

Note 6.—*It is not necessary to create a post to make officiating arrangement in a vacancy caused by the deputation out of India of a Government employee in connection with the duties of the post held by him in India. He is considered to be on special duty and does not draw pay against any particular post, the pay being regulated in terms of rule 68.*

69. Omitted.

CHAPTER IX—DISMISSAL, REMOVAL AND SUSPENSION

70. The pay and allowances of a Government employee who is dismissed or removed from service cease from the date of such dismissal or removal.

Note.—Dismissal or removal from service terminates the service of an officer as from the date on which the relevant order is passed. The order of dismissal or removal from service cannot thus be given a retrospective, effect with reference to the date of the order.

****71.** (1) A Government employee under suspension or seemed 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 employee would have drawn if he had been on half-pay :

Provided that where the period of suspension exceeds three months the authority which made or 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 the 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 employee,

(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 employee;

(b) Dearness, Medical or other compensatory allowance, if any, admissible from time to time on the basis of pay which the Government employee was in receipt on the date of

Termination of service on removal or dismissal,

Subsistence grant while under suspension.

suspension or such portion thereof as the suspending authority may direct subject to the fulfillment of other conditions laid down for the drawal of such allowances.

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

Provided that in the case of a Government employee dismissed, removed or compulsorily retired from service, who is deemed to have been placed or to continue to be under suspension from the date of such dismissal or removal or compulsory retirement; and who fails to produce such a certificate for any period of suspension, he shall be entitled to the subsistence allowance and other allowances equal to the amount by which his earning during such period or periods as the case may be, falls 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 proviso shall apply to him.

(3) There shall be recovered from the subsistence allowance granted to the Government employee the following which would have been recovered from his salary had he not been suspended:—

- (a) Government dues such as income-tax, super-tax, profession tax, house-rent, charges for electricity and water, furniture hire and the like ;
- (b) contribution towards Group Insurance Scheme ;
- (c) loans and advances taken by the Government employee from the Government;
- (d) over-payment made to the Government employee by the Government; and
- (e) loss to Government for which the Government employee has been held responsible:

Provided that the total amount of the recoveries to be made under clauses (c) to (e) shall not, Unless the Government by the special order otherwise directs, exceed one-third of the subsistence allowance to the Government employee referred to in clause (a) of sub rule (1) and where the total amount calculated to be so recovered under clauses (c) to (e) exceeds one-third of such subsistence allowance, sanction of the appointing authority shall be obtained as to the amount to be recovered under each of the aforesaid clauses in order that the total amount of such recoveries may not exceed one-third of such subsistence allowance.

(4) Recovery may also be made from the subsistence allowance to the Government employee with his written consent and to the extent agreed upon in respect of the following, namely :—

- (i) subscriptions to a Provident Fund ;
- (ii) premia due on Postal Life Insurance Policies;
- (iii) dues of any Co-operative Society; and
- (iv) amount due on the court attachments.

Note 1.—When a government employee under suspension was in the temporary post before he was placed on suspension, the question of extension of the term of the temporary post may arise. The competent authority shall take a decision whether the individual who is due to be discharged on account of the expiry of the sanction of the post held by him or otherwise becomes liable to be retrenched or whether, to enable disciplinary proceedings being continued, steps should be taken to provide a post for him. In the latter case his post may be extended without reference to higher authority if there is no time to refer the matter for such sanction, otherwise the sanction of the competent authority should be obtained as usual in each case.

Note 2.—(i) The subsistence allowance shall not be denied on any ground unless a Government employee is unable to does not furnish a certificate that he is not engaged in other employment, business, profession or vocation during the period of suspension.

(ii) Each claim for subsistence and compensatory house rent allowance shall be supported by a certificate by the Government employee concerned to the effect that he is not engaged in any employment, business, profession or vocation during the period to which the claim relates.

(iii) Review—

(a) First Review—A review of the subsistence allowance shall be made before the end of three months from the date of suspension. This will also give an opportunity to the competent authority to review not merely the subsistence allowance but also the substantive question of suspension.

(b) Second or subsequent review(s)—There is no objection to such review(s) being made by the competent authority. Such authority shall be competent to increase or decrease the rate of subsistence allowance up to 50 per cent of the amount of the subsistence allowance initially granted according to the circumstances of each case. A second or subsequent review can be made at any time at the discretion of the competent authority.

Retrospective revision—It is not considered advisable that any order revising the rate of subsistence allowance should be given retrospective effect. This is merely an advice of caution intended to serve as a guide line to the competent authority ordering variation in

subsistence, allowance as such authority in all cases shall initiate action in sufficient time so that requisite order can take effect as soon as a suspended officer completes three months under suspension. This does not override the power of the competent authority conferred under this rule to revise the subsistence allowance. As such, in case an order for variation of subsistence allowance under this rule is passed by the competent authority (disciplinary or appellate) after quite some time from the expiry of the requisite three months and that authority is satisfied that the variation has got to be recorded in writing and orders accordingly, the same shall be valid and binding on all concerned.

