

Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)

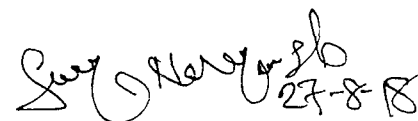
North Block, New Delhi
Dated 27th August, 2018

OFFICE MEMORANDUM

Subject: Master Circular on Technical resignation and lien in Central Services-reg.

The undersigned is directed to refer to this Department's OM No. 28020/1/2010 dated 17.08.16 on the above subject and to say that guidelines/instructions regarding lien/technical resignation have been issued from time to time. It is now proposed to further consolidate these instructions to provide clarity and ease of reference.

2. Before the Master Circular is finalized, it is requested to furnish comments/views in this regard, if any, by 10.9.2018 to the undersigned at the e-mail address: jha.sn@nic.in.



(Surya Narayan Jha)

Under secretary to the Government of India
Telefax: 23094248

To
All Secretaries of Ministries / Departments.

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8. The Comptroller and Auditor General of India, New Delhi.
9. The Secretary, Union Public Service Commission, New Delhi.
10. Central Vigilance Commission, New Delhi.
11. Central Bureau of Investigation, New Delhi.
12. All Union Territory Administration

No. 28020/3/2018-Estt.(C)
Government of India
Ministry of Personnel, PG and Pensions
Department of Personnel & Training

North Block, New Delhi
Dated: , 2018

OFFICE MEMORANDUM

Subject: Master Circular on Technical resignation and Lien in Central Services-reg .

The undersigned is directed to refer to this Department's O.M No. 28020/1/2010-Estt(C) dated 17.08.16 wherein consolidated instructions on Lien /Technical resignation were issued.

2. It has been decided to consolidate the instructions/guidelines in relation to on Lien/ Technical resignation as a Master Circular to provide clarity and ease of reference. The consolidated guidelines issued vide O.M. dated 17.08.16 has been suitably updated as on date and the same is enclosed. The list of O.Ms issued till date is at Appendix.

(N. Sriraman)
Director (Establishment)
Telefax: 23094637

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- (VII) The Controller and Auditor General of India, New Delhi
- (VIII) The Secretary, Union Public Service Commission
- (IX) The Secretary, Staff Selection Commission
- (X) All Attached offices under the Ministry of Personnel, Public Grievances and Pensions
- (XI) All Officers and Section in the Department of Personnel & Training

Master Circular on Lien/ Technical resignation in Central Services

TECHNICAL RESIGNATION

1. As per the Ministry of Finance OM No. 3379-E.III (B)/65 dated the 17th June, 1965, the resignation is treated as a technical formality where a Government servant has applied through proper channel for a post in the same or some other Department, and is on selection, required to resign from the previous post for administrative reasons. The resignation will be treated as technical resignation if these conditions are met, even if the Government servant has not mentioned the word "Technical" while submitting his resignation. The benefit of past service, if otherwise admissible under rules, may be given in such cases. Resignation in other cases including where competent authority has not allowed the Government servant to forward the application through proper channel will not be treated as a technical resignation and benefit of past service will not be admissible. Also, no question of benefit of a resignation being treated as a technical resignation arises in case of it being from a post held on *ad hoc* basis.

2. This benefit is also admissible to Government servants who have applied before joining the Government service and on that account the application was not routed through proper channel. The benefit of past service is allowed in such cases subject to the fulfilment of the following conditions:-

- a. the Government servant should intimate the details of such application immediately on her joining;
- b. the Government servant at the time of resignation should specifically make a request, indicating that she is resigning to take up another appointment under Government for which she had applied before joining the Government service;
- c. the authority accepting the resignation should satisfy itself that had the employee been in service on the date of application for the post mentioned by the employee, her application would have been forwarded through proper channel.

Carry forward of Leave benefits

3 In terms of Rule 9(2) of the CCS (Leave) Rules, 1972, technical resignation shall not result in the lapse of leave to the credit of the Government servant. The balance of unutilised CCL as well as all other leaves of the kind due & admissible will be carried forward.

4 As per rule 39-D of the CCS(Leave) Rules,1972, in case of permanent absorption in PSUs/ Autonomous Bodies/ State Government etc., the Government servant shall be granted cash equivalent of leave salary in respect of EL & HPL at his credit subject to overall limit of 300 days.

Carry forward of LTC

5. Entitlement to LTC may be carried forward in case of a Central Government Servant who joins another post after having submitted Technical Resignation. In case of a Govt Servant who resigns within 8 years of his appointment and joins another post in the Government after Technical Resignation, Govt Servant will be treated as a fresh recruit for a period of 8 years from the date of his initial appointment under Government. Thus, if a Government servant joins another Department after serving in Government for 4 years, he will be treated as a fresh recruit for 4 years in the new Department.

