

Scheme for Periodical Review for Ensuring Probity & Efficacy among Executives

Under the provisions of service regulations Rule – 8 (26) the scheme for review of ensuring Probity & Efficacy among executives is framed which is as following:

PREAMBLE

To ensure probity and efficacy amongst the CPSEs employees, Government has issued instructions recently by DPE vide O.M. F.No.DPE-GM-01-0001-2015-GM-FTS-4857 Dt.14.12.2015 prescribing review of Government employees upon completion of specified years of service or attaining specified years of age. In this regard while framing the scheme the observations of the Hon'ble Supreme Court in the relevant cases has also been considered:-

- 1] DoPT has also drawn attention to the observation made by the Hon'ble Supreme Court in State of Gujarat Vs Umedbhai M. Patel, 2001 (3) SCC 314, which are as follows:
 - i] Whenever the services of a public servant are no longer useful to the general administration, the officer can be compulsorily retired for the sake of public interest.
 - ii] Ordinarily, the order of compulsory retirement is not to be treated as a punishment coming under Article 311 of the Constitution.
 - iii] "For better administration it is necessary to chop off dead wood, but the order of compulsory retirement can be passed after having due regard to the entire service record of the officers."
 - iv] Any adverse entries made in the confidential record shall be taken note of and be given due weightage in passing such order.
 - v] Even un-communicated entries in the confidential record can also be taken into consideration.
 - vi] The order of compulsory retirement shall not be passed as a short cut to avoid Departmental enquiry when such course is more desirable.
 - vii] If the officer was given a promotion despite adverse entries made in the confidential record that is a fact in favour of the officer.
 - viii] Compulsory retirement shall not be imposed as a punitive measure.

- 2] As far as integrity is considered, the following observations of the Hon'ble Supreme Court, while upholding compulsory retirement in the case of S. RamachandraRajuvvs State of Orissa, may be kept in view:-

“The officer would live by reputation built around him. In an appropriate case, there may not be sufficient evidence to take punitive disciplinary action of removal from service. But his conduct and reputation is such that his continuance in services would be menace to public service and injurious to public interest”

Thus while considering integrity of an employee, actions or decisions taken by the employee which do not appear to be above Board, complaints received against him, or suspicious property transactions, for which there may not be sufficient evidence to initiate departmental proceedings, may be taken into account. Judgment of the Apex Court in the case of Shri K. Kandaswamy, I.P.S. (TN:1966) in K. Kandaswamyvs Union of India &Anr, 1996 AIR 277, 1995 SCC (6) 162 is relevant here. There were persistent reports of ShriKandaswamy acquiring large assets and of his getting money from his subordinates. He also indulged in property transactions which gave rise to suspicion about his bonafides. The Hon'ble Supreme Court upheld his compulsory retirement under provisions of the relevant Rules.

- 3] Similarly, reports of conduct unbecoming of a Government servant may also form basis for compulsory retirement. As per the Hon'ble Supreme Court in State of U.P. and Others vs Vijay Kumar Jain, Appeal (Civil) 2083 of 2002:-

“If conduct of a Government employee becomes unbecoming to the public interest or obstructs the efficiency in public services, the Government has an absolute right to compulsorily retire such an employee in public interest”

4] **TITLE & APPLICATIONS:**

- [4.1] These rules shall be called MOIL Limited scheme for periodical review of existing probity & efficacy amongst executives 2016.
- [4.2] These rules will come in to force from the date of order issued for applicability of the scheme.
- [4.3] These rules will apply to all executives below Board level.

5] **OBJECTIVE:**

The objective of the scheme is to strengthen the administration by ensuring probity and efficacy among Executives. Whenever the services of an Executive are no longer useful to the Company, the Executive can be retired prematurely for the sake of Public interest.

