

ATI Monograph No. 2B/2005

*Training Material*  
*On*  
*West Bengal Service Rules*

**By late N. Sengupta W.B.C.S.(Exe.)**

**Revised by**

**Shri Haraprasad Mukhopadhyay W.B.C.S. Exe.(Retd)**

**Sri Pasupati Ghosh W.B.A.& AS(Retd)**

**Administrative Training Institute**

**Government of West Bengal**

Block FC, Sector-III, Bidhan Nagar, Kolkata-700106

<http://www.atiwb.nic.in>

## Notes on the West Bengal Service Rules, Part 1

**Introduction :** West Bengal Service Rules, Part -I contain the rules relating to the conditions of service (excluding pension, compensatory allowances and medical attendance) of officers under the rule making power of the Government i.e. to all members of services and holders of posts whose service conditions are prescribed by Govt. except otherwise expressed and implied and came into effect from October, 1971

The West Bengal Services (Duties, Rights and Obligations of Govt. Employees) Rules, 1980 which provide the rules of conduct of the employees working under the Govt. of West Bengal have replaced the West Bengal Govt. Servants' Conduct Rules, 1959 and came into effect from 1st June, 1980.

**Extent of Application:** None of these rules is applicable to the pay, conduct, discipline and appeal, compulsory retirement, leave and general rights regarding medical attendance of any person appointed to the All India Services. They are governed by the rules framed under the All India Services Act of 1951. The conditions of services of the various subordinate ranks of the Police forces in West Bengal are determined under the Acts relating to such Police forces and orders in this respect are issued by Home (Police) Deptt.[ *Rule 2*]

### Classification of posts and Services (ROPA 1998)

Group A	All Govt. employees drawing pay or scale of pay with the maximum above Rs.10,175/-
Group B	Maximum of Rs. 10,175/- or below but above Rs. 7,050/-
Group C	Maximum of Rs. 7,050/- or below but above Rs. 4,400/-
Group D	Maximum of Rs. 4,400/- / below

(GO No. 7306 -F dt. 16.10.98)

Group-wise Categorization of Govt, employees for subscription to the Group Insurance cum Savings Scheme, 1987 differs from the above only in respect of Group 'B' and Group 'C' as indicated below:

Group B—Pay or pay scale with a maximum of Rs. 10,175/- or below but above Rs. 6,325/-

Group C—Maximum Rs. 6,325/- or below but above Rs. 4,400/-.

(No8741-Fdt. 21.12.98)

State Govt. employees belonging to Group A will be authorised and competent to grant certificates which are required to be granted by Gazetted Officer or to attest papers where such attestation is required to be done by Gazetted Officers in other States or Centre. While granting certificates or attesting papers a group A employee of the State Govt. will indicate his designation and further add that he belongs to Group 'A' under the State Government. The system of classification of Government employees into Gazetted and non-Gazetted Service has been abolished.

**( Note 3 and Note 4 below Rule 5(4)(b))**

***Abstaining from or refusal or work*** : If an employee being present abstains from work or refuses to work at any time on the prescribed hours of work on any day he shall, in addition to being liable to disciplinary action for dereliction of duty be deemed to be absent without leave and shall not be entitled to draw any pay and allowance for such day. [ *Rule 3B*]

***Resorting to strike*** : If an employee resorts to or in any way abets any form of strike for any period, he shall, in addition to being liable to disciplinary action, be deemed to be absent without leave and shall not be entitled to any pay and allowance for such period.

The authority empowered to grant leave may either commute retrospectively such period of absence without leave into extraordinary leave without pay as amounting to a break-in-service entailing forfeiture of his past service and may pass orders accordingly. [ *Rule 3C(a)*]

***Definitions*** : Cadre means the strength of a service or a part of a service sanctioned as a separate unit. [Rule 5(6)]

***Compulsory waiting*** : If a Govt. employee is compelled to wait for order or posting under circumstances beyond his control, Govt. may treat such period of compulsory waiting as a period of duty. [ *Note below 5(11)(b)*]

***Head of Departments and Head of Office are Govt.***

employees declared as such by Govt. under Rule 5(16) and 5(16A) respectively.

***One time Confirmation and Lien:*** In terms of Finance Deptt. Memo. No. 5225F dated the 17th May, 1995 the concept of lien as the title to hold substantively a permanent post as defined in Rule 5(23) has undergone a change. Lien will now represent only the right/title of a Govt. employee to hold a regular post, whether permanent or temporary, either immediately or on the termination of the period of absence. The benefits of having a lien in a post/service/ cadre will thus be enjoyed by all officers who are confirmed in the post/service/cadre of entry or who have been promoted to a higher post declared as having completed the probation where it is prescribed, or those who have been promoted on regular basis to a higher post where no probation is prescribed under the rules, as the case may be. The above right/title will however be subject to the condition that the junior most person in the cadre will be liable to be reverted to the lower post/service/cadre if at any time the number of persons so entitled is more than the posts available in the cadre/services. Another important feature of the above memo, is that henceforth confirmation will be made only once in the service of the Govt. employee which will be in the entry post/service/ cadre provided further confirmation will be necessary when there is fresh entry subsequently in any other post/service/cadre by way of direct recruitment or otherwise. Confirmation is delinked from the availability of permanent vacancy in the post/services/ cadre. Specific order of confirmation will be issued when an officer has successfully completed his probation and passed departmental examination or undergone prescribed training and his case is cleared from all angles.

**Officiate** : A Govt. employee officiates in a post when he performs the duties of a post on /which another person holds a lien or when he is appointed to officiate in a vacant post on /which no other person holds a lien. A Govt. employee may also be appointed to officiate in a post without actually performing the duties of the post in the circumstances regulated by Rule 39, 68 or 100.

**Pay** means the amount drawn monthly by a Govt. employee as—

(i) The pay other than special pay granted in view of his personal qualifications or to which he is entitled by reason of his position in the cadre ; and

(ii) Special pay and personal pay ; and

(iii) any other emoluments which may be specially classed as pay by Government [ Rule 5(28) ]

**Permanent Post** means a post carrying a definite rate of pay sanctioned without limit of time. [Rule 5(29)]

**Basic Pay** means the pay other than special pay or any other emoluments which may be classed as pay. -[ Rule 5(3)]

**Personal Pay** means additional pay granted to a Govt. employee. To save him from loss of substantive pay due to a revision of pay or to any reduction of such substantive pay otherwise than as a disciplinary measure or in exceptional circumstances, on other personal considerations [Rule 5(30)]

Unless in any case there are orders to the contrary, personal pay shall be reduced by any amount by which the recipients pay may be increased and shall cease as soon as such increase is equal to his personal pay. [Rule 60]

**Presumptive Pay** of a post means the pay of which the Govt. employee would be entitled if he held the post substantively and were performing its duties but it does not include special pay unless the Govt. employee performs, or discharges the work of responsibility or is exposed to the unhealthy conditions, in consideration of which the special pay was sanctioned. [Rule 5(31)]

**Probationer** means a Govt. employee employed on trial in or against a substantive vacancy in the cadre or department. [Rule 5(32)]

Service as a probationer is 'Suigeneris' neither substantive nor officiating. [ Note below clause (a) Rule 5(11)]

**Special Pay** means an addition to the nature of pay granted in consideration of the specially arduous nature of the duties ; or a specific addition to the work or responsibility, or

(c) the unhealthiness of the locality in which work is performed [ Rule 5(33)]

**Note:** Deputation allowance is classed as 'Special pay' within the meaning of this rule and shall be deemed as pay as defined in Rule-5 (28).

**Subsistence Grant** means a monthly grant made to a Govt. employee who is not in receipt of pay or leave salary during a period of suspension. [Rule 5(34)]

**Substantive pay** means the pay other than special pay, personal pay or employments classed as pay. (Rule 5(35))

**Temporary post** means a post carrying a definite rate of pay or monthly honorarium sanctioned for a limited time. [Rule 5(39)]

**Tenure post** means a permanent post which an individual Govt. employee may not hold for more than a limited period. [Rule 5(38)]

**Time scale pay** : means pay which rises by periodical increments from a minimum to a maximum. Time scales are identical, if the minimum, maximum, the period of increment and the rate of increment of the time scales are identical. [ Rule 39(a) & (b)]

**Compensatory Allowance**: means an allowance granted to meet personal expenditure necessitated by the special circumstances in which the duty is performed and includes T.A./NPA but does not include free passage by sea to/from outside India. [ Rule 5(9)]

**Age on first appointment**: Unless otherwise specified in any rule, age of entry to Govt. service is 32 years for recruitment through Public Service Commission, WB where the upper age limit is fixed at less than 32 years. (GO No. 3900-F dt. 19.5.98)

(i) In other cases, 37 years (GO No. 3900-F—dt.19.5.98)

These age limit will not apply to the recruitment of

(ii) The police personnel, the age limit of whom has been prescribed in the Police Regulations, Bengal and the Police Regulations, Calcutta ; and

(iii) The warders in Jails under the Home (Jails) Deptt. which is regulated by the provision of the Jail Code [West Bengal Services (Raising of Age Limit) Rules, 1981]

**Condonation of Excess in Age** : Heads of Departments may in exceptional cases where they or their sub-ordinate officers are competent to make the appointment and for reasons to be recorded in writing condone an excess in age over the prescribed limit. [ Rule 8]

**Declaration of age : duties and functions of appointing authorities** : Declaration of age in the prescribed form is to be submitted by the applicant with supporting evidence indicating the age recorded in Matriculation S.F. or H.S. or School

leaving certificate or in the birth register., if available, In any other case reliable evidence is to be produced.

When only the year of birth is declared and accepted, the first day of July of that year and where year and month are declared and accepted, the 16th day of that month will be taken as date of birth.

The appointing authority or the Government, as the case may be, may at any time, for sufficient reasons review the date of birth and modify the same but shall not modify the same to the disadvantage of the employee without giving him an opportunity to represent his case against the proposed action.

Date of birth as finally accepted shall be recorded in service books/records of the employee under proper attestation with reference to the documentary evidence in support.

***LR's decision*** : For the purpose of the rectification and correction of age so recorded, neither the affidavit sworn in this respect nor the report of the ossification test which indicates only an approximate not an accurate result would be accepted as reliable evidence. [ *Rule 9* ]

***Medical Certificate of fitness*** : Subject to any special rule of recruitment no appointment will be made without medical certificate of fitness. Exemption is allowed in case of temporary appointment for less than six months, retired employees reemployed (or where medical certificate of fitness was obtained earlier at the time of temporary appointment) [ *Rule 10, 11, 12, 13* ]

***Whole time at the disposal of the Govt.*** : Unless otherwise distinctly provided, the whole time of a Govt. employee is at the disposal of the Govt. which pays him. He is also under obligation to stay at the headquarters unless permitted to reside outside. The service is transferable. [ *Rule 15, 24, 29, 29A* ]

An officer who is absent from duty without authority on any day or part of the day shall not be entitled to draw any pay or allowance for the day. [ *Rule 26* ]

***Increment:*** An increment in a time scale of pay shall be drawn with effect from the first day of month in which it becomes due-unless withheld or deferred under Rules 45, 48, 48A, 52, 53.

Extraordinary leave does not count for increment but where Govt. is satisfied that leave was taken on account of illness or for any other cause beyond the Govt. employees control or for prosecuting scientific or technical studies may direct that whole or part of such leave will count for increment. Period of overstayal from leave does not count for increments. The conditions for counting of service for grant of increment are regulated under Rule

48(f). No premature increment shall be granted without Govt. order in exceptional circumstances. [ *Rule 45, 48, 48A and 49* ]

***Withholding of Increment:*** When increment is withheld the order shall state the period for which it is to be withheld and whether it shall have the effect of postponing future increment and if so, for how long. When it is not specified, the deprivation will cease on the expiry of the period during which the officer would have drawn the increment initially withheld. Moreover unless the order provides otherwise, the officer shall be restored to the same position in the time scale as he would have occupied had the order not been passed. *(Rule 45)*

***Reduction to a Lower stage in the timescale :*** The order shall include—

- (i) a statement of the period for which reduction is to remain in force and
- (ii) a statement whether on the expiry of the period of reduction, the previous service shall count for increment in whole, or in part or not at all. If the former statement is not made or be not clear, the period of reduction shall expire on the termination of the period at the close of which the officer would have drawn his next increment had the order of reduction not been passed; and if the latter statement is not made or is not clear, the government employee shall be entitled, on the expiry of the period of reduction to count towards increment his previous service in the stage of the timescale from which he had been reduced and the period during which the orders of reduction were in force. *(Rule 52)*

***Reduction to a lower grade or post:*** When a Govt. employee is reduced to a lower grade or post and is subsequently promoted or reinstated, his previous service counts for increment unless it is declared that it shall not so count, either in whole or in part. The period during which the order of reduction were in force does not count for increment upon promotion or reinstatement. [ *Rule 53* ]

***Stagnation increments:*** An employee whose pay has been fixed in the revised scale of pay and who reaches the maximum of the scale, shall draw annual increment for stagnation beyond the maximum of the scale at the same rate at which it was last drawn subject to maximum of six such increments as per WBS(ROPA) 1998 and Rule 49A WBSR-I.

***On promotion while on Stagnation increments:*** Pay will be fixed at the same stage and if there is no such stage at the next stage. No notional increment is admissible but the date of increment will remain unchanged (No. 8958 F dt. 6.8.93).

***Pay fixation on promotion or appointment.*** Where a Govt. employee promoted/appointed to another post carrying duties and responsibilities of greater importance, his initial pay in the higher scale shall be fixed at the stage next above the pay fictionally arrived at by increasing his pay of the lower post by one increment. *(Rule 42A(1))*

Where the employee exercises option to come under the higher scale after drawing the next increment, his pay on promotion may be fixed initially in the stage next above his pay in the old post under Rule 42(1) (i) which may then be refixed on the date of accrual of the next increment in the lower post under Rule 42A(1), Pay on substantive appointment in a reduced scale is regulated by Rule 43 read with Rule 42.

**For Group A employees** pay on promotion or appointment to a higher scale was fixed till 31.12.85 at the stage next above the pay drawn in the lower scale under Rule 42(A) (2) the date of increment remaining the same. This provision had since been modified in terms of Memo. No. 12504F dt. 12.12.95 under which pay in such cases shall be fixed in the same manner as said drawn in Rule 42/A/(1) as applicable to employees holding non-Group A posts. This order takes effect from 1st January, 1986 notionally and no arrear adjustment prior to 1st December, 1995 shall be admissible.

