

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Public Services – Subordinate Services – Revival of the scheme of compassionate appointments to the dependents of Government employees who retire on medical invalidation, as per the judgment of Supreme Court of India in Civil Appeal No.4210/2003 dated 12.08.2008 filed by V.Sivamurthy and others - Orders – Issued.

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GENERAL ADMINISTRATION (SER.G) DEPARTMENT

G.O.Ms.No. 661

**Dated:23 -10-2008.
Read the following:-**

- 1) G.O.Ms.No.504, G.A.(Ser.A) Department, Dated 30.7.1980.
- 2) G.O.Ms.No.309, G.A.(Ser.A) Department, Dated 4.7.1985.
- 3) G.O.Ms.No.214, G.A.(Ser.A) Department, Dated 9.6.1998
- 4) Govt.Memo. No.36299/Ser.A/99-1, G.A.(Ser.A) Department, Dated 25.6.1999.
- 5) Judgment Dated 12.10.2001 in W.P.No.13489/2000 and batch of Hon'ble High Court of Andhra Pradesh.
- 6) G.O.Ms.No.202, G.A.(Ser.A) Department, Dated 27.4.2002.
- 7) G.O.Ms.No.203, G.A.(Ser.A) Department, Dated 27.4.2002.
- 8) G.O.Ms.No.305, G.A.(Ser.A) Department, Dated 17.7.2002.
- 9) G.O.Ms.No.44, G.A. (Ser.A) Department, Dated 17.2.2003.
- 10) G.O.Ms.No.251, G.A.(Ser.G) Department, Dated 28.8.2004.
- 11) G.O.Ms.No.100, G.A.(Ser.G) Department, Dated 3.3.2005.
- 12) Suo-moto contempt of Hon'ble High Court Dated 12.10.2001.
- 13) G.O.Ms.No.246, G.A.(Ser.G) Department, Dated 30.5.2006.
- 14) G.O.Ms.No.124,P.R.&R.D.(Mdl.II) Department, Dated 2.4.2008.
- 15) The judgment of Hon'ble Supreme Court of India in Civil Appeal No.4210/2003 filed by V.Sivamurthy with CA Nos.4208-4209, 4213, 4226 of 2003, Dated 12.08.2008.

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ORDER :-

In the reference first read above, the Scheme of compassionate appointments to the dependents of Government employees who retired on medical invalidation was introduced in the State. The appointments under the scheme were to the post of Junior Assistant or to a post whose pay scale is equal to or less than to that of Junior Assistant.

2. In the reference second read above, the benefit of compassionate appointments was confined to the cases where Government servants retire on medical grounds five years before attaining the age of superannuation irrespective of the age of superannuation prescribed for the posts and services.

3. In the reference third read above, orders were issued prescribing suitable safeguards and procedures duly constituting the Medical Teams, District Level Committee of Officers and State Level Committee of Officers to prevent any misuse of the scheme of compassionate appointments to the dependents of Government employees who retire on Medical invalidation.

4. In the reference fourth read above, it was clarified that the benefit of compassionate appointment will be applicable only to those Government employees who retire on Medical Invalidation five years before they attain the age of superannuation. Therefore, the required period of five years of left over service is to be reckoned from the date of issue of orders of retirement on Medical invalidation. It is further clarified that in cases where the Government employees who do not have five years of service before they attain the age of superannuation at the time of considering such cases by the State Level Committee or District Level Committees, the respective Committees, after scrutiny of Medical Invalidation Certificates in those cases, may recommend only for retirement of such Government employees on medical invalidation as per the certificate issued by the Medical Board.

5. The Full Bench of the Hon'ble High Court of Andhra Pradesh in its common Judgment dated 12.10.2001 in W.P.No.13489/2000 held that the appointment on compassionate grounds on Medical Invalidation does not satisfy the requirement of Article 16 of the Constitution of India and any policy decision taken by the State is unconstitutional.

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6. In the references sixth to eighth read above, orders were issued dispensing with the scheme of compassionate appointment in Medical Invalidation cases. The issue was examined by the Cabinet Sub-Committee on service matters based on several representations, keeping in view of the hardship pleaded by the Government employees who retired on medical invalidation, the Cabinet Sub-Committee on service matters in its meeting held on 23.01.2003 made certain recommendations to consider appointment to the post of Panchayat Secretary on contract basis with a basic pay of Rs.2870/- + H.R.A. + D.A. to the dependents of Government employees who retired on medical invalidation before issue of G.O.Ms.No.202, G.A.(Ser.A) Department, dated 27.4.2002.