6] **DEFINITIONS:**

- (6.1) **COMPANY:** Company means MOIL Limited and may be referred as company/MOIL.
- (6.2) **EXECUTIVE:** All officers/executive employed below Board level, employed in scale E-0 onwards.
- (6.3) **COMMITTEE:** Committee for the purpose of these rules committee constituted by Competent Authority.
- (6.4) **COMPETENT AUTHORITY:** Chairman-cum-Managing Director or his authorised representative.
- (6.5) **APPROVING AUTHORITY:** As defined under clause No.8.3 of this scheme.
- (6.6) **REVIEWING AUTHORITY:** As defend under clause No. 8.3 of this scheme.

7] **CRITERIA:**

7.1] Criteria to be followed by the Committee in making their recommendations would be as follows:

a. Executives whose integrity is doubtful –

- i. An Executive who gets an adverse comment consecutively for three years on his integrity in his Annual Performance Appraisal Report immediately preceding the quarter in which he/she is to be assessed would be recommended for premature retirement.
- ii. Actions or decisions taken by the Executive which do not appear to be above Board, complaints received against him may be given due cognizance while considering integrity of an Executive.

Inputs from Vigilance Department may also be obtained in cases where integrity of Executives is doubtful.

b. Executives who are found to be ineffective. The basic consideration in identifying such Executive should be the fitness/competence of the Executive to continue in the post which he/she is holding –

- i. In such case, inefficiency would be evaluated on basis of the appraisal report. If in the opinion of the Approving Authority, for reasons to be recorded in writing, an Executive's performance is considered to be unsatisfactory, on the basis of his securing a poor rating for Executives.

The said assessment should not be confined to the consideration of Performance Appraisals/ Grading/ Merit ratings alone. In every assessment, the entire service records of the Executive should be considered.

c. An Executive's conduct and reputation is such that his continuation in service would be a menace and injurious to public interest, the same can also form basis for premature retirement of an Executive.

- d. While the entire service record of an Executive should be considered at the time of assessment, no Executive should ordinarily be retired on grounds of ineffectiveness if his service during the preceding five years immediately preceding the quarter in which he/she is to be assessed or where he has been promoted to a higher post during that 5 year period, his service in the highest post, has been found satisfactory. However, when an Executive is recommended for premature retirement on grounds of doubtful integrity, there is no such stipulation.
- e. No Executive should be ordinarily retired on ground of ineffectiveness; if in any event, he/ she would be retiring on superannuation within a period of one year from the date of consideration of his case. However, it is clarified that if there is a steep fall in competence, efficiency or effectiveness of an Executive, it would be open to assessment his/ her case for premature retirement.

7.2] The rule relating to premature retirement should not be used:-

- [a] To retire an executive on grounds of specific acts of misconduct, as a short-out to initiating formal disciplinary proceedings; or
- [b] For reduction of surplus executives or as a measure of effecting general economy without following the rules and instructions relating to retrenchment.
- [c] Based on the assessment under the scheme carried out in each quarter as per the scheme, a summarised report for the Calendar year will be generated by Corporate Personnel department for onward transmission to Ministry/ any other Govt. agency, as required.

8] **PROCEDURE:**

The premature retirement, which is made in the public interest, is not to be treated as a punishment and shall be carried out after a comprehensive assessment taking into account the entire service record of the concerned Executive.

- [8.1] Assessment of Executives under the scheme, to ascertain as to whether an Executive in a substantive post should continue in the employment of the Company, shall be carried out six months before the Executive attains the age of 50 years if he had entered the service before attaining the age of 35 years, and in any other case after he has attained the age of 55 years, as the case may be.
- [8.2] In every assessment, the entire service records should be considered. The expression "Service Record" will take in all relevant records and, hence, the assessment should not be confined to the consideration of Performance Appraisals/ Grading/ Merit ratings. The personal file of the concerned Executive may contain valuable information and the same may also be referred for assessment purpose. The works and performance of the Executive could also be assessed by looking into files dealt with by him/her or in any papers or reports prepared and submitted by him/her. The assessment of an executive under the scheme shall be conducted in the prescribed proforma **Annexure-I**. The case of assessment of the executive whose integrity was doubtful under the criteria the case shall be routed through Vigilance Department.

