No.  AIBSNLREA/CHQ/2013/24
Dated: April 26, 2013

To

Shri P K Misra,
Secretary (Personnel),
Department of Personnel & Training,
Government of India,
Room No. 112/2, North Block,
New Delhi 110001

Sub: Sanction of leave encashment to a Government servant on his superannuation while under suspension – Review of Rule 39(3) of CCS (Leave) Rules 1972.

Ref: FAQ hosted in DoPT website vide DoPT No. 21011/08/2013-Estt (AL)

Sir,

We would like to invite your kind attention to the FAQ hosted in DoPT website vide DoPT No. 21011/08/2013-Estt (AL) regarding the encashment of leave under various conditions.

2. In regard to the query “whether leave encashment can be sanctioned to a government servant on his superannuation under suspension”, it has been clarified at Serial No. 1 under the sub-heading “Leave Encashment on superannuation/Dismissal/Removal” in the above quoted FAQ that “Leave encashment may be allowed in such cases. However, Rule 39(3) of CCS (Leave) Rules, 1972 allows withholding of leave encashment in the case of a Govt. servant who retires from service on attaining the age of superannuation while under suspension or while disciplinary or criminal proceedings are pending against him, if in view of the authority there is a possibility of some money becoming recoverable from him on conclusion of the proceedings against him. On conclusion of the proceedings he/she will become eligible to the amount so withheld.”
3. In this context, we are to submit that the discretionary power given to the authorities in Rule 39(3) of CCS (Leave) Rules 1972 to decide whether to withhold the leave encashment of a retiring Government servant on his superannuation while under suspension does not ensure uniform yardstick to decide similar cases by different authorities in absence of any clear cut benchmark. Further, there is already laid down policy under CCS (Pension) Rules 1972 to withhold pensionary benefits to a retiring Government servant under suspension and facing disciplinary proceedings. Thus, adequate measures have already been provided in CCS (Pension) Rules 1972 to make recovery of losses to the Government, if any, from a Government servant on his superannuation while under suspension. In view of this, with holding of leave encashment to a Government servant on his superannuation while under suspension under Rule 39(3) of CCS (Leave) Rules 1972 is a harsh one and a double punishment even before he is proved guilty. Such Government servants, therefore, find it more difficult to discharge their family and social commitment after superannuation because of non-receipt of their leave-encashment in addition to other pensionary benefits.

4. In view of the above submission, we would like to earnestly request the Government to withdraw the provision of Rule 39(3) of CCS (Leave) Rules 1972 allowing the authorities to withhold the leave-encashment to the Government servants on their superannuation while under suspension so that these Government servants having their pensionary benefits already blocked at least get a little amount out of their dues to discharge their social and family commitments.

With kind regards,

Yours sincerely,

(S Basu)
General Secretary

Copy to:

Shri Sanjay Kothari,  
Secretary,  
Department of Pension & Pensioners’ Welfare,  
Lok Nayak Bhawan,  
New Delhi 110 003.  

With request to kindly consider the request since welfare of the pensioners are involved in the matter.