7. In the reference 9th read above, the cases of dependents of Government employees who retired on medical invalidation and whose cases could not be considered by 27.4.2002 were considered for appointment on contract basis to the post of Executive Officer, Special Category-V (Panchayat Secretary) under Rule 9 of A.P. State and Subordinate Service Rules, 1996.

8. In the reference 10th read above, orders were issued to consider the dependents of Government employees who retired from service on medical invalidation before 27.4.2002, for appointment to the post of Panchayat Secretary on contract basis, taking into consideration the date of issue of medical invalidation certificate for reckoning the left over service of 5 years from the date of issue of medical invalidation certificate.

9. In the G.O. 11th read above, orders were issued that the dependents of Government employees who retired on medical invalidation before 27.4.2002 and who possess the academic qualification below 10th class only shall be considered for appointment to any of the posts in A.P. Last Grade service on contract basis and on fixed pay of Rs.2600/- p.m.

10. In the G.O. 13th read above, orders issued in G.O.Ms.No.44, G.A.(Ser.A) Department, dated 17.2.2003 and G.O.Ms.No.100, G.A.(Ser.G) Department, dated 3.3.2005 were withdrawn.

11. Aggrieved by the above orders, certain Panchayat Secretaries have approached Hon'ble APAT and APAT rejected the request of the applicants. Further, the applicants approached Hon'ble High Court and the Hon'ble High Court in its interim order dated 19.12.2007 in W.P.M.P.No.18401/2007 in W.P.No.14637/2007 and batch cases have directed the respondents to consider the cases of petitioner for appointment as Panchayat Secretaries/ V.R.Os / J.As and made it clear that such appointments shall be purely on "contract basis", as they were originally appointed and continuing.

12. In the reference 14th read above, the 1198 terminated Panchayat Secretaries were appointed on contract basis based on the interim orders of Hon'ble High Court dated 19.12.2007 in W.P.M.P. No.18401/2007 in W.P.No.14637/2007 and batch cases.

13. The Hon'ble Supreme Court of India, in V.Siva Murthy V/s State of Andhra Pradesh in (Civil appeal No 4210 of 2003 with CA.Nos.4208-4209, 4213, 4226 of 2003, Dated 12.08.2008) upheld the scheme of compassionate appointment to the dependents of Government employees who retired on Medical invalidation and held among others, as follows:

"We therefore, allow these appeals, set aside the judgment of the High Court (dated 12.10.2001). We also set aside the orders of the Tribunal though on different grounds. We uphold the validity of the compassionate appointment scheme (contained in G.O.Ms.No.504, G.A.(Ser.A) Department, dated 30.7.1980, G.O.Ms.No.309, G.A.(Ser.A) Department, dated 4.7.1985 and G.O.Ms.No.214, G.A. (Ser.A) Department, dated 9.6.1998, as clarified in Govt. Memo.No.36299/Ser.A/99 dated 25.6.1999) providing that the period of five years of left over service should be reckoned from the date of issue of the order of retirement on medical invalidation and not from the date of application for retirement on medical invalidation.

As the scheme was withdrawn by Govt. Memo. Dated 27.4.2002, to give effect to the impugned decision of the High Court, the state Government is at liberty to revive the scheme with or without modifications".

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14. After careful consideration, Government issue the following orders on reviving the scheme of compassionate appointments on medical invalidation of Government employee.

1. This concession of compassionate appointment shall be allowed only in exceptional cases where the appointing authority is satisfied that the condition of the family is indigent and in great distress and when there is no other earning member in the family. The word "family" consists of the members as defined in sub-rule 12(b) of Rule 50 of A.P. Revised Pension Rules, 1980.
2. The candidate eligible for appointment under this measure shall be the spouse of the Government servant or any one of the dependent children of the employee who retired on medical grounds.
3. The eligible person shall be appointed to the post of Junior Assistant or equivalent post or any other lower post.
4. Applications for appointment from such persons shall be entertained within a period of one year from the date of retirement of Government servant on medical invalidation.
5. The compassionate appointments shall be treated as direct recruitment and temporary appointments to start with.
6. The candidates to be appointed on compassionate grounds under these scheme shall possess the age and other qualifications as per rules in force.
7. The temporary appointment of a spouse or child can be considered for regular appointment without subjecting them to the normal process of recruitment. However;
 - a) A formal notification of vacancy shall be made to the Employment Exchange.
 - b) After filling up the vacancy, the appointing authority will furnish all relevant particulars of the candidate to the Employment Exchange.
 - c) Such appointments should be made under intimation to the Director of Employment and Training excepting in case of High Court.

