

Kerala Gazette No.1 dated 1st January 1963.
PART 1

GOVERNMENT OF KERALA
Abstract

RULES-KERALA SERVICE RULES- AMENDMENT TO THE RULES RELATING
TO THE DEATH-CUM-RETIREMENT GRATUITY –ISSUED.

FINANCE DEPARTMENT

G.O.(P) 708/62/Fin.

Dated, Trivandrum, 18th December 1962.

ORDER

According to the existing provision in rule 75, part III , KS.Rs death-cum-retirement gratuity in respect of a deceased Officer is payable to the person or persons on whom the right to receive the gratuity has been conferred or , if there is no such person, to his legal heirs. Rule 139(a) ibid, stipulates that the death-cum-retirement gratuity in respect of a Government servant has become eligible for the gratuity on retirement , but who dies before it is paid, is payable to his legal heirs. Following the decision of the Government of India that, if a Government servant has not filed any valid nomination for the payment of death-cum-retirement gratuity, the gratuity State Government have considered the desirability of making necessary change in the K.S.Rs .They are now pleased to order that the relevant rules in the K.S.Rs will be amended in the light of the decision referred to.

2. At present, the rules provide for an alternate nomination to meet the contingency of a nominee predeceasing the Government servant. The Government has decided that the alternate nomination should also cover the contingency of a nominee dying after the death of the Government servant but before receiving the payment of death-cum-retirement gratuity. Accordingly, the existing column for making alternate nomination in forms 4A, 4B, 4C and 4D of the K.S.Rs will also be amended suitably.

NOTIFICATION

In exercise of the powers conferred by the provision to Article 309 of the Constitution of India, the Governor of kerala hereby makes the Following amendments to the kerala Service rules, namely:-

AMENDMENTS

C.S.No.39/62 dated 18-12-62

In the said Rules-

1. in part III-

(i) For the existing rule 75, the following shall be substituted namely:-

“75 If an Officer who has completed 5 Years” qualifying service dies while in service a gratuity not exceeding the amount specified in rule 76 below may be paid to the person or persons on whom the right to receive the gratuity is conferred under Section V or , if there is no such person, to the surviving members of the family in the manner indicated below:-

- (i) If there are one or more surviving members of the family as in items (a), (b), (c) and (d) for rule 79, it may be paid to all such members, other than any such member who is a widowed daughter in equal share.
- (ii) If there are no such surviving members of the family as at (i) above, but there are one or more surviving members of the family as in items (e), (f) and (g) of rule 79, it may be paid to all such members in equal shares.

Note:- The eligibility of a person to receive the amount or share of death-cum-retirement gratuity should be determined with reference to the facts as they stand on the date of death of the Government servant and any subsequent event (e.g. remarriage of widow, marriage of an unmarried daughter, sister etc.) which does not affect that entitlement. If, however, a person who was entitled to receive the death-cum-retirement gratuity on the death of a Government servant dies before getting payment, the amount or share of gratuity should be redistributed in the manner indicated below:-

- (a) In case of “no nomination the amount or share of the gratuity admissible to the person concerned should be distributed in equal shares among the surviving eligible members of the family of the deceased Government servant.
- (b) If the person concerned was a nominee, the right to the amount or share of death-cum-retirement gratuity will pass to the alternate nominee or nominees. In case there is no alternate nominee, the amount or share of gratuity should be paid in equal shares to the co-nominees of the person concerned, if any, and failing that it should be distributed in equal shares among the surviving eligible members of the family of the deceased Government Servant as in (a) above”.
- (iii) in the substance part of rule 80, after figure 77 the following shall be added-
“and any gratuity which having become admissible to him under Rule 74 has not been paid to him before death”

(iv) in rule 139-

A. in clause (a) for the last sentence, beginning with the words “If the Officer” the following shall be substituted namely:-

“ If the Officer dies before receiving payment, the amount will be paid to the person or persons on whom the right to receive the gratuity has been conferred under rule 80 of Section V or , if there is no such persons, it will be paid in the manner indicated in rule 75”.

B. in clause (b) for the words “or legal heir” occurring in the heading the words “or the surviving member of the family “ shall be substituted and for the second sentence beginning with “If there is no nomination “and ending with “legal authority” the following shall be substituted namely:-

“If there is no nomination or if the nomination does not subsist the gratuity is payable to the surviving members of the Family of the deceased and in such cases, the Head of

the Office/ Department need draw up the statement of service only on receipt of an application for the gratuity from one or more of the surviving members of the Family”.

Notes 1 and 2 under clause (b) shall be omitted and after clause (b) the following shall be inserted as clause (c) , namely:-

(c) When the gratuity is payable under clause (a) and (b) above to minor –If the amount or share of the gratuity is payable to a minor, it will be paid to the natural gratuity of the minor and in the absence of a natural guar din, to the person who produces a guardianship certificate. A descriptive roll in duplicate of the person who may be authorized to receive payment should accompany the application in Form No.2”.

(d) in legal position as to whom in the capacity of minors natural guardian/ legal guardian, the share a minor would be payment is explained as under:-

(i) Where no valid nomination subsists:- (a) When a share is payable to minor sons or minor unmarried daughter it should be paid to the surviving parent except in the case when the surviving parent happens to be a Muslim lady. Where, however, there is no surviving parent or the surviving parent is a Muslim lady, payment will have to be made to the person producing the guardianship certificate.

(b) When a share is payable to a widowed minor daughter production of a guardianship certificate would be necessary.

(c) If in a rare case the wife herself happens to be a minor, the death-cum-retirement gratuity payable to her shall be paid to the persons producing the guardianship certificate.

(d) When there are no surviving members of the family as in items(a), (b), (c) and (d) of Rule 79and the death-cum-retirement gratuity becomes payable to a minor brother or a minor unmarried sister, the payment should be made to the father or. in his absence the mother of the beneficiary expect in the case where the mother happens to be a Muslim lady. In this case too, if there is no surviving parent, or the surviving parent to be a Muslim lady , the payment shall be to the person producing the guardianship certificate. If any share payable to a widowed minor sister, the production of guardianship certificate would be necessary.

(ii) Where a valid nomination subsists:- (a) Where the nomination is in respect of one or more of the minor members of the family, the position stated above would apply.

(b) Where there is no family, the nomination in favors of an illegitimate child, a married daughter or a married sister would also be valid. The position would, therefore, be as follows:-

(i) If the nomination is an illegitimate child share will be payable to the mother, and in her absence the production of a guardianship certificate would be necessary.

(ii) If the share is payable to a minor girl, the share will be payable to the husband.

Explanation: The term “surviving parent” mentioned in the note above does not include “surviving step- mother”.

Note2.payable of death-cum-retirement gratuity to the extent of Rs.5, 000(or the first rs.5,000 where the amount payable exceeds Rs.5,000) in favour of a minor may be made to his/her guardian in the absence of a natural guardian, without the production of a formal guardianship certificate but subject to the production of an indemnity bond in form No.8 with two suitable solvent sureties to the satisfaction of the sanctioning authority . The balance in excess of rs.5, 000 if any, would become payable on the production of the certificate of guardianship.

It is essential that there should be prima facie grounds for making payment on the production of an indemnity bond to the person claiming it. Such ground can exist only if he is shown by a sworn declaration to be a de facto guardian and his bona fides have been ascertained. Even if a guardian has yet been appointed by the Court, if the minor and his property are in the custody of some person, such person is in law a de-factor guardian. The authorities making the payable should therefore, require the person who comes forward to claims payment on behalf of the minor, to satisfy by an affidavit that he is in charge of the person and property of the minor and is looking after if or that, if the minor has no property other than the gratuity the minor in his custody and care. The affidavit so to be produced is in addition to the indemnity bond with suitable sureties”.

2. In form No.4A, 4B,4C and 4D for the existing tile entries in the last column the following shall be substituted, namely:-

“Name, address and relationship of the person or persons, if any, to whom the right conferred on the nominee, shall pass in the event of the nominee pre-deceasing the officer or the nominee dying after the death of the Officer but before receiving payment”.

3. In form 8 in paragraph 1 of the preamble the following shall be omitted, namely:- Being the amount payment as death-cum-retirement gratuity.

4. After form 8 the following form shall be inserted as form 8 A, namely”-

FORM 8 A

THIS DEED OF INDEMNITY executed on this..... day ofone thousand nine hundred andof the claimants).....(hereinafter referred to as” the claimants”) and Shri.....and Shri.....(H.E .names and addresses of sureties).....(hereafter referred to as “:the sureties”) in favour of the Governor of Kerala (hereinafter referred to as” the Government”);

WHEREAS the claimants have represented to the Government that they are entitled to receive the sum of Ra.....(Rupees.....) being the amount of death-cum-retirement gratuity of the deceased Shri.....and that

the amount may be paid to them they being the surviving members of the family
Shri.....on their executing an indemnity bond with two solvent sureties as
hereinafter appearing;

AND WHEREAS the Government have been pleased to sanction the request of
the claimants subject to the condition that they should execute an indemnity bond as
hereinafter appearing with two solvent sureties to which the claimants and the sureties
have agreed:

NOW THESE PRESEBNTS WITHESETH as follows:-

1. In consideration of the payment of the said sum of Rs..... to
the claimants the claimants and sureties hereby agree that they will at all
times indemnify and keep indemnified the Government from all claims,
losses and dements if any made or which may be made and all actions and
proceedings taken or which any be taken against the Government by any
person whomsoever in respect of the payment of the said amount to the
claimants.
2. The claimants and sureties hereby further agree that all sums found due to
the Government under or by virtue of this bond shall be recoverable
jointly and severally from them and properties movable and immovable
under the provisions of the Revenue Recovery Act for the time being in
force though such sums are arrears of land revenue or in such other
manner as the Government may deem fit.
3. The liability of the sureties under this deed is co extensive with that of the
claimants and shall not be impaired or affected by any variation in the
terms and condition herein contained or the Government giving time or
any other indulgence to the claimants.

In witness where of the claimants and sureties have hereunto set their the day and
year first above written.

Signed by Shri.....

In the Presence if Witnesses:

(1)

(2)

Signed by Shri.....

and Shri.....

In the Presence of Witness:

(1)

(2)

The above amendments will come into force the first January 1963. All cases in
which payments of gratuity has not actually been made before the date on which these
amendments come into force will be regulated by these amendments.

By order of the Governor,
S.Y.MUTHUSWAMY,
Joint Finance Secretary.

To

The Accountant general
The Heads of Department and Officers.
The Registrar, High Court (with C.L)
The Registrar, University of Kerala (with CL)
The Secretary kerala Public Service Commission (with C.L)
The Department and Section of the Secretariat.
The Secretary to the Governor and Comptroller, Governor's Household.
The Private Secretaries to Chief Minister and other Ministers.
All Secretaries, Joint Secretaries, Additional Secretaries, deputy
Secretaries and Assistant Secretaries to Government
The Personal Clerk to the Chief Secretary.
All the Department of the Secretariat.
The Secretary to Governor.
The Superintendent, Government Presses.
