



## CHAPTER VIII DISMISSAL, REMOVAL AND SUSPENSION

**F.R. 52.** The pay and allowances of a Government servant who is dismissed or removed from service cease from the date of such dismissal or removal.

Pay and allowance of a dismissed or removed Government servant. Pay and allowances of a Government servant under suspension.

<sup>1</sup>**F.R. 53.** (1) A Government servant under suspension <sup>2</sup>[or deemed to have been placed under suspension by an order of the appointing authority] shall be entitled to the following payments, namely:-

(i) in the case of a Commissioned Officer of the Indian Medical Department or a Warrant Officer in Civil employ who is liable to revert to military duty, the pay and allowance to which he would have been entitled had he been suspended while in military employment;

(ii) in the case of any other Government servant:-

(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 such leave salary:

Provided that where the period of suspension exceeds <sup>3</sup>[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 <sup>4</sup>[three] months as follows:-

(i) the amount of subsistence allowance may be increased by a suitable amount; not exceeding 50% of the subsistence

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<sup>1</sup> Substituted by F.D. Notification No 2083-C.R.-2780-IV-R-I, dated 23.11.63.

<sup>2</sup> Inserted by F.D. Notification No. 804-R-275-IV-R-I, dated 27.6.72

<sup>3</sup> Substituted by F.D. Notification No. 1068/6491/81/R-I/IV, dated 26.8.81.

<sup>4</sup> Substituted by F.D. Notification No. 1068/6491/81/R-I/IV, dated 26.8.81.



allowance admissible during the period of the first <sup>5</sup> [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 reduce by a suitable amount not exceeding 50% of the susbistence <sup>6</sup> 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.]

<sup>7</sup> (b) [Any other compensatory allowances admissible from time to time on the basis of pay of which the Government servant was in receipt on the date of suspension subject to the fulfillment of other conditions laid down for the drawal of such allowances:

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.

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<sup>5</sup> Substituted by F.D. Notification No. 1068/6491/81/R-I/IV, dated 26.8.81.

<sup>6</sup> Substituted by F.D. Notification No. 1068/6491/81/R-I/IV, dated 26.8.81.

<sup>7</sup> Substituted by F.D. Notification No. 747-1496-76-R-I-IV, dated 11.6.76.



**L.G.R.** House rent allowance granted in lieu of rent-free quarters cannot be drawn by a Government servant under suspension.

**F.R. 53-A** <sup>8</sup> [Deleted]

**F.R. 54.** (1) When a Government servant who has been dismissed, removed or compulsorily retired is re-instated as a result of appeal review or would have been so re-instated <sup>9</sup> [but for his retirement on superannuation, while under suspension or not], the authority competent to order re-instatement 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 preceeding his dismissal, removal or compulsory retirement, as the case may 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 re-instatement is of the 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 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

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<sup>8</sup> Deleted by F.D. Notification No. 2083-CR-2780-IV-R-I, dated 23.11.63.

<sup>9</sup> Substituted by F.D. Notification No.FAAA-1-10-73/R-I/IV, dated 29.7.75. effective from 22.8.75.



make his representations<sup>10</sup> [within 60 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, subject to the provisions of sub-rule (7),<sup>11</sup> be paid for the period of such delay, only such amount<sup>11</sup> [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 preceeding dismissal, removal or compulsory retirement, as the case may be shall be treated as a period spent on duty for all purposes.

(4) In the cases other than those covered by sub-rule (2) including the 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 non-compliance with the requirements of Clause (2) of Article 311 of the Constitution and no further enquiry is proposed to be held, the Government servant shall subject to the provision of sub-rules (6) and (7), be paid such<sup>12</sup> [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<sup>13</sup> [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:

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<sup>10</sup> Inserted by F.D. Notification No. 525-1386-78-R-I/IV, dated 6.5.78. effective from 14.1.77.

<sup>11</sup> Substituted by F.D. Notification No. FA-1-10-73-R-I-IV, dated 25.9.74.

<sup>12</sup> Substituted by F.D. Notification No. FA-1-10-73-R-I-IV, dated 25.9.74.

<sup>13</sup> Inserted by F.D. Notification No. 1667-3441-76-I-IV-, dated 17.12.76. effective from 14.1.77.

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<sup>14</sup>  
[Provided that any payment under this sub-rule to a Government servant {other than a Government servant who is governed by the provisions of the Payment of Wages Act 1936 (4) of 1936} shall be restricted to a period of three years immediately preceeding the date on which orders for re-instatement of such Government servant are passed by the Appellate Authority or Reviewing Authority, of immediately preceding the date of retirement on superannuation of such Government servant, as the case may be.]

(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 to 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 or quasi-permanent Government servant.

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

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<sup>14</sup> Substituted proviso by F.D. Notification No.FA-1-10-73-R-I-IV, dated 25.9.74.



(7)<sup>15</sup> [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 re-instatement shall be subject to adjustment of the amount, if any, earned by him through an employment during the period between the date of removal, dismissal or compulsory retirement, as the case may be, and the date of re-instatement. Where the emoluments admissible under the rule are equal to or less than the emoluments earned during the employment elsewhere, nothing shall be paid to the Government servant.

**F.R. 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 re-instated without holding any further enquiry, the period of absence from duty shall be regularised and the Government servant shall be paid pay and allowance in accordance with the provisions of sub-rule (2) or (3) subject to the directions, if any, of the court.

