Sectt. II-29—27,004—25-11-25.

Law and Education (1926) Department.

Mis SERIES.

G.O. No. 1615,

DATED 25/8/26.

[Despatch Abstract.]

Provident Fund.- Rules - subscribers - assignment of amounts - amendments - issued.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

C F. 30

L a w (Education) **DEPARTMENT.**

(2)

Received ....192 . *Registered* 192

L. Edn 1572C
21/5/26.

Subject.

Government Provident Fund for teachers in non pensionable service - Rule 12(b) assignment of the amount by married women subscribers - orders of Government solicit~~ed~~ing

22/5

GOVT. OF MADRAS
21 MAY 1926
DEPARTMENT

ENCLOSURES.	
No.	
Spare copies	

R.O.C. No. 2066 D/25

Station Madras . *Dated the* 17th May 1926

From (Name) R.G.Grieve Esq., M.A.,

(Designation) Ag:Director of Public Instruction

To The Secretary to the Government of Madras

Law (Education) Department.

Sir,

7 of Go No
1651 d 29.10.24

Rule 12(b) of the Government Provident Fund rules for teachers in non-pensionable service lays down that a married subscriber to the fund shall not be permitted to assign the total amount at his credit in the fund inclusive of the Government contribution to any other than his wife or children, but mention is not made either in this rule or in any other printed in G.O.No.1651 L.E., dated 29-10-24 in regard to the assignment of the amount by a married women subscriber.

The absence of a ruling in this regard has given rise to a doubt whether it will be permissible for a

2

woman subscriber to assign the total amount at her credit in the fund, inclusive of the Government contribution, to anybody she likes-especially to those - other than her husband or children. Thus the rule appears to be defective in this respect.

2. The defectiveness is illustrated by the following case.

There are two married women subscribers to the Government ProvidentFund scheme employed in schools under the jurisdiction of the Inspectress of Girls' Schools, Southern Circle. Both of them are reported to have severed their connection with their husbands. Though only one of them has legally severed her connection, both of them live separately from their husbands. Neither of them have children. They wish to assign their Government Provident Fund amounts to some of their relatives other than their husbands or children. It has therefore to be decided whether they can be permitted to do so.

3. The question was referred to the Government Solicitor ,Madras and he was requested to state whether rule 12(b) may be taken to mean husbands or children in thecase of married women subscribers and whether they may be allowed to assign the amount at their credit in the fund to anybody other than their husbands orchildren provided they have severed their connection with their husbands legally or otherwise and live separately. He is of opinion that the rule may be taken to include women subscribers too in accordance with the declaration made on admission to the fund, but that as the rule refers exclusively to married male subscribers the question in regard to the assignment of the amount by a married woman subscriber who has severed her connection with her husband does not arise.

4. I have therefore the honour to request you to be so good as to obtain the orders of Government on this point

5. Copy of Government Solicitor's letter No.955 dated 2-5-26 is enclosed for reference.

p. 3 supra

I have the honour to be, sir,
Your most obedient servant

E. M. Barnel

For Director of Public Instruction

T R 18/5

3

Copy of letter No.955 dated 2nd May 1926 from the Government Solicitor, Madras.

3

I have the honour to acknowledge receipt of your letter R.O.C.No.2066 D/25 of the31st Marchlast together with the Provident Fund Rules sent therewith which I have read with interest.

2. Rule 12(b) commences with providing for the disposal of a subscriber's money in the Fund in accordance with the declaration made on admission to the Fund. It only refers to the masculine gender but I think it fair to assume that the feminine gender is also included as they also make the required declaration and their wishes should also be carried out, the declaration being in the nature of a will.

3. The cluase then goes on to provide as to assignments by married subscribers and must be taken to refer exclusively to married male subscribers as it refers to their wives and I am of opinion ~~that~~ ~~the~~ the rule affects only male subscribers until the last 2½ lines are reached as there are further references as to windows and wives of male subscribers.

4. The last 2½ lines which provides that Government is not bound to recognise any assignments etc., relate to both sexes.

