



दि न्यू इन्डिया एश्योरन्स कंपनी लिमिटेड

(भारत सरकार का उपक्रम)

**THE NEW INDIA ASSURANCE COMPANY LTD.**

(Govt. of India Undertaking)

पंजीकृत एवं प्रधान कार्यालय : न्यू इन्डिया एश्योरन्स बिल्डिंग, 87, महात्मा गांधी मार्ग, फोर्ट, मुंबई - 400 001.

Regd. & Head Office : New India Assurance Bldg., 87, M.G. Road, Fort, Mumbai - 400 001.

CIN No. L66000MH1919GOI000526



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## NOTICE

18<sup>th</sup> April, 2022

Re: (i) Pensionary benefit to SVRP 2003 / SVRS 2004 optees who rendered qualifying service of less than 20 years but more than 10 years

(ii) Benefit of 05 Years' Notional Service to SVRP 2003 optees

### Background:

#### (1) SVRP 2003:

A Special Voluntary Retirement Package was introduced for Development Officers in GIPSA Member Companies vide General Insurance (Rationalisation of Pay Scales and Other Conditions of Service) Amendment Scheme 2003 published in official gazette on 02.01.2003. The said package in short is known as SVRP 2003.

As regards pensionary benefits, SVRP 2003 provided that a Development Officer seeking special voluntary retirement package shall be eligible for pension (including commuted value of pension) as per the General Insurance (Employees') Pension Scheme 1995, if eligible.

The administrative instructions issued by the Member Companies for implementation of SVRP 2003, stipulated that –

- (i) Those who have not completed twenty years of minimum service for eligibility of pension shall not be eligible for any pension.
- (ii) The 05 years notional benefit under para 30(5) of Pension Scheme will not be available for those opting under Special Voluntary Retirement Package.

#### (2) SVRS 2004:

Subsequently, special voluntary retirement schemes were introduced for officers and employees also in GIPSA Member Companies vide General Insurance Officers' Special Voluntary Retirement Package 2004 and General Insurance Employees' Special Voluntary Retirement Package 2004 respectively, both published in official gazette on 01.01.2004. The said schemes in short are known as SVRS 2004.



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Officers and SCS Employees, who had attained the age of 40 years and completed 10 years of qualifying service as on the date of notification, were eligible to seek special voluntary retirement under the respective Schemes.

As regards pensionary benefits, the respective SVRS 2004 provided that an Officer / SCS Employee opting for the scheme shall be eligible for pension (including commuted value of pension) as per the General Insurance (Employees') Pension Scheme 1995, if eligible. However, the notional benefit of the five years of added service as stipulated in para 30 of the said Pension Scheme shall not be admissible for the purpose of determining the quantum of pension and commutation of pension.

The administrative instructions issued by the Member Companies for implementation of SVRS 2004 for officers as well as for SCS employees, stipulated that –

- (i) Those who have not completed twenty years of minimum service for eligibility of pension shall not be eligible for any pension.
- (ii) The five years notional benefit under para 30(5) of Pension Scheme will not be available for those opting under Special Voluntary Retirement Package.

### Contentious Issues arising out of SVRP 2003 and SVRS 2004:

The GIPSA Member Companies received representations and faced litigation on the 02 contentious issues captioned above which are briefed as below:-

- (1) Pension Scheme 1995 provides for eligibility for pension as minimum 10 years of qualifying service in the case of retirement (superannuation) of employee but minimum 20 years of qualifying service in the case of voluntary retirement by the employee. Treating option for SRVP / SVRS as voluntary retirement, the companies did not approve pensionary benefits to SVRP / SVRS optees who had rendered less than 20 years of qualifying service. However, a few such optees who were aggrieved by denial of pensionary benefits by the companies took the legal recourse and the matter reached up to Hon'ble Supreme Court. In the first such case, which arose out of SVRS 2004, titled 'National Insurance Company Ltd. Vs. Kirpal Singh', the Hon'ble Supreme Court, vide judgment dated 10.01.2014, held that SVRS optee employee would be entitled to pensionary benefits under the Pension Scheme if he had rendered minimum qualifying service of 10 years. The same pronouncements were made in other similar cases including related to SVRP.

