

**SECOND REPORT**

**COMMITTEE ON PETITIONS**

**(SEVENTEENTH LOK SABHA)**

**MINISTRY OF DEFENCE**

**(DEPARTMENT OF DEFENCE PRODUCTION)**

**(Presented to Lok Sabha on 6.3.2020)**



**LOK SABHA SECRETARIAT  
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## COMPOSITION OF THE COMMITTEE ON PETITIONS

(2019-20)

Dr. Virendra Kumar - *Chairperson*

### MEMBERS

2. Shri Anto Antony
3. Shri Sukhbir Singh Badal
4. Shri Harish Dwivedi
5. Shri P. Raveendranath Kumar
6. Shri P.K. Kunhalikutty
7. Dr. Sukanta Majumdar
8. Shri Sanjay Sadashivrao Mandlik
9. Smt. Anupriya Patel
10. Dr. Bharati Pravin Pawar
11. Shri V. Srinivas Prasad
12. Shri Brijendra Singh
13. Shri Sushil Kumar Singh
14. Shri Prabhubhai Nagarbhai Vasava
15. Shri Rajan Vichare

### SECRETARIAT

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

## SECOND REPORT OF THE COMMITTEE ON PETITIONS

(SEVENTEENTH LOK SABHA)

### INTRODUCTION

I, the Chairperson, Committee on Petitions, having been authorised by the Committee to present on their behalf, this Second Report (Seventeenth Lok Sabha) of the Committee to the House on the Action Taken by the Government on the recommendations of the Committee on Petitions made in their Forty-Eighth Report (Sixteenth Lok Sabha) on the Representation of Shri D. Shivamurti forwarded by Shri Suresh C. Angadi, M.P., Lok Sabha alleging violation of Department of Personnel & Training/Department of Public Enterprises (DoPT/DPE) Guidelines by the Hindustan Aeronautics Limited.

2. The Committee considered and adopted the draft Second Report at their sitting held on 18 February, 2020.

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

NEW DELHI;

DR. VIRENDRA KUMAR,  
*Chairperson,*  
*Committee on Petitions.*

18 February, 2020

29 Magha, 1941 (Saka)

## REPORT

ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS OF THE COMMITTEE ON PETITIONS (SIXTEENTH LOK SABHA) MADE IN THEIR FORTY-EIGHTH REPORT ON THE REPRESENTATION OF SHRI D. SHIVAMURTI FORWARDED BY SHRI SURESH C. ANGADI, M.P., LOK SABHA ALLEGING VIOLATION OF DEPARTMENT OF PERSONNEL & TRAINING/DEPARTMENT OF PUBLIC ENTERPRISES (DoPT/DPE) GUIDELINES BY THE HINDUSTAN AERONAUTICS LIMITED.

The Committee on Petitions (Sixteenth Lok Sabha) presented their Forty-Eighth Report to Lok Sabha on 3 August, 2018 on the Representation of Shri D. Shivamurti forwarded by Shri Suresh C. Angadi, M.P., Lok Sabha alleging violation of Department of Personnel & Training/Department of Public Enterprises (DoPT/DPE) Guidelines by the Hindustan Aeronautics Limited.

2. The Committee had made certain observations/recommendations in the matter and the Ministry of Defence (Department of Defence Production) were asked to implement the recommendations and furnish their action taken replies thereon for consideration of the Committee.
3. Action Taken Replies have since been received from the Ministry of Defence (Department of Defence Production) in respect of all the observations/recommendations contained in the aforesaid Report. The recommendations made by the Committee and the replies furnished thereto by the Ministry are detailed in the succeeding paragraphs.
4. In paras 35, 36 and 37 of the Report, the Committee had observed/recommended as follows:-

*"The Committee note that Shri D. Shivamurti initially joined the Hindustan Aeronautics Limited (HAL) on 27.2.1991 as Chief Manager (Finance). Thereafter, he was appointed to the post of Assistant General Manager (Finance) and then General Manager (Finance) on 1.7.2001. Based on the interview conducted by the Public Enterprises Selection Board under the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training), he was appointed as Director (Finance) on 28.10.2005 for a fixed tenure of 5 years. The post of Director (Finance) is a non-substantive Board level post; which is filled up with the approval of the Appointments Committee of the Cabinet (ACC) as per the Orders/Guidelines of DoPT/DPE, for a fixed tenure of 5 years and which is further extendable to 5 years or till the age of superannuation of the Officer, i.e., on attaining the age of 60 years. Shri Shivamurti was not granted extension in spite of his being the only internal eligible candidate for the post of Chairman, Hindustan Aeronautics Limited, rather adverse comments were made in his Annual Confidential Report (ACR).*

As per the DoPT/DPE Guidelines, the adverse comments made in the ACR should have been communicated to Shri Shivamurti by the HAL Administrative Authorities. However, the Ministry of Defence/Public Enterprises Selection Board recommended non-extension of his tenure beyond 5 years and forwarded the proposal to EO(ACC), Department of Personnel & Training after conducting a Joint Appraisal.

The Committee further note from the submission made by the representatives of the Ministry of Defence that normally ACRs are evaluated on yearly basis. However, if there are any adverse remarks in the ACR, there is a provision of Joint Appraisal. In the instant case of Shri D. Shivamurti, the Committee are surprised to find that the ACR evaluation was done at the end of the tenure of his post as Director (Finance), i.e., five years due to which his extension was not considered. The then Chairman, HAL was the Reporting Authority in respect of his performance and the adverse observations made by him were accepted by the Hon'ble Raksha Mantri, who was the Accepting Authority in the matter. However, it was reported by the Chairman, HAL on 23.12.2010 that his ACR for the period 2009-10 was duly communicated to Shri D. Shivamurti.

The Committee also note that the tenure of 5 years of Shri D. Shivamurti was not extended further and instead, he was relieved from the services of HAL w.e.f., 3.3.2011 citing adverse Joint Appraisal against him. Since no convincing evidence in support of their averments was given by the Ministry/HAL Authorities, the Committee have no option but to believe that the entire adverse scenario against the Shri Shivamurti, who had successfully completed his tenure of 5 years, was to curtail the prospects of his selection for the post of the Chairman, HAL. On account of this, Shri D. Shivamurti had also to wait for final settlement of his dues. Though from the foregoing, it appears that there was no procedural lapses with respect to non-extension of lien in the case of Shri D. Shivamurti, the Committee are of the opinion that a well-crafted, universal and transparent procedure should be devised by the Ministry of Defence/HAL for considering ACRs or Joint Appraisal in all the cases so that the Appraisal Mechanism should not be selectively applied as it was invoked in the case of Shri D. Shivamurti. The Committee, therefore, recommend that the Ministry should initiate concrete measures to devise a fool-proof and transparent system to evaluate one's ACR periodically or conduct Joint Appraisal to avoid recurrence of such incidences in future. The Committee may be apprised of the action taken in this regard."

5. In their action taken reply, the Ministry of Defence (Department of Defence Production) have submitted as follows:-

"The Nodal Agency for policy formulation in respect of CPSEs including performance appraisal is the Department of Public Enterprises, Ministry of Heavy Industries and Public Enterprises. The Guidelines framed by DPE are implemented by the CPSEs. There is a transparent system already in place to evaluate one's ACR [now called as Performance

Appraisal Report (PAR)] as per DPE Guidelines. The Joint Appraisal is conducted only at the time of extension of tenure and in cases where the PAR is below bench mark. The system currently in vogue is listed below:-

- a) The prevailing System / Procedure / Guidelines for writing Performance Appraisal Reports of Chief Executives / Functional Directors / Executive Directors / General Managers of CPSEs was notified vide Secretary, DPE's D.O. letter No. 5(1)/2000-GM dated 05.04.2010 [Annexure-I]. As a part of this procedure, there is a common format of PAR for Chief Executives, Functional Directors, Executive Directors and General Managers. The total score is calculated taking into consideration various weighted components of the PAR such as MoU targets (as determined by DPE), individual targets flowing from MoU targets, personal attributes and functional and competencies. For a Board Level Functionary, the Reporting Authority is the Chairman of the PSU and the Reviewing Authority the Secretary of the Administrative Ministry/Department. The views of the superiors on the integrity of their subordinates are also recorded. The PAR process is closely monitored and the prescribed time lines are strictly adhered to.
- b) As regards Joint Appraisal, before considering proposals for extension of tenure of Board level incumbents, the procedure is clearly laid down in Para (B) of Chapter – 4 of the Compendium of Guidelines regarding Board Level Appointments in CPSEs notified vide Establishment Officer & Additional Secretary DoPT's DO letter No. 28/43(EO)/2013-ACC dated 23.02.2017 [Extracts of Chapter-4 Annexure-II]. The power to approve extension of tenure of Board level appointees in Schedule 'A' and 'B' CPSEs vests with the ACC and all proposals for extension shall be referred to the ACC. All proposals wherein the incumbents do not meet the benchmark shall be referred to PESB by the Department/Ministry concerned. The recommendation of the PESB shall be referred to the ACC for orders.
- c) The existing system in practice is uniformly applied to all eligible employees and there is no discrimination.

As the existing DPE Guidelines in this regard are transparent and fool-proof, these Guidelines are followed by all CPSEs including DPSUs and since DPE is the Nodal Ministry in matters relating to performance appraisal of employees in Public Sector Undertakings, this Department has been following the DPE Guidelines."

6. In paras 38 and 39 of the Report, the Committee had observed/recommended as



follows:-

"The Committee note that the initial offer of appointment in HAL to Shri D. Shivamurti was issued for the post of Chief Manager (Internal Audit) vide letter dated 13.10.1990. Subsequently, it was decided to post Shri D. Shivamurti as Chief Manager (Finance), HAL Overhaul Division, Bangalore. Shri D. Shivamurti joined the post of Chief Manager (Finance) on 27.2.1991. Though the Chief Manager (Finance) is a permanent post in the HAL, the terminology of 'Substantive Post' had not been used in the HAL. The post of General Manager (Finance) in HAL is also a permanent one, i.e., the incumbent can continue in service upto the age of superannuation viz., 60 years. Appointment/Promotion to the post of General Manager (Finance) is made by the HAL internally, with the approval of the Appointing Authority, i.e., the Board of Directors. On the other hand, appointment to the Post of Director (Finance), which is a Board Level Post, is made by the Government. Appointment as Director (Finance) is made for tenure of 5 years - in the first instance - or till the age of Superannuation of the Officer (on attaining the age of 60 years) or until further orders, whichever event occurs earlier. Appointment as Director (Finance) can also be continued upto the age of 60 years, with subsequent extension of service, and accordingly the post can also be construed as a Permanent one as per the extant DoPT/DPE Guidelines for the Central PSU Directors.

The Committee further note that the post of General Manager in HAL is a below Board Level Permanent post, which is filled up by the HAL internally with the approval of the Board of Directors. In the instant case of Shri D. Shivamurti, the representationist, the matter of retention of lien started when he was promoted from the below Board Level post to the Board Level post and could not inform about his intent to continue his lien on the old post, i.e., below Board Level post. In this regard, the Committee strongly recommend that for retention of lien in the case of promotion/appointment from a permanent post to a tenure post, the Ministry of Defence should take necessary steps to modify the Service Rules in such a manner that it automatically retains his/her lien to a permanent post considering the principle of natural justice. The Committee may be apprised of the action taken on this issue with wider ramifications."