- [8.3] In order to undertake the assessment of Executives at Departmental level, Committees will be constituted. The constitution of the Committees (not less than 3 members) to assessment the probity and efficacy of Executives will be as under:

Level/ Grade of Executives	Committee composition	Approvin g Authority	Reviewin g Authority
Executives in E-0 to E-8 grades	HoD of Personnel Dept., HoD of Finance Dept. and ED/HoD of Concerned Dept. and SC/ST representative, if SC/ST Executive is there in the assessment.	Concerne d Functiona l Director	C.M.D.
Executives in E-9 grades	Committee consisting of two Functional Directors, Head of Personnel and SC/ST representative, if SC/ST Executive is there in the assessment.	C.M.D.	Board

Note:- i] In case there is any female executive whose case is to be kept for assessment, a female executive shall be co-opted in the committee who shall be at least one level above the scale of female executive whose case is under assessment.

- ii] In case there is no E-09 post in the company, the committee prescribed for assessment of E-09 scale of executives will assess the cases of E-08 scale of executives.

The Committees, as shown above, after carrying out the assessment will recommend the cases of Executives required to be retired prematurely.

Based on the recommendations of the Committees, if the Approving Authority is of the opinion that it is in the public interest to do so, he will have the absolute right to retire any Executive by giving him notice The assessment of an executive under the scheme shall be conveyed in the prescribed order in proforma **Annexure-II** for his or her pre-mature retirement form the services of the company.

Issuance of order& acknowledgement:

- a] The order of pre-mature retirement shall be issued to the executive and his acknowledgement shall be obtained in presence of two independent witnesses and their signature shall also be obtained.
- b] In case the employee refuses to accept his/her order of pre-mature retirement along with the cheque equivalent to 3 months notice pay, it should be ensured that the refusal of the employee is to be noted in presence of two witnesses under their signature.

- c] In such case copy of the order of pre-mature retirement to the employee shall be sent under registered post with acknowledgement to the individual at the last official known address with a covering letter stating that the original notice/order was taken by such as such on so and so date in presence of two witnesses in spite that the employee concerned was refused to accept the same. Consequently under such circumstances copy of the same order is being sent by registered post for his or her record.
- d] In such case where the employee was refused to accept the order of pre-mature retirement the date of effective for his pre-mature retirement shall be the following date since when the employee was refused to accept the order along with cheque of equivalent to 3 months notice pay.
- 8.4] A register of Executives who are due to attain the age of 50/55 years, as the case may be / will be maintained. The register should be scrutinised at the beginning of every quarter by the Personnel Department. Assessment has to be carried out as per the schedule given below.

Sl. No.	Quarter in which assessment is to be made	Cases of Executive who will be attaining the age of 50/ 55 years as the case may be, in the quarter indicated below
1.	January to March	July to September of the same year
2.	April to June	October to December of the same year
3.	July to September	January to March of the next year
4.	October to December	April to June of the next year

- 9] An Executive who is prematurely retired will be entitled to the following, subject to fulfilment of conditions/terms stated in the relevant schemes, rules, etc.:-
- Pay for the notice period of three months or as may be applicable to him under his terms and conditions of service.
 - Leave salary as per the Leave Rules applicable to the Executive as in case of superannuation.
 - Provident fund subject to the provisions of the Provident Fund Rules applicable to him.
 - Gratuity for each completed year of service or part thereof as admissible under the Gratuity Rules.
 - The post retirement Medical benefits under Medical Attendance Scheme for retired Employees (MASRE) and Post Retirement Medical Insurance Scheme (PRMIS) as per rules of the company.
 - MOIL Group Superannuation Cash Accumulation Scheme (Defined Contribution) fund (MOIL GSCA (DC)).
 - Any other scheme, which is applicable in case of superannuating Executives.

