

FUNDAMENTAL RULES OF ANDHRA PRADESH GOVERNMENT

Extract of F.Rs.

13. Unless his lien is suspended under Rule 14 or transferred under Rule 14-B, a Government Servant holding substantively a permanent post retains a lien on that post-

- (a) While performing the duties of that post;
- (b) While on foreign service, or holding a temporary post, or officiating in another post;
- (c) during joining time on transfer to another post; unless he is transferred substantively to a post on lower pay, in which case his lien is transferred to the new post from the date on which he is relieved of his duties in the old post;
- (d) (.....) While on leave other than refused leave granted after the date of compulsory retirement under Rule 86, or Rule 7 of Andhra Pradesh Leave Rules, 1933; and
- (e) while under suspension.

23. The holder of a post, the pay of which is changed shall be treated as if he were transferred to a new post on the new pay; provided that he may at his option retain his old pay until the date on which has earned his next or any subsequent, increment on the old scale, or until he vacates his post or ceases to draw pay on that time scale. The option once exercised is final.

24. An increment shall ordinarily be drawn as a matter of course unless it is withheld. An increment may be withheld from a Government servant by {the State Government}, or by any authority to whom the State Government may delegate this power if his conduct has not been good, or his work has not been satisfactory. In ordering the withholding of an increment the withholding authority shall state the period for which it is withheld, and whether the postponement shall have the effect of postponing future increments.

Note (1):-The authority competent to withhold increments from a Government servant is the authority in which such power has been vested by under the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991.

Note (2):- The procedure that should be followed for stoppage of increment of a Government servant under the rule making control of the Government of Andhra Pradesh is the procedure prescribed in the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991.

28. The authority which orders the transfer of a Government servant as a penalty from a higher to a lower grade or post may allow him to draw any Pay, not exceeding the maximum of the lower grade or post, which it may think proper. Provided that the pay allowed to be drawn by a Government servant under this rule shall not exceed the pay, which he would have drawn by the operation of Rule 22 read with clause (b) or clause (c), as the case may be, or Rule 26.

29.(1) If a Government servant is reduced, as a measure of penalty, to a lower stage in his time-scale, the authority ordering such reduction shall state the period for which it shall be effective, and whether, on restoration, it viz., the period of reduction, shall operate to postpone future increments, and, if so, to what extent.

(2) If a Government servant is reduced, as a measure of penalty, to lower service, grade or post, or to a lower time scale, the authority ordering the reduction may or may not specify the period or which the reduction shall be effective, but where the period is specified, that authority shall also state whether, on restoration, the period of reduction shall operate to postpone, future increments, and, if so, to what extent.

29-A. Where an order of penalty of withholding of increment of a Government servant or his

reduction to a lower service, grade or post or to a lower time-scale, or to a lower stage in a time-scale, is set aside or modified by a competent authority on appeal or review, the pay of the Government servant shall, notwithstanding anything contained in these rules, be regulated in the following manner:

(a) If the said order is set aside, he shall be given, for the period such order has been in force, the difference between the pay to which he would have been entitled had that order not been made and the pay he had actually drawn;

(b) If the said order is modified, the pay shall be regulated as if the order as so modified has been made in the first instance.

Explanation:

If the pay drawn by a Government servant in respect of any period prior to the issue of the orders of the competent authority under this rule is revised, the leave salary and allowances (other than travelling allowance) if any, admissible to him during that period shall be revised on the basis of the revised pay.

45-C. For the purposes of Rule 45 -A, 45 -B 'emoluments' means -

(i) Pay:

(i-a) 'dearness pay';

(ii) payments from general revenues and fees, if such payments or fees are received in the shape of a fixed addition to monthly pay and allowances as part of the authorized remuneration of a post;

(iii) compensatory allowances other than travelling allowance, uniform allowance, outfit allowance, special outfit allowance, uniform grant, and grant for horse and saddlery, whether drawn from the Consolidated Fund of India or of a State or from a Local Fund;

(iv) Not printed.

(v) pension, other than a pension drawn under the provisions of Chapter XXXVIII, Civil Service Regulations, or compensation received under the Workmen's Compensation Act, 1923, as subsequently amended;

Note:- The amount of pension to be taken into account will be the amount originally sanctioned i.e., before commutation, if any, and will also include the pension equivalent of death-cum-retirement gratuity and other forms of retirement benefits, if any e.g., Government's contribution to a Contributory Provident Fund, commuted value of pension, etc., of any period prior to the issue of the orders of the competent authority under this rule is revised, the leave salary and allowances (other than travelling allowance) if any, admissible to him during that period shall be revised on the basis of the revised pay.

(vi) in the case of a Government servant under suspension and in receipt of a subsistence allowance, the amount of the subsistence allowance, provided that, if such Government servant is subsequently allowed to draw pay for the period of suspension, the difference between the rent recovered on the basis of the subsistence allowance and the rent due on the basis of the emoluments ultimately drawn shall be recovered from him. It does not include allowance attached to the Indian Police Medal.

Note 1:- The emoluments of a Government servant paid at piecework rates shall be determined in such manner as the State Government may prescribe.

Note 2:- The emoluments of an officer on leave mean the emoluments drawn by him for the last complete calendar month of duty performed by him prior to his departure on leave.

Note 3:- The Government of India have held that in cases in which a portion of the pension has been commuted the term "pension" occurring in the rule means the full sanctioned pension prior to commutation.

Note 4:- The percentage rate of Dearness allowance sanctioned from time to time shall not be reckoned as emoluments. However, in respect of Government servants who do not opt to the Revised Pay Scales, 1978 and remain in pre 1978 scales of pay, dearness allowance admissible at

the rate which existed as on 1-4-1978 appropriate to the basic pay in that scale shall be reckoned as emoluments.

Note 5:- Family Pension granted to a Government servant shall not be reckoned as emoluments for purposes of recovery of rent under this rule.

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.

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 -

(i) Not Printed.

(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 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 fifty percent 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 fifty percent 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 clauses (i) and (ii) above.

Note:- Not printed.

(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.

(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 where a penalty of dismissal, removal, or compulsory retirement imposed upon a Government servant is set aside and he is deemed to have been placed, or to continue to be under suspension from the date of such dismissal or removal or compulsory retirement, [under sub-rule (3) or sub-rule (4) of Rule 8 of the Andhra Pradesh Civil Services (classification, Control and Appeal) Rules 1991], and he 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, shall be entitled to the subsistence allowance and other 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 allowance and other allowances admissible to him are equal to or less than the amount earned by him, nothing in this provision shall apply to him.

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 may be; and

b) Whether or not the said period shall be treated as 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 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, 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 the reviewing authority solely on the ground of non-compliance with the requirement 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) Extra-ordinary leave in excess of three months in case of non-permanent Government servant; and

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

(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 removal, dismissal or compulsory retirement, as the case may be, 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.

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) and (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 for [clause (1) or clause (2) of Article 311 of the Constitution], and where he is not exonerated on merits, 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 such dismissal, removal or compulsory retirement, as the case may be, and the date of judgment of the court shall be regularized 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.

54-B.(1) When a Government servant who has been suspended is reinstated or would have been so reinstated but for his retirement [.....] 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 [.....] 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), 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 the 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.]

Note:- For the purpose of sub-rules (2) and (3) above, full pay includes special pay attached to the post which the Government servant was holding immediately before the suspension.

(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. proviso shall be absolute and no higher sanction shall be necessary for the grant of—

a) extraordinary leave in excess of three months in case of a non-permanent Government servant, and

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

(8) The payment of allowances under sub-rule (2), sub-rule (3) of 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.

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