7. In their action taken reply, the Ministry of Defence (Department of Defence Production) have submitted as follows:-

"The revised Standard Terms & Conditions for appointment to Board level Posts have been notified by the DPE vide O.M. F. No. W-02/0031/2018-DPE(WC)-GI.XX/18 dated 23.07.2018 [Annexure-III] which includes the following Clause on retention of lien:

Clause 1.18 - Lien: In case, he/she was holding a below board level post before his/her appointment to the board level post in a CPSE, he/she will retain lien on

level posts, there are no other tenure posts in HAL to which permanent employees are appointed;

As the existing guidelines of DPE have already taken care of the question of retention of lien, no further modification of service rules may be required."

8. In paras 40, 41, 42, 43, 44 and 45 of the Report, the Committee had observed/recommended as follows:-

"The Committee note that the Article 107B of the Articles of Association of the HAL provides for retention of lien in the Company when employees are appointed to Board level posts. As per the relevant Rules, those desirous of retention of lien need to apply for the same and that retention of lien needs to be permitted by the Competent Authority, i.e., the CMD, HAL. In pursuance of the Ministry of Industry (Department of Public Enterprises) O.M. dated 13.1.1999 and the Ministry of Defence O.M. dated 17.2.1999, the HAL permitted the retention of lien for 5 years vide their orders dated 4.3.1999 to its employees holding posts below the Board level when they are appointed to post(s) at the Board level within the Company or any other CPSEs.

As per the submissions made by the Ministry of Defence, the Committee further note that Shri D. Shivamurti did not exercise his right to apply for lien on the post of General Manager (Finance) on his appointment as Director (Finance) w.e.f., 28.10.2005 or even during his tenure till 3.3.2011, i.e., the date on which he ceased to be the Director(Finance) as his term was not extended further by the Competent Authority, i.e., the ACC, on the recommendation of the Public Enterprises Selection Board/DoPT.

The Committee further note from the submission made by the Ministry that Shri D. Shivamurti had applied for his lien in the HAL on the post of General Manager (Finance) only in May, 2014, i.e., after a lapse of more than 3 years from the date of his relieving from the post of Director (Finance). His account on cessation of service was settled in May, 2014 itself after the receipt of Vigilance clearance from the Ministry of Defence vide letter dated 18.3.2014. As per extant Rules/Guidelines, nothing much could had been done in this regard, as Shri D. Shivamurti had already applied for his final accounts with the Company after non-extension of his term as Director (Finance).

On the issue of retention of lien, the Committee are satisfied to note that the DoPT/DPE Guidelines in respect of retention of lien are being implemented in the Ministry of Defence and Public Sector Undertakings there under - including the Hindustan Aeronautics Limited - in true spirit. In this context, the Committee would like to rely on the case of Dr. S. K. Kacker, in which the Hon'ble Supreme Court observed as follows:-

*their below board level post, if applicable, as per the extant guidelines of DPE/CPSE concerned.*

*The existing Guidelines pertaining to retention of lien as applicable to below Board level employees of Public Sector Enterprises on their selection & appointment to Board level Posts are as detailed below:-*

- a) *DPE O.M. Nos. 23(9)/93-GM dated 31.01.1994 read with 1999 provide for permitting retention of lien for a maximum period of 5 years in the case of below Board level employees of Public Sector Enterprises on their selection & appointment to Board level Posts in the same or any other Central Public Sector Enterprises. Recently, DPE vide their OM No.16(10)/2010-GM dated 27.11.2018 have extended the maximum period of lien from 5 to 6 years.*
- b) *Article 107B of the Articles of Association of HAL states that the Company "shall permit" retention of lien upto a period not exceeding five (5) years to its employees holding Posts below the Board level, when they are appointed to Posts at the Board level within HAL or in any other CPSE;*
- c) *Further, the HR Rules of HAL also indicate that the employees below the Board level, when appointed to posts at the Board level, within HAL or in other CPSUs, are to be permitted to retain lien on their appointment in the below Board level Post, upto a period not exceeding 5 years. The said Rules provide that the Competent Authority may permit retention of lien not exceeding 3 years (at the relevant point of time). This requires an employee to specifically apply for and obtain permission for lien. As such, there is no provision for automatic retention of lien in the absence of an application seeking permission to retain lien.*
- d) *In accordance with the DPE instructions as at (a) above, read with the Articles of Association / Rules of the Company as at (b) & (c) above, officers of HAL on being appointed to Board level posts have been submitting requests to permit them to retain lien on the below Board level posts*
- e) *Shri D. Shivamurti on his appointment as Director (Finance) had not sought to retain lien on the Post of General Manager (Finance) and hence was not permitted to retain lien on the below Board level Post;*
- f) *Officers of HAL appointed to Board level posts seek retention of lien on the below Board level Post and are permitted to do so. Other than the Board*

arbitrarily terminate the lien on a permanent post, thereby, leaving the employee not to have lien on any post.

- (ii) Whether the Hindustan Aeronautics Limited had implemented the Presidential Directives dated 13 January, 1999 which inter alia relate to extension of lien of an employee from 3 to 5 years after a mammoth delay of 16 years.
- (iii) During the service of Shri D. Shivamurti, whether his lien was extended by the Hindustan Aeronautics Limited.
- (iv) Since there exist a difference between 'relieving of an employee from a Post' and 'relieving of an employee from the Service', whether on 3 March, 2011, Shri D. Shivamurti was relieved from the post of Director (Finance) and not from the Service of the Hindustan Aeronautics Limited.

The Committee would like to be apprised of the measures taken by the Ministry of Defence for mitigating the hardships faced by Shri D. Shivamurti by way of termination of his services in the Hindustan Aeronautics Limited on technical grounds which could otherwise have been functionalized even by a lower level functionary by following the basic tenets of the law of natural justice and welfare-oriented interpretation of Rules/Regulations of the Organisation."

9. In their action taken reply, the Ministry of Defence (Department of Defence Production) have submitted as follows:-

"Shri D. Shivamurti was appointed as Director (Finance) 28.10.2005 and he continued in the same post till 03.03.2011 i.e. the date on which he was relieved. On being relieved, Shri Shivamurti neither made any request for reversion to the post of General Manager (Finance) nor raised the issue of retention of lien. He submitted a letter of resignation from the post of Director (Finance) with immediate effect, i.e., 03.03.2011. In his resignation letter he had requested to credit all his dues to his bank account. He again requested for settlement of provident fund dues vide his letters dated 07.03.2011 & 04.05.2011 and to this effect he had given a declaration that he will not join any organisation. At that point also he did not raise the issue of retention of lien. After a lapse of more than 3 years i.e. in May 2014, he raised the issue of lien with HAL.

From the above facts, it is evident that after holding a Board level post for more than 5 years Shri D. Shivamurti was very much aware of the prevalent rules. Since Shri D. Shivamurti has not expressed his intention of claiming lien over the post of GM (Finance) at the time of his resignation, the question of extension of lien does not arise.

"It would indicate that on appointment to a permanent post, be it under the Central Government or the State Government, outside the cadre on which he is borne, his lien on the previous permanent post stands terminated on his acquiring a lien in a permanent post. The post of Director is the head of the AIIMS and it is independent of all the Departments. The Director is enjoined to supervise not only the administrative work of the AIIMS, but also its Management for and on behalf of the Institute Body. Therefore, on his appointment to the permanent post as a Director, he lost his lien on the post as a Professor and Head of the ENT Department. Resultantly, when the tenure of the appellant had expired on/by efflux of time or in case any of the eventualities mentioned in Regulation 30-A had happened he cannot revert to the post of Professor and Head of the Department."

Further, the Committee have also taken note of the Hon'ble Jharkhand High Court's judgement dated 8.4.03 in the case of Deobrat Sahay v/s Union of India, Para 22 of which states as under :-

"Existence of such lien and the incidents thereof are dependent on the Service Rules of Terms & Conditions by which Public Servant is governed. Generally when a person with a lien against a post is appointed substantively to another post, he acquires a lien against the later post and lien against his previous post automatically disappears. But if the Rules provides to the contrary, a Public Servant holding substantively a permanent post retains a lien on that post during the period provided in the Rule. There are circumstances where the lien of a Government Servant is suspended on a permanent post which he holds substantively on his appointment on a tenure post in a substantive capacity."

However, the Committee observe from the written replies as well as during the oral evidence of the representatives of the Ministry that the Ministry continue to harp on only one point that is non-application of retention of lien on the previous/substantive post by Shri D. Shivamurti, whereas, the Committee are of firm opinion that the Ministry should revisit and modify the existing Rules/Guidelines to the extent that the employees may be mandatorily informed in writing of the lapse of lien in their previous post beforehand so that occurrence of such hardship to the employees do not recur in future. However, after going through the sequential recapitulation of the various aspects raised by Shri D. Shivamurti and the submissions made by the Ministry, the Committee urge the Ministry of Defence to re-visit his entire case by taking into account the following determining factors:-

- (i) If the lien on a substantive post in an Organisation is ipso facto acquired by a serving employee, whether there is any need for that employee to seek the retention of lien in writing or otherwise, the Organisation could

HAL comes under the administrative purview of Department of Defence Production, Ministry of Defence. Shri D. Shivamurti was an employee of HAL for about 20 years. After his relieving in March 2011, he did not stake his claim on the post of GM (Finance). Also, he did not pursue his case with HAL immediately after 2011. He approached the Ministry in 2014, after a lapse of 3 years, through the National Commission on Scheduled Castes and Committee on Petitions. The information sought therein was duly furnished from time to time. As he did not approach the Ministry directly, the Ministry's role in this regard was limited to furnishing replies/ comments to the concerned authorities.

Currently, since the employees of HAL, on being appointed to Board level posts, would now seek retention of lien in view of Clause 1.18 of DPE OM dated 23.07.2018 and would be permitted to retain lien, instances of not availing such an opportunity shall not arise, except only in cases where the incumbents choose not to expressly seek permission for retention of lien in writing. Further, at the time of seeking lien, it is in the knowledge of the employee that the permission granted for lien would expire on the lapse of the prescribed duration of lien. As the concerned employee is already aware of the duration of the lien period, it may not to be required to inform the employee separately in writing regarding the lapse of lien.

Re-visiting Shri D. Shivamurti's entire case by taking into account the following determining factors:-

- a) The terminology of 'Substantive Post' is not used in HAL.
- b) As per Article 107B of the Articles of Association & Rules of the Company, retention of lien on a below Board level Post, when appointed to Board level Post, is not ipso facto acquired by a serving employee automatically. He has to seek the same and has to be permitted to do so.
- c) Retention of Lien is permitted in the below Board level Posts upto a maximum period of 5 years in accordance with DPE OM dated 13.01.1999, based on the request made by the employee when appointed to a Board level Post. The period of maximum period of lien has been extended vide DPE OM of 27.11.2018 from 5 to 6 years.
- d) Once permitted to retain lien, it is not arbitrarily terminated during the period of retention of lien.
- e) DPE OM dated 13.01.1999 (providing for retention of lien for a maximum period of 5 years) was forwarded to HAL by the Department of Defence Production vide letter dated 17.02.1999. The same was notified in the Company vide HAL Circular

No. HAL/P&A/46(12)-3/99 dated 04.03.1999. As such, the instructions contained in DPE OM dated 13.01.1999 were implemented in the Company in 1999 itself.