<sup>16</sup> [(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 the clause (2) of Article 311 of the Constitution, and where he is not exonerated on merits, the Government servant shall subject to the provision of sub-rule (7) of rule 54, be paid such<sup>17</sup> [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

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<sup>15</sup> Substituted by F.D. Notification No.FA-1-10-73-R-I-IV, dated 5.3.75.

<sup>16</sup> Substituted by F.D. Notification No.FA-1-10-73-R-I-IV, dated 26.9.74.

<sup>17</sup> Inserted by F.D. Notification No.1667- 3441-76-R-I-IV, dated 17.12.76.



representation, if any, submitted by him in that connection, within such period,<sup>18</sup> [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:

Provided that any payment under this sub-rule to a Government servant other than a Government servant who is governed by the provisions of Payment of Wages Act, 1936 (4 of 1936) shall be restricted to a period of three years immediately preceding the date on which the judgement of the court was passed or the date of retirement on superannuation of such Government servant, as the case may be.

(ii) 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 judgement 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 re-instatement 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, 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 re-instatement shall be subject to adjustment of the

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<sup>18</sup> Inserted by F.D. Notification No.1667- 3441-76-R-I-IV, dated 17.12.76.



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 re-instatement. 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.

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

- (a) regarding the pay and allowances to be paid to the Government servant for the period of suspension ending with re-instatement 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 re-instatement is of the opinion that the suspension was wholly unjustified, the Government servant shall subject to the provisions of sub-rule (8), 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 reason directly attributable to the Government servant it may, after giving him an opportunity to make his representation<sup>19</sup> [within 60 days from the date on which the communication in this regard is served in 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<sup>20</sup> [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 subject to the provisions of sub-rules (8) and (9) be paid such<sup>21</sup> [amount (not being the whole) of the full 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<sup>22</sup> [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 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.

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<sup>19</sup> Inserted by F.D. Notification No. 525-1386-R-II-IV-, dated 6.5.78. effective from 14.1.77.

<sup>20</sup> Substituted by F.D. Notification No.FA-1-10-73-R-I-IV, dated 25.9.74.

<sup>21</sup> Substituted by F.D. Notification No.FA-1-10-73-R-I-IV, dated 25.9.74.

<sup>22</sup> Substituted by F.D. Notification No.1667-2441-76-R-I-IV, dated 17.12.76.



(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 so 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 servants; and

(b) leave of any kind in excess of five years in the case of permanent or quasi-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.

G.I.O. 1 Fundamental Rule 54 permits revising or an appellate authority to convert a period spent under suspension into one of leave.

[G.I.F.D, letter No. F-47-C.S.R. 27, dated the 14th Febreary 1927]

**G.I.O. 2.** A Government servant was dismissed from service on 8th March 1927 and on appeal, was reinstated with effect from 27th October, 1927. The appellate authority declared under Fundamental Rule 54, that the period of un-employment between



the dates of dismissal and reinstatement should be treated as spent on duty and allowed to count for leave and increments. As there was no post against which the lien of the Government servant could be shown for the period of dismissal, the question arose whether in the absence of lien on a permanent post the period of unemployment could count for leave or increments. It was decided that Fundamental Rule 54 is absolute and unconditional and that it could not be absolute if the condition of "lien" had first to be satisfied.

[G.I.F.D., No.F-28-R-I-28, dated 5-4-1928]

**L.G.O. 1.** A permanent post vacated by the dismissal, removal or compulsory retirement of a Government servant should not be filled substantively until the expiry of the period of two years from the date of such dismissal, removal or compulsory retirement, as the case may be. Where on the expiry of the period of two years, the permanent post is filled and the original incumbent of the post is reinstated thereafter, he should be accommodated against any post which may be substantively vacant in the grade to which his previous substantive post belonged. If there is no such vacant post he should be accommodated against a supernumerary post which should be created in this grade with proper sanction and with the stipulation that it would be terminated on the occurrence of the first substantive vacancy in that grade.

[F.D. memo No. 1368-18-IV-R-I, dated 26-6-1961.]

**L.G.O. 2.** When the orders of suspension or dismissal of a Government servant are reversed by an appellate authority, the Government servant should be treated as though he was on duty during the period intervening between the date of his suspension or dismissal and reinstatement. The arrangement already made during the period of the Government servant's unemployment should stand and it should be reversed only from the date of his joining his duties on reinstatement.



**L.G.O. 3.** <sup>23</sup> [Deleted]

Leave to a  
suspended  
Government  
servant.

**F.R. 55.** Leave may not be granted to a Government servant under suspension.

Conversion of  
suspension into  
leave.

**G.I.O.** The Government of India have decided that Fundamental Rule 55 does not debar an appellate authority which rescinds the order of suspension passed in case from converting the period of suspension into one of leave. The Government of India have however held that the case must be dealt with under Fundamental Rule 54 which covers all cases in which an order of suspension or dismissal is on reconsideration or appeal held to be not wholly justifiable. Sub-clause (b) of Fundamental Rule 54 does not forbid the period spent under suspension being regarded as leave and it is open to the revising or appellate authority to prescribe as the proportion of pay and allowances to be paid the leave salary which would be permissible if the Government servant were on leave.

[G.I.F.D., letter No. F. 47-CSR-27, dated 14-2-1927]

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<sup>23</sup> Deleted by F.D. Notification No.1501 -2769-84-R-I-IV, dated 13.8.84.