No. 2(22)/99-GM
Government of India
Ministry of Heavy Industries and Public Enterprises
Department of Public Enterprises

Block No.14, CGO Complex,
Lodi Road, New Delhi-110003
Dated the 7th January, 2013

OFFICE MEMORANDUM

Subject: Restrictions on top level executives of Central Public Sector Enterprises (CPSEs) joining private commercial undertakings after retirement.

The undersigned is directed to refer to this Department's O.M. of even number dated 15th May, 2008 (copy enclosed) on the subject mentioned above.

2. The Government has reviewed the position regarding time limit of 30 days for concerned administrative Ministry/Department to communicate the decision on the application(s) seeking permission to accept any appointment/post after retirement in view of the fact that in many cases, a functional Director/CMD would have worked in more than one CPSE during the last five years preceding the retirement and therefore the concerned administrative Ministry/Department would require more than 30 days to consider all aspects/factors as brought out in O.M. dated 15th May, 2008 before arriving at a final decision on such applications. It has accordingly been decided to revise Para 7 of the DPE O.M. dated 15th May, 2008 laying down time limits to read as follows.

"The administrative Ministry/Department shall normally take a final decision on the application for granting permission to accept any appointment/post after retirement and communicate the same to the applicant within a period of 30 days from the date of receipt of the application complete in all respects. In case no decision is communicated within 60 days, the applicant may take up the assignment presuming that the permission has been granted".

3. All the administrative Ministries/Departments are requested to take note of the above guidelines while processing application of top level executives of CPSEs for post retirement employment and also bring the contents of these guidelines to the notice of the CPSE(s) under their respective administrative control.

(Umesh Dongre)
Director
Tel : 2436-3066

To Secretaries of all administrative Ministries/Departments

Copy to :-

(i) Establishment Officer & Additional Secretary, Department of Personnel & Training, North Block, New Delhi.
(ii) Secretary, Central Vigilance Commission, (Shri J. Vinod Kumar, Officer on Special Duty), Satarkta Bhavan, G.P.O. Complex, Block 'A', I.N.A., New Delhi – 110 023 w.r.t. letter no. 99/VGL/56/197442 dated 19.12.2012
(iii) Secretary, Public Enterprises Selection Board, CGO Complex, Lodi Road, New Delhi.

No. 2(22)/99-GM-GL-91
Government of India
Ministry of Heavy Industries and Public Enterprises
Department of Public Enterprises
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Public Enterprises Bhavan,
Block 14, CGO Complex,
Lodhi Road, New Delhi-110003.

Dated, the 15th May, 2008

OFFICE MEMORANDUM

Subject: Restrictions on top level executives of Central Public Sector Enterprises (CPSEs) joining private commercial undertakings after retirement.

1. DPE O.M. No. 2(22)/99-GM-GL-022 dated 25.1.2000
2. DPE O.M. No. 2(22)/99-GM-GL-31 dated 10.5.2001
3. DPE O.M. No. 2(22)/99-GM-GL-32 dated 10.5.2001
4. DPE O.M. No. 2(22)/99-GM-GL-039 dated 2.9.2002

The undersigned is directed to refer to the marginally noted O.M.s on the subject mentioned above and to state that these instructions have been reviewed in consultation with CVC on the basis of the recommendations of the Committee which was set up to review DPE guidelines in the present day economic scenario.

2. In supersession of these guidelines, it has been decided to incorporate the following proviso in the CDA Rules/ Service Rules of the public enterprises and also in the terms & conditions of appointment of full time Directors, including Chief Executives.

"No functional Director of the company including the Chief Executive who has retired/resigned from the service of the company, after such retirement/ resignation, shall accept any appointment or post, whether advisory or administrative, in any firm or company, whether Indian or foreign, with which the company has or had business relations, within one year from the date of retirement without prior approval of the Government. The term retirement includes resignation; but not the cases of those whose term of appointment was not extended by Government for reasons other than proven misconduct. The term 'business relations' includes 'official dealings' as well."

3. Functional Directors including Chief Executives who after superannuation or resignation accept employment in private commercial firms without prior sanction of the Government, will henceforth be debarred from being appointed as full time/part time Directors of the CPSEs. Further, in order to secure compliance of the restrictions, the CPSEs shall secure a bond from the concerned person at the time of his/her employment/retirement/resignation as Director in CPSEs for an appropriate sum of money payable by him/her as damages for any violation of the restrictions.

4. The administrative Ministry/Department shall examine the requests received from the Functional Directors including Chief Executives on case to case basis depending upon the merit of the case after obtaining 'no objection' from the concerned CPSE and grant permission for post retirement employment with the approval of their Minister-in-charge.