- f) It is only that the formal Rules/Articles of Association of the Company were amended subsequently during 2014. The delay in formally amending the Rules of the Company had not affected the chances of retention of lien by any employee in his below Board level Post.
- g) Shri D. Shivamurti had not requested for retention of lien in his earlier Post of General Manager (Finance), on his appointment as Director (Finance) or during his tenure as Director (Finance). As such, he was not permitted to retain lien in his below Board level Post.
- h) Having not permitted to retain lien in his below Board level Post, the question of extension of lien did not arise.
- i) Though there may be a difference between 'relieving of an employee from a Post' and 'relieving of an employee from the Service' in general, as far as the case of Shri Shivamurti is concerned, relieving him from the Post of Director (Finance) vide letter dated 03.03.2011 tantamount to relieving from the services of the Company, for the following reasons:-
- i. He had not requested for retention of lien on the below Board level Post either at the time of his joining the Post of Director (Finance) or during his tenure as Director (Finance);
  - ii. On being relieved from the Post of Director (Finance) on 03.03.2011, he had neither made any request to HAL for reversion back to the Post of General Manager (Finance) nor raised the issue of retention of lien;
  - iii. He had in fact submitted a letter of resignation dated 03.03.2011 from the Post of Director (Finance) with immediate effect i.e., 03.03.2011, presumably when he came to know that the Ministry had issued the letter dated 03.03.2011 conveying the decision of non-extension of his tenure as Director (Finance). In his resignation letter, he had requested to credit all his dues to his Bank Account. Submitting the resignation on his part meant leaving the services of the Company voluntarily;
  - iv. He had requested for settlement of Provident Fund dues vide letters dated 07.03.2011 & 04.05.2011 and to this effect he had also given a declaration that he would not take up any employment thereafter from 04.06.2011 nor would join any other Company till March 2012.

v. His PF dues were settled in 2011 itself and he had accepted the same without any demur. The request for settlement of PF would have been made by him as he was sure of termination of his services / severance of relations with the Company.

a. The first communication from him on lien was received by HAL in May 2014 i.e., after a lapse of more than 3 years from the date of his relieving from the Post of Director (Finance), which was replied. In this connection, it is also pertinent to mention here that his Accounts on cessation of service were settled in May 2014, consequent to receipt of Vigilance Clearance from the Ministry vide letter dated 18.03.2014.

Measures taken for mitigating the hardships faced by Shri D. Shivamurti by way of termination of his services in the Hindustan Aeronautics Limited:

a) At the outset, it is pertinent to mention here that HAL on its part had not resorted to causing hardship to Shri D. Shivamurti. The extenuating circumstances in his case arose on account of the fact that he had not sought retention of lien in the below Board level Post, as per the extant Rules of the Company, which in turn are based on extant DPE Guidelines, on his appointment or during his tenure as Director (Finance).

b) Shri D. Shivamurti had no doubt that his association with HAL had ended on 3.3.2011. All his subsequent actions were an outcome of afterthoughts."

10. In paras 46 and 47 of the Report, the Committee had observed/recommended as follows:-

"The Committee have been apprised that the HAL has prescribed Rules for retention of lien in the HAL when employees are appointed to Board level Posts. The said Rules stipulate that the HAL shall permit retention of lien for the specified period (5 years now) to its employees holding posts below the Board level, when they are appointed to Posts at the Board level within the HAL or any other PSE as per the Ministry of Industry(Department of Public Enterprises) O.M. dated 13.1.1999. The said Rules imply that those desirous of retention of lien need to submit application for retention of lien beyond the prescribed period and the approval of the Competent Authority permitting retention of lien, i.e., CMD/HAL, needs to be obtained beforehand. In the case of Shri D. Shivamurti, as he had not submitted application seeking retention of lien [either at the time of his appointment as Director (Finance) or during his tenure as Director (Finance)], the question of permitting retention of lien on his previous Post of General Manager(Finance), on his appointment as Director (Finance) w.e.f. 28.10.2005 did not



arise. Consequently, he had no lien on the post of General Manager (Finance). As such, relieving Shri D. Shivamurti from the Post of Director (Finance) w.e.f. 3.3.2011, tantamount to relieving him from the HAL.

Further, as regards, relieving of an employee from a particular post tantamount to relieving from the Company itself, the Ministry have not furnished any Rule in vogue in this respect. The Committee have taken note of the fact that there is no such specific Rules/Provisions to this effect, as per the reply furnished by the Ministry of Defence. The Committee, therefore, recommend that a specific Rule/Provision be urgently formulated by the Ministry of Defence in consultation with the Ministry of Industry (Department of Public Enterprises) in general, and the HAL, in particular, so that there could not be any room for ambiguity or different interpretations by different Authorities in future at the cost of not only marring the career aspirations of employees but also forced termination of employment of long serving personnel like Shri Shivamurti. The Committee would like to be apprised of the action initiated in this direction."

11. In their action taken reply, the Ministry of Defence (Department of Defence Production) have submitted as follows:-

"All CPSEs are governed by the Rules and Regulations formulated from time to time by Department of Public Enterprises. DPE vide OM No. W-02/0031/2018-DPE(WC)-GI.XX/18 dated 23.07.2018 have included a clause (1.18) in retention of lien so that there is no scope for any ambiguity in this matter and the individual is prompted to seek retention of lien. Since the clause of lien has already been incorporated by DPE, further formulation of rules in this regard may not be required."

12. In para 48 of the Report, the Committee had observed/recommended as follows:-

"The Committee are informed that from the year 1999, the lien on a post was extended to five years. The HAL strictly comply with the DPE Guidelines in respect of Board Level Posts which are approved by the ACC. Though, all the service conditions for the below Board level posts are governed by the Recruitment Rules of the HAL, there are no specific Guidelines relating to retention of lien by the Board level Officers for their previous below Board level post. Notwithstanding the fact that DoPT/DPE Guidelines are being followed by the Ministry of Defence in general, and in the HAL in particular, the Committee strongly feel that the Recruitment Rules for the appointments, viz., below Board level, Board level and also appointments with respect to below Board level to Board level, as in the instant case, need a revisit to amend/regulate the retention of lien for an employee on the previous post to the effect that it should not be terminated automatically without the consent of the individual to obviate similar situation in future. In any case, the individual should have the option to go back to the previous post before the expiry of the lien period. The Committee, therefore, urge that the Ministry of Defence, in

*consultation with the Ministry of Heavy Industries & Public Enterprises (Department of Public Enterprises) and the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training), should review the existing Rules/Guidelines and take action accordingly to amend the relevant Rules/Guidelines in terms of regulating the automatic retention of lien of an employee on the previous post till confirmation of an employee on the new post. The Committee would like to be apprised of the final outcome in this regard within three months of the presentation of this Report to the House."*

13. In their action taken reply, the Ministry of Defence (Department of Defence Production) have submitted as follows:-

*"The question of automatic retention of lien of an employee on the previous post till confirmation of an employee on the new post, arises when both the posts in question are permanent (substantive) posts on which lien can be claimed. In the subject case, the post of GM(Finance) is a post on which lien can be claimed. However, as the post of Director(Finance) is a tenure post, the question of lien does not arise in this case. Also the claim of lien gets terminated on acquiring a lien on a permanent post after confirmation. In the instant case, it may be noted that confirmation in the post of Director(Finance) is made on completion of 1 year service, whereas retention of lien on the post of GM(Finance) is permissible upto 5 years."*

### Observations/Recommendations

#### Need for a justifiable and transparent system for periodical evaluation of Annual Confidential Report (ACR)/Performance Appraisal Reports(PAR)

14. The Committee, in their Forty-Eighth Report (Sixteenth Lok Sabha), had considered the matter regarding non-extension of lien to the post of General Manager (Finance) in Hindustan Aeronautics Limited (HAL) in the case of Shri D. Shivamurti. To recapitulate the case, Shri D. Shivamurti, the then General Manager (Finance), HAL was appointed as Director (Finance), w.e.f., 28 October, 2005 which is a non-substantive Board level post and filled up with the approval of the Appointments Committee of the Cabinet (ACC) as per the Orders/Guidelines of DoPT/DPE, for a fixed tenure of 5 years and which is further extendable to 5 years or till the age of superannuation, i.e., 60 years. In the instant case, the Ministry of Defence/Public Enterprises Selection Board recommended non-extension of tenure of Shri D. Shivamurti beyond 5 years on account of the adverse comments in his Annual Confidential Report (ACR) and forwarded the proposal to EO(ACC), Department of Personnel & Training after undergoing a Joint Appraisal. Subsequently, Shri Shivamurti was not granted further extension inspite of him being the only internal eligible candidate for the post of Chairman, HAL. Shri D. Shivamurti was, thereafter, relieved from the services of HAL, w.e.f., 3 March, 2011.

15. While examining the Representation of Shri D. Shivamurti, the Committee had observed that there was no procedural lapse with respect to non-extension of lien in the case of Shri D. Shivamurti. Despite this, the Committee were of the opinion that a well-crafted, universal and transparent procedure should be devised by the Ministry of Defence (Department of Defence Production)/HAL for considering ACRs or Joint Appraisal in all the cases so that the Appraisal Mechanism should not be selectively applied as it was invoked in the case of Shri D. Shivamurti. The Committee had, therefore, recommended that the Ministry should initiate concrete measures to devise a foolproof and transparent system to evaluate one's ACR periodically or conduct Joint Appraisal to avoid recurrence of such incidences in future.

16. The Ministry of Defence (Department of Defence Production), in their action taken reply, have submitted that the Nodal Agency for policy formulation in respect of CPSEs including performance appraisal is the Department of Public Enterprises(DPE) under the Ministry of Heavy Industries & Public Enterprises and the Guidelines framed by DPE are implemented by the CPSEs. Referring to the prevailing System/Procedure/Guidelines in

respect of writing Performance Appraisal Reports(PAR) of Chief Executives/Functional Directors/Executive Directors/General Managers of CPSEs and in respect of Joint Appraisal, which is conducted only at the time of extension of tenure and in cases where the PAR is below benchmark, the Ministry have contended that there is foolproof and transparent system already in place to evaluate ACR/PAR of the CPSEs employees as per the DPE Guidelines and the Department has been following these Guidelines in respect of the PSUs under its control. The Committee are surprised to note that the Ministry of Defence (Department of Defence Production) have not given any information in their action taken reply with regard to the necessary action taken/proposed to be taken for devising a foolproof and transparent system to evaluate one's ACR periodically or conduct Joint Appraisal to avoid recurrence of such incidences in future. The Committee therefore, reiterate its earlier recommendation and urge the Ministry of Defence (Department of Defence Production) to ensure that a foolproof and transparent system to evaluate one's ACR periodically or conduct Joint Appraisal be devised in consultation with the Department of Public Enterprises(DPE) under the Ministry of Heavy Industries and Public Enterprises and followed scrupulously. The Committee would like to be apprised of the action taken/proposed to be taken in this regard within three months from the date of presentation of this Report to the House.

