

CHAPTER VIII—DISMISSAL, REMOVAL AND SUSPENSION

52. The pay and allowance of a government servant who is dismissed or removed from service cease from the date of such dismissal or removal.

53. (1) A government servant under suspension or deemed to have been placed under suspension by an order of the appointing authority shall be entitled to the following payments, namely:—

(a) a subsistence allowance at an amount equal to the leave salary which the government servant would have drawn if he had been on leave on half average pay or on half pay and in addition, dearness allowance, if admissible on the basis of such leave salary:

Provided that where the period of suspension exceeds three months, the authority which made or is deemed to have made the order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of the first three months as follows:—

(i) the amount of subsistence allowance may be increased by a suitable amount, not exceeding 50 per cent of the subsistence allowance admissible during the period of first three months, if, in the opinion of the said authority, the period of suspension has been prolonged for reasons to be recorded in writing, not directly attributable to the government servant;

(ii) the amount of subsistence allowance may be reduced by a suitable amount not exceeding 50 per cent of the subsistence allowance admissible during the period of the first three months, if, in the opinion of the said authority, the period of suspension has been prolonged due to reasons, to be recorded in writing, directly attributable to the Government servant;

(iii) the rate of dearness allowance will be based on the increased or, as the case may be, the decreased amount of subsistence allowance admissible under sub-clauses (i) and (ii) above.

(b) Any other compensatory allowance admissible from time to time on the basis of pay of which the Government servant was in receipt on the date of suspension:

Provided that the government servant shall not be entitled to the compensatory allowances unless the said authority is satisfied that the government servant continues to meet the expenditure for which they are granted.

(2) No payment under sub-rule (1) shall be made unless the Government servant furnishes a certificate that he is not engaged in any other employment, business, profession or vocation:

Provided that in the case of a Government servant dismissed or removed from service, who is deemed to have been placed or to continue to be under suspension from the date of such dismissal or removal and who fails to produce such a certificate for any period or periods during which he is deemed to be placed or to continue to be under suspension, he shall be entitled to the subsistence allowance and other allowances equal to the amount by which his earnings during such period or periods, as the case may be, fall short of the amount of subsistence allowance and other allowances that would otherwise be admissible to him; where the subsistence and other allowances admissible to him are equal to or less than the amount earned by him, nothing in this proviso shall apply to him.

(This amendment shall be deemed to have come into force with effect from December 26, 1981).

Orders of the Governor regarding rule 53

1. The suspending authority may appoint a substitute in place of a government servant under suspension, provided that the period of suspension does not exceed six months. The word 'substitute' here means the substitute appointed in the resultant vacancy or at the bottom in the chain of arrangements.

2. Departments of the government are authorized to appoint a substitute in place of a government servant under suspension for more than six months.
3. The Board of Revenue is authorized to appoint a substitute in place of a government servant under suspension for more than six months under intimation to Government every three months.
4. Commissioners of Divisions are authorised to appoint a substitute in place of government servant under suspension for more than six months under intimation to the Board of Revenue every three months.

NOTE—The authority sanctioning such employment shall draw the special attention of the Accountant General to the sanction.

(Effective with effect from July 13, 1974)

*54. (1) When a Government servant who has been dismissed, removed or compulsorily retired is reinstated as a result of appeal or review or would have been so reinstated but for his retirement on superannuation while under suspension or not, the authority competent to order reinstatement shall consider and make a specific order—

(a) regarding the pay and allowances to be paid to the Government servant for the period of his absence from duty including the period of suspension preceding his dismissal, removal, or compulsory retirement, as the case be; and

(b) whether or not the said period shall be treated as a period spent on duty.

(2) Where the authority competent to order reinstatement is of opinion that the Government servant who had been dismissed, removed or compulsorily retired, has been fully exonerated the Government servant shall, subject to the provisions of sub-rule (6), be paid the full pay and allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be:

Provided that where such authority is of opinion that the termination of the proceedings instituted against the Government servant had been delayed due to reasons directly attributable to the Government servant, it may, after giving him an opportunity to make his representation within sixty days from the date on which the communication in this regard is served on him and after considering the representation, if any, submitted by him, direct, for reasons to be recorded in

*This amended rule is effective from May 3, 1980.

writing, that the Government servant shall, subject to the provisions of sub-rule (7), be paid for the period of such delay, only such amount (not being the whole) of such pay and allowances as it may determine.

(3) In a case falling under sub-rule (2), the period of absence from duty including the period of suspension preceding dismissal, removal or compulsory retirement, as the case may be, shall be treated as a period spent on duty for all purposes.

(4) *In cases other than those covered by sub-rule (2) [including cases where the order of dismissal, removal or compulsory retirement from service is set aside by the appellate or reviewing authority solely on the ground of noncompliance with the requirements of clause (1) or clause (2) of article 311 of the Constitution and no further inquiry is proposed to be held], the Government servant shall, subject to the provisions of sub-rules (6) and (7), be paid such amount (not being the whole) of the pay and allowances to which he would have been entitled had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be, as the competent authority may determine, after giving notice to the Government servant of the quantum proposed and after considering the representation, if any, submitted by him in that connection, within such period (which in no case shall exceed sixty days from the date on which the notice has been served) as may be specified in the notice.

(5) In a case falling under sub-rule (4), the period of absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be, shall not be treated as a period spent on duty, unless the competent authority specifically directs that it shall be so treated for any specified purpose:

Provided that if the Government servant so desires such authority may direct that the period of absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement as the case may be, shall be converted into leave of any kind due and admissible to the Government servant.

NOTE—The order of the competent authority under the preceding proviso shall be absolute and no higher sanction shall be necessary for the grant of—

(a) extraordinary leave in excess of three months in the case of temporary Government servant; and

(b) leave of any kind in excess of five years in the case of permanent Government servant.

(6) The payment of allowances under sub-rule (2) of sub-rule (4) shall be subject to all other conditions under which such allowances are admissible.

(7) The amount determined under the proviso to sub-rule (2) or under sub-rule (4), shall not be less than the subsistence allowance and other allowances admissible under rule 53.

(8) Any payment made under this rule to a Government servant on his reinstatement shall be subject to adjustment of the amount, if any, earned by him through an employment during the period between the date of his removal, dismissal or compulsory retirement, as the case may be,

*This amended rule is effective from February 19, 1986.

and the date of reinstatement. Where the emoluments admissible under this rule are equal to or less than the amounts earned during the employment elsewhere, nothing shall be paid to the Government servant.

NOTE—Where the Government servant does not report for duty within reasonable time after the issue of the orders of reinstatement after dismissal, removal or compulsory retirement, no pay and allowances will be paid to him for such period till he actually takes over charge.

*54-A (1) Where the dismissal, removal or compulsory retirement of a Government servant is set aside by a court of Law and such Government servant is reinstated without holding any further inquiry, the period of absence from duty shall be regularised and the Government servant shall be paid pay and allowances in accordance with the provisions of sub-rule (2) or (3) subject to the directions, if any, of the court.

‡(2) (i) Where the dismissal, removal or compulsory retirement of a Government servant is set aside by the court solely on the ground of non-compliance with the requirements of clause (1) or clause (2) of article 311 of the Constitution, and where he is not exonerated on merits, and no further inquiry is proposed to be held, the Government servant shall, subject to the provisions of sub-rule (7) of rule 54, be paid such amount (not being the whole) of the pay and allowances to which he would have been entitled had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be, as the competent authority may determine, after giving notice to the Government servant of the quantum proposed and after considering the representation, if any, submitted by him in that connection within such period (which in no case shall exceed sixty days from the date on which the notice has been served) as may be specified in the notice:

(ii) The period intervening between the date of dismissal, removal or compulsory retirement including the period of suspension preceding dismissal, removal or compulsory retirement, as the case may be, and the date of judgment of the court shall be regularised in accordance with the provisions contained in sub-rule (5) of rule 54.