There were a number of representations and legal cases by SVRP 2003 and SVRS 2004 optees who rendered qualifying service of less than 20 years but more than 10 years, for grant of pensionary benefits on the basis of judgment of Hon'ble Supreme Court in 'National Insurance Company Ltd. Vs. Kirpal Singh'.



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- (2) In terms of para 30(5) of the Pension Scheme 1995, an employee who opts for voluntary retirement after rendering 20 years of qualifying service is allowed benefit of 5 years notional service for pensionary benefits, subject to the condition that total qualifying service rendered by such employee shall not exceed 33 years and it does not take him beyond the date of retirement.

The SVRP 2003 did not explicitly mention anything about the above said benefit of 5 years notional service – whether the same will be available or not for SVRP optees. However, in the administrative instructions for implementation of SVRP 2003, it was mentioned that the said benefit will not be available to the optees. Accordingly, the companies did not give the said benefit to SVRP optees for calculation of pensionary benefits. A few aggrieved employees approached Nagpur Bench of High Court and the Rajasthan High Court in separate WPs. The High Courts relying on a decision of the Supreme Court in *Bank of India v K Mohandas & Ors – (2009) 5 SCC 313*, in which the Supreme Court had dealt with a similar issue arising in the context of a Voluntary Retirement Scheme (VRS) evolved by Nationalization Banks, allowed the claim of the petitioner employees to the benefit of para 30(5) of the Pension Scheme 1995. The SLP filed by NIACL in one of such cases was dismissed by the Supreme Court, in limine, on 01.09.2014.

There were a number of representations and legal cases by SVRP optees for grant of benefit of 5 years notional service on the basis of judgment of Hon'ble Supreme Court in *Bank of India v K Mohandas & Ors*.

SVRS 2004, however, explicitly mentioned that the benefit under para 30(5) will not be available to SVRS optees and, therefore, there was no dispute in this matter so far as SVRS 2004 is concerned.

### **Deliberations in GB Meetings:**

There was a spate of court cases by SVRP 2003 and SVRS 2004 optee for the above mentioned benefits and in some cases the courts ordered for grant of relief to them which the GIPSA Member Companies implemented or filed appeals. The matter was also referred to GIPSA by the GIPSA Member Companies for a uniform decision.

### **Decision of Governing Board of GIPSA:**

The Governing Board of GIPSA after obtaining a legal opinion and deliberating upon the above matter in detail decided that:-

- 1) Pensionary benefits shall be allowed to SVRP 2003 and SVRS 2004 optees who rendered qualifying service for more than 10 years but less than 20 years.

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- 2) Benefit of 05 Years' Notional Service in terms of para 30(5) of the General Insurance (Employees') Pension Scheme 1995 shall be allowed to SVRP 2003 optees.
- 3) The above benefits will be applicable from the next date after the date of retirement under SVRP 2003 / SVRS 2004.

### Decision of Board of Directors of the Company:

The above matter and decision of the Governing Board of GIPSA were placed before the Board of Directors of the Company for its consideration. The Board of Directors has approved the above-mentioned decision of the Governing Board of GIPSA for implementation in the Company.

### Implementation of Decision:

Accordingly, the applications or representations of SVRP 2003 and SVRS 2004 optees who were pension optees under the General Insurance (Employees') Pension Scheme 1995 and rendered qualifying service for more than 10 years but less than 20 years for grant of pensionary benefits and applications or representations of SVRP 2003 optees who were pension optees under the General Insurance (Employees') Pension Scheme 1995 for grant of benefit of 05 years' notional service in terms of para 30(5) of the Scheme will be allowed by the Pension Disbursement Authority subject to, however, that if any such SVRP 2003 or SVRS 2004 optee has preferred a legal suit against the Company for grant of the aforesaid benefits which is pending before any court of competent jurisdiction, he / she will withdraw such legal suit. No interest will be payable on the amount of commuted value of pension and pension arrears.

This is for information of all concerned.

(INDERJEET SINGH)  
GENERAL MANAGER (P)