Adherence to Service Rules in respect of 'Retention of lien'

17. The Committee while examining the instant Representation of Shri D. Shivamurti, had noted that the matter of retention of lien of Shri Shivamurti, started when he was promoted from the below Board Level post, i.e., General Manager (Finance) to the Board Level post, i.e., Director (Finance) and he could not inform about his intent to continue his lien on the old post, i.e., below Board Level post. In this regard, the Committee had recommended that for retention of lien in the case of promotion/appointment from a permanent post to a tenure post, the Ministry of Defence (Department of Defence Production) should take necessary steps to modify the Service Rules in such a manner that it automatically retains his/her lien to a permanent post considering the principle of natural justice. The Ministry of Defence (Department of Defence Production), in their action taken reply, have referred to the DPE O.M. F. No. W-02/0031/2018-DPE(WC)-GI.XX/18 dated 23.07.2018 vide which the revised Standard Terms & Conditions for appointment to Board level Posts have been notified by including the following Clause on retention of lien:-

*Clause 1.18 - Lien: In case, he/she was holding a below board level post before his/her appointment to the board level post in a CPSE, he/she will retain lien on their below board level post, if applicable, as per the extant Guidelines of DPE/CPSE concerned.*

18. In the instant case of Shri D. Shivamurti, the Ministry of Defence (Department of Defence Production) in their action taken reply, have reiterated that Shri D. Shivamurti on his appointment as Director (Finance) had not sought to retain lien on the Post of General Manager (Finance) and hence, was not permitted to retain lien on the below Board level Post. The Ministry have further informed that the officers of HAL appointed to the Board level posts seek retention of lien on the below Board level Post and are permitted to do so and as the existing Guidelines of DPE have already taken care of the question of retention of lien, no further modification of Service Rules may be required. Although, the Committee are satisfied with the modifications in the Standard Terms & Conditions for appointment to Board level Posts in respect of retention of lien, they would, once again, like to recommend the Ministry of Defence (Department of Defence Production) to ensure that the relevant Terms & Conditions for appointment to Board level Posts or below Board level Posts in respect of retention of lien be followed in letter and spirit in the PSUs under their administrative control to obviate such case(s) in future.

*Mandatory information in writing in the event of 'Lapse of Lien'*

19. During the course of examination of the instant Representation of Shri D. Shivamurti, the Committee had observed that the Ministry of Defence had been continuing to harp on only one point that is non-application of retention of lien on the previous/substantive post held by Shri D. Shivamurti, whereas, the Committee were of firm opinion that the Ministry should revisit and modify the existing Rules/Guidelines to the extent that the employees may be mandatorily informed in writing of the lapse of lien in their previous post beforehand so that occurrence of such hardship to the employees do not recur in future. For mitigating the hardship faced by Shri D. Shivamurti on account of termination of his services from the Hindustan Aeronautics Limited (HAL) on technical grounds by overlooking the principles of the law of natural justice, the Committee had urged the Ministry to re-visit his entire case by taking into account the following determining factors:-

- (i) *If the lien on a substantive post in an Organisation is ipso facto acquired by a serving employee, whether there is any need for that employee to seek the retention of lien in writing or otherwise, the Organisation could arbitrarily*

*terminate the lien on a permanent post, thereby, leaving the employee not to have lien on any post.*

- (ii) Whether the Hindustan Aeronautics Limited had implemented the Presidential Directives dated 13 January, 1999 which inter alia relate to extension of lien of an employee from 3 to 5 years after a mammoth delay of 16 years.*
- (iii) During the service of Shri D. Shivamurti, whether his lien was extended by the Hindustan Aeronautics Limited.*
- (iv) Since there exist a difference between 'relieving of an employee from a Post' and 'relieving of an employee from the Service', whether on 3 March, 2011, Shri D. Shivamurti was relieved from the post of Director (Finance) and not from the Service of the Hindustan Aeronautics Limited.*

20. The Ministry of Defence (Department of Defence Production), in their action taken reply, have submitted that Shri D. Shivamurti, after being appointed as Director (Finance) 28 October, 2005, continued in the same post till 3 March, 2011, i.e., the date on which he was relieved. However, on being relieved, he neither made any request for reversion to the post of General Manager (Finance) nor raised the issue of retention of lien. He also submitted a letter of resignation from the post of Director (Finance) with immediate effect, i.e., 3 March, 2011, wherein, he had requested to credit all his dues to his bank account. He again requested for settlement of his Provident Fund dues *vide* his letters dated 7 March, 2011 and 4 May, 2011 and to this effect, he had given a declaration that he will not join any Organisation. Subsequently, after a lapse of more than 3 years, i.e., in May 2014, he raised the issue of his lien in HAL. The Ministry have also submitted that since the employees of HAL, on being appointed to Board level posts, would now seek retention of lien in view of Clause 1.18 of DPE O.M. dated 23.7.2018 and would be permitted to retain lien, instances of not availing such an opportunity shall not arise, except only in cases where the incumbents choose not to expressly seek permission for retention of lien in writing. In this context the Ministry have further informed that at the time of seeking lien, it is in the knowledge of the employee that the permission granted for lien would expire on the lapse of the prescribed duration of lien. Therefore, as the employee concerned is already aware of the duration of the lien period, it may not to be required to inform the employee separately in writing regarding the lapse of lien.

21. As regards measures taken for mitigating the hardships faced by Shri D. Shivamurti by way of termination of his services in the Hindustan Aeronautics Limited, the Ministry of Defence (Department of Defence Production), in their action taken reply, have submitted that HAL, on its part, had not resorted to causing hardship to Shri D. Shivamurti. The extenuating circumstances in his case arose in view of the fact that he had not sought retention of lien in the below Board level Post, as per the extant Rules of the Company, which in turn are based on extant DPE Guidelines, on his appointment or during his tenure as Director (Finance).

22. The Committee are of the considered opinion that the lien of an employee on the old post should not be terminated automatically without the consent of an individual. In this regard, the Committee reiterate its earlier recommendation and urge the Ministry of Defence (Department of Defence Production) to revisit and modify the existing Rules/Guidelines in a simple way so that the employees should invariably be informed in writing of the lapse of lien in their previous post beforehand so that occurrence of such hardship to the employees do not recur in future.

Formation of Rule(s)/Provision(s) to safeguard the employees to retain their lien

23. The Committee had observed that there is no specific Rule(s)/Provision(s) in vogue in respect to relieving of an employee from a particular post that tantamount to relieving from the Company itself. In this regard, the Committee had recommended that a specific Rule/Provision be urgently formulated by the Ministry of Defence (Department of Defence Production) in consultation with the Ministry of Industry (Department of Public Enterprises) in general, and the HAL, in particular, so that there could not be any room for ambiguity or different interpretations by different Authorities in future at the cost of not only marring the career aspirations of employees but also forced termination of employment of long serving personnel like Shri Shivamurti.

24. The Ministry of Defence (Department of Defence Production), in their action taken reply, have submitted that all CPSEs are governed by the Rules and Regulations formulated from time to time by DPE and since the Clause of lien, i.e., Clause 1.18 has already been incorporated by DPE vide their O.M. dated 23.7.2018, further formulation of rules in this regard may not be required.

25. The Committee are satisfied to note that on the behest of the Committee, the Clause 1.18 related to the Rules and Regulations in respect of retention of lien of an

employee in CPSEs has now been incorporated by DPE. However, the Committee recommend the Ministry of Defence (Department of Defence Production) to ensure that the Rules and Regulations incorporated by DPE in respect of retention of lien be strictly adhered to in letter and spirit in all the PSUs under their administrative control to safeguard the interests of the employees and under no circumstance, any Rule/Regulation should be an impediment on the way of marring the career aspirations of any employee.

Review of the existing Rules/Guidelines to amend/regulate the 'Retention of lien'

26. The Committee had observed that notwithstanding the fact that DoPT/DPE Guidelines are being followed by the Ministry of Defence in general, and in the HAL in particular, the Recruitment Rules for the appointments, viz., below Board level, Board level and also appointments with respect to below Board level to Board level, as in the instant case, need a revisit to amend/regulate the retention of lien for an employee on the previous post to the effect that it should not be terminated automatically without the consent of the individual. The Committee had, therefore, urged that the Ministry of Defence (Department of Defence Production) in consultation with the Ministry of Heavy Industries & Public Enterprises (Department of Public Enterprises) and the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training), should review the existing Rules/Guidelines and take action accordingly to amend the relevant Rules/Guidelines in terms of regulating the automatic retention of lien of an employee on the previous post till confirmation of an employee on the new post. However, the Ministry, in their action taken reply, have merely mentioned that the issue of automatic retention of lien of an employee on the previous post till confirmation of an employee on the new post, arises when both the posts in question are permanent (substantive) posts on which lien can be claimed.

27. In this regard, the Committee reiterate their earlier recommendation and strongly urge the Ministry of Defence (Department of Defence Production) to review the existing Rules/Guidelines in consultation with the Ministry of Heavy Industries & Public Enterprises (Department of Public Enterprises) and the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training), in terms of regulating the automatic retention of lien of an employee on the previous post till confirmation of an employee on the new post. The Committee may be apprised of the action taken in this regard.

NEW DELHI;

DR. VIRENDRA KUMAR,  
Chairperson,  
Committee on Petitions.

18 February, 2020

29 Magha, 1941 (Saka)



BHASKAR CHATTERJEE I.A.S.  
SECRETARY



सत्यमेव जयते

भारत सरकार  
लोक उद्यम विभाग  
भारी उद्योग एवं लोक उद्यम मंत्रालय  
GOVERNMENT OF INDIA  
DEPARTMENT OF PUBLIC ENTERPRISES  
MINISTRY OF HEAVY INDUSTRIES & PUBLIC ENTERPRISES

D.O. No. 5(1)/2000-GM  
April-05-2010

Dear

This is regarding the Annual Performance Appraisal of top management incumbents of Central Public Sector Enterprises (CPSEs). It may be recalled that the guidelines for writing Performance Appraisal Report (PAR) of top management incumbents of CPSEs who do not belong to any organized service of the Central or State Governments were prescribed vide DPE O.M. No. 5(1)/2000-GM-GL-71 dated 18<sup>th</sup> October, 2005. Since then significant developments have taken place in the field of Human Resource Development and Performance Management, viz. bringing all CPSEs under the ambit of the MOU system, introduction of Performance-related Pay (PRP) for executives in CPSEs and introduction of new performance appraisal formats/rules for All India Service Officers. In view of the above developments, a need was felt for setting up of a robust and transparent performance management system in CPSEs.

2. In the above background, the existing format and procedure of writing PARs of the top management incumbents of CPSEs were reviewed by an Inter-Ministerial Committee set up by Department of Public Enterprises. The report of the Committee, which has been accepted by the Government, is available on the web-site of DPE (<http://dpe.nic.in/newgl/PAR.doc>). As recommended by the Committee, the revised procedure and guidelines for writing PARs of Chief Executives, Functional Directors, Executive Directors (E9) and General Managers (E8) of CPSEs are enclosed for adoption by all CPSEs from the year 2010-11 onwards. The salient features of the revised guidelines are also enclosed for your ready reference.

3. You may like to take necessary steps to ensure that all CPSEs under the administrative jurisdiction of your Ministry/Department comply with the revised Guidelines. The concerned CPSEs may be directed to nominate a suitable officer as the Nodal Officer for ensuring compliance with the prescribed guidelines. As prescribed under the revised Guidelines, suitable nodal officer in your Ministry/Department (concerned Joint Secretary in charge of Administration) may also be nominated under.

लोक उद्योग भवन, ब्लॉक 14, सी.जी.ओ. कॉम्प्लेक्स, लोधी रोड, नई दिल्ली-110003  
Public Enterprises Bhavan, Block 14, CGO Complex, Lodi Road, New Delhi-110003  
Tel. : 011-24366171 Fax : 011-24362613 E-mail : b.chatterjee@nic.in

4. I would be grateful if this Department could be apprised of the action take in respect of your Ministry/Department. This would enable us to monitor the timely completion of the Performance Appraisal exercise in respect of top management incumbents in CPSEs.

With warm regards,

Encl : As stated above

Yours sincerely,  
Sd/-  
(Bhaskar Chatterjee)

To Secretaries of all administrative and nodal Ministries/Departments (by name)

Copy to :- Chief Executives of all CPSEs

**Salient Features of the revised Guidelines on writing Performance Appraisal Reports (PARs) of Chief Executives, Functional Directors, Executive Directors (E9) and General Managers (E8) of CPSEs**

1. **Format of PAR :-** There would be a common format for Chief Executives, Functional Directors, Executive Directors (E9) and General Managers (E8) (page 10 to 25).
2. **Components of PAR and their relative weights :-** The proposed weightage for achievement of MOU targets (as determined by DPE), individual targets, personal attributes and functional competencies for all the 3 levels of top management incumbents of CPSEs would be as under.