5. The administrative Ministry/Department may grant permission keeping in view the following aspects:-

(a) The official concerned has had no official dealings with the prospective employers in the preceding five years.

(b) Whether the ex-functional Directors or ex-chief executives has been privy to sensitive or strategic information in the last years of his service which is directly related to the areas of interest or work of the organization which he proposes to join or the areas in which he proposes to practice/consult.

(c) Whether there is conflict of interest between the policies of the office (s) he has held in the last 5 years and the interest represented or work undertaken by the organization he proposes to join. Such conflict of interest, however, should not be interpreted narrowly to mean normal economic competition with Government or its Enterprises.

(d) Whether the service record of the ex-functional Director or ex-chief executive is clear, particularly with respect to integrity and dealings with Government as well as with CPSEs/non-Government organizations.

(e) Applicant's commercial duties will not involve liaison or contact with the Government Departments/PSEs,

(f) The employer of the applicant should not get an unfair advantage due to previous official positions/experience/knowledge of the incumbent and

(g) The present emoluments and pecuniary benefits should not be far in excess of those currently prevalent in the industry. The words "far in excess" should not be narrowly interpreted to cover increases in such benefits that may be result of buoyancy in the industry or in the economy as a whole.

6. With a view to ensuring that all the relevant particulars are available for considering the application for permission to take post retirement employment, a model form of application is enclosed.

7. The administrative Ministry/Department shall take a final decision on the application for granting permission to accept any appointment/post after retirement and communicate the same to the applicant within a time limit of 30 days from the date of receipt of the application complete in all respects. In case no decision is communicated within 30 days, the applicant may take up the assignment presuming that the permission has been granted.

8. Wherever permission is to be refused on such requests, an opportunity may be given to the applicant to present his case and final decision in this regard shall be communicated after consultation with DPE.

9. All administrative Ministries/Departments are requested for strict compliance and to bring the contents of these guidelines to the notice of the CPSE(s) under their administrative control.

G. Ramachandran

Encl: As stated.

(G. Ramachandran)
Director

Secretaries to all administrative Ministries/Departments

Copy to-

(i) Establishment Officer & Addl. Secretary, Department of Personnel & Training, North Block, New Delhi w.r.t. DOPT O.M. No.13(46)EO/06(ACC) dated 30.4.2007.

(ii) Secretary, Central Vigilance Commission, Satarkata Bhawan, GPO Complex, Block-A, INA, New Delhi-110023.

(iii) Secretary, Public Enterprises Selection Board, CGO Complex, Lodhi Road, New Delhi.

G. Ramachandran

(G. Ramachandran)
Director

Form of application for permission to PSE executives to accept commercial employment within a period of ~~two~~ one years after retirement.

1. Name of the Executive ... ...
   (in BLOCK letters)

2. Date of retirement ... ...

3. Particulars of the Ministry/Department/Office/PSE in which the executive served during the last 5 years preceding retirement (with duration):

Name of Ministry/ Department/Office/PSE.	Post held	Duration	
		From	To

4. Post held at the time of retirement and period for which held ... ...

5. Pay scale of the post and pay drawn by the Executive at the time of retirement... ...

6. Pensionary benefits:

Pension expected/sanctioned, if any (communication if any, should be mentioned)	Gratuity, if any

7. Details regarding commercial employment proposed to be taken up –

   (a) Name of the firm/company/co-operative society, etc.

   (b) Products being manufactured by the firm/ type of business carried out by the firm, etc.

   (c) Whether the executive during last 5 years prior to his retirement/resignation had any official dealings with the firm.

   (d) Duration and nature of the official dealings with the firm

(e) Whether the PSE in which the executive was working had any dealings with the firm, etc. if so, give details

(f) Name of the job/post offered

(g) Whether post was advertised, if not, how was offer made (attach newspaper cutting of the advertisement, and a copy of the offer of appointment, if any)

(h) Description of the duties of the job/post

(i) Remuneration offered for post/job

8. Any information which the applicant desires to furnish in support of his request

9. Declaration:-

I hereby declare that –

(i) I had no official dealings with the prospective employer in the preceding 5 years. The proposed employment will not involve conflict of interest with the policies of the office held by me during the last 5 years and the interest represented or work undertaken by the organization;

(ii) the employment which I propose to take up will not bring me into conflict with Government/PSE;

(iii) my commercial duties will not be such that my previous official position or knowledge or experience under Government/PSE could be used to give my proposed employer an unfair advantage;

(iv) my commercial duties will not involve liaison or contact with the Government departments/PSEs.

(v) I have not been privy to sensitive or strategic information in the last 5 years of service which is directly related to the areas of interest of work of the firm that I propose to join or to the areas in which I propose to practice or consult.

Signature of the applicant

Dated: Address: