

**GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
DEPARTMENT OF LEGAL AFFAIRS**

**RAJYA SABHA
UNSTARRED QUESTION NO. 2510
TO BE ANSWERED ON THURSDAY, THE 24TH MARCH, 2022**

OPINION SOUGHT ON NPS

2510. SHRI NEERAJ SHEKHAR:

Will the Minister of Law and Justice be pleased to state:

- (a) whether Department of Pension and Pensioners' Welfare has sought further comments/clarifications from Department of Legal Affairs (DLA) regarding exclusion of those officials whose advertisement for recruitment were issued before 01.01.2004 from the purview of NPS and to cover them under OPS after DLA's Note dated 24.11.2021;
- (b) if so, the details thereof and terms of reference for comments;
- (c) the reasons for not furnishing categorical reply vide Note dated 24.11.2021 and encouraging lame litigation;
- (d) whether DLA has furnished its specific and categorical comments to DoP&PW;
- (e) if so, the complete details thereof; and
- (f) if not, the reasons for delay?

ANSWER

**MINISTER OF LAW AND JUSTICE
(SHRI KIREN RIJJU)**

- (a) &(b): The Department of Pension and Pensioners' Welfare (DoP&PW) after 24.11.2021 made a reference dated 14.12.2021, 20.01.2022, 02.02.2022 and 15.02.2022 to the Department of Legal Affairs *inter alia* seeking advice on the representations received from employees for their inclusion under Old Pension Scheme (OPS) on the basis of the date of advertisement being on or before 31.12.2003 of the posts against which they were appointed and whether it would be legally feasible for the Department of Pension and Pensioners' Welfare to issue executive instructions in this regard.

(c) to (f): The Department of Legal Affairs had advised the DoP&PW on 24.11.2021 to abide by the directions issued by any competent judicial forum or exhaust legal remedies available before a higher judicial forum, as the case may be.

On the issue of executive instructions to provide coverage of government servants under OPS in respect of those who were appointed on the basis of the advertisement/notification for vacancies issued before 01.01.2004 instead of their being covered under National Pension System (NPS), this Department requested the DoP&PW on 23.02.2022 being the nodal Department, to obtain the comments of the Ministry of Finance in the first place to enable the Department of Legal Affairs to examine and consider the matter.