Designation	Weightage			
	MOU targets	Individual targets flowing from MOU targets	Personal attributes and functional competencies	Total
Chief Executives				
Functional Directors				
Executive Directors (E9) & General Managers (E8)				

3. **Time Schedule :-** A detailed time schedule for each and every process of the Performance Appraisal exercise has been laid out so that the exercise is completed within one year after the Reporting year. (Table 2, Page 5 and 6).
4. **Channel of Submission :-** The channel of submission of PAR has been recommended in a tabular form so that it is clear and unambiguous (Table 1, Page 2). However, the Administrative Ministries, with the concurrence of DPE, can make modification(s) in the prescribed channel.
5. **Monitoring of PAR process :-** The PAR process would be monitored closely so that everybody involved in the process adheres to the prescribed time schedule. For the purpose of close monitoring of the

Performance Appraisal exercise, CPSEs and the administrative ministries/departments will nominate their senior officers as Nodal officers whose responsibilities are listed at page 6.

6. **Additional Information to be recorded in APR :-** The views of superiors on the integrity of their subordinates would be recorded while assessing the performance of the executives. The information regarding (i) annual medical examination, (ii) filing of annual property return, (iii) training programme(s) attended, (iv) additional qualification acquired and (v) awards/honours conferred in respect of officer reported upon would now be furnished in the PAR.
7. **Grading of executives :-** It may also be ensured that 'Bell Curve approach' is followed in grading the executives of CPSEs so that not more than 10%-15% executives are graded as Outstanding/Excellent(PAR score of 1.00 - 1.50).
8. While the prescribed PAR Form, guidelines and procedure are to be treated as "Core elements" of the Performance Management System in all CPSEs, in order to accommodate existing robust performance management practices, and future requirements unique to some CPSEs, the Boards of CPSEs may supplement the contents in the enclosed PAR form, under intimation to DPE and their administrative Ministry/Department, without losing any of its features.

\*\*\*\*\*

**PERFORMANCE APPRASIAL REPORT OF  
CHIEF EXECUTIVES/FUNCTIONAL DIRECTORS/  
EXECUTIVE DIRECTORS/GENERAL MANAGERS  
OF CENTRAL PUBLIC SECTOR ENTERPRISES**

**PROCEDURE AND GUIDELINES**

Procedure and guidelines for writing Performance Appraisal Report of Chief Executives, Functional Directors, Executive Directors (E9) and General Managers (E8) of Central Public Sector Enterprises (CPSEs)

1. Definitions:
  - a) **Accepting Authority:** Accepting Authority is the authority, which supervises the performance of Reviewing Authority and Reporting Authority and is responsible for the actions of the officer reported upon.
  - b) **Board level Executives:** Board level executives include the Chief Executive and the Functional Directors of the CPSE.
  - c) **Chief Executive:** Chief Executive of the CPSE means the head of the CPSE having substantial powers called by whatever name including Executive Chairman, Chairman and Managing Director and Managing Director.
  - d) **Nodal officer:** Nodal officer refers to a senior officer nominated as such by the CPSE or the Administrative Ministry/Department concerned to coordinate the activities relating to Performance Appraisal exercise for its smooth completion
  - e) **PAR Repository Authorities:** PAR Repository Authorities are those authorities that have been designated by the CPSE, Administrative Ministry/Department and Public Enterprises Selection Board (PESB) to keep the PARs of the top management incumbents of CPSEs in their custody.
  - f) **Reporting Authority:** Reporting Authority is the authority, which supervises the performance of the officer reported upon.
  - g) **Reporting year:** The reporting year of the PAR is the financial year i.e. from 1<sup>st</sup> April to 31<sup>st</sup> March.
  - h) **Reviewing Authority:** Reviewing Authority is the authority, which supervises the performance of the Reporting Authority and supervises the work of the officer reported upon through the Reporting Authority.
  - i) **Top Management incumbents:** Top management incumbents include Chief Executives, Functional Directors, Executive Directors (E9) and General Managers (E8) of Central Public Sector Enterprises (CPSEs).
2. Applicability

These procedures are applicable to all Board level executives and Executive Directors (E9) and General Managers (E8) and other equivalent officers of CPSEs. The Performance Appraisal Reports (PARs) of Government officers on deputation to posts in CPSEs will be written in the formats prescribed by their respective Cadre Authorities and the procedure for writing the same will also be as prescribed by those Authorities. The PARs of Chief Vigilance Officers will be written based on the instructions issued by Department of

Personnel & Training. Further, unless otherwise specified, the term 'he' mentioned in these guidelines includes 'she' also.

3. Authorities for initiation, review and acceptance of PARs for Top management incumbents of CPSEs

3.1 Table No.1 below specifies the Reporting Authority, Reviewing Authority and Accepting Authorities in respect of Performance Appraisal Report (PAR) of the Chief Executives, Functional Directors, Executive Directors (E9) and General Managers (E8) of CPSEs.

Table No.1 – Channel of submission of PAR

S. No.	Name of the officer whose PAR is to be written	Reporting Authority	Reviewing Authority	Accepting Authority	PAR Repository Authorities
I	Holding Companies				
i)	Executive Chairman	Secretary of the AM/D <sup>1</sup>	Minister-in-charge	Minister-in-charge	Original copy with the AM/D and one certified copy each with the Nodal officer of the CPSE and PESB
ii)	CMD <sup>2</sup>	Secretary of the AM/D	Minister-in-charge	Minister-in-charge	-do-
iii)	MD <sup>3</sup>	Executive Chairman	Secretary of the AM/D	Minister-in-charge	-do-
		Secretary of the AM/D	Minister-in-charge		
iv)	Functional Director	Executive Chairman	Secretary of the AM/D	Minister-in-charge	-do-
		CMD	Secretary of the AM/D	Minister-in-charge	
		MD	Executive Chairman	Secretary of the AM/D	
			Secretary of the AM/D	Minister-in-charge	

<sup>1</sup> AM/D – Administrative Ministry/Department

<sup>2</sup> CMD – Chairman & Managing Director of the CPSE

<sup>3</sup> MD – Managing Director of the CPSE

v)	ED <sup>1</sup> and other officers of equivalent posts (E9)				
a	In case the officer directly reports to Functional Director	Functional Director	Executive Chairman	Executive Chairman	Original copy with the Nodal officer of the CPSE.
			CMD	CMD	
			MD	Executive Chairman or MD	
b	In case the officer directly reports to Executive Chairman	Executive Chairman	Executive Chairman	Executive Chairman	
c	In case the officer directly reports to CMD	CMD	CMD	CMD	
d	In case the officer directly reports to MD	MD	Executive Chairman	Executive Chairman	
			MD	MD	
vi)	GM <sup>2</sup> and other officers of equivalent posts (E8)				
a	In case the officer directly reports to ED	ED	Functional Director	Executive Chairman or CMD or MD	Original Copy with the Nodal officer of the CPSE.
			Executive Chairman or CMD	Executive Chairman or CMD	
			MD	Executive Chairman or MD	
b	In case the officer directly reports to Executive Chairman	Executive Chairman	Executive Chairman	Executive Chairman	
c	In case the officer directly reports to CMD	CMD	CMD	CMD	
d	In case the officer directly reports to MD	MD	Executive Chairman	Executive Chairman	
			MD	MD	

<sup>1</sup> ED - Executive Director in CPSE

<sup>2</sup> GM - General Manager in CPSE



e	In case the officer directly reports to Functional Director	Functional Director	Executive Chairman	Executive Chairman	
			CMD	CMD	
			MD	Executive Chairman or MD	
<b>II Subsidiary Companies</b>					
i)	CMD	CMD or Executive Chairman of Holding Company	Secretary of the AM/D	Minister-in-charge	Original Copy with AM/D and one certified copy each with the Nodal officer of the CPSE and PESB
		MD of Holding Company	Executive Chairman of Holding Company or Secretary of the AM/D	Secretary of the AM/D or Minister-in-charge	
ii)	MD	Executive Chairman/ CMD of Holding Company	Secretary of the AM/D	Minister -in-charge	-do-
		MD of Holding Company	Executive Chairman of Holding Company or Secretary of the AM/D	Secretary of the AM/D or Minister-in-charge	
iii)	Functional Director	CMD/MD of subsidiary company	Executive Chairman or CMD of Holding Company	Secretary of the AM/D	-do-
			MD of Holding Company	Executive Chairman of Holding Company or Secretary of the AM/D	
iv)	GM and other officers of equivalent posts (E8)				
a	In case the officer directly reports to Functional Director	Functional Director	CMD	CMD	Original Copy with the Nodal officer of the CPSE
			MD	Executive Chairman or MD	

b	In case the officer directly reports to CMD	CMD	CMD	CMD	
c	In case the officer directly reports to MD	MD	Executive Chairman	Executive Chairman	
			MD	MD	

3.2 Notwithstanding the channel of Reporting, Reviewing and Acceptance mentioned in para 3.1 above, the administrative Ministry/Department may, in consultation with Department of Public Enterprises, adopt a different channel of submission of PAR on case by case for valid reasons.

#### 4. Schedule of commencement and completion of PARs:

4.1 Table No.2 given below indicates the schedule of commencement and completion of Performance Appraisal exercise which should be strictly followed:-

Table No.2 - Schedule of commencement and completion of PARs

S. No.	Activity	Cut-off Date <sup>1</sup>
i)	Finalization of targets and relative weights by the Reporting Authority in consultation with the officer reported upon and sending a copy thereof to the Nodal officer for record	30 <sup>th</sup> June
ii)	Nodal Officer will circulate one copy of blank PAR form to the officer reported upon specifying the Reporting, Reviewing and Accepting Authorities	30 <sup>th</sup> September
iii)	Submission of the PAR form after self-appraisal by the officer reported upon to the Reporting Authority under intimation to the Nodal officer	31 <sup>st</sup> October
iv)	Submission of the PAR form after appraisal by the Reporting Authority to the Reviewing Authority under intimation to the Nodal officer	15 <sup>th</sup> November
v)	Submission of the PAR form after review by the Reviewing Authority to the Accepting Authority under intimation to the Nodal officer	30 <sup>th</sup> November
vi)	Furnishing of the PAR form after appraisal by Accepting Authority to the Nodal officer	15 <sup>th</sup> December
vii)	Disclosure of the PAR to the officer reported upon by the Nodal officer	31 <sup>st</sup> December
viii)	Submission of representation, if any, by the officer reported upon to the Nodal officer	15 <sup>th</sup> January

<sup>1</sup> Cut-off date will be in the year following the financial year for which PAR is written except for S. No. (i) where the cut-off date mentioned is 30<sup>th</sup> June of the Reporting year. In case these dates fall on holidays, the cut-off date will be automatically extended to the next working day.

ix (a)	<u>If no representation is received:</u> The PAR as disclosed to the officer reported upon should be treated as final and forwarded to the concerned PAR Repository Authorities by the Nodal officer	31 <sup>st</sup> January
ix (b)	<u>If representation is received:</u> The Nodal officer shall put up the representation before the Accepting Authority for disposal in consultation with a committee of senior officers and with the Reporting/Reviewing Authority as may be required.	28 <sup>th</sup> February
ix (c)	Nodal officer shall make necessary entries in Section VI of the PAR about the final decision of the Accepting Authority on the representation and disclose the same to the officer reported upon	15 <sup>th</sup> March
ix (d)	Nodal officer will forward the completed PAR in original to the concerned PAR Repository Authorities and complete the process	31 <sup>st</sup> March