5. Having regard to the above my opinion is that in the case of a married woman subscriber the rule may not be taken to mean husband or children. In this view the last clause in your letter needs no answer.

(True copy)

E. M. Barnel

For Director of Public Instruction

T R 18/5

4 Law (Education) Department.

(4)

C.No.1572 C - From the D.P.I., R.O.C. No.2066 D/25 dated 17-5-1926.

Subject.- Rules relating to the provident fund for teachers in non-pensionable services.

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p. 3 cf

p 7 of G.O. No 1651 / 29.10.24

The gist of the Government Solicitor's opinion appears to be that rule 12 (b) of the Provident Fund rules does not prohibit a married woman subscriber from assigning the amount at her credit in the fund to any one other than her husband or children.

para 2, p 2 cf

The position of a woman who has severed her connection, legally or otherwise, from her husband is, therefore, the same as that of a woman who lives with her husband, for the purpose of the above rule.

p. 3 cf

For orders whether the Director may be informed that the Government concur in the Government Solicitor's opinion and that it is open to a married woman to assign the amount to her credit to whomsoever she likes.

p 7 of G.O. No 1651 / 29-10-24

x eg, families governed by Marumakkattayam law.

p. 2 cf

2. The reason why the rule refers exclusively to men subscribers ~~is~~ appears to be that in the Hindu family, with certain exceptions x, property descends from the man and not from the woman and that there should therefore, be restrictions in regard to the disposition of property by a male. The rule is, however, defective as pointed out by the Director and it is for consideration whether any restriction should be placed on the power of women subscribers to assign the amounts at their credit in the Provident Fund, as in the case of men subscribers. If no restriction is considered necessary, a note may be added to the effect that the rule does not apply to women subscribers.

6.6.26.

8.6.26

We need not make any special ~~case~~ rule in the case of woman subscribers, leaving them to assign amounts

5 ~~4~~

they please.

G.
10/6

What is the position in this respect under the General provident Fund rules?

V.T.K.
10.6

Under Secretary to Govt. of Madras, Law Department
12 JUN 1926

Under the General Provident Rules a subscriber having a family is not permitted to assign his accumulations or any portion thereof to anyone outside his family. Family constitutes the following survivors of a subscriber:—

rule 14 on p. 10 of the pamphlet (put up)

(1) Widow or widows.

(2) Children.

(3)* Widow, or widows, and children of a deceased son.

Rule 12 on p. 9 ibid

* ~~Those~~ These are not included in the persons to whom assignment may be made under the Teachers' Provident Fund rules. — p. 7 of G.O. No. 1651 29.10.24 (G)

The provisions regarding the ~~assign~~ distribution of the amount to the credit of a subscriber, in case he has not left a declaration, are the same both under the General Provident Fund rules and the rules relating to the Provident Fund for

rules 15(b) & 15(d) on pp 10–11 of the pamphlet.

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6 ~~3~~

rule 12 (b) on p. 7 of G.O. No. 1651 29.10.24 (G)

for teachers.

2 No specific provision ~~has been made~~ exists in the General Provident Fund rules in regard to the assignment of their savings by women subscribers ~~of~~ and the presumption is that they can assign the amount at their credit to whomsoever they choose.

(with copy of G.P.F. Rules)

Under Secretary to Govt. of Madras, Law Department
15 JUN 1926

14.6.26. 14.6.26

G.
16/6

I am inclined to agree with A.S.: I shall be obliged for the advice of the Fin. Dept. on the point

V.T.K.
17.6.

Econ. U.O. 1572 C-1
22.6.26

Finance

Finance (G & P)

Page 7 of G.O. 1651 Law (Edn) 29-10-24 (G)

Rule 12(b) of the rules relating to the Teachers' Provident Fund regulates the assignment of the amount to the credit of a subscriber in the Fund. This rule refers exclusively to married male subscribers and is silent about women married subscribers. Under the rule a married male subscriber is not permitted to assign the total amount at his credit in the Fund inclusive of Government contribution to any other than his wife or children. The Govt. Solicitor holds that a woman married subscriber is free to assign the amount to any one she desires.