***Pay-fixation under Career Advancement Scheme:***

Movement to next higher scale after completion of 10/20 years of continuous and satisfactory service as per Career Advancement Scheme published order F.D. Memo. No. 6075 dt. 21.6.90 read with No. 5962F dt. 25.6.91 No. 8460F dt. 11.8.92 No. 4970F dt. 26.4.93 No. 9160F dt. 13.8.93 & No. 7757 dt. 20.1.95 is not a case of promotion but will be treated as promotion only for the purpose of fixation of pay as clarified under point 12(a) of F.D. Memo. No. 596 1F dt. 25.6.91. The existing CAS is modified w.e.f. 1.1.2001 as per GO NO. 3015-F dt. 13.3.2001. The employee first appointed to a post in any of the revised scale of ROPA 1998 No. 1 to 12 is eligible 8/16/25 years benefit but the employee first appointed to scale No 13 and above is eligible 8/16 years benefit, subject to continuous and satisfactory service considering his performance, efficiency, accountability and integrity as per GO No. 9135 dt. 10.9.2002.

He may exercise option for fixation of pay either straightway on the date of entitlement of the benefit or on the date he receives increment in his existing scale of pay. In any case increment will fall due on completion. If an employee is transferred to foreign service, his S.B. must be sent to the Audit Officer concerned who will note necessary details therein (such as leave admissible or any other particulars) and record the same. On retransfer of the employee, the S.B. must again be sent to the Audit Officer for noting similar or other details as considered necessary.

***Re-employment Pay (Rule 55B as amended under No. 16-Fdt 1.1.99)-***

The pay of a Govt. employee re-employed after retirement should be so fixed that the total amount of reemployed pay plus the amount of gross value of pension and/or other forms of retirement benefits does not exceed at any time either—

- (i) the pay drawn before retirement or
- (ii) the maximum of the time scale prescribed for the post or pay of the post if it is fixed pay or (iii) Rs. 26,000/- whichever is less.



If the pay is fixed at the minimum of the scale, he shall in addition be eligible to draw pension and retain other retirement benefits or 26,000/- whichever is less.

***Fees and Remuneration (Rules 62 to 64)*** : A Govt. employee may be permitted in *writing* "with due regard to the provisions of Rule - 15 to perform a special service or series of services for a private person or body or undertaking/Statutory body/Local authorities etc. including academic bodies and to receive a recurring or non-recurring fee / remuneration therefrom.

Unless the employee is on leave, the sanctioning authority shall certify that the services can be performed without detriment to the employees official duties and responsibilities.

When such duties are performed during duty hours, the fees shall be credited to Govt. revenues, unless the sanctioning authority for special reasons directs that the whole or any specified part thereof may be paid to the employee.

Except for special reasons, sanction shall not be given unless the work has been undertaken with prior consent and unless the amount of fee/ remuneration has been settled with the concurrence of the Head of Deptt., where the amount exceeds Rs. 500/- and except in the case of Group A employees by the appointing authority where the amount does not exceed Rs. 100/-.

Group C and D employees may accept fees etc. for work in connection with examinations of the Universities of West Bengal without prior sanction but they will submit annual return of such income to the Govt.

Teachers of Presidency College are not entitled to any remuneration for part-time service rendered to the Calcutta University for post-graduate work.

A Govt. employee permitted to undertake any outside work without detriment to this normal duties may be allowed to retain the whole amount of fee / remuneration without crediting any portion to the Govt. revenue when—

- (i) in the case of recurring monthly fee/remuneration *for a period not exceeding six months* it is restricted to 20% of basic pay reduced by special pay, if any. (Rule 62 Note(i).
- (ii) in the case of work done on occasional basis or of an ad-hoc nature *in a financial, year* it is limited to 20% of the basic pay. (Rule 62 Note4-(ii))

These rules do not affect the existing concessions if any regarding fees receivable by any Govt. employee, e.g. acceptance of fees for professional service /attendance rendered by Doctors and fees for correcting answer papers. State Govt. employees on deputation to public sector undertakings should not receive any bonus or ex-gratia payment. Where

they do not draw any deputation or similar additional benefits, a separate Govt. order should issue regarding acceptance of bonus/ex-gratia payment.

***Dismissal, Removal and Suspension (Rules 70 to 74A):***

Dismissal or removal from service terminates the service on the day the order issued, it cannot thus be given retrospective effect.,

On suspension, the employee will be entitled to leave salary as if he is on half-pay leave—for first three months as subsistence allowance. This allowance may be increased not exceeding 50% after three months if the disciplinary authority is of opinion that the delay in disciplinary proceedings is not attributable to the employee. This may be reduced by 50% where the delay is directly attributable to the employee. Payment will be made on production of a declaration by the employee that he is not engaged in any other employment, profession or vocation. Leave may not be granted to an employee while he is under suspension or committed to prison.