10] PROCEDURE FOR CONSIDERATION OF REPRESENTATION:

Under the Scheme, if any of the Executive, whose case will be reviewed and the Order of compulsory retirement passed against him, if he aggrieved by the Order, he may submit representation within 30 days in the prescribed proforma **Annexure-III** for review to the reviewing authority as per following procedure.

i] On receipt of the representation by the reviewing authority should examine the same to see whether it contains any facts or any aspect of a fact already known but which was not taken into account at the time of issue of order of premature retirement. This examination should be completed within two weeks & pass final order within 30 days from the date of receipt of the representation.

ii] If in any case it is decided to reinstate a prematurely retired executive in the services after considering his representation in accordance with these instructions, the period intervening between the date of premature retirement and the date of reinstatement as duty, or as leave or as dies-non as the case may be, taking into account the merits of each case.

iii] Where the review representation Committee records a definitive finding that the premature retirement of the executive was on account of political or personal victimization, the intervening period should be treated as duty with full pay and allowances. In other cases, it would not be appropriate to treat the period during which the employee had not worked, on duty and allow him the duty pay for the same. In such cases, the period may hitherto be treated as leave due and admissible or dies-on, as the authority ordering reinstatement may decide.

iv] In the cases of employees who had been prematurely retired on grounds of inefficiency and by the time the Committee to consider the representations against such premature retirement came to the conclusion that premature retirement was unjustified, the date of superannuation of the employee has already arrived or had passed, it has been decided that the authorities empowered to pass final orders may at their discretion reinstate the superannuated executive notionally with effect from the date of compulsory retirement and treat the period upto the date of superannuation, as duty, leave or dies-non as may be considered appropriate by the competent authority.

v] Representations from executives who have been served with a notice/order of premature retirement, but have obtained stay order(s) from a court against the order/notice of premature retirement, need not be dealt with until the disposal of the court case. Therefore, the cases may be examined as outlined above, also taking into account any material of a substantive nature that may feature in the court's judgment.

The Reviewing authority shall dispose of the same within 30 days from the receipt of the appeal in the format **Annexure-IV**. In case of any of the executives it will be reviewed.

11] **SAVING:**

The above provision of the Scheme can be modified, altered or withdrawn with the approval of the Board of Directors.

12] **EFFECTIVE DATE:**

The Rules shall come into force from the date of issue of the order of implementation.

MOIL LIMITED
1A, MOIL Bhawan, Katol Road,
Nagpur - 440 013

**ORDER ISSUED UNDER THE SCHEME FOR PERIODICAL REVIEW FOR ENSURING PROBITY
AND EFFICACY TO RETIRE AN EXECUTIVE OF
MOIL LIMITED**

ORDER

Whereas under the provisions of scheme for periodical review for ensuring probity and efficacy the assessment committee is of the opinion that it is in the public interest to do so;

Now, THEREFORE, in exercise of the powers conferred for the assessment to the duly constituted committee under the scheme hereby gives notice to Shri _____ (designation) _____ that he/she having already attained the age of fifty/fifty-five years, having completed ___ years of service on _____ and shall pre-maturely retire from service on _____ after duty hours of the day following the date of expiry of three months computed form the date following the date of service of this notice on him. If he so desires, he may represent in writing to reviewing authority within 30 days from the date this notice is served on him/her.

This communication is being issued with the approval of approving authority.

GENERAL MANAGER (PER)

ACKNOWLEDGEMENT

I, _____, now holding the post of _____ hereby acknowledge the receipt of the original notice of the order of retirement as aforesaid.

Kindly acknowledge the receipt of the order.

Name : _____

EMP No.: _____

Designation: _____

Mine: _____

PROFORMA FOR ASSESSMENT OF THE EXECUTIVE UNDER SCHEME FOR PERIODICAL REVIEW FOR ENSURING PROBITY AND EFFICACY

I. BIO-DATA

OFFICE/MINE: _____

DATE ASSESSMENT :

Name	Date of Birth	Date of appointment in service	Date of completion of 50/55 years of age	Tota No. of year of service	Break in service caused, if any
1	2	3	4	5	6

Present Designation	Present Scale of pay / grade	Mine presently employed	Details of posts held during last 5 years		
			Designation	From	To
7	8	9	10		

II ASSESSMENT

PERFORMANCE REPORT OF THE CONTROLLING OFFICER ON THE BASIS OF LAST FIVE YEARS SERVICE

(To be recorded by an officer not lowers than a Senior Scale Officer)

11. (a) Is he physically and mentally fit to discharge duties effectively, if continued in service? Yes No. Comments on his:
- (b) His attendance Good Poor i] Integrity:
- (c) His punctuality Good Poor ii] General conduct:
- (d) Does he deal with correspondence promptly? Yes No.
- (e) Does he take decision? Yes No. iii] Performances during 5 years.
- (f) Are his inspections sound and fruitful? Yes No.
- (g) Is he cost conscious? Yes No.
- (h) Can he maintain discipline amongst subordinate? Yes No.