Pay Protection, eligibility of past service for reckoning of the minimum period for grant of Annual Increment

6. In cases of appointment of a Government servant to another post in Government on acceptance of technical resignation, the protection of pay is given in terms of the Ministry of Finance OM No. 3379-E.III (B)/65 dated the 17th June, 1965 read with provisions of FR 22-B. Thus, if the pay fixed in the new post is less than his pay in the post he holds substantively, he will draw the presumptive pay of the post he holds substantively as defined in FR-9(24). Past service rendered by such a Government servant is taken into account for reckoning of the minimum period for grant of annual increment in the new post/ service/ cadre in Government under the provisions of FR 26 read with Rule 10 of CCS(RP) Rules, 2016. In case the Government servant re-joins his earlier posts, he will be entitled to increments for the period of his absence from the post.

7. GPF transfer

Transfer of GPF on technical resignation would be governed by Rule 35 of the General Provident Fund (Central Services) Rules, 1960.

8. Seniority

On technical resignation seniority in the post held by the Government servant on substantive basis continues to be protected. However, in case of a Government servant deciding to rejoin his substantive post, the period spent in the another Department which he had joined after submitting his technical resignation will not count for minimum qualifying service for promotion in the higher post.

9. Applicability of Pension Scheme

In cases where Government servants, who had originally joined government service prior to 01.01.2004, apply for posts in the same or other Departments and on selection they are asked to tender technical resignation, the past services are counted towards pension if the new post is in a pensionable establishment in terms of Rule 26(2) of CCS(Pension) Rules 1972. They will thus continue to be covered under the CCS(Pension) Rules, 1972 even if they join the new post after 01.01.2004.

10. New Pension Scheme

In case of 'Technical Resignation' of Government servant covered under National Pension System (NPS), the balance standing to their Personal Retirement Account (PRA) along-with their PRAN, will be carried forward to the new office.

11. Transfer of Service Book from parent Department to present Department.

As per SR- 198, the Service Book is to be maintained for a Government servant from the date of his/her first appointment to Government service and it must be kept in the custody of the Head of Office in which he is serving and transferred with him from office to office.

12. Need for Medical examination.

In cases where a person has already been examined by a Medical Board in respect of his previous appointment and if standard of medical examination prescribed for the new post is the same, then he need not be required to undergo a fresh examination.

13. Verification of Character & Antecedents

In the case of a person who was originally employed in an office of the Central Government, if the period intervening between date of discharge from his previous office and the date of securing a new appointment, is less than a year, it would be sufficient if the appointing authority, before making the appointment, satisfies itself by a reference to the office in which the candidate was previously employed that (a) that office have verified his character and antecedents; and (b) his conduct while in the employ in that office did not render him unsuitable for employment under Government. If, however, more than a year has lapsed after the discharge of the person from his previous office, verification should be carried out in full/afresh.

LIEN

14. Lien is defined in FR-9(13). It represents the right of a Government employee to hold a regular post, whether permanent or temporary, either immediately or on the termination of the period of absence. The benefit of having a lien in a post/service/cadre is enjoyed by all employees who are confirmed in the post/service/cadre of entry or who have been promoted to a higher post, declared as having completed the probation where it is prescribed. It is also available to those who have been promoted on regular basis to a higher post where no probation is prescribed under the rules, as the case may be.

15. The above right will, however, be subject to the condition that the junior-most person in the cadre will be liable to be reverted to the lower post/service/cadre if at any time the number of persons so entitled is more than the posts available in that cadre/service.

16. Lien on a post

A Government servant who has acquired a lien on a post retains a lien on that post—

- (a) while performing the duties of that post;
- (b) while on foreign service, or holding a temporary post or officiating in another post;
- (c) during joining time on transfer to another post; unless he is transferred substantively to a post on lower pay, in which case his lien is transferred to the new post from the date on which he is relieved of his duties in the old post;
- (d) while on leave; and
- (e) while under suspension.

A Government servant on acquiring a lien on a post will cease to hold any lien previously acquired on any other post.

17. Retention of lien for appointment in another central government office/ state government

- i. A permanent Government servant appointed in another Central Government Department/Office/ State Government, has to resign from his parent department unless he reverts to that department within a period of 2 years, or 3 years in exceptional cases. An undertaking to abide by this condition may be taken from him at the time of forwarding of his application to other departments/offices.