Assistant Secretary, Finance Department
22 JUN. 1926

Para 5 on Page 3 C.F.

18024 G&P
22.6.26

The

The question for consideration in this case is whether a similar rule should not be introduced with reference to the married women subscribers. The Law (Edn.) Deptt. would leave matters as they stand at present apparently because the corresponding rules in the General Provident Fund Rules, i.e., rules 14 and 17 are equally silent about women married subscribers.

⊗ copy put up.

Pages 9-10 + 10-12 of the pamphlet.

~~2~~ It is submitted that Provident Funds have been instituted mainly with a view to provide for the family of a subscriber after his or her retirement or death. This is also borne out by rule 16 of the General Provident Fund rules. Rule 16 lays down:--

Page 10 of the pamphlet.

> "In the event of the subscriber having a family as defined in rule 14, he is not permitted in his Form of Declaration to leave the amount of his accumulations or any part of it to any one outside that family. Where a Form of Declaration purports to leave money otherwise than to a member or members of a subscriber's family, the Account Officer shall call upon the subscriber to state whether he has a family, and if it is found that he has one, the Form of Declaration, shall not be accepted. A subscriber who has a family has absolute discretion regarding the distribution of the amount at his credit at the time of his death among the members of that family. He may exclude any one or more of them in favour of another or others of them and the manner in which the distribution is to be made among them is also within his absolute discretion".

In view of the foregoing facts, it does not seem proper for a woman married subscriber to leave the amount of her accumulation in the Provident Fund or any part of it to any one outside her family. Finance may, therefore, advise that rule 12(b) of the Teachers' Provident Fund rules may be amplified so as to provide for

Page 7 of G.O. 1651 Law (Edn) / 29-X-'24

Ⓖ

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women married subscribers assigning her accumulations in the Fund to her husband or her children.

~~3~~ Under Note (1) to rule 17 of the General Provident Fund Rules "A husband may make a written application for the exclusion of his wife from participation under clause (b) if she has been judicially separated from him and in the absence of such an application, the widow shall retain her rights under clause (b).

Page 12 of the pamphlet.

The Teachers' Provident Fund Rules do not contain a similar provision. Law (Edn.) may also be requested to consider whether a corresponding foot-note to rule 12(b) of the rules may not now be inserted.

KRc.

29.6.26.

1.7.26

Law

~~A.S.~~

V.T.K.

5.7

Fin. U.O. No. 18024 G6P-1

4.7.26

L-Edn 2092C

5/7/26.

8/7

5th JUL-1926

SECRETARIAT GOVT. OF MADRAS LAW DEPARTMENT

Law (Education) Department.

The Finance Department suggests that, on the analogy of the provision in regard to men subscribers, married women subscribers should be prohibited from assigning the amounts to their credit to any persons other than their husbands or children. No such restriction is contained in the General Provident Fund rules and it is not clear why the restriction should be imposed in respect of ~~xxxx~~ teachers alone. [The rules relating to the Provident Fund for teachers have been modelled on the General Provident Fund Rules.] 2 As noted in paragraph

96

9

paragraph 2 at page 1 ante, ~~the~~ in Hindu families ⊗ property descends from father to son and the responsibility for maintaining the family ordinarily rests on the man and not on the woman. For orders whether the Finance Department's view (which runs counter to principles ordinarily accepted) will be a~~ccepted~~ concurred in.

⊗ But the women teachers are largely out of the Indian Christian community.

3. The Finance Department's suggestion in paragraph 3 of its note may be accepted.

11.7.26.

13.7.26

13/7

I do not ~~know~~ whether in practice the principle underlying ~~any~~ such rule 16 is enforced in the case of women officers who subscribe to the Genl. Provident Fund - as suggested in para 2 ~~and~~ of the Fin note.

K

Will Fin kindly ascertain from the Acctt. Genl.?

V.T.K.
14.7.

Fin U.O.