Signature

Name:

Designation:

III RECORD OF SERVICE DURING HIS ENTIRE CAREER

Appreciation of good work done, if any	Particulars of penalties imposed, if any with reasons		
	Nature of penalty imposed	No. of times imposed	Reasons
12	13		

14. REMARKS RECORDED IN THE CONFIDENTIAL REPORT, DURING THE LAST 5 YEARS, IF MAINTAINED (CRS IN ORIGINAL SHOULD BE ENCLOSED)

	Year	Year	Year	Year	Year
[A] Classification					
[B] Remarks about integrity					
[C] Adverse remarks, if any :					
[D] Whether adverse remarks were communicated to employee :					

15. ATTENDANCE PARTICULARS FOR PREVIOUS FIVE YEARS

	Year	Year	Year	Year	Year
[1] Sick Leave					
i] Full Pay :					
ii] Half Pay:					
[2] Leave not due :					
[3] Leave without pay:					

16. PARTICLES OF VIGILANCE CASES PENDING, IF ANY

17. SPEAKING ORDERS OF THE ASSESSMENT COMMITTEE

File No.:

Signature:

Name

Designation

Date:

(MEMBER)

(MEMBER)

(MEMBER)

18. IN CASES OF RETIREMENT ON GROUNDS OF 'DOUBTFUL INTEGRITY' ONLY, THE REMARKS/RECOMMENDATIONS OF THE VIGILANCE DEPARTMENT.

NAME:

DATE:

19. (IN CASE OF APPEAL):-

The Speaking orders of the Reviewing authority

Signature:

Name:

Designation:

Date:

(REVIEWING AUTHORITY)

MOIL LIMITED
1A, MOIL Bhawan, Katol Road,
Nagpur - 440 013

APPEAL BEFORE REVIEWING AUTHORITY UNDER SCHEME FOR PERIODICAL REVIEW FOR ENSURING PROBITY AND EFFICACY OF THE EXECUTIVES

(Appeal for review)

Vide order No. _____ date _____. I have been retired on pre-mature basis from the services of the company under the provisions of the scheme for periodical review for ensuring probity and efficacy of the executives.

.

I am agreed by the aforesaid order and preferring an appeal against the said order before the reviewing authority to review my case on the following grounds:-

- 1] _____
- 2] _____
- 3] _____
- 4] _____
- 5] _____

Submitted before the reviewing authority.

(Signature) _____

(Appellant) _____

Name _____

MOIL LIMITED
1A, MOIL Bhawan, Katol Road,
Nagpur - 440 013

ORDER OF REVIEWING AUTHORITY ISSUED UNDER SCHEME FOR PERIODICAL REVIEW FOR ENSURING PROBITY AND EFFICACY OF THE EXECUTIVES

(Order of Reviewing Authority)

Whereas Shri _____ Designation _____
(Appellant) has submitted an appeal against the order No. _____ dated _____ issued for his pre-mature retirement under scheme for periodical review for ensuring probity and efficacy of the executives.

Now therefore in exercise of the powers conferred under the scheme, on careful consideration of the appeal and grounds submitted for review by the appellant. I have decided to consider / not to consider his appeal for the following reasons:-

- 1] _____
- 2] _____
- 3] _____
- 4] _____
- 5] _____

In view of the above the appeal preferred by the appellant is considered / not considered thus disposed off.

Name : _____
EMP No.: _____
Designation: _____
Mine: _____

Signature : _____

(Reviewing Authority)