15. The appointments on compassionate grounds under this scheme shall be in the same unit of appointment. While making these appointments the provisions contained in the Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) order, 1975 (Presidential Order on SPF) shall be applicable. The benefit of compassionate appointment on medical grounds shall be confined to the cases, where Government servants retired on medical ground, shall have left over service of 5 years before attaining the age of superannuation irrespective of the age of superannuation prescribed for the posts and services. The required period of 5 years of left over service is to be reckoned from the date of issue of orders of retirement on medical invalidation.

16. The appointing authority on receipt of the application from the Government employee for retirement on Medical Invalidation, shall refer the case to the Medical Board.

(i) At District level, a team of Doctors shall furnish the medical report to a District Level Committee of officers. Accordingly, Government hereby constitute the medical team (Medical Boards) as follows:-

(a) Where there are teaching hospitals, other than Ranga Reddy and Hyderabad Urban Districts, the medical team (Medical Board) shall consist of the Superintendent of the Govt. General Hospital and two doctors of the cadre of Civil Surgeon, nominated by the Superintendent of Government General

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Hospital, among them one should be a specialist in the disease/illness with which the employee is suffering and seeking Medical Invalidation and in case of a lady employee seeking a Medical Invalidation, of the two civil surgeons, one should be a lady civil surgeon.

(b) In the case of Ranga Reddy and Hyderabad Urban Districts, the Medical Boards already existing in Osmania General Hospital and Gandhi General Hospital shall constitute the team of Doctors (Medical Board) respectively.

© In all other districts, the District Co-ordinator of the District Head Quarters Hospitals of Andhra Pradesh Vidya Vidhana Parishad and two Civil Surgeons nominated by the District Co-ordinator, of whom one shall be from the speciality of the disease with which the employee is suffering from, shall constitute the medical team. In case, it is a woman employee seeking Medical Invalidation, of the two civil surgeons, one should be lady Civil Surgeon. Also where the District Head Quarter Hospital of Andhra Pradesh Vidya Vidhana Parishad does not have necessary expertise to decide the matter for want of the concerned specialist doctor, it may refer the case to the nearest teaching hospital for obtaining their opinion before making their recommendations.

(d) As and when a Government employee seeks and applies for retirement on medical grounds, the concerned appointing authority shall refer the case to the team of doctors (Medical Board) mentioned above.

(e) The Medical Board shall give its report based on the detailed clinical examination and relevant investigations in a Govt. Hospital/Govt. Institutions like NIMS, SVIMS etc.

(f) The benefit of compassionate appointment shall be extended in case where a Government servant totally cease to be employable and become a burden on his family i.e., when a Government servant is totally incapacitated on account of serious illness / accident.

(g) Accordingly, the disease for which medical invalidation shall be allowed may be any one of the following:-

1. Paralysis
 - (i) All 4 limbs
 - (ii) One side upper limb and lower limb
 - (iii) Both lower limbs
2. End stage Renal diseases
3. End stage Liver diseases
4. Cancer with metastasis stage or secondaries
5. Dementia – Mental Disorder
6. Severe Parkinson disease
7. Loss of limbs (hands or legs) in case of drivers.

(ii) The appointing authority under whom the employee seeking medical invalidation is working, shall, after receipt of the Medical Boards recommendations refer the matter to a District Level Committee of officers for scrutiny and its recommendations. Government hereby constitute the District Level Committee of the officers with the following :-

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|---|------|-------------------|
| 1. District Collector | | Chairman. |
| 2. The District Medical & Health Officer | | Member. |
| 3. The District Head of the Department in
which the employee is seeking retirement
on Medical Invalidation. | | Member/ Convener. |

The District Level Committee shall consider the Medical Invalidation report given by the Medical Board constituted in para 16 (i) above and scrutinize the proposal for compassionate appointment on Medical Invalidation strictly in accordance with the guidelines and conditions stipulated in the existing instructions on the scheme. The committee is also competent to seek at its discretion personal presence of the employee seeking retirement on medical invalidation before considering the proposal.