#### 5. Nomination of Nodal officer by CPSE/Administrative Ministry/Department

5.1 The Nodal officers nominated by the CPSE and the concerned administrative Ministry/Department should ensure that only one copy of the PAR form in respect of the Chief Executives, Functional Directors, Executive Directors and General Managers is circulated and filled up. They should also ensure that the PARs are duly completed as per the schedule given in para 4.1 and copies (hard as well as digital) of the PAR are made and certified by them. The Nodal officer should send the certified copies of the PAR to the concerned PAR Repository Authorities within the prescribed time. The Nodal officers for the Board level and below Board level executives are indicated in Table No.3 given below:

Table No.3 - Nodal officers for the Board level and below Board level executives

Particulars of Post	Nodal officer
<u>Board level Executives</u>	Joint Secretary looking after administration in the concerned administrative Ministry/Department
Chief Executives and Functional Directors	
<u>Below Board level Executives (E9 &amp; E8)</u>	A senior officer of CPSE looking after the Human Resource/Personnel/ Administration Deptt. so designated by the concerned CPSE
Executive Directors and General Managers	

#### 6. Procedure for initiation, review and acceptance of PARs

6.1 **Commencement of Performance Appraisal exercise:** The performance appraisal should commence with the fixation of targets. The deliverables as well as relative weights in respect of each assigned tasks will be decided by the Reporting Authority after consulting the officer reported upon within two months from the start of the period of report. For example, for the year 2010-11, this work should be completed by 31<sup>st</sup> May, 2010. A copy of the approved targets as well as their relative weights should be sent to the Nodal officer by 30<sup>th</sup> June of the year of report by the Reporting Authority for record.

- 6.2 Nodal officer: The Nodal Officer shall, by 30<sup>th</sup> September of the year following the Reporting year, circulate one copy of PAR form after filling Section I to the officer reported upon specifying the Reporting, Reviewing and Accepting Authorities. The Nodal officers shall closely monitor the process of initiation and completion of PAR so that the remarks of the Reporting, Reviewing and Accepting Authorities are recorded without fail by the dates indicated in the schedule given in Para 4.1. In case the officer was on leave, training, ex-cadre foreign assignment for more than a year, the Nodal officer will record a certificate to the effect that no PAR is required to be written in respect of that officer for that period. Such a period shall be called "No Report Period" and accordingly no PAR would be necessary for such period.
- 6.3 Officer reported upon: The officer reported upon shall forward his self-appraisal to the Reporting Authority before 31<sup>st</sup> October of the following year under intimation to the Nodal officer and keep a record of the same as evidence that he had submitted the same in time i.e. by 31<sup>st</sup> October.
- 6.4 Reporting Authority: The Reporting Authority should record his comments in the PAR and send it to the Reviewing Authority within the stipulated time i.e. by 15<sup>th</sup> November under intimation to the Nodal officer. When the Reporting Authority retires or otherwise demits office, he may be allowed to give his report on his subordinates within a month of his retirement or demission of office. The Reporting Authority should have at least 3 months experience of the work and conduct of the officer reported upon before writing an assessment of the work of that officer. However, when there is no Reporting Authority having the requisite experience of 3 months or more during the period of report, the Nodal officer should indicate this in Section III of the PAR.
- 6.5 Reviewing Authority: The Reviewing Authority should record his comments on the PAR of his subordinates forwarded to him by the Reporting Authority and send it to the Accepting Authority by 30<sup>th</sup> November under intimation to the Nodal officer. The Reviewing Authority can review the PAR of his subordinates within one month after his retirement or demission of his office.
- 6.6 Accepting Authority: The Accepting Authority shall within the timeframe specified in para 4.1, record his remarks on the PAR and forward it to the Nodal officer. Where the Accepting Authority has not seen the performance of the officer reported upon for at least three months during the period for which the PAR has been written, it will not be necessary for the Accepting Authority to accept any such report and an entry to this effect shall be made in the Performance Appraisal report by the Nodal officer. The Accepting Authority shall not accept any PAR after one month of his retirement from service or demitting office. Further, it is incumbent on the Accepting Authority to see whether the overall grade given to the officer by the Reporting/Reviewing Authority correspond with the pen picture given by them and in case they are different, he/she should harmonise them by suitably changing the overall grade.
- 6.7 Action plan to avoid delay in completion of the PAR process: In case the Reporting Authority fails to submit the PAR to the Reviewing Authority within the stipulated period i.e. by 15<sup>th</sup> November, the Nodal officer shall immediately obtain a copy of the self-appraisal from the officer reported upon and send it directly to the Reviewing Authority and authorize him to initiate the PAR. The Nodal officer shall also keep a note of the failure of the Reporting Authority to submit the PAR of his subordinate in time for making entry in

Item No.11 of Section I of the PAR of such Reporting Authorities. In case either the Reviewing Authority or both the Reporting Authority and Reviewing Authority fail(s) to submit the PAR to the Accepting Authority within the stipulated period i.e. by 30<sup>th</sup> November, the Nodal officer shall immediately obtain a copy of the PAR of the officer reported upon with self appraisal and appraisal of the Reporting Authority, if available and send them directly to the Accepting Authority and request him to either review or 'initiate and review' the PAR, as the case may be. The Nodal officer shall also keep a note of the failure of the Reporting or/and Reviewing Authority, as the case may be, to submit the PAR of his/their subordinates in time for an appropriate entry in Item No.11 of Section I of the PAR of such Reviewing/Reporting Authorities. When the PAR of an officer of the CPSE reported upon is initiated by the Accepting Authority due to delay in initiation and review by the concerned authorities, it will not be necessary for him to review and accept such report. Similarly, when the PAR of an officer of the CPSE reported upon is reviewed by the Accepting Authority due to delay in review by the Reviewing Authority, it will not be necessary for him to accept such report.

6.8 **Comments on the integrity of the officer reported upon:** The Reporting Authority is required to comment on the integrity of the officer reported upon. In recording remarks with regard to integrity, he/she need not limit him/herself only to matters relating to financial integrity but would also take into account any violation, by the concerned officer, of the code of conduct laid down by the Board of the CPSE or expected of him. The following procedure should be followed in filling up Column 8 relating to integrity: (i) If the Officer's integrity is beyond doubt, it may be stated; (ii) If there is any doubt or suspicion, a separate secret note should be recorded and sent to the Reviewing Authority after recording this fact in the column relating to integrity. (iii) Where it is not possible either to certify the integrity or to record secret note, the Reporting Authority should state that he/she has not received anything against the officer. The Reviewing Authority will ensure that the follow up action is taken expeditiously.

6.9 The Reviewing Authority will ensure that the follow up action is taken expeditiously on the secret note if any submitted by the Reporting Authority. If, as a result of the follow up action, the doubts or suspicions are cleared, the integrity of the officer reported upon should be certified and an entry made accordingly by the Reviewing Authority in the Performance Appraisal Report. If the doubts or suspicions are confirmed, this fact should also be recorded by the Reviewing Authority. If as a result of the follow up action, the doubts or suspicions are neither cleared nor confirmed, the officer's conduct should be watched for a further period of one year and the outcome should be recorded in the Performance Appraisal Report by the Reviewing Authority. The Nodal officer shall communicate the final decision on the integrity of the officer reported upon to the officer concerned as well as the Reporting Authority.

7. **Disclosure of the entries recorded in the PAR and disposal of the representation, if any, received from the officer reported upon**

7.1 Once the PAR is completed, the Nodal officer shall be responsible for communicating the full Performance Appraisal Report including the overall grade and assessment of integrity, to the concerned officer by 31<sup>st</sup> December of the year following the year of report.

7.2 The concerned officer reported upon shall be given an opportunity to make a representation, if any, within a period of fifteen days from the date of receipt of the PAR against the entries and the final grading given in the PAR. While communicating the entries,

it should be made clear that in case no representation is received within fifteen days, it shall be deemed that he/she has no representation to make. If the Nodal officer does not receive any representation from the concerned officer reported upon, on or before fifteen days from the date of disclosure, the PAR will be treated as final. The representation shall be restricted to specific, factual observations contained in the report on the assessment of the achievements against targets, personal attributes, functional competencies and integrity. A committee of three senior officers will be appointed by the Accepting Authority to advise him on the representation, if any, received from the officer reported upon. The Committee of officers will consider the representation received from the officer reported upon in consultation with the Reporting and/or Reviewing Authorities and submit their report to the Accepting Authority. The Accepting Authority shall decide the matter objectively based on the material placed before him within a period of 45 days from the date of receipt of the representation from the officer reported upon. The Accepting Authority after due consideration shall pass a self-contained, speaking order on the issue at hand. He may reject the representation or may accept and modify the PAR accordingly. The Nodal officer shall communicate to the officer reported upon, Reporting and Reviewing Authorities, the decision of the Accepting Authority and the final grading within fifteen days of its receipt and shall keep a record thereof in Section VI of PAR form.

#### 8. Maintenance of PARs

The completed PARs in original of all Chief Executives and Functional Directors of CPSEs shall be retained in the Administrative Ministry and a certified copy of the PAR shall be kept in the concerned CPSE and PESB. The completed PARs in original of all Executive Directors (E9), General Managers (E8) and their equivalent executives of CPSEs shall be retained in the concerned CPSE. Maintenance of a copy of PAR of all Board level executives will facilitate Public Enterprises Selection Board (PESB) in its task of selection of Board level executives in CPSEs.

#### 9. Oversight of Performance Appraisal exercise by Department of Public Enterprises (DPE)

By 30<sup>th</sup> April of every year, PESB will share with DPE the status of completion of Performance Appraisal exercise in respect of all Board level executives for the year which is two years prior to the year of sharing of status report. Based on the report of PESB, DPE will take up the issue of incomplete or delayed PARs with the administrative Ministries/Departments for expediting the completion of the Performance Appraisal exercise.

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राजीव कुमार  
RAJIV KUMAR  
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भारत सरकार  
कार्मिक और प्रशिक्षण विभाग  
कार्मिक, लोक शिक्कामूल तथा पेंशन मंत्रालय  
नयाँ ब्लॉक, नयाँ दिल्ली - 110001  
GOVERNMENT OF INDIA  
DEPARTMENT OF PERSONNEL & TRAINING  
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES  
& PENSIONS  
NORTH BLOCK, NEW DELHI-110001

D.O. No.28/43(EO)/2013-ACC

23<sup>rd</sup> February, 2017

Dear Secretaries,

The Compendium of Guidelines pertaining to Board level appointments in Central Public Sector Enterprises was published on 27.11.2013. Since then, certain new instructions/clarifications have been issued and some of the relevant procedures have also been revised with the approval of the Competent Authority.

2. The Compendium of Guidelines has accordingly been updated incorporating all instructions which are current as on date and have not been superseded. While all care has been taken to ensure that there is no discrepancy in the Compendium vis-a-vis the extant instructions, in case of any discrepancy, the actual OMs/Orders/instructions shall be taken as authentic. Instances of any such discrepancy or any important instruction having been inadvertently omitted in the Compendium may kindly be brought to the notice of the undersigned for necessary rectification/inclusion. Two copies of the updated Compendium are enclosed.