15/7/26

16 JUL 1926
DEPARTMENT

Finance (G&L)

20382

20382 G&P
15.7.26

[Previous finance dept. note on pages 3 - 5 ante]

The case may be forwarded to the Acct. General w.o. for remarks with reference to K above.

18.7.26.

25/7.

A.G. wo

Fin. u.o. no. 20382 G&P-1
22 - 7. 26

ACCOUNTANT GENERAL'S OFFICE MADRAS
203
23 JUL 1926
Fds

23.7.26
2.30 pm

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7 10

(7)

W2293

Office of the Accountant General
Fort Saint George, the 28th July 1926.

Fds.1002.

Rule 16 of the General Provident Fund Rules is in practice, enforced in the case of female subscribers also, please see Government of India, Finance Department letter No. 48 F.E. dated 14-1-1914 (copy enclosed).*

page 8 infra

2. In a recent case, the Government of India have held that their order of 1914 still holds good, in view of the provisions of section 96 B (4) of the Government of India Act confirming all rules or other provisions in force at the time of the passing of the Act.

R. L. McKerrar

A.G.

To

The Secretary to the Government of Madras,
Finance Department U.O.

29 JUL 1926

21763 G&P
29.7.26

L. Edn 434 C
31/7/26

31 JUL 1926
SECRETARIAT, LAW (EDUCATION) DEPARTMENT

Finance (G&L)

The Acct. General agrees with the view expressed by the finance Dept. on pages 4 - 5 ante.

The case may now be returned to Law (Edn.)

29.7.26.

30/7.

Law (Edn.) wo.

Fin. u.o. no. 20382 G&P-2
31. 7. 26

* P.T.O.

7 11 ~~8~~

6o No. 69 Fin
27.1.14

Ⓨ

Copy of letter No. 48 F.E. dated 14th January 1914. from the Under Secretary to the Government of India, to the Comptroller, India Treasuries. ------

In reply to your letter No. G.P.F.1321 dated the 5th November 1913, I am directed to say that in respect of female subscribers to the General Provident Fund, the provisions of rule 10 of the rules of the Fund should be made applicable to them mutatis mutandis through out.

Corresponding to present rules 16-19

Corresponding present rules 16-19

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a

~~9~~ 12

⑧

Law and Edn Dept

A draft order is submitted. It is presumed that the revised rule 12(b) is to be applied to the cases referred to by the Director, which have given rise to the reference.

p. 2 c.f.

V.TK

9.8.26.

19.8.26.

11.8.26

V.TK
12.8

Edn 1572 C-3
12.8.26.

CURRENT NO.
12.8.26
FINANCIAL

Fin for acceptance

Finance (G&P)

The draft order may be accepted and the file returned to Law and Edn.

14.8.26

18.8.26

Accepted
19/8.

Law (Edn)

23691 G&P
12.8.26

L. Edn. 2764 C
19/8/26

Fin. U.O. No. 23691 G&P-1
19.8.26

19 AUG 1926
DEPARTMENT

Law and Edn Dept

For orders as to circulation to M2.

19.8.26. 19.8.26

20/8

V.TK
24/8

M2

24/8/26

Scott. II-5 (b)—5,003—6-12-24. (6)

13 Law and Education (9) **DEPARTMENT.**

	Date.	Initials.
When received for Fair-copying.		
When copied ..		W. 24/8
When examined ..		
When signed ..		20/8
When despatched ..		26/8

Provident Fund ~~fort~~

Rules - women subscribers - assignment of amounts - amendment ~~s~~ - issued.

READ AGAIN G.O. No ...., dated .... 192 .

" " " " .... " .... 192 .

READ ALSO :—

C. No. 1572C From the D.P.I. Roc. No. 2066D, dated 17. 5. 1926.

" " .... " " .... " .... " .... 192 .

" " .... " " .... " .... " .... 192 .

ORDER. No. 1615, dated 25. 8 1926.

Mis.

Go No. 1651 / 29.10.24 ⑥

c.f.

p 7 nf.