(iii) For scrutiny and for making recommendations in respect of cases of Government employees of Heads of Departments/Secretariat Departments, a State Level Committee of officers is hereby constituted with the following :-

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|--|-----|-------------------|
| 1. Special Chief Secretary /
Principal Secretary to Government
Nominated by the Government | ... | Chairman. |
| 2. Principal Secretary / Secretary to Govt.,
Health Medical & Family Welfare Dept. | ... | Member. |
| 3. Principal Secretary / Secretary to Govt.,
of the Department in which the employee
is seeking retirement on Medical Invalidation | ... | Member. |
| 4. Principal Secretary / Secretary to Govt.,
Finance Department. | ... | Member. |
| 5. Principal Secretary / Secretary to Govt.,
G.A. (Ser.) Department. | ... | Member. |
| 6. Secretary to Govt., Law Department. | ... | Member. |
| 7. Director of Medical Education | ... | Member. |
| 8. Dy.Secretary / Jt.Secretary / Addl.
Secretary to Government, HM&FW Dept. | ... | Member/ Convener. |

The State Level Committee shall consider the medical invalidation report given by the Medical Board constituted in para 16 (i) above and scrutinize the proposal for compassionate appointment on Medical Invalidation strictly in accordance with the guidelines and conditions stipulated in the existing instructions on the scheme.

(iv) The District Collectors who are heading the District Level Committees shall send the recommendations of the District Level Committees to the concerned District Head of the Department.

(v) In cases of Government employees of Heads of Departments / Secretariat Departments, the proposals shall be placed before the State Level Committee of officers directly through H.M. & F.W. Department in Secretariat based on the recommendations of the Medical Board.

(vi) In respect of employees working in the Heads of Departments / Secretariat Departments, the Convener of State Level Committee of officers shall send the recommendation of the State Level Committee in each case to the concerned Prl.Secretary / Secretary to Government of the Secretariat Department or to the Heads of Departments concerned for issue of appropriate orders.

(vii) Only where the State Level Committees of officers makes a clear recommendation for retirement on medical invalidation, the concerned Department of Secretariat, Head of the Department shall issue necessary orders permitting the Government employees to retire on grounds of medical invalidation and to appoint the dependents, such Government employees who are permitted to retire on medical invalidation as per the other existing instructions on the scheme. Such compassionate appointments will be confined only to the Department in which retirement of the employee on medical invalidation was ordered. In case of Departments of Secretariat, it is Single Unit except Law and Finance Departments.

17. The compassionate appointments on medical invalidation shall be limited to 5% of Direct Recruitment vacancies in a unit of appointment.

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18. All such cases where appointments under medical invalidation grounds were made, must be reported in detail by the District Head of the Department along with copies of the orders justifying the appointment orders under medical invalidation to the concerned Administrative Department in Secretariat.

19. All the Departments of Secretariat, all the Heads of Departments, all the District Collectors and all the appointing authorities shall follow the above instructions scrupulously without any deviation.

20. Necessary amendments to the Article 442 of Andhra Pradesh Pension Code shall be issued separately by Finance (Pension) Department.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

P.RAMAKANTH REDDY,
CHIEF SECRETARY TO GOVERNMENT.

To
All Departments of Secretariat.
All Heads of Departments.
All District Collectors in the State.
All District Judges in the State.
All Chief Executive Officers, Zilla Parishads in the State.
All Principals of Medical Colleges in Andhra Pradesh.
All Superintendents of Government General Hospitals.
All Dist.Coordinators of Hospitals, Dist.Head Quarters Hospitals.
The Finance (Pension) Department.
The Law (LSP) Department.
The HM & FW Department.
The G.A. (Cabinet/IC) Department.
Copy to:-
Prl.Secretary to Government, HM&FW Department.
Prl.Secretary to Government, Finance Department.
Secretary to Government, Law Department.
P.S. to Chief Secretary to Government.
P.S. to Prl.Secretary to Chief Minister.
The Director Medical Education, AP Hyderabad.
The Accountant General, A.P. Hyderabad.
The Secretary, APPSC, Hyderabad.
The Advocate General, High Court of A.P., Hyderabad.
The Govt.Pleader for Services, High Court of A.P., Hyderabad.
The Govt. Pleader for Services, A.P. Administrative Tribunal, Hyderabad.
SF / SC.

// Forwarded :: By Order //

SECTION OFFICER.