3. The updated Compendium has also been uploaded on DoP&T's website and may be accessed at the following address:

<http://dopt.gov.in/notifications/oms-and-orders>

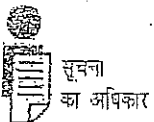
With warm regards

Yours sincerely,

  
(Rajiv Kumar)

To

Secretaries of all administrative Ministries/Departments as per list attached.



सूचना  
का अधिकार



सत्यमेव जयते

**COMPENDIUM OF GUIDELINES REGARDING BOARD  
LEVEL APPOINTMENTS IN CENTRAL PUBLIC SECTOR  
ENTERPRISES  
(UPDATED AS ON 23.02.2017)**

**Office of the Establishment Officer  
Department of Personnel & Training  
Ministry of Personnel, Pension & Public Grievances  
Government of India**



## Chapter 4

### Tenure of Board Level Appointments in CPSEs and Extension in Tenure

#### (A) Tenure Guidelines

##### (i) Chief Executives/Functional Directors

1. 05 years on contractual basis, with a provision that the Government will have option to terminate the services with three months' notice.
2. Subject to the condition that the officer meets the benchmark prescribed by the PESB and is clear from vigilance angle, the tenure may be extended for another term of 5 years, or up to the date of superannuation, whichever is earlier, with the approval of the ACC.

{Auth : (i) DoP&T's O.M. No.27(11)EO/86(ACC) dated 21.05.1986}  
(ii) PESB's D.O. No.5/6/2010-PESB dated 28.06.2011}

##### (ii) Non-Official Director

Maximum two tenures of 3 years each in a CPSE.

{Auth : Para 1(D) of DoP&T's O.M. No.13(15)EO/2007(ACC) dated 01.09.2010}

##### (iii) Nominee part-time Director

03 years, or till the date of superannuation, or until further orders, whichever is the earliest.

{Auth : DoP&T's communication No.13/34/2015-EO(ACC) dated 18.02.2016}

#### (B) Extension in Tenure

{Auth : (i) DoP&T's O.M. No.28(30)EO/2010(ACC) dated 31.03.2011; and  
(ii) PESB's D.O. No.5/6/2010-PESB dated 28.06.2011}

The following guidelines are in effect :

1. The power to approve extension of tenure of Board level appointees in Schedule 'A' and 'B' CPSEs vests with the ACC {Auth : DoP&T's O.M. No.27/12/97-EO (ACC) dated 15.10.1997} and all proposals for extension shall be referred to the ACC.
2. For extension of tenure of Board level appointees in Schedule 'C' and 'D' CPSEs, after consultation with the PESB, proposals need to be submitted to DOP&T for obtaining the approval of the ACC only if the recommendation of the PESB with respect to the Joint Appraisal is not proposed to be accepted in its entirety.

{Auth : DoP&T's O.M. No. 27(12)/EO/97(ACC) dated 03.04.2001}

3. The PESB, in consultation with the DPE, has evolved a benchmarking system to be applicable while considering proposals for extension. For CMD /MD and Functional Director, an overall performance score of 80 out of the maximum of 100 and 40 out of the maximum of 50 respectively, with no individual score of less than 3 in Annexure 'A' & 'C' and/or an average MoU rating of 3 or more in Annexure 'B' in the Special Performance Report, is the benchmark fixed by PESB for extension without reference to PESB. A score of below 80 (In case of CMD/MD)/40 (in case of FD)and/or any individual score of less than 3 in Annexure A and C, and/or an average MOU rating less than 3 in Annexure B needs to be sent to PESB for holding a Joint Appraisal Meeting.
4. All proposals in which the incumbents meet the benchmark and the Ministry/Department decides to recommend extension shall be referred to the ACC for approval, not later than two months before the scheduled expiry of the tenure of the incumbent. No reference would be needed to PESB for a fresh joint appraisal.
5. All proposals, wherein the incumbents meet the benchmark, but have some other issue such as vigilance, etc., for which the Ministry/Department is not inclined to recommend extension, shall be referred to the ACC for consideration six months before the scheduled expiry of tenure of the incumbent
6. All proposals wherein the incumbents do not meet the benchmark shall be referred to PESB by the Department/Ministry concerned. This reference has to be six months before the scheduled expiry of tenure of the incumbent. The recommendation of the PESB shall be referred to the ACC for orders.
7. All proposals wherein the Ministry suggest termination/non-extension of the incumbent shall be accompanied by the proposal for giving additional charge.
8. The Administrative Ministry will furnish the following documents to PESB/ACC (as the case may be) alongwith proposals for extension/non-extension of tenure:-
  - (i) Performance Appraisal Report in the prescribed format (A), (B), (C) & (D). In the column relating to performance in the Enterprise since the date of appointment of the incumbent figures upto the last five years should be indicated.
  - (ii) Special Performance Report in a narrative form duly signed by the Secretary of the Administrative Ministry in respect of the Chief Executive and in respect of the Functional Directors should be recorded by the Chief Executive and countersigned by the Secretary of the Administrative Ministry; and
  - (iii) Photocopies of the Annual Performance Appraisal Report for the last 5 years alongwith a certificate in terms of DPE guidelines dated 25.04.1985.
9. Proposals for extension in tenure submitted for consideration of the ACC must be accompanied with the CVC clearance with respect to the incumbent. In case the CVC clearance is neither accorded nor denied, but is awaited, the following procedure shall be followed :
  - (i) As in the case of fresh appointments, in line with CVC's instructions dated 31.08.2004, no cognizance should be taken of any complaint which is received within 06 months prior to the terminal date of the approved tenure of Board-level appointees. This is imperative as it has been frequently observed that there is a spate of allegations and complaints against Board-level officials whose cases become due for extension of tenure.

- (ii) The Department should take a conscious decision on whether to extend the term of a Board-level appointee at least one year in advance of the completion of his initial term so that adequate time is available for the Department to obtain CVC clearance.
- (iii) Taking into account the vigilance status as on the date six months before the terminal date of initial appointment, the CVC may give its clearance within two months of receiving the reference in this regard from the Administrative Ministry. This limit of two months will include time taken for back references, CBI references/inquiries, etc.
- (iv) Even though complaints received after the cut-off date shall have no bearing upon the process of extension of tenure and would not prejudice the same, such complaints shall be dealt with as per the normal procedure. Disregarding such complaints received after the cut-off date at the time of deciding upon extension of tenure may not be of any serious consequence as the appointment can always be terminated at a later date if the charges are substantiated on the basis of an inquiry.
- (v)
  - (a) In respect of the cases where CVC clearance has been delayed beyond the prescribed timeline, merely on account of procedural reasons, and where there is no denial of vigilance clearance, the case of extension could be processed without waiting any further.
  - (b) In respect of the cases where CVC clearance is awaited, and there are cases/complaints pending against the officer, the Ministry shall submit to ACC, a proposal for extension of tenure, at least two months prior to the officer's approved tenure with:
    - (i) all available information in respect of the complaint;
    - (ii) material received from/sent to CVC, including enquiry report, if any, of the CVO of the Ministry;
    - (iii) the comments of the Ministry thereon.

(C) No Extension In Tenure Without Approval Of The ACC

*{Auth : (i) DoP&T's D.O. No.17(6)EO/97(ACC)dated:10.02.1998 read with  
(ii) DoP&T's O.M. No.28(30)EO/2010(ACC) dated 31.03.2011}*

- (i) No orders for extension in tenure of appointment shall be issued by any Ministry/Department, without the explicit approval of the ACC with respect to Schedule 'A' and 'B' CPSEs; and with respect to Schedule 'C' and 'D' CPSEs in cases where the recommendation of the PESB after Joint Appraisal is proposed to be deviated from by the concerned administrative Ministry/Department.
- (ii) In cases where extension is done without ACC's approval, the responsibility would be that of the Secretary of the administrative Department/Ministry concerned to explain. The Secretary of the Ministry/Department concerned shall not take recourse to the argument that extension was granted on the instructions of the Minister.

(D) Ad-Hoc Extension Of Tenure

{Auth : (i) PESB's D.O. No.13/07/2010-PESB dated 13.05.2011  
(ii) DoP&T's O.M. No. 26(3)EO/2004(ACC) dated 17.08.2005}

All efforts are to be made to ensure that the cases of Executives, whose tenure are getting over but who still have not attained the age of superannuation, for grant of extension are processed expeditiously as per existing instructions. However, cases where the proposal could not be finalized on account of pending joint appraisal or vigilance clearance are to be considered for ad-hoc extension on case to case basis.

2. All proposals for ad-hoc extension in tenure of appointment of Board level appointees for CPSEs would require the approval of ACC subject to the following delegation of powers :

- a) Ad-hoc extension for Board level Directors of BIFR companies, up to six months requires approval of the Minister-in-charge and MOS(PP).
- b) Ad-hoc extension of tenure up to three months in respect of Board level appointments in CPSEs can be approved by the MOS(PP) subject to the following conditions :-
  - (i) The proposal for normal extension of tenure has been sent to the PESB as per the prescribed time schedule.
  - (ii) Action for selecting a substitute has been taken in time and the position is brought out in the proposal seeking extension.
  - (iii) The officer concerned is clear from vigilance angle.
  - (iv) All other cases would require the approval of the ACC.

(E) Extension In Service Beyond The Age Of Superannuation

{Auth : DoP&T's O.M. No. 20(28)EO/04(ACC) dated 26.10.2004}

It has been observed that the Administrative Ministries/Departments often approach the Appointments Committee of the Cabinet (ACC) for extension in service of Board level Executives of Public Sector Enterprises, Public Sector Banks and Financial Institutions under their control, beyond the prescribed age of superannuation.

2. After careful consideration of the matter, the ACC has directed that no proposals for extension of service beyond the age of superannuation, in respect of Executives of Banks, PSUs and Financial Institutions shall be entertained from any Administrative Ministry/Department;

(F) Important Instructions In Respect Of Sick CPSEs

1. In the case of sick/loss making CPSE for which revival plan has been approved by the Government, the following relaxation could be provided:-

{Auth : DPE's O.M. No.18(11)/2005-GM-GL-88 dated 24.07.2007}

- (i) In case, any Board level incumbent of such CPSE has contributed exceedingly well in the turnaround of that sick CPSE, his tenure may be extended till he attains the age of 65 years. Since, the selection process to a board level post is being initiated by PESB one year prior to the due date of superannuation of the incumbent, the proposal for extension of tenure beyond the age of superannuation will have to be initiated at least one year prior to the date of superannuation of the incumbent. In case, the balance period of tenure of incumbent is less

than one year at the time of approval of revival package by the Government, such proposal for extension of tenure may be initiated immediately after approval of revival package by the Government. The decision on the extension of tenure beyond the normal retirement age will be taken as per the extant procedure for extension of tenure of Board level executives, i.e. joint appraisal by PESB followed by the approval of the competent authority. Further, such extension would be subject to annual review of the performance of the incumbent to be conducted by Secretary of the concerned administrative Ministry.