Govt. dues such as Income Tax, Profession Tax, House Rent, Electricity and Water charges etc., contribution to Group Insurance Scheme, loans and advances taken from Govt. over-payment made and loss to Govt. for which the employee is responsible shall be deducted upto one-third of the subsistence allowance; when it exceeds one-third, sanction of appointing authority is necessary.

Recovery from subsistence allowances may also be made with the written consent and to the extent agreed upon by the employee for subscription to Provident Fund, Postal Life Ins. Premium, dues of any Co-operative society, amount due on court attachments.

These rules will not be applicable where the Govt. has fixed a higher age-limit e.g. 60 years for retirement in the case of WBCS (Judicial), WBHJS officer under No. 9433F dt. 13.9.94.

**Compulsory Retirement** (Rule 75 to 79A) Group A, B and C Officers will retire on attaining the age of 60 years as per GO NO. 3830-F dt. 15.5.98. Group D employees to retire at 60 years may be retained upto 62 years by the appointing authority subject to approval of the Govt. and upto 65 years by the Govt. provided the Group D employee is found to be physically fit and mentally alert as per Rule 76 WBSR-I

These rules will not be applicable where the Govt. has fixed a higher age limit i.e. 60 years for retirement in the case of WBCS(Judicial), WBHJS Officer under No. 9433-Fdt. 13.9.94.

Govt. have absolute right to retire any Govt. employee by giving 3 months notice or pay in lieu thereof in case of a Gr. A or Gr. B officer who had entered Govt. service before 35 years and attained the age of 50 years and in other cases after he has attained the age of 55 years.[Rule 75(aa))

The aforesaid categories of employees may also retire with 3 months notice (or less than 3 months notice in deserving cases with the

concurrence of Finance Deptt.) but the appointing authority has absolute power to withhold permission to an employee under suspension. [ *Rule 75(aaa)* ]

Where disciplinary proceedings are pending or contemplated for imposition of a major penalty such as removal/dismissal from service or where prosecution is contemplated or already launched in a court of law, voluntary retirement will not be allowed except with the approval of the Minister-in-Charge for Group A, B and C employees. For Gr. D employees only, approval of the Head of Department is to be obtained.

[ No. 6620 F dt. 20.8.81 read with rule 60(1) of WBS (DCRB) Rules, 1971]

***Scheme for Voluntary Retirement*** (F. D. Memo. No. 6620F dt. 20.8.81 and Rule 59 of OCS Rules. Members of certain constituted services and other officers specified in Rule 59 of DCRB Rules, 1971 may be permitted to retire on completion of 25 years of service. Employees of other categories may retire voluntarily on completion of 20 yrs. service. Weightage upto 5 years in addition to the qualifying service already rendered may be granted subject to the condition and the total qualifying service shall not exceed 30 years and which is further limited upto the age of compulsory retirement under rule 75(aa) of WBSR - I.

***Handing over charge when superannuation date is a holiday:*** In all cases of superannuation, charge is to be handed over on the last working day of the month of superannuation—when the last day of the month is a holiday. When handing over charge of cash/stores is involved, Head of Office/Deptt., will nominate a Group A officer to take, charge – otherwise, the Head of office will take over and for the Head of office by the Head of Deptt., and by the next higher authority for the Head of Deptt.(No.8700F dt. 28.8.90 and No. 2652 dt.09.03.93)

**Joining Time** (Rule - 80 to 96): Rule - 80 The authority ordering the posting may in any case curtail and the Government may in case extend the joining time on transfer of any employee to join from one station to another in the interest of public service.

Rule - 81: In cases involving transfer and change of residence joining time will be allowed with reference to the distance between the old and new headquarters by direct route and ordinary modes of travel as per following schedule. When holiday(s) follow(s) joining time, normal joining time is deemed to have been extended to cover such holidays {3} When "full joining time has not been availed, the admissible joining time less the joining time actually availed shall be credited to Earned Leave account subject to a maximum of 15 days.

Joining time may be combined with vacation and/or regular leave of any kind except casual leave.

**The Schedule**

Distance between the old HQs and the new HQs	Joining time admissible	Joining time admissible where the transfer necessarily involves continuous travel by road for more than 200 Kms.
1000 Km or less	10 days	12 days
More than 1000 Km	12 days	15 days

Extension of joining time beyond the above limits can be granted upto 30 days by the Head of Department for Gr. B, C & D employees and beyond 30 days by the Govt.—the guiding principle being that the total period of joining time shall be approximately equal to 8 days for preparation plus reasonable transit time plus holidays. While computing the transit time, allowance could be made for the period unavoidably spent due to disruption of transport arrangements caused by strike or natural calamities or the period spent awaiting the departure of steamer, when ordinary mode of traveling cannot be used or Govt. employee has fallen ill on journey.

Rule - 82 When a new post is within the same station and no change of residence is involved, the joining time admissible is one day only. Holiday counts as a duty for the purpose of this rule.