- ii. The exceptional cases may be when the Government servant is not confirmed in the department/office where he has joined within a period of 2 years. In such cases he may be permitted to retain the lien in the parent department/ office for one more year. While granting such permission, a fresh undertaking similar to the one indicated above may be taken from the employee.
- iii. Timely action should be taken to ensure extension/ reversion/ resignation of the employees to their parent cadres on completion of the prescribed period of 2/3 years. In cases, where employees do not respond to instructions, suitable action should be initiated against them for violating the agreement/ undertaking given by them as per (i) and (ii) above and for termination of their lien. Adequate opportunity may, however, be given to the officer prior to such consideration.
- iv. Temporary Government servants will be required to sever connections with the Government in case of their selection for outside posts. No lien will be retained in such cases.

18. Termination of Lien

A Government servant's lien on a post may in no circumstances be terminated even with his consent if the result will be to leave him without a lien upon a permanent post. Unless his lien is transferred, a Government servant holding substantively a permanent post retains lien on that post. It will not be correct to deny a Government servant lien to a post he was holding substantively on the plea that he had not requested for retention of lien while submitting his Technical Resignation, or to relieve such a Government servant with a condition that no lien will be retained.

A Government employee's lien on a post shall stand terminated on his acquiring a lien on a permanent post (whether under the Central Government or a State Government) outside the cadre on which he is borne.

No lien shall be retained:

- (a) where a Government servant has proceeded on immediate absorption basis to a post or service outside his service/ cadre/ post in the Government from the date of absorption; and
- (b) on foreign service/ deputation beyond the maximum limit admissible under the orders of the Government issued from time to time.

19. Transfer of Lien

The lien of a Government servant, who is not performing the duties of the post to which the lien pertains, can be transferred to another post in the same cadre subject to the provisions of Fundamental Rule 15.

20. Joining Time, Joining Time Pay & Travelling Allowance

Provisions relating to joining time are as follows:

20.1 For appointment to posts under the Central Government on results of a competition and/or interview open to Government servants and others, Central Government employees and permanent/ provisionally permanent State Government employees will be entitled to joining time under the CCS(Joining Time) Rules, 1979. Joining time will be included as qualifying service in the new job.

20.2 A Government servant on joining time shall be regarded as on duty during that period and shall be entitled to be paid joining time pay equal to the pay which was drawn before relinquishment of charge in the old post. He will also be entitled to Dearness Allowance, if any, appropriate to the joining time pay. In addition, he can also draw compensatory allowances like House Rent Allowance as applicable to the old station from which he was transferred. He shall not be allowed Conveyance Allowance or permanent Travelling Allowance.

20.3 For appointments to posts under the Central Government on the basis of results of a competition and /or interview open to Government servants and others, Central Government employees and permanent/ provisionally permanent State Government employees shall be entitled to Transfer Travelling Allowance(TTA). However, temporary Central Government employees with less than 3 years of regular continuous service would not be entitled for TTA, as they are not entitled joining time pay under Joining Time Rules.

APPOINTMENT OF CENTRAL GOVERNMENT SERVANTS IN CENTRAL PUBLIC ENTERPRISE ON IMMEDIATE ABSORPTION BASIS

Regarding granting terminal benefits to the Government servants going over to the Public enterprises on immediate absorption basis, the following terms and conditions may be referred:-

21. Release of the Government servants for appointment in the enterprises

A Government servant who has been selected for a post in a Central Public Enterprise may be released only after obtaining and accepting his resignation from the Government service.

22. Retention of lien/quasi-permanent status: -

No lien/quasi-permanent status of the Government servant concerned will be retained in his parent cadre. All his connections with the Government will be severed on his release for appointment in an enterprise and he will not be allowed to revert to his parent cadre.

23. Pay fixation:-

A Government servant selected for a post in a Central Public Enterprise will be free to negotiate his emoluments with the enterprise. On appointment to a post in a public sector enterprise on immediate absorption basis, a Government servant will be at par with other employees of the enterprise and will be governed by the rules of the enterprise in all respects.

24. Pension benefits:-

- i. 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 organization.
- ii. The officer eligible for pension should exercise an option within 6 months of the date of his resignation for either of the following two alternatives:-
 - a. Pro-rata monthly pension and death-cum-retirement gratuity admissible under the relevant rules.
 - b. Pro-rata gratuity and a lump sum amount in lieu of pension worked out with reference to the commutation tables applicable on the date of resignation.

NOTE: Where no option is exercised within the prescribed time limit, the officer will be governed by alternative (a) above. Option once exercised shall be treated as final.

- iii) Any further liberalization of pension rules decided upon by Government after the date of resignation of a Central Government servant to join the public enterprise will not be extended to him.
- iv) A Government servant who opts for pro-rata monthly pension on his resignation from Government service will not be entitled to relief on pension during his service in the public enterprise.

