

**Settlement of Terminal Benefits in favour of the Dependents of the Employees whose whereabouts are not Known:**

Section 108 of the Indian Evidence Act, 1872 inter alia provides that when the question whether a person is alive or dead arises and it is proved that he has not been heard of for 7 years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive is shifted to the person who affirms it.

Having regard to the aforesaid provision contained in the Indian Evidence Act, 1872, the person whose whereabouts are not known, the terminal dues are not settled normally till the expiry of 7 years from the date of whereabouts of the person are not known.

The Government of India has considered the above matter having regard to the hardship caused to the family of an employee whose whereabouts are not known with regard to the settlement of terminal dues/family pension of such employees as under:

- (i) The family must lodge a report with the concerned Police Station and obtain a report that the employee has not been traced after all efforts had been made by the police.
- (ii) An indemnity bond should be taken from the nominee/dependent of the employee that all payments will be adjusted against the payments due to the employee in case he appears on the scene and makes any claim.
- (iii) The bank will assess all dues outstanding against the employee and effect recovery in accordance with the rules of the bank before making payment to the nominee/dependent of the employee.
- (iv) After following the above procedure in the aforesaid cases, the family can be paid in the first instance the amount of salary due, if any, leave encashment due and the amount of provident fund having regard to the nomination made by the employee.
- (v) After a lapse of period of 1 year, other benefits like family pension may also be granted to the family subject to the fulfillment of conditions prescribed herein above. It may be mentioned here that when the family pension is sanctioned, the payment of pension would be made from the date of accrual, while ensuring that the family pension is not authorized for any period during which the payment of pay and allowances in respect of disappeared employee has been made.

(Ref. PD Circular No. 1701 dated 5.2.2000)