(3) If the dismissal, removal or compulsory retirement of a Government servant is set aside by the court on the merits of the case, the period intervening between the date of dismissal, removal or compulsory retirement including the period of suspension preceding such dismissal, removal, or compulsory retirement, as the case may be, and the date of reinstatement shall be treated as duty for all purposes and he shall be paid the full pay and allowances for the period, to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be.

(4) The payment of allowances under sub-rule (2) or sub-rule (3) shall be subject to all other conditions under which such allowances are admissible.

(5) Any payment made under this rule to a Government servant on his reinstatement shall be subject to adjustment of the amount, if any, earned by him through an employment during the period between the date of dismissal, removal or compulsory retirement and the date of reinstatement. Where the emoluments admissible under this rule are equal to or less than those earned during the employment elsewhere, nothing shall be paid to the Government servant.

* This amended rule is effective from May 3, 1980.

‡ This amended rule is effective from February 19, 1986.

NOTE—Where the Government servant does not report for duty with-in reasonable time after the issue of the orders of reinstatement after the dismissal, removal or compulsory retirement, no pay and allowances will be paid to him for such period till he actually takes over charge.

* 54-B. (1) When a Government servant who has been suspended is reinstated or would have been so reinstated but for his retirement on superannuation while under suspension, the authority competent to order reinstatement shall consider and make a specific order—

(a) regarding the pay and allowances to be paid to the Government servant for the period of suspension ending with reinstatement or the date of his retirement on superannuation as the case may be; and

(b) whether or not the said period shall be treated as a period spent on duty.

(2) Notwithstanding anything contained in rule 53, where a Government servant under suspension dies before the disciplinary or court proceedings instituted against him are concluded, the period between the date of suspension and the date of death shall be treated as duty for all purposes and his family shall be paid the full pay and allowances for that period to which he would have been entitled had he not been suspended, subject to adjustment in respect of subsistence allowance already paid.

(3) Where the authority competent to order reinstatement is of the opinion that the suspension was wholly unjustified, the Government servant shall, subject to the provisions of sub-rule (8), to be paid the full pay and allowances to which he would have been entitled, had he not been suspended:

Provided that where such authority is of the opinion that the termination of the proceedings instituted against the Government servant had been delayed due to reasons directly attributable to the Government servant, it may, after giving him an opportunity to make his representation within sixty days from the date on which the communication in this regard is served on him and after considering the representation, if any, submitted by him, direct, for reasons to be recorded in writing that the Government servant shall be paid for the period of such delay only such amount (not being the whole) of such pay and allowances as it may determine.

(4) In a case falling under sub-rule (3) the period of suspension shall be treated as a period spent on duty for all purposes.

(5) In cases other than those falling under sub-rules (2) and (3), the Government servant shall be subject to the provisions of sub-rules (8) and (9), be paid such amount (not being the whole) of the pay and allowances to which he would have been entitled had he not been suspended, as the competent authority may determine, after giving notice to the Government servant of the quantum proposed and after considering the representation, if any, submitted by him in that connection within such period (which in no case shall exceed sixty days from the date on which the notice has been served) as may be specified in the notice.

(6) Where suspension is revoked pending finalisation of the disciplinary or court proceedings, any order passed under sub-rule (1) before the conclusion of the proceedings against the Government servant, shall be reviewed on its own motion after the conclusion of the proceedings

*These amended rule is effective from may 3, 1980.

by the authority mentioned in sub-rule (1), who shall make an order according to the provisions of sub-rule (3) or sub-rule (5), as the case may be.

(7) In a case falling under sub-rule (5) the period of suspension shall not be treated as a period spent on duty unless the competent authority specifically directs that it shall be so treated for any specified purpose:

Provided that if the Government servant desires, such authority may order that the period of suspension shall be converted into leave of any kind due and admissible to the Government servant.

NOTE—The order of the competent authority under the preceding proviso shall be absolute and no higher sanction shall be necessary for the grant of—

(a) Extraordinary leave in excess of three months in the case of temporary Government servant; and

(b) Leave of any kind in excess of five years in the case of permanent Government servant.

(8) The payment of allowances under sub-rule (2), sub-rule (3) or sub-rule (5) shall be subject to all other conditions under which such allowances are admissible.

(9) The amount determined under the proviso to sub-rule (3) or under sub-rule (5) shall not be less than the subsistence allowance and other allowances admissible under rule 53.

(10) Any payment made under this rule to Government servant on his reinstatement shall be subject to adjustment of the amount, if any, earned by him through an employment during the period between the date of suspension and the date of reinstatement or the date of retirement on superannuation while under suspension. Where the emoluments admissible under this rule are equal to or less than those earned during the employment elsewhere, nothing shall be paid to the Government servant.

NOTE—Where the Government servant does not report for duty within reasonable time after the issue of the order of reinstatement after suspension, on pay and allowances will be paid to him for such period till he actually takes over charge.

Orders of the Governor regarding rule 54

1. This rule permits a revising or an appellate authority to convert a period spent under suspension into one of leave.

2. In a case where a government servant is punished by an original authority but the order is reversed in appeal, the following procedure should be observed:

(a) If the appellate authority finds the original order entirely wrong, the appellant should be reinstated with effect from the date of the original order and should not be deprived of a part or the whole of his emoluments during the interval between the dates of the original and the appellate orders, as it is an accepted principle that no

government servant may suffer as the result of a mistake not committed by himself. If some other government servant has received promotion during the same period, the demand for recovery of the additional pay drawn by him should be waived with the sanction of the Government. The revision or appellate authority can, however, write-off such additional expenditure up to a limit of Rs. 500 in each case provided that the period of employment of the substitute does not exceed six months.

(b) If the appellate authority finds the appellant to be blameworthy but the order passed to be too severe, it may, if it so desires, order restoration from the date of the appellate order. In such a case the demand for recovery of the additional pay drawn by some other government servant during the period in question will not arise.

3. The above procedure does not apply to cases where an ordinary order of promotion has been reversed as a result of an appeal preferred by a superseded government servant. An order of punishment set aside in appeal differs from an order of promotion reversed in appeal in one important respect. In the former case the government servant punished as previously held the post in which he has been reinstated as a result of his appeal and the period of suspension or dismissal is treated as a period spent on duty. In the latter case the government servant promoted to a post in consequence of the reversion of orders has not previously held that post and can, therefore, draw the pay, attached to it only from the date when he takes over that post, and accordingly the orders of the appellate authority can take effect only from the date on which they are passed. No question of recovery or write-off of the promotion pay drawn by the government servant wrongly promoted will arise.

4. Orders contained in paragraph 3 above cannot be applied to grade promotions in the same cadre, which are given with retrospective effect from the date of the vacancy while the duties and the posting of the government servants concerned remain unchanged. In such cases when an appellate authority for good reason, decides to grant grade promotion to the appellant not from the date of his order but from the date of the occurrence of the vacancy and when the promotion does not involve assumption of different duties and responsibilities, the additional pay drawn by the government servant originally promoted need not be recovered but should be written off with the sanction of the Government.

55. Leave may not be granted to a government servant under suspension.

FUNDAMENTAL RULE 56, FINANCIAL HANDBOOK, VOLUME II, PARTS II TO IV

56. *(a) Except as otherwise provided in this Rule, every Government servant other than a Government servant in inferior service shall retire from service on the afternoon of the last day of the month in which he attains the age of fifty eight years. He may be retained in service after the date of compulsory retirement with the sanction of the Government on public grounds, which must be recorded in writing, but he must not be retained after the age of 60 years except in very special circumstances.

*(b) A Government servant in inferior service shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years. He must not be retained in service after that date, except in very special circumstances and with sanction of the Government.

‡(c) Notwithstanding anything contained in clause (a) or clause (b), the appointing authority may, at any time, by notice to any Government servant (whether permanent or temporary), without

*These amended sub-rules (a) & (b) are effective from April 1, 1975.

† These sub-rules (c) & (d) are effective from June 7, 1975.

assigning any reason, require him to retire after he attains the age of fifty years or such Government servant may by notice to the appointing authority voluntarily retire at any time after attaining the age of forty-five* years or after he has completed qualifying service of twenty years.

†(d) The period of such notice shall be three months:

Provided that—

(i) any such Government servant may by order of the appointing authority, without such notice or by a shorter notice, be retired forthwith at any time after attaining the age of fifty years, and on such retirement the Government servant shall be entitled to claim a sum equivalent to the amount of his pay plus allowances, if any, for the period of the notice, or as the case may be, for the period by which such notice falls short of three months, at the same rates at which he was drawing immediately before his retirement;

(ii) it shall be open to the appointing authority to allow a Government servant to retire without any notice or by a shorter notice without requiring the Government servant to pay any penalty in lieu of notice:

Provided further that such notice given by the Government servant against whom a disciplinary proceeding is pending or contemplated, shall be effective only if it is accepted by the appointing authority, provided that in the case of a contemplated disciplinary proceeding the Government servant shall be informed before the expiry of his notice that it has not been accepted:

Provided also that the notice once given by a Government servant under clause (c) seeking voluntary retirement shall not be withdrawn by him except with the permission of the appointing authority.

** (e) A retiring pension shall be payable and other retirement benefits, if any, shall be available in accordance with and subject to the provisions of the relevant rules to every Government servant who retires or is required or allowed to retire under this rule.

†† Provided that where a Government servant who voluntarily retires or is allowed voluntarily to retire under this rule the appointing authority may allow him, for the purposes of pension and gratuity, if any, the benefit of additional service of five years or of such period as he would have served if he had continued till the ordinary date of his superannuation, whichever be less;

Explanation—(1) The decision of the appointing authority under clause (c) to require the Government servant to retire as specified therein shall be taken if it appears to the said authority to be in the public interest, but nothing herein contained shall be construed to require any recital,

*This figure—‘Fourty five years’ was substituted with effect from November 18, 1976.

†These sub-rules (C) & (C) are effective from June 7, 1975

** (This sub-rule is effective from June 7, 1975.)

†† (This proviso came into effect from November 18, 1976.)

in the order, of such decision having been taken in the public interest.

(2) In order to be satisfied whether it will be in the public interest to require a Government servant to retire under clause (c) the appointing authority may take into consideration any material relating to the Government servant and nothing herein contained shall be construed to exclude from consideration—

(a) any entries relating to any period before such Government servant was allowed to cross any efficiency bar or before he was promoted to any post in an officiating or substantive capacity or on an ad-hoc basis; or

(b) any entry against which a representation is pending, provided that the representation is also taken into consideration along with the entry; or

(c) any report of the Vigilance Establishment constituted under the Uttar Pradesh Vigilance Establishment Act, 1965.

(2-A) Every such decision shall be deemed to have been taken in the public interest.

(3) The 'expression' appointing authority means the authority which for the time being has the power to make substantive appointments to the post or service from which the Government servant is required or wants to retire; and the expression 'qualifying service' shall have the same meaning as in the relevant rules relating to retiring pension.

(4) Every order of the appointing authority requiring a Government servant to retire forth-with under the first proviso to clause(d) of this rule shall have effect from the afternoon of the date of its issue, provided that if after the date of its issue, the Government servant concerned, bonafide and in ignorance of that order, performs the duties of his office his acts shall be deemed to be valid notwithstanding the fact of his having earlier retired.

NOTE—(1) (Deleted)

NOTE—(2) The grant, under rule 86, of leave extending beyond the date on which a government servant must compulsrily retire, or beyond the date upto which a government servant has been permitted to remain in service, shall not be treated as sanctioning an extension of service, and the government servant shall not be permitted to retain a lien on his permanent post or any other post during the period of such leave.

(This shall come into force with effect from April 1, 1965).

NOTE—(3) A government servant whose date of birth is the firstday of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the age of fifty-eight or sixty years, as the case may be.