Rule 12(b) of the rules relating to the Provident Fund for teachers in non-pensionable service lays down that "a married subscriber shall not be permitted to assign the total amount at his credit in the fund inclusive of the Government contribution~~s~~ to any other than his wife or children."

The Director of Public Instruction raises the question whether a married woman subscriber comes within the scope of this rule and whether she may assign the amount at her credit to any person other than her husband or children.

The provisions of the corresponding rule, namely, rule 16, in the General Provident Fund rules are enforced in the case of women subscribers. The Govt.

Consider

Please send a copy of this [illegible] Sermon Translation to Govt.

9/10/26

9.10.26

DESPATCHED
12.OCT [illegible]

Copied GL 12.10.26

C No. 1696
p. 17.

Is the file still with
I think not.
H.M.

19/5

The file was received today.
It will be dealt with
and submitted for orders (the
items in the arrear list
were noted by me two days ago)
A revised list is being
subtd.

20/5

M
19/5/36

19/5

Sectt. II-5 (b)

Education **DEPARTMENT.**

	Date.	Initials.
When received for Fair-copying.		
When copied ..		
When examined ..		
When signed ..		
When despatched ..		

PROVIDENT FUND - Teachers in non-pensionable Service - Rights of wife and children to deposits - Rules amended.

READ AGAIN G.O. No. 2391 Ms. Edn. (P) dated 21.11.1934. 19 .

" " " " " 19 .

READ ALSO :— Not to issue

C No. From the , No. , dated 19

" " " " " " 19 .

" " " " " " 19 .

ORDER. No. , dated 19 .

Ms.

CF G.O. 2014 Edn. 18-9-34 (Q) for a precedent

The following amendments to the rules relating to the Provident Fund for teachers in non-pensionable service, published at pages 73-79 of Part I-B of the Fort St. George Gazette, dated February 21st, 1933, as subsequently amended, will be published in the Fort St. George Gazette:-

AMENDMENTS.

In the said rules

p 6 of G.O. 137 Edn. 31-1-33 (T)

1. In the form of declaration given in Appendix A, for the words "shall be distributed among the persons mentioned below in the manner shown against their names", the following shall be substituted, namely:-

"shall be payable to my widow(s)

see [illegible] note on p 3 of [illegible] amendment does not come into force.

or/and Child(ren) and failing either of these, to the persons mentioned below in the manner shown against their names".

2. In rule 12 (b)

(a) for the second sentence, the following shall be substituted, namely,

"This form of declaration is revisable at any time and from time to time by a declaration made in accordance with these rules and it shall not be revised or cancelled in any other manner, for example, by making a will and communicating the contents thereof;"

(b) the fourth sentence shall be deleted; and

(c) for the fifth sentence, the following shall be substituted namely:-

"If no declaration has been left by the subscriber or if any person or persons nominated by the subscriber dies or die before him and the declaration in favour of such person or persons is not cancelled by the subscriber before his death by a fresh declaration made in accordance with these rules, the amount to the credit of the subscriber or the amount or amounts to which the nominee or nominees who predeceased the subscriber would have been entitled if he or they had survived the subscriber, as the case may be, will be disbursed among his family except that sons and sons of a deceased son who have attained legal majority and married daughters and married daughters of a deceased son whose husbands are alive shall be excluded from participation."

p 5 of GO 137 Fin
31-1-33 (I)

cf [illegible]

cf [illegible]

made
in accordance
with these rules

To the D.P.I.
.. A.G.
.. L.S.G. Dept.
.. S.G.P. (for pubn. ~~of orders~~
in the Gazette)
.. Senior Translator to Govt.
.. Postmaster-General (with C.L)
.. Registrar, Jt. Stock Companies.
.. Govt. Solicitor.
.. Finance Dept.

25/6

28.6.35

28.6.35

old draft

When given for copying
When copied
When examined
When signed
192 .

READ AGAIN G.O. No. , DATED 192 .

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT .. A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED ON, BEING MEANT FOR DESPATCH IN ORIGINAL.

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A = Copy in full.
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P = Copy abstract only.
Q = Copy heading only.