Under rule 100 of W.B.S.R. Pt. II, if there is a change of residence full T.A. shall be admissible excepting lump grant if the distance between the two stations does not exceed 20 kms.

Joining time should be calculated from HQs but if charge is handed over away from HQs, it should be calculated from that place. If a Govt. employee on transit is directed to join at a different station, fresh spell of joining time shall be calculated from the place where such order is received. (Rules 81, 86&87)

Rule - 92 When an employee is transferred to another Govt. the joining time will be regulated by the rules of the borrowing authorities or as per terms of deputation.

Rule - 93 **Pay during joining time:** A Govt. employee is entitled to the pay drawn before relinquishment of charge except fixed T.A. or conveyance allowance.

Rule- 94 **Consequence of overstaying of joining time :** No pay is admissible for the period between expiry of joining time and taking over charge of the new post.

**Taking over charge by officers/staff:** in terms of Finance Deptt. Memo. No. 5315- F, dated 8.6.85 Group A Officers will make over charge as per revised F.R. Form No.

3 of W.B.F.R.—Vol.-II (vide Rule 61 of WBFR-I). It is not necessary to send a copy to A.G.W.B.

Collector, S.D.Os. Treasury Officer will use T.R. Form No. 1 of W.B. Treasury Rules, Vol. - II (vide S.R.6 of WBTR-1) and invariably send copies to Pr. A.G.W.B

**Leave Rules (Rules 34, 141 to 221)**

Rule - 34 Unless the Governor in view of the exceptional circumstances of the case otherwise determines, no permanent employee shall be granted leave of any kind for a continuous period exceeding 5 yrs. An employee who remains absent after expiry of leave is not entitled to any salary for such absence and this period shall be debited against his HPL—the period in excess of HPL due is to be treated as extraordinary leave without pay.

Willful absence after expiry of leave renders a Govt. employee liable to disciplinary action, which may result in break-in service and loss of pay under Rule 26. The question whether this break-in service should be condoned or not and treated as '*dies non*' shall be considered after conclusion of disciplinary proceedings on representation from the employee.

Before imitating the disciplinary proceedings if the disciplinary authority is satisfied that the ground adduced for unauthorised absence is justified, the leave of any kind applied for and due and admissible may be granted (Rule 34).

Rule - 175 No temporary Govt. employee shall be granted Extraordinary Leave on any occasions in excess of three months.

175(4) Two spells of EOL if intervened by any other kind of leave should be treated as one continuous spell of EOL for applying the maximum limit of three months.

175(5) The leave sanctioning authority may commute retrospectively the period of absence into EOL. No leave salary is admissible for EOL.

In exceptional circumstances, extraordinary leave in excess of the period may be granted as under:

- (i) Six months on completion of one year's service on Medical Certificate, (ii) Eighteen months when undergoing treatment for -
  - (a) tuberculosis
  - (b) leprosy
  - (c) cancer or for mental disease
- (iii) 24 months for studies certified to be in the public interest.

Rule - 149 Re-employed Govt. employee is to be treated as a temporary employee for grant of leave as if he had entered the Govt. service for the first time.

Rules - 153 to 158 Leave cannot be claimed as a matter of right. When the exigencies of the public service so require, discretion to refuse or revoke leave is reserved to the authorities empowered to grant it and to regulate the leave so as to cause as little change as possible in administrative arrangements and to ensure that the strength of a service is not unduly depleted. Govt. employee may be recalled to duty before expiry of leave. It is not open to the leave sanctioning authority to alter the kind of leave applied for, Leave of one kind granted earlier may be converted into leave of a different kind at the request of the official and at the discretion of leave sanctioning authority.

Rules - 155 Combination of holidays with leave (except casual leave) is allowed for joining time. Sunday/Holidays may be prefixed or affixed with leave.

Rules - 158 Govt. employees recalled from leave shall be entitled to:

- (i) Treat from the date he starts for the station as on duty.
- (ii) T.A. for the journey;
- (iii) Leave salary until he joins the post

Rule - 159 Medical Certificate of fitness is required for return to duty from medical leave.

Rule - 160 A Govt. employee returning from leave is not entitled in the absence of specific orders to resume as a matter of course. He must report return to duty and await orders.

Rule - 81 (3) when full joining time on transfer is not availed, the unexpired period shall be credited to E.L. a/c. subject to a maximum of 15 days.

**Rule - 167 *Combination of different kinds of leave***

Any kind of leave may be granted in combination with and in continuation of any other kind of leave.

Casual Leave, which is not recognised, as a leave under these rules shall not be combined with any other kind of leave.

Special Casual Leave—Casual leave may be granted in combination with Special Casual Leave but where it is permissible to grant regular leave in combination with Special Casual Leave, Casual leave shall not be granted in combination with both Special Casual Leave and regular leave.

