

Memorandum for the Cabinet by the Hon. Prime Minister.
Loss of pensionable service preceding voluntary breaks

The Staff Side of the Malta Government Joint Council have submitted the following motion for consideration:-

"That an officer on the pensionable establishment who resigns and rejoins the service after the lapse of less than three years through normal recruitment procedure shall have all his service to count for pension purposes".

2. In support of the motion, Staff Side commented that on rejoining, an officer brings to the service the experience gained during the previous period and the value of his work is thereby proportionately enhanced. The validity of this argument is dubious; in some cases it will be the misfits who will want to return to Government service after having tried unsuccessfully somewhere else.

3. This motion appears to be motivated by the fact that, in the case of subordinate and temporary employees (who, on retirement, receive a gratuity vice pension), breaks of service not exceeding three years do not invalidate the former service. Moreover, in the case of these non-pensionable employees, the attendance of 156 working days in any period of 12 months constitutes a year for gratuity purposes.

4. The present practice of accepting 156 working days as a full year is, according to Treasury and Audit opinion, a misinterpretation of the rules laid down in L.G.O. Circular No. 178/38, extract attached. There can hardly be any question of stopping this practice now, as it has been in existence for more than 20 years and has practically become the rule.

5. On the other hand, a pensionable officer will, in accordance with Pension Regulation 7, lose all his former service if it is interrupted even by one day. In this respect, therefore, unestablished employees are treated more generously.

6. To meet the interests of both Staff Side and the Government it was decided to obtain Finance's view on the possibility of including the following new section in the Pensions Ordinance:-

"12A. If any officer who has served for a period of not less than 10 years has resigned the service for any reason other than to avoid dismissal or disciplinary action, and within a period of less than three years from his resignation is appointed in a pensionable capacity after a public examination or after a public call for applications, as the case may be, and subsequently retires in circumstances in which he may be granted a pension, such pension shall be computed as if the periods of his service had been continuous:

Provided that if, on his previous resignation, he was paid a gratuity, he must refund such gratuity on his re-employment".

7. If accepted this amendment would put pensionable officers in a better position than unestablished employees because a pensionable officer who has an interruption of service of three years less one day would be entitled to have his previous service counted for pension purposes. (In the case of an unestablished employee, no previous service can be reckoned, if the service in each of three years is less than 156 working days).

8. Should the proposed amendment be included in the Pensions Ordinance, no significant difference would now be made to the Pensions Bill. The proposed amendment may however encourage those officers who have resigned to rejoin the service. It may also encourage the return to the Island of emigrants who might be hesitating on whether to return. From an economic point of view and bearing in mind the funds the Government is spending on emigration this should be discouraged, although it can safely be stated that the majority of emigrants from within Government are from amongst unestablished employees who would not qualify under the proposed amendment.

9. The Cabinet are invited to tender advice on whether to include the proposed amendment in the Pensions Ordinance as it is, or perhaps with any modifications, or whether to reject Staff Side's motion thereby leaving the present arrangements undisturbed.

19th December, 1966. - - - - -

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Extract from L.G.O. Circular No.178 dated
16th February, 1938

REGULATIONS FOR SUBORDINATES

3. Service for compassionate gratuity must be unbroken by any suspension of employment arising from misconduct or voluntary resignation, and in reckoning the service the following rules are to be observed:-

Reckoning of service for compassionate gratuity.

- (a) The year is to be taken at 312 working days.
 - (b) No service is to be reckoned in any complete year in which such service is less than 156 working days (six months).
 - (c) If the service is less than 156 working days in each of three consecutive years no previous service can be reckoned.
 - (d) No service can be counted previous to the date since when the breaks in the service amount to seven years (2,184 days).
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