- (ii) Where fresh appointment of the Chief Executive or any Functional Director is proposed and if the PESB procedure of circulation of vacancy does not ultimately lead to a panel for consideration by the competent authority, then relaxation of cut-off age for applying, to 62 years, with minimum tenure of 3 years, could be considered. In such cases, serving/retired CPSE executives, Government servants and private sector executives could be considered.
- (iii) The Chief Executives and Functional Directors of such CPSEs can be considered for a lump-sum incentive up to maximum of Rs.10 lakh out of the profits of the CPSE besides usual pay, allowances and perks attached to the post
- (iv) The exemption of the post from the rule of Immediate absorption has to be obtained from the DPE, on a case to case basis, by the administrative Ministry/Department concerned as provided in DoP&PW's O.M.No.4/10/2005-P&PW(D) dated 25.04.2005 before submitting the proposal for approval of ACC. These instructions supersede earlier instructions wherein the Ministry/ Department concerned, in consultation with the Public Enterprises Selection Board and with the approval of the Cabinet Secretary, could take a decision to fill up Board level post on deputation from any of the All India or Group 'A' Central Services without insisting on the rule of immediate absorption

{Auth : DPE's O.M. No. 18(6)/2001-GM-GL-77 dated the 28.12.2005}

2. In respect of appointments of senior officers of loss making Central Public Sector Enterprises to the Board level posts, the Appointments Committee of the Cabinet has observed that senior officers of such CPSEs should come under stringent scrutiny while their cases are considered for such appointments. Neither should such officers be automatically denied Board level appointments nor should they be automatically given such appointments. At all times, the criterion should be to rigorously ascertain the extent to which the officer has been responsible for losses suffered by the PSEs. Thereafter, a conclusion regarding his suitability to a Board level appointment can be reached.

{Auth : DoP&T's O.M. No. 27(16)-EO/94(ACC) dated 14.08.1995}

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F. No. W-02/0031/2018-DPE (WC)-GI-XX/18  
Government of India  
Ministry of Heavy Industries & Public Enterprises  
Department of Public Enterprises

Public Enterprises Bhawan  
Block No.14, CGO Complex, Lodhi Road  
New Delhi, the 23<sup>rd</sup> July, 2018

OFFICE MEMORANDUM

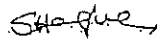
Subject:- Standard Terms and Conditions for 2017 IDA pay scales in respect of Board level executives of CPSEs-reg.

The undersigned is directed to refer to DPE's OM dated 14.12.2012 and to state that guidelines on revised pay scales etc. in respect of executives of CPSEs following IDA pattern of pay scales w.e.f. 01.01.2017 have been issued vide DPE OMs dated 03.08.2017, 04.08.2017 and 07.09.2017. Based on the Government policy declared in these OMs, standard terms and conditions in respect of Board level executives of the CPSEs following IDA pay scales have been finalized by DPE. A copy of the standard terms and conditions is enclosed.

2. All proposals for pay fixation and terms & conditions of Board level executives in 2017 pay scales may be finalized in the model format enclosed, as per the procedure prescribed in the aforesaid DPE OM dated 14.12.2012.

3. All the cases where the pay fixation based on 2017 IDA pay scales in respect of Board level executives of CPSEs have already been finalized, the terms and conditions of such Board level executives may be reviewed in light of the enclosed standard terms & conditions.

4. This issues with the approval of the Competent Authority.

  
(Samsul Haque)  
Under Secretary

Encl: As above

To


All Administrative Ministries/Departments.

Copy to:-

- i. Secretary, PESB
- ii. Office of the Comptroller & Auditor General, 10, Deen Dayal Upadhyay Marg, New Delhi
- iii. FAs in Administrative Ministries/Departments
- iv. Joint Secretary, Department of Expenditure, North Block, New Delhi
- v. Joint Secretary, Department of Personnel & Training, North Block, New Delhi

Copy also to:

- i. NIC, DPE with a request to upload this OM on DPE website.
- ii. Director, Management Division, DPE
- iii. Director, GM Division, DPE

  
(Samsul Haque)  
Under Secretary

STANDARD TERMS AND CONDITIONS FOR 2017 PAY SCALES  
GOVERNMENT OF INDIA

MINISTRY OF \_\_\_\_\_  
DEPARTMENT OF \_\_\_\_\_

Dated:.....

To  
.....  
.....  
.....

Subject:- Appointment of Shri/Smt./Kum. \_\_\_\_\_ as \_\_\_\_\_ in  
\_\_\_\_\_ -terms and conditions thierof.

Sir/Madam,

I am directed to convey the sanction of the President to the appointment of  
Shri/Smt./Kum. \_\_\_\_\_ as \_\_\_\_\_ in \_\_\_\_\_  
w.e.f. \_\_\_\_\_ on the following terms and conditions:-

1.1 Period: The period of his/her appointment will be for a period of..... years  
w.e.f. \_\_\_\_\_ (date of appointment) in the first instance or till the date of  
superannuation or until further orders, whichever event occurs earlier and in  
accordance with the provisions of the Companies Act, 2013 as amended from time to  
time. The appointment may, however, be terminated even during this period by either  
side on 3 months' notice or on payment of three months salary in lieu thereof.

1.2 After the expiry of the first year, the performance of  
Shri/Smt./Kum. \_\_\_\_\_ will be reviewed to enable the Government to take a view  
regarding continuance or otherwise for the balance period of his/her tenure.

1.3 Headquarters: His/her headquarters will be at \_\_\_\_\_ where the  
registered office/corporate office/headquarters of the CPSE is located. He/She will be  
liable to serve in any part of the country at the discretion of the CPSE.

1.4 Pay: Shri/Smt./Kum. \_\_\_\_\_ will draw a basic pay of  
Rs. \_\_\_\_\_ per month in the scale of Rs. \_\_\_\_\_ (2017 pay scale as per DPE  
OM dated 03.08.2017) from the date of assumption of Office (w.e.f. date of pay revision  
in case appointed earlier than that).

1.5 Dearness Allowance: He/She would be paid DA in accordance with the new  
IDA scheme as spelt out in the DPE's OM dated 03.08.2017.

- 1.6 Annual Increment: He/She will be eligible to draw his/her annual increment @ 3% of basic pay on the anniversary date of his/her appointment in the scale referred to in para 1.4 above and further increments on the same date in subsequent years until the maximum of pay scale is reached. After reaching the maximum of the scale, one stagnation increment equal to the rate of last increment drawn will be granted after completion of every two year period from the date he/she reaches the maximum of his/her pay scale provided he/she gets a performance rating of "Good" or above. He/She will be granted a maximum of three such stagnation increments.
- 1.7 House Rent Allowance: He/She will be entitled to HRA as per the rates indicated in OMs dated 03.08.2017 & 04.08.2017.
- 1.8. Residential accommodation and recovery of rent for the accommodation so provided.
- 1.8.1 Company's own accommodation: Wherever the CPSE has built residential flats in the industrial township or purchased residential flats in the cities, arrangements would be made by the CPSE to provide a suitable residential accommodation to him/her.
- 1.8.2 Leased accommodation: If the CPSE is not able to provide residential accommodation either in township or out of the residential flats, purchased by it in the Headquarters, suitable accommodation could be arranged by the CPSE by taking the premises on lease basis at their headquarters. The Board of Directors may decide the size, type and locality of such accommodations as per DPE OMs dated 05.06.2003, 03.08.2017 and 04.08.2017.
- 1.8.3 Self-lease: If he/she owns a house at the place of his posting (Headquarters) and is desirous of taking his/her own house on self-lease basis for his/her residential purposes, the CPSE may permit him/her to do so provided he/she executes a lease-deed in favour of the CPSE. The Board of Directors may decide the size, type and locality of such accommodations as per DPE OMs dated 05.06.2003, 03.08.2017 and 04.08.2017.
- 1.8.4 Repair/maintenance of leased accommodation: The responsibility for repair and maintenance of leased accommodation is that of the lessor. Lease rent will be allowed only for 12 months in a year and no additional amount will be provided towards repair/maintenance of leased accommodation.
- 1.8.5 Existing lease deeds: The lease agreement signed by the CPSE in respect of the accommodation taken on lease basis for him/her, if any, prior to 03.08.2017 would not be re-opened during the pendency of the lease period. The lease money, in other words, should not be hiked till the expiry of lease period. This proviso would be applicable even if he/she had been permitted to take his/her own house on self-lease basis.



1.8.6 Office accommodation: No office accommodation at the expense of the CPSE would be provided or arranged by the CPSE at his/her residence.

1.9 Rent Recovery:

1.9.1 CPSE's township/own flats: Recovery of rent for the accommodation arranged by the company in its own township or from the pool of flats purchased by it in cities and towns and so allotted to him/her would be made at the rate spelt out in DPE OM dated 04.08.2017 from (date of joining) \_\_\_\_\_ or the standard rent fixed by the company, whichever is lower.

1.9.2 Lease accommodation: In respect of leased accommodation arranged by the CPSE, rent would be recovered from him/her at the rate spelt out in DPE OM dated 04.08.2017 from (date of joining) \_\_\_\_\_ or the actual rent, whichever is lower.

1.10 Conveyance: He will be entitled to the facility of staff car for private use as indicated below, in terms of DPE OMs dated 21.01.2013 & 04.11.2013:

<u>Name of the City</u>	<u>Ceiling on non-duty journeys</u>
Delhi, Mumbai, Kolkata, Chennai Bangaluru, Hyderabad	1000KM/PM
All the other cities	750KM/PM

Monthly recovery amount (AC/Non AC) for private use/non-duty journeys would be Rs 2000/- PM.

1.11 Leave: He/She will remain subject to the Leave Rules of the CPSE.

1.12 Club Membership: He/She will be allowed the Corporate Club Membership (upto maximum of two clubs), co-terminus with his/her tenure.

1.13 Other Allowances/Perks: The Board of Directors will decide on the Allowances and Perks subject to a ceiling of 35% of his/her basic pay as indicated in OMs dated 03.08.2017, 04.08.2017 & 07.09.2017.

1.14 Performance Related Payment(PRP): He/She shall be eligible for approved PRP as per OM dated 03.08.2017.

1.15 Superannuation Benefits: He/She shall be eligible for superannuation benefits based on approved schemes as per OM dated 03.08.2017.

MINUTES OF THE FOURTH SITTING OF THE COMMITTEE ON PETITIONS  
(SEVENTEENTH LOK SABHA)

The Committee met on Tuesday, 18 February, 2020 from 1100 hrs. to 1230 hrs. in Committee Room No.1, Block 'A', Parliament House Annexe Extension, New Delhi.

PRESENT

Dr. Virendra Kumar - Chairperson

MEMBERS

- 2. Shri Anto Antony
- 3. Shri Harish Dwivedi
- 4. Dr. Sukanta Majumdar
- 5. Smt. Anupriya Patel
- 6. Shri Brijendra Singh
- 7. Shri Sushil Kumar Singh
- 8. Shri Prabhubhai Nagarbhai Vasava

SECRETARIAT

- 1. Shri T. G. Chandrasekhar - Joint Secretary
- 2. Shri Raju Srivastava - Director

WITNESSES

- 2. At the outset, the Hon'ble Chairperson welcomed the Members to the sitting of the Committee.
  - 3. \*\*\*
  - 4. \*\*\*
  - 5. \*\*\*
  - 6. \*\*\*
  - 7. \*\*\*
  - 8. \*\*\*
- 9. The Committee, thereafter, took up for consideration the following Draft Reports :-
  - (i) \*\*\*
  - (ii) Action Taken Report on the action taken by the Government on the recommendations of the Committee on Petitions (Sixteenth Lok Sabha) made in their Forty-Eighth Report on the Representation of Shri D. Shivamurti forwarded by Shri Suresh C. Angadi, M.P., Lok Sabha alleging violation of Department of Personnel & Training/Department of Public Enterprises (DoPT/DPE) guidelines by the Hindustan Aeronautics Limited;
    - (iii) \*\*\*
    - (iv) \*\*\*
- 10. 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 finalise the Draft Reports and present the same to the House.
  - 11. \*\*\*
  - 12. A copy of the verbatim of the proceedings of the sitting of the Committee has been kept.

The Committee, then, adjourned.

\*\*\* Does not pertain to this Report.