(d) Deemed suspension and law of Limitation—A Government employee in whose case the order of suspension is deemed to have been continued in force or who is deemed to have, been placed under suspension from the date of original order of dismissal/ removal/ compulsory retirement from service under relevant provisions of the West Bengal Services (Classification, Control and Appeal) Rules, 1971, he is to be paid subsistence and other allowances under this rule with retrospective effect from the date of order of such dismissal, removal compulsory retirement.

****72.** (1) When a Government" employee 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—

Pay and allowances on reinstatement.

(a) regarding the pay and allowance to be paid to the Government employee 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 a period spent on duty.

(2) Where the authority competent to order reinstatement is of opinion that the Government employee who had been dismissed, removed or compulsorily retired has been fully exonerated, the Government employee 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 or the proceedings instituted against the Government employee had been delayed due to reasons directly attributable to the Government employee it may, after giving him an opportunity to make his representation within sixty days from the date on which the communication in this

GOVERNMENT OF WEST BENGAL

Finance Department

Audit Branch

No. 9266-F(P)

Dated, the 16.11. 2012

MEMORANDUM

Note 2(iii)(a) below rule 71(4) of the West Bengal Service Rules, Part-I provides for a review of the subsistence allowance granted to an employee under suspension as well as the substantive question of suspension within three months from the date of suspension or deemed to have been placed under suspension. It has come to the notice of the government that though the subsistence allowance granted to an employee under suspension is reviewed by the competent authority within three months from the date of suspension as a matter of course, the substantive question of suspension remains un-reviewed.

2. After careful consideration of the matter in all its aspects the Governor has been pleased to constitute the following Review Committees comprising the following members to review the subsistence allowance granted to the government employees while under suspension as well as to review the substantive question of suspension :

A. Review Committee in cases of considering suspension of Government employees whose appointing authority is the Governor.

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| i) Chief Secretary, Government of West Bengal | — Chairman |
| ii) Departmental Secretary
(Cadre Controlling Authority) | — Member Secretary |
| iii) Controlling Authority / Disciplinary Authority
(Other than Cadre Controlling Authority)
of the suspended Government employee | — Member |

Or

An Officer not below the rank of Joint Secretary
to be nominated by the Cadre Controlling Authority.

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| iv) A nominee of P&AR Department
not below the rank of Joint Secretary. | — To be co-opted as
Member |
| v) A nominee of Finance Deptt.
not below the rank of Joint Secretary | — Member |

B. Review Committee in cases of considering suspension of the government employees whose appointing authority is subordinate to the Governor.

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|---|--------------------|
| i) Principal Secretary / Secretary / Cadre
Controlling Authority | — Chairman |
| ii) Controlling Authority / Disciplinary Authority
of the suspended Government employee | — Member Secretary |
| iii) Deputy Secretary / Deputy Director of the
concerned department / directorate, where the
suspended Government employee last posted. | — Member |
| iv) A nominee of Finance Department. | — Member |

Important Government Orders

3. The Governor has further been pleased to lay down the following functions and procedure to be followed by the Review Committee so constituted.

A. Functions

- (i) The Review Committee shall review the cases of Officers/employees under suspension in order to determine whether there are sufficient grounds for continuation of suspension.
- (ii) In every case the review shall be done within 90 (ninety) days from the date of order of suspension or deemed to have been placed under suspension. In a case where the period of suspension has been found to be prolonged, the next review shall be done within 180 (One hundred eighty) days from the date of last review.

B. Procedure

- (i) The Review Committee, while assessing the justification for further continuation of any suspension, shall look into the progress of inquiry / investigation against the officer by obtaining relevant information from the authority inquiring /investigating into the charges.
- (ii) The Review Committee, while examining a case, shall consider the possibility of tampering with the evidence and/or influencing the process of inquiry or investigation by the officer/ employee under suspension.
- (iii) The Review Committee shall submit a detailed report clearly stating its recommendations including variation of the amount of subsistence allowance in terms of proviso to rule 71(1)(a) of W.B.S.R. Part-I and the reasons for arriving at such recommendations to the appointing authority concerned for considering further course of action.

4. Necessary amendments in the West Bengal Service Rules, Part-I and the West Bengal Services (Classification, Control and Appeal) Rules, 1971 shall be made in due course.

By order of the Governor,

Sd/- H. K. Dwivedi

Secretary to the
Government of West Bengal.