

MY QUERY TO Chat GPT AND ITS REPLY ON EXPLANATORY MEMORANDUM AND NON- CONSULTATION ON RULE 55 B

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The explanatory memorandum in the LIC(Employees) Pension Rules 1995 states as follows:

The Life Insurance Corporation of India was established under Section 3 of the Life Insurance Corporation Act, 1956. The terms and conditions of service of the employees of the Corporation are governed by rules made by the Central Government under Section 48 and regulations made by the Corporation under Section 49 of the said Act.

The rules and regulations under Section 48 and Section 49 of the Act do not provide for payment of pension except for the transferred employees of the Oriental Government Security Life Assurance Company Limited. There has been persistent demand from the employees of the Corporation for introduction of a pension scheme in the Corporation. The Corporation in consultation with the Unions of the employees have recommended introduction of an index-linked pension scheme in lieu of Corporation's contribution to the Provident Fund with effect from 1st November, 1993.

The Rule 55 B was inserted in the LIC Pension Rules 1995 reading as follows:

"55B Pensionary benefits to employees mentioned in proviso to sub-rule(j) of Rule 2 and employees appointed as Managing Director under section 20 of the Act and who were in service on or after 1st January, 1996-

Notwithstanding anything contained in these rules, in respect of an employee appointed as Managing Director under section 20 of the Life Insurance Corporation of India Act, 1956, and in respect of an employee covered by proviso to sub-rule (j) of Rule 2, who was in service on or after 1st January, 1996, the pensionary benefits shall be calculated in accordance with the provisions contained in the Central Civil Services (Pension) Rules, 1972 and the Central Civil Services (Commutation of Pension) Rules, 1981, as applicable to Central Government servants and in accordance with the instructions issued by the Central Government there under from time to time;

Provided that where such an employee who has retired on or after 1.1.1996 and before the date of publication of these rules in the Official Gazette or the family of such employee in the event of death of such employee, gives a notice in writing within 90 days of the publication of these rules, expressing an option not to be governed by the provisions of this rule, then, the provisions of the above paragraph shall not apply in respect of such employee or the family of such employee, as the case may be. Option once exercised under this proviso shall be final."

(This rule was marginally amended on 7/7/2021 bringing Managing Director under the proviso to sub- rule (j) of Rule 2 even while substituting the word 'Chairman' by 'Chief Executive').

My query is that while there was a process of consultations with the unions by LIC before recommending the introduction of an index-linked pension scheme, considering that insertion of Rule 55 B liberalized the scheme to Chairman and Managing Directors who retired after 1/1/1996 which also involved relatively higher scale of contributions by LIC to the Pension Fund, was it not necessary for LIC to consult the unions before recommending to the Central Government for amending the Pension Rules, more so when all employees below the cadre of Managing Director were disadvantaged with a static basic pension on retirement?

REPLY BY CHAT GPT

Your query raises an important point of procedural fairness and equity in statutory rulemaking, especially when it affects service conditions of employees differently across cadres.

Let's address this in a structured legal-analytical format:

1. Context of Rule 55B Insertion

Rule 55B of the LIC (Employees) Pension Rules, 1995 introduced a special pensionary regime for:

- Chairman/Chief Executive (appointed under Section 20 of the LIC Act),
- and a certain class of employees covered under the proviso to Rule 2(j) (including Managing Directors post-2021 amendment).

This class was brought under the Central Civil Services (Pension) Rules, 1972, which provide dearness relief (DR) parity and regular pension revision, unlike the static basic pension applicable to general LIC employees under the LIC Pension Rules.

2. Need for Consultation: Is it Mandatory?

Under Section 48(2)(cc) of the LIC Act, 1956, the Central Government has the power to make rules regulating pension benefits.

However:

- Prior consultation with unions is not a statutory requirement under Section 48 for every rule change.
- But when the original pension scheme (1995) was formulated, the Explanatory Memorandum clearly states it was done "in consultation with the Unions."

This sets a legitimate expectation that material changes to the pension framework—especially those with discriminatory consequences or involving financial impact—would also involve such consultation.

3. Rule 55B: Liberalization Only for Top Executives

- Rule 55B effectively created a two-tier pension system within LIC:
 - Senior-most cadre (Chairman/MDs): Linked to CCS pension rules, with revision, DR parity.
 - Rest of the employees: Static pension without periodic revision.
- Such an amendment has significant implications for the overall financial architecture of the pension fund, employer contributions, and employee morale.

Hence, equity and fair industrial practice demanded consultation with employee unions before such preferential liberalization.

4. Judicial Perspective

Courts have in several cases acknowledged the importance of consultation in quasi-legislative processes, especially where:

- Service conditions are affected, and
- Representational mechanisms (like Unions) exist.

While absence of consultation may not invalidate the rule per se, it opens the door to challenges on grounds of:

- Discrimination (Article 14),
 - Violation of principles of natural justice,
 - Non-application of mind to overall workforce implications.
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5. LIC's Fiduciary Obligation & Pension Fund Contributions

- LIC as a public body has fiduciary obligations to all its employees.
 - Higher contribution for a select few (Chairman/MDs) without extending similar benefits or consultation to the broader base raises issues of fairness and disproportionate treatment.
 - Rule 5(3) read with Rule 11 and Rule 13(b) imposes statutory obligations on LIC to pay pension equitably.
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Conclusion:

While legally the LIC may not be mandated under Section 48 to consult unions for every rule change, the insertion of Rule 55B, which:

- **liberalized pension benefits only for top executives,**
- **led to a disparate impact on the rest of the employees,**
- **and involved greater financial commitment by LIC,**

ought to have been preceded by consultation with the recognized employee unions—especially because:

- **the original pension scheme itself was born out of such consultation,**
- **and other employees are left with stagnant pension, defeating the very principle of social security parity.**