GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
(DEPARTMENT OF PENSION & PENSIONERS' WELFARE)

RAJYA SABHA
UNSTARRED QUESTION NO. 4123
(TO BE ANSWERED ON 07.04.2022)

COMMENTS OF DLA ON OLD PENSION SCHEME

4123 SHRI RAM NATH THAKUR:
CH. SUKHRAM SINGH YADAV:
SHRI NEERAJ SHEKHAR:
SHRI VISHAMBHAR PRASAD NISHAD:

Will the **PRIME MINISTER** be pleased to state:

(a) whether Department of Legal Affairs (DLA) has furnished its comments for excluding employees whose advertisements for recruitments were issued before 01/01/2004 from the purview of NPS and to cover them under OPS vide Note dated 24/11/2021;
(b) if so, the details thereof;
(c) the details of action/decision taken to issue general orders for similarly placed employees in response to comments of Department of Financial Services dated 08/10/2021 and DLA dated 24/11/2021; and
(d) the reasons why Department of Pension & Pensioners' Welfare (DoP&PW) has again sought comments from DFS and DLA in this regard along with details thereof and terms of reference for comments?

ANSWER

MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE PRIME MINISTER'S OFFICE (DR. JITENDRA SINGH)

(a) to (d): A reference has been made to Department of Financial Services and Department of Legal Affairs in view of judgments from Hon'ble High Court allowing benefit of old pension scheme to those Government servants whose selection process was completed after 01/01/2004 and dismissal by Hon'ble Supreme Court, of some of the SLPs filed by Union of India against the orders of Hon'ble High Court.

Department of Legal Affairs vide their note dated 24/11/2021 have furnished following comments:

"It appears that the Department is seeking our advice to implement a proposal for extending the benefit of CCS (Pension) Rules, 1972 to similarly placed Government servants

Contd.P.-2/-

appointed on or after 01/01/2004 on the basis of date of advertisement or notification of the posts against which they were appointed happens to be prior to notification of NPS for Central Government employees in view of the various judgements of Hon'ble High Courts and Hon'ble Supreme Court. That whether to abide by the directions issued by the judicial forum or challenge the directions issued by the judicial forum before the higher judicial authority in case the directions issued to the Ministry/Department are against the policies of the Ministry/Department are the sole discretion of the Ministry/Department. That in case the issue has attained finality in the Hon'ble Supreme Court then the Ministry/Department has to abide by the directions issued by the apex court otherwise the senior officers of the Ministry/Department may face personal contempt before the Apex Court."

The matter was again referred to Department of Legal Affairs for soliciting their advice on the question of issue of general orders in this regard.

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