that he should be allowed to go as MLC on Foreign Service and his lien should be kept with the Department. Since, there was no earlier incidence like this, we accepted his resignation. The official has since taken oath as MLC, it is understood that he is requesting to explore the possibility of being in Foreign Service as in the case of Union Office bearers. This may kindly be examined and decision communicated to us keeping in view the fact that the official was not elected on a party basis but nominated by the Governor of the State of Maharashtra".
- (vi) He further referred to a letter dated 23.9.2010 of the Senior Manager (Personnel) addressed to the Director (Staff), Department of Telecom which *inter alia* stated that- "Please find enclosed an application on the above subject from Shri Arvind Sawant , a DoT employee on deemed deputation with the MTNL who had resigned from his service on 31 January, 1996 to take the office of Member of Legislative Council in Maharashtra. The official, on his appointment as a Phone Inspector after completion of training from 8 March, 1976 to 4 November, 1976 joined his duties on 1 February, 1977 with the break in period of 2 months 28 days, his total length of service including the lien period is 19 years 7 months and 26 days. The request of the official at the time of his resignation to keep his lien in the post in the MTNL, who went to take oath of office as MLC, was not acceded to by the DoT. Since the official was a DoT employee, when he resigned on 31 January 1996, his break in service period from 5.11.1976 to 13.11.1977, due to administrative reasons, may kindly considered to be condoned which will bring his total length of service to 19 years, 10 months and 24 days, thus falling short of 1 month 6 days to make him eligible for payment of Pension under the CCS (Pension) Rules, 1972 after rounding off as 20 years. It is, therefore requested to examine the case once again favourably. This has got the approval of the Competent Authority".
- (vii) Till the year 1996, all the employees of MTNL, Delhi and Mumbai were on deemed deputation with the same service conditions of the Department of Telecommunications. However, in the year 1998, the Government provided an option to the employees who were on deemed deputation to the MTNL, to join MTNL. Consequently, around 99 percent employees joined and got absorbed in the MTNL.

5. Shri Arvind Sawant further stated that he has been continuously pursuing the matter with the concerned Authorities since he became MLC in Maharashtra, but to no avail.

[The Special Invitee, Shri Arvind Sawant, M.P., Lok Sabha, then, withdrew]

[Thereafter, the representatives of the Ministry of Communications (Department of Telecommunications and the Ministry of Personnel, Public Grievances & Pensions (Department of Pension & Pensioners' Welfare and Department of Personnel & Training) and MTNL were ushered in]

6. After welcoming the witnesses, the Chairperson read out Direction 55(1) of the Directions by the Speaker regarding the confidentiality of the proceedings of the Committee. The Committee heard the representatives of the Ministry of Communications (Department of Telecommunications and the Ministry of Personnel, Public Grievances & Pensions (Department of Pension & Pensioners' Welfare and Department of Personnel & Training) on the issues/points raised by Shri Arvind Sawant, M.P., Lok Sabha in his Representation requesting to review his case of premature resignation from the MTNL and other related issues. The major issues put forth by the representatives of the Ministries/MTNL before the Committee were as under:-

- (i) Shri Arvind Sawant was appointed in the Bombay Telephone in 1976. After completion of training, he joined the Company in 1977, which was then part of Department of Telecommunications. However, on 1.4.1986, when MTNL was created, the employees of the Bombay Telephone were sent to MTNL on deemed deputation.
- (ii) He had rendered his unconditional resignation from the services of MTNL, w.e.f., 31.1.1996 and later on, he requested to convert his resignation into VRS. However, neither there was such a precedent nor there is such a Rule/Provision for converting the Resignation into VRS, at present.

7. Thereafter, the Committee opined in unison, that the issues/points raised by the Representationist, Shri Arvind Sawant, M.P., Lok Sabha, in his instant Representation, though are of non-precedential in nature, his nomination to the Member of the Legislative Council of Maharashtra was a matter of pride and honor for the MTNL/DoT. Therefore, the request of Shri Arvind Sawant for converting his resignation into VRS may be re-considered by the Ministries/MTNL concerned.

[The witness, then withdrew]

8.	XXXX	XXXX	XXXX
9.	XXXX	XXXX	XXXX
10.	XXXX	XXXX	XXXX

11. A copy of the verbatim record of the proceedings of the sitting of the Committee has been kept.

The Committee, then, adjourned.

**MINUTES OF THE FIFTY-FIFTH SITTING OF THE COMMITTEE ON PETITIONS
(SIXTEENTH LOK SABHA)**

The Committee met on Thursday, 7 February, 2019 from 1530 hrs. to 1630 hrs. in Committee Room No.2, Block-A, Parliament House Annexe Extension Building, New Delhi.

PRESENT

Shri Bhagat Singh Koshyari - Chairperson

MEMBERS

2. Shri Suresh C. Angadi
3. Shri Om Birla
4. Shri Jitendra Chaudhury
5. Shri Ram Tahal Choudhary
6. Shri Chhedi Paswan
7. Shri Dinesh Trivedi
8. Shri Rajan Vichare

SECRETARIAT

1. Shri Shiv Kumar - Joint Secretary
2. Shri Raju Srivastava - Director
3. Shri G. C. Dobhal - Additional Director

2. At the outset, the Hon'ble Chairperson welcomed the Members to the sitting of the Committee.

3. The Committee, thereafter, took up for consideration the following Draft Reports :-

- (i) Report on the Representation of Shri Arvind Sawant, M.P., Lok Sabha requesting to review of his case of premature resignation from MTNL and other related issues;

(ii) XXXX XXXX XXXX

(iii)	XXXX	XXXX	XXXX
(iv)	XXXX	XXXX	XXXX

4. After discussing the above mentioned Draft Reports in detail, the Committee adopted all the four Reports without any modification(s). The Committee also authorised the Chairperson to finalize the Draft Reports and present the same to the House in the current Budget Session.

5.	XXXX	XXXX	XXXX
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The Committee, then, adjourned.