*Appendix – 11*

Special Casual Leave not exceeding 30 days may be sanctioned for participating in sports event of national or international importance, cultural activities of an All India/ State Character (i.e. not for cultural activities organized locally ). Mountaineering Expeditions in any calendar year. It may also be granted to the delegates of the conference and meetings of

Employees Association. For absence in excess of 30 days Govt. employees may be allowed as a special case to combine special Casual leave with regular leave.

Rule - 207 Casual leave is limited to 14 days in a year and shall not entail absence of more than seven consecutive days except for very special circumstance to be recorded in writing, Sunday, Holidays, weekly holidays shall not count as part of casual leave.

Rule - 167(3)- those who have only half-a-day's casual leave at credit and who will not attend office on the next day {having already applied for leave) shall not be allowed the last half-a-day casual leave for the afternoon.

An employee who has taken half-a-day's casual leave in the afternoon but is unable to \* resume duty on the next working day due to sickness or other compelling grounds and where he has no C.L. at his credit, may as an exception to general rule, be permitted to combine half-a-day's C.L. with regular leave.

Rule - 168 Leave preparatory to retirement to the extent E.L. is due not exceeding 240 days together with H.P.L. due upto and including the date of retirement is admissible.

No leave beyond the date of retirement / cessation from service / resignation be granted.

**Leave Encashment**—{Rule 168A, 168B & 168C) When an employee retires on superannuation, dies while in service, the leave sanctioning authority will suomotu grant him leave encashment upto the period of 300 days or leave due whichever is less as per GO. No. 3453-F dt. 28.3.2001. Power to sanction leave encashment has since been delegated to Head of Office. (No. 4794F dt. 6.5.94 )

An employee who retires while on suspension will be eligible to leave encashment, if the suspension was wholly unjustified.

An employee who retires by giving notice to Govt. or is retired by Govt. by giving him notice or pay and allowances in lieu thereof will get leave encashment in respect of EL and also half pay leave at credit provided the total period of such leave does not exceed his normal date of retirement. An employee who retires on invalidation from service is also entitled to leave encashment on the same principle but temporary employees are not entitled to half-pay leave facility.

If leave salary for half-pay leave component fails short of pension and other pensionary benefits, cash equivalent for half-pay leave shall not be granted. (because pensionary benefits are deducted from half-pay leave).

In case an employee resigns or quits from service, he will be granted leave encashment for a period not exceeding half the E.L. due not exceeding 150 days. *Cash Equivalent = ( Pay + DA + MA ) / 30 X Unutilized Earned Leave subject to a maximum of 300 days.*

No HRA, Hill Allowance. Fixed T. A. etc. is admissible. The same may be drawn under the head "2071-Pension and other retirement benefits - 01-Civil-115-leave encashment benefit (FA)-04 Pension and Gratuity" (GO No. 1863-F dt. 15.2.2001)

***Cash equivalent of leave salary in case of death in service***

of a Government employee shall be paid to his family. The term family in this rule shall mean and include the following: (1) Wife or husband as the case may be, (2) minor sons and minor unmarried daughters including adopted sons/daughters, (3) dependent mother. (4) dependent father.

Cash equivalent shall not be payable to more than one member of the family at the same time. It shall first be admissible to the widow(s) / widower / and then to the children in equal shares and thereafter to the mother and lastly to father. Where a govt. employee / survives by more than one widow, such leave salary shall be paid to them in equal share. (If there is none in the family mentioned above the same may be paid against succession certificate subject to approval of Finance Department)

**Kinds of leave due and admissible: (Rule 166(viii))**

- i. Earned Leave
- ii. Half Pay Leave
- iii. Commuted Leave
- iv. Leave not due
- v. Extra ordinary Leave

***Special kinds of leave*** (Rule 166(ix) ]

Special disability leave, study leave, Quarantine leave, Maternity Leave, Hospital Leave, Special Sick Leave, Leave to survey parties, special casual leave to sportsman and to the delegates attending the conference / annual meetings of the Employees Association and Casual Leave. Special kinds of leave are not debited to Leave A/C. A register of Casual Leave granted is to be maintained. (App-10).

**Earning and Entitlement**

- (i) Earned Leave: (Rule 169, 170, 176)
  - (a) Credit will be afforded in advance at a uniform rate of 15 days on the 1<sup>st</sup> January and 1<sup>st</sup> of July every year @ 2 Va days per completed calendar month. For any extraordinary leave during previous half year the credit should be reduced by 1/10<sup>th</sup> of the period of extraordinary leave rounded off to the nearest day subject to a maximum of 15 days.
  - (b) The leave at credit of a Govt. employee at the close of the previous half year shall be carried forward to the next half year subject to the condition that the leave so carried forward plus the credit for the half year is limited to 300 days.
  - (c) The credit for the half year in which the Govt. employee is appointed/retired/resigned will be afforded at the rate of 2 Va days for each completed month of service which he is likely to render in the calendar half year in which he is appointed/retired/resigned.



- (d) If a Govt. employee retires/resigns in the middle of a calendar half year for extra ordinary leave taken during that half year should be reduced proportionately at the rate of 1/ 10<sup>th</sup> of such EOL.
- (e) Earned Leave can be taken upto 120 days at a time.
- (f) Earned Leave may be granted to a Govt. employee for a period exceeding 120 days, but not exceeding 300 days w.e.f. 1.7.98 if the entire leave so granted or any portion thereof is spent outside India, Bangladesh, Bhutan, Burma (Myanmar), Sri Lanka, Nepal and Pakistan. The number of days of leave spent in India should not, however, exceed 120 days in the aggregate. While limiting 300 days whether balance at credit is 286-300 days further advance credit of 15 days on 1<sup>st</sup> January and 1<sup>st</sup> July will be kept separately and set off against EL availed of during that half year ending 30<sup>th</sup> June and 31<sup>st</sup> December (GO NO. 3453-F dt. 28.3.2001)
- (g) Leave salary for earned leave is equal to pay drawn immediately before proceeding on earned leave, increment, DA and other allowance if increased during the leave period may also be included in the leave salary.

(ii) Half-pay leave : (Rule 173, 176 )

- (a) It is earned @ 20 days for every completed year of service-including periods of leave of all kinds.
- (b) It can be taken either on medical certificate or on private affairs.
- (c) It can be converted into full pay leave if taken as Commuted leave on medical certificate. For approved course of study, 180 days HPL may be commuted in entire service period
- (d) In the case of temporary Govt. employee there should be reasonable belief that the Govt. employee shall return to duty on expiry of leave except where the employee is completely and permanently incapacitated.
- (e) Leave salary during such leave is equal to half the amount admissible while on earned leave and dearness allowance on half-pay and full HRA upto 120 days in continuation of other leave, if any. Full MA etc. can be drawn during HPL. Increment and allowances as may be increased in course of the leave may be admissible in addition.
- (f) From 1.7.2001 half pay leave will be credited in advance @ 10 days on 1<sup>st</sup> January / 1<sup>st</sup> July every year for each complete calendar month will be afforded @ 5/3 days. The period of absence or suspension will be treated dies-non in a half year, which will be reduced 1/18 of the period of next half year due to dies-non subject to maximum of 10 days as per GO No. 3453-F dt. 28.3.2001.

(iii) **Commuted leave** : [ Rule 173(3) & (4), 176(3) and 199(3)(b)]

- (a) Commuted leave not exceeding half the amount of half-pay leave can be taken on medical certificate.

- (b) Half-pay-leave upto a maximum of 180 days can be commuted during the entire service period without medical certificate where such leave is utilized for an approved course of study certified to be in public interest.
  - (c) Commuted leave upto a maximum of 1 year can be granted in continuation of maternity leave to female Govt. employee without medical certificate, and also in case of adoption of child as per GO No. 2658-F dt. 1.3.2002.
  - (d) It is granted only if there is a reasonable prospect of the Govt. employee returning to duty on its expiry. So it cannot be granted as leave preparatory to retirement.
  - (e) Twice the number of days of leave availed should be debited to the half-pay leave account
  - (f) If a Govt. employee on commuted leave quits service voluntarily without returning to duty, the commuted leave shall be treated as half-pay leave and the excess leave salary recovered. In the event of death or due to ill health in incapacitating the employee for further service, recovery may be waived.
  - (g) Commuted leave may be granted at the request of Govt. employee even when earned leave is due to him.
  - (h) Leave salary is equal to amount admissible while on earned leave
- (iv) **Leave not due** : [ Rule 174, 176(2) ] .
- (i) It is granted only if the leave sanctioning authority is satisfied that there is a reasonable prospect of the Govt. employee returning to duty on its expiry.
  - (ii) It should be limited to the half-pay leave the Govt. employee is likely to earn subsequently
  - (iii) It is limited to a maximum of 360 days during the entire service period. It may be sanctioned either on medical certificate or without medical certificate. The maximum period for which it can be granted without MC is 90 days at a time and 180 days in all. It is meant to be granted only in exceptional cases of illness. ( Note I below Rule 174 )
  - (iv) Temporary Govt. employee who has put in minimum of one year's service may be granted up to a maximum of 360 days leave not due if he suffers from tuberculosis, leprosy, cancer or mental diseases provided it is supported by medical certificate and the post from which the employee goes on leave is likely to last till his return to duty.
  - (v) It is debited against the half pay leave the Govt. employee may earn subsequently.
  - (vi) Leave salary is like that on half-pay leave
  - (vii) If a Govt. employee resigns or retires voluntarily while on leave not due without returning to duty the entire leave not due shall be cancelled and leave salary recovered.
- If a Govt. employee after enjoying leave not due returns to duty, but resigns or retires from service before he has earned such leave he is liable to refund the leave salary to the extent leave (half-pay) is not earned subsequently. No recovery under Cl.fg) and (h) shall be made if the employee is permanently incapacitated due to ill health or in the event of his death.

**Special kinds of leave:** (Not debited to Leave Account)

- 1) *Special disability leave* