

(The amendment shall be deemed always to have been substituted.).

1. Service in Dak Bungalow and District Garden Establishments does not qualify.

2. The service of a Patwari, whether appointed before or after the abolition of the Patwari or Village Officers' Cesses and Funds, does not qualify in any case in which it did not qualify prior to that abolition.

3. Service in non-gazetted posts in Government Technical and industrial institutions in the Uttar Pradesh does not qualify in the case of persons appointed to such posts on or after November 16, 1938.

*Exception—This rule does not apply to the posts declared pensionable in Sharm (Kha) Vibhag G. O.). no. 810 (E) XXXVI-B—1069/56, dated May 29, 1963 and Udyog (Gha) Vibhag G. No. No. 375-ED/XVIII-D—AQ-16-ED060, dated June 5, 1963.

351. Future good conduct is an implied condition of every grant of a pension. The State Government reserve to themselves the right of withholding or withdrawing a pension or any part of it, if the pensioner be convicted of serious crime or be guilty of grave misconduct.

The decision of the State Government on any question of withholding or withdrawing the whole or any part of pension under this regulation shall be final and conclusive.

NOTE—This rule is applicable to all the officers enumerated in Article 349 except..... Army Veterinary officers of the Civil Veterinary Department.

+ 351—A The Governor reserves to himself the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government, if the pensioner is found in departmental or judicial proceedings to have been guilty of grave misconduct, or to have caused. Recuniary loss to government by misconduct or Negligence, during his service, including service-rendered on re-employment after retirement;

Provided that—

(a) such departmental proceedings, if not instituted while the officer was on duty either before retirement or during re-employment—

(i) shall not be instituted save with the sanction of the Governor,

(ii) shall be in respect of an event which took place not more than four years before the institution of such proceedings, and

(iii) shall be conducted by such authority and in such place or places as the Governor may direct and in accordance with the procedure applicable to proceedings on which an order of dismissal from service may be made.

(b) judicial proceedings, if not instituted while the officer was on duty either before retirement or during re-employment, shall have been instituted in accordance with sub-clause (ii) of clause (a), and

(c) the Public Service Commission, U.P., shall be consulted before final orders are passed.

Explanation—For the purposes of this article—

(a) departmental proceedings shall be deemed to have been instituted when the charges framed against the pensioner are issued to him, or, if the officer has been placed under suspension from an earlier date, on such date; and

(b) judicial proceedings shall be deemed to have been instituted :

(i) in the case of criminal proceedings, on the date on which a complaint is made, or a charge-sheet is submitted, to a criminal court; and

(ii) in the case of civil proceedings, on the date on which the plaint is presented or, as the case may be, an application is made, to a civil court.

NOTE—As soon as proceedings of the nature referred to in this article are instituted the authority which institutes such proceedings shall without delay intimate the fact to the Audit Officer concerned.

* 351-B. In case in which a pension is not withheld or withdrawn under Article 351-A but the amount of any pecuniary loss caused to Government is ordered to be recovered from the pension, the recovery should not ordinarily be made at a rate exceeding one-third of the gross pension originally sanctioned including any amount which may have been commuted.

SECTION II—CASES IN WHICH CLAIMS ARE IN ADMISSIBLE

352. In the following cases no claim to pension is admitted :—

(a) When an officer is appointed for a limited time only, or for a specified duty, on the completion of which he is to be discharged.

(b) When a person is employed temporarily on monthly wages without specified limit of time or duty; but a month's notice of discharge should be given to such a person, and his wages must be paid for any period by which such notice falls short of a month.

(c) When a person's whole-time is not retained for the public service, but he is merely paid for work done for the State.

1. This clause applies, among others, to the following officers :— Advocate General, Solicitor to Government, Government Pleaders and Law Officers not debarred from private practice
.....

(d) When a public servant hold some other pensionable office he earns no pension in respect of an office of the kind mentioned in clause (c) or in respect of duties paid for by a Local Allowance.

(e) When an officer serves under a covenant which contains no stipulation regarding pension, unless the State Government specially authorises, an officer to count such service towards pension.

Misconduct or Inefficiency

*353. No pension may be granted to an officer dismissed or removed for misconduct, insolvency or inefficiency; but to the officer so dismissed or removed compassionate allowance may be granted when he is deserving of special consideration; provided that the allowance granted to any officer shall not exceed two-third of the pension which would have been admissible to him if he had retired on invalid pension.