25. Leave:

A Government servant taking up an appointment in a Central public enterprise will be entitled to encashment of earned leave to his credit at the time of acceptance of his resignation from Government service, subject to a limit of 180 days. Half pay leave will stand forfeited.

26. Family pension:

If there is no family pension scheme in a public enterprise, or if the officer does not become eligible to join family pension scheme in the enterprise, the family pension as admissible under the Central Government will be allowed to him.

26.2. For the purpose of these instructions immediate absorption means acceptance of resignation of an officer from Government service to enable him to take up an appointment in a Central public enterprise, for which he had applied with proper permission.

26.3. Since the terminal benefits mentioned above are admissible only to those officers who leave Government service to secure employment in the enterprise, with proper permission, a case of grant of these benefits may be processed only after ascertaining from the enterprise concerned that the officer has actually joined them.

26.4. The stipulation of 'immediate absorption' will apply to all appointments of Central Government servants in the Central public enterprises, irrespective of the level of appointment, the mode of recruitment, and whether an appointment is in public interest or otherwise, but subject to the exceptions made in the OM dated 6.3.1985 referred to above.

26.5. For the purpose of these orders, a Central public enterprise is an undertaking wholly or substantially owned by the Government of India, and which is accepted as such by the bureau of Public Enterprises.

26.6. The terminal benefits etc. enumerated in para 1 above will be admissible to all Central Government servants, who secure appointments in Central public enterprises with proper permission. A Government servant selected for appointment in an enterprise on the basis of an application submitted by him before joining the Government service will be deemed to have applied with proper permission for the purpose of these orders.

26.7. All existing instructions on the subject will stand amended/ superseded to the extent indicated in the preceding paragraphs. Formal amendments in the statutory rules, where considered necessary, will be carried out in due course.

26.8. All cases of grant of pensionary benefits etc. to Government servants, who are appointed in the Central public sector enterprises on immediate absorption basis, shall be decided by the administrative Ministries/Cadre Controlling Authorities/Authorities competent to accept resignation of a Government servant in accordance with provisions of this OM All other cases not covered under the provisions of this OM or which require relaxation of any provision should continue to be referred to the Bureau of Public Enterprises with necessary service particulars. Cases of doubtful nature also should continue to be referred to the Bureau of Public Enterprises.

Appendix

S.No	O.Ms and Date	Subject
1	Ministry of Finance, Department of Expenditure O.M. No F.4(3)-E-IV/63 dated 1.10.1963	Termination of lien of Permanent Government on foreign service in the event of permanent absorption under the foreign employer
2.	Ministry of Finance O.M. No. 3379-E-III(B)/65 dated 17.6.65	Resignation
3.	Ministry of Home Affairs O.M. No 60/37/63-Estt(A) dated 14.7.1967	Forwarding of applications of Government servants working in a department /office to posts in other Central Government Department /offices - questions regarding the retention of lien in the parent Department.
4.	Department of Personnel and Administrative Reforms O.M. No 8/4/70-Estt(C) dated 6.3.74	Forwarding of applications of Government servants working in a department /office to posts under the state Governments -procedure including retention of lien.
5	Department of Personnel and Administrative Reforms O.M. No 28015/2/80-estt(C) dated 22.7.1980	Forwarding of applications of Government servants working in a department /office to posts- - questions regarding the retention of lien in the parent Department.
6.	DOPT O.M. No. 18011/9(s)/78-Estt(B) dated 2.7.1982	Verification of character and antecedents of Central government servants securing new appointment.
7	DOPT O.M. No. 28016/5/85-Estt(C) dated 31.1.1986	Appointment of Central government Employees in the Central Public Enterprises on immediate absorption basis - terms and conditions including retention of lien.
8	O.M. No. 13/24/92-Estt(Pay-I) dated 22.01.1993	Benefit of past services to Central Government servants who had applied before joining the Government service and on that account application was not routed through proper channel.
9	DOPT notification No. 28020/1/96 dated 9.2.1998.	Amendments to Fundamental Rules 9(13),12,13 and 14 on lien etc.
10	DOPT O.M. no.18011/1/86-estt(D) dated 28.3.1998	The right of government employees to the benefit of having lien -clarifications.
11	Department of Pension and Pensioners welfare O.M. No. 28/30/2004-P&PW(B) dated 26.7.2005	Counting of past services of Central government employees towards pension on joining a new post in pensionable establishment.
12.	DOPT O.M. No. 31011/7/2013 - Estt A-IV dated 26.9.2014	Carry forward of LTC in cases of government servants joining a new post after tendering technical resignation.