

APPENDIX

SUSPENSION

Suspension, in the context of disciplinary proceedings, may be defined as temporary withdrawal of duties from a government servant, pending inquiry into his/ her conduct, with simultaneous reduction in pay and withdrawal of some rights/privileges.

2 The provisions relating to suspension are scattered across several rules. The main provisions are contained in Rule 10 of CCS (CCA) Rules, 1965 (or corresponding rules governing the Government servant concerned) and FR 53, 54 and 55.

3. Suspension, though not a penalty, is to be resorted to sparingly. Whenever a Govt. servant is placed under suspension not only does the Govt. lose his services but also pays him for doing no work. It also has a stigma attached to it. Therefore the decision to place a Govt. servant under suspension must be a carefully considered decision and each case would need to be considered on merits. A Govt. servant may be placed under suspension, in the following circumstances:

(a) where, a disciplinary proceeding against him is contemplated or is pending;

or

(b) where, in the opinion of the competent authority, he has engaged himself in activities prejudicial to the interest of the security of the State;

or

(c) where, a case against him in respect of any criminal offence is under investigation, inquiry or trial.

Rule 10(1) of CCS (CCA) Rules, 1965

4. A Disciplinary Authority may consider it appropriate to place a Government servant under suspension in the following circumstances. These are only intended for guidance and should not be taken as mandatory:-

(i) Cases where continuance in office of the Government servant will prejudice the investigation, trial or any inquiry (e.g. apprehended tampering with witnesses or documents);

(ii) where the continuance in office of the Government servant is likely to seriously subvert discipline in the office in which the public servant is working;

- (iii) where the continuance in office of the Government servant will be against the wider public interest [other than those covered by (i) and (ii)] such as there is public scandal and it is necessary to place the Government servant under suspension to demonstrate the policy of the Government to deal strictly with officers involved in such scandals, particularly corruption;
- (iv) where allegations have been made against the Government servant and preliminary inquiry has revealed that a prima facie case is made out which would justify his prosecution or is being proceeded against in departmental proceedings, and where the proceedings are likely to end in his conviction and/or dismissal, removal or compulsory retirement from service.

NOTE:

- (a) In the first three circumstances the disciplinary authority may exercise his discretion to place a Government servant under suspension even when the case is under investigation and before a prima facie case has been established.
 - (b) Suspension may be desirable in the circumstances indicated below:-
 - (i) any offence or conduct involving moral turpitude;
 - (ii) corruption, embezzlement or misappropriation of Government money, possession of disproportionate assets, misuse of official powers for personal gain;
 - (iii) serious negligence and dereliction of duty resulting in considerable loss to Government;
 - (iv) desertion of duty;
 - (v) refusal or deliberate failure to carry out written orders of superior officers. In respect of the types of misdemeanor specified in sub clauses (iii) and (v) discretion has to be exercised with care.
5. Reasons for Suspension, if not indicated in the suspension order itself, should be communicated within three months.



6. Deemed Suspension

A Government servant shall be deemed to have been placed under suspension by an order of appointing authority -

- (a) with effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours;
- (b) with effect from the date of his conviction, if, in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

EXPLANATION - The period of forty-eight hours referred to in clause (b) shall be computed from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken into account.

- c) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant under suspension is set aside in appeal or on review and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.
- d) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant is set aside or declared or rendered void in consequence of or by a decision of a Court of Law and the disciplinary authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Government servant shall be deemed to have been placed under suspension by the Appointing Authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders :

Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case.

Rule 10 (2), (3) and (4) of CCS (CCA) Rules, 1965

7. Authority competent to place a Govt. servant under suspension

The appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in that behalf by the President, by general or special order, may place a Government servant under suspension

Provided that, except in case of an order of suspension made by the Comptroller and Auditor - General in regard to a member of the Indian Audit and Accounts Service and in regard to an Assistant Accountant General or equivalent (other than a regular member of the Indian Audit and Accounts Service), where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.

Rule 10(1) of CCS (CCA) Rules, 1965

8. Review of Suspension

An order of suspension made or deemed to have been made may at any time be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.

Rule 10(5) (c) of CCS (CCA) Rules, 1965

An order of suspension made or deemed to have been made shall be reviewed by the authority competent to modify or revoke the suspension, before expiry of ninety days from the effective date of suspension, on the recommendation of the Review Committee constituted for the purpose and pass orders either extending or revoking the suspension. Subsequent reviews shall be made before expiry of the extended period of suspension. Extension of suspension shall not be for a period exceeding one hundred and eighty days at a time.

An order of suspension made or deemed to have been made shall not be valid after a period of ninety days unless it is extended after review, for a further period before the expiry of ninety days.

Provided that no such review of suspension shall be necessary in the case of deemed suspension, if the Government servant continues to be under detention at the time of completion of ninety days of suspension and the ninety days period in such case will count from the date the Government servant detained in custody is released from detention or the date on which the fact of his release from detention is intimated to his appointing authority, whichever is later.

[Rule 10(6) & (7) of CCS (CCA) Rules, 1965]

9. Subsistence Allowance

A Govt. servant under suspension is not paid any pay but is allowed a Subsistence Allowance at an amount equivalent to the leave salary which the Government servant would have drawn if he had been on leave on half average pay or half pay and in addition dearness allowance, if admissible on the basis of such leave salary. FR 53 1(ii) (a)

Subsistence allowance to be reviewed after 3 months and may be increased by upto 50 % of the allowance during the first 3 months or reduced by upto 50% of the allowance during the first 3 months

FR 53 1(ii) (a) - (i) & (ii)

10. Headquarters during Suspension

An officer under suspension is regarded as subject to all other conditions of service applicable generally to Government servants and cannot leave the station without prior permission. As such, the headquarters of a Government servant should normally be assumed to be his last place of duty. The order placing an officer under suspension should clearly indicate what his headquarters would be.

However, where an individual under suspension requests for a change of headquarters, there is no objection to a competent authority changing the headquarters if it is satisfied that such a course will not put Government to any extra expenditure like grant of T.A. etc. or other complications.

11. Promotion during suspension

Officer under suspension shall be considered by the DPC along with others. However the recommendations in respect of those under suspension shall be placed in a sealed cover. The sealed cover shall be opened/ not acted upon depending on the outcome of the disciplinary proceedings.

If an officer is suspended subsequent to the meeting of the DPC but before he is actually promoted, then the recommendations would be deemed to have been placed in the sealed cover.

DoPT O.M.No.22034/4/2012-Estt (D) dated 02-11-2012

12. LTC

A Govt. servant under suspension cannot avail of LTC as he cannot get any leave including casual leave during the period of suspension. As he continues to be in service during the period of suspension, members of his family are entitled to LTC.

13. Leave

Leave may not be granted to a Government servant under suspension.
[FR55]

14 Recoveries from subsistence Allowance

A. Compulsory Deductions to be enforced

- a) Income Tax
- b) House Rent (Licence Fee) and allied charges
- c) Repayment of loans and advances taken from Government – rate of recovery to be determined by Head of Department
- d) CGHS contribution
- e) CGEGIS subscription

B. Deductions at the option of the suspended officer

- PLI premia
- Amounts due to Co-op stores/ Societies
- Refund of GPF advance

C. Deduction NOT to be made

- GPF subscription
- Amounts due to court attachments
- Recovery of loss to Government

15. Forwarding of applications etc.

Application of a Government servant for appointment, whether by Direct Recruitment, transfer on deputation or transfer, to any other post should not be considered/ forwarded if he is under suspension.

DoPT OM No. AB14017/101/91-Estt. (RR) dated 14th July, 1993

Vigilance clearance may not be granted to an officer under suspension for deputation, empanelment etc.

DoPT O.M.No.11012/11/2007-Estt(A) dated 14-12-2007 & 21-06-2013

16. Voluntary Retirement / Resignation

(a) Notice of Voluntary Retirement Under FR 56 (k) or Rule 48 (1) of CCS (Pension) Rules, 1972

It shall be open to the Appropriate Authority to withhold permission to a Government Servant under suspension who seeks to retire under either of these rules.

Proviso (c) of FR 56 (k) (1) (c) and second proviso to Rule 48(1) of CCS (Pension) Rules, 1972

(b) Voluntary Retirement under rule 48-A of Pension Rules

A notice of voluntary retirement given after completion of twenty years' qualifying service will require acceptance by the appointing authority if the date of retirement on the expiry of the notice would be earlier than the date on which the Government servant concerned could have retired voluntarily under the existing rules applicable to him [e.g., FR 56 (k), Rule 48 of the CCS(Pension) Rules, 1972, Article 459 of CSRs or any other similar rule]. Such acceptance may be generally given in all cases except those (a) in which disciplinary proceedings are pending or contemplated against the Government servant concerned for the imposition of a major penalty and the disciplinary authority, having regard to the circumstances of the case, is of the view that the imposition of the penalty of removal or dismissal from service would be warranted in the case, or (b) in which prosecution is contemplated or may have been launched in a Court of Law against the Government servant concerned. If it is proposed to accept the notice of voluntary retirement even in such cases, approval of the Minister-in-charge should be obtained in regard to Group 'A' and Group 'B' Government servants and that of the Head of the Department in the cases of Group 'C' and Group 'D' Government servants. Even where the notice of voluntary retirement given by a Government servant requires acceptance by the appointing authority, the Government servant giving notice may presume acceptance and the retirement shall be effective in terms of the notice unless, the competent authority issues an order to the contrary before the expiry of the period of notice.

GOI Decision below Rule 48-A of CCS (Pension) Rules, 1972

(c) Resignation

The competent authority should examine, with reference to the merit of the disciplinary case pending against the Government servant, whether it would be in the public interest to accept the resignation. Normally, as officers are placed under suspension only in cases of grave delinquency, it would not be correct to accept the resignation of an officer under suspension. Exceptions would be where the alleged offence does not involve moral turpitude or where the evidence against the officer is not strong enough to justify that departmental proceedings, if continued would result in removal from service/ dismissal or where departmental proceedings are likely to be so protracted that it would be cheaper for the exchequer to accept the resignation.

(d) Retirement

A Government servant who retires while under suspension is entitled to provisional pension equal to the maximum pension on the basis of qualifying service upto the date immediately preceding the date on which he was placed under suspension.

Gratuity will not be paid until the conclusion of disciplinary proceedings-except where the proceedings are under Rule 16 of CCS (CCA) Rules (for imposition of minor penalty) [Rule 69 of CCS(Pension) Rules, 1972]

17. Revocation of Suspension

An order of suspension made or deemed to have been made may be modified or revoked at any time by the authority who made it (or deemed to have made) or any authority to which such authority is subordinate.

Rule 10(5)(c) of CCS(CCA) Rules, 1965

An order of suspension made or deemed to have been made shall not be valid after a period of ninety days unless it is extended after review, for a further period before the expiry of ninety days.

Provided that no such review of suspension shall be necessary in the case of deemed suspension, if the Government servant continues to be under detention at the time of completion of ninety days of suspension and the ninety days period in such case will count from the date the Government servant detained in custody is released from detention or the date on which the fact of his release from detention is intimated to his appointing authority, whichever is later.

Rule 10(7) of CCS (CCA) Rules, 1965

18 On Conclusion of Proceedings

A. If Exonerated

a) Where the Competent Authority is of the opinion that the suspension was wholly unjustified, the Government servant may be paid full pay and allowances.

b) Where the Competent Authority is of the opinion that the proceedings were delayed for reasons directly attributable to the Govt. servant, it may after notice to the Govt. servant and considering his representation-if any, order a reduced amount to be paid.

c) The period of suspension will be treated as period spent on duty for all purposes. [FR 54-B (3) & (4)]

B. Minor Penalty is imposed

Where the proceedings result only in minor penalty being imposed, then the suspension is treated as wholly unjustified.

DoPT O.M. No. 11012/15/85-Estt (A) dt. 3-12-1985

C. Other than exoneration/ minor penalty

- (a) The competent authority shall determine the amount to be paid, after notice to Govt servant and considering his representation-if any. [FR 54-B(5)]
- (b) The period of suspension shall not be treated as duty unless the competent authority specifically directs that it shall be so treated for any specified purpose.
- (c) If the Govt servant so desires, the period of suspension may be converted into leave of the kind due and admissible. (Note: Such leave can be in excess of 3 months in case of temporary Govt servants or 5 years in case of permanent Govt servants) [FR 54-B(7)]

NOTE: As per FR 54-B(9) wherever the amount allowed is less than full pay and allowances it shall not be less than the Subsistence Allowance already paid.

D. Death while under suspension

Where a Govt. servant under suspension dies before the disciplinary proceedings or the court proceedings 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 to which he would have been entitled had he not been suspended, for that period subject to adjustment of subsistence allowance already paid.

[FR 54-B(2)]

19. Serving of Charge Sheet etc.

- a) Suspension order should normally indicate the grounds for suspension.
- b) Where the suspension is on grounds of contemplated proceedings, charge sheet should be served upon the Govt servant within 3 months.
- c) Where charge sheet is not served within 3 months, the reasons for suspension should be communicated to the Govt servant immediately on expiry of 3 months from the date of suspension.

DoPT O.M. No. 35014/1/81-Ests.(A) dated the 9th November, 1982

20. Appeal

Order of Suspension is appealable under Rule 23 (i) of CCS (CCA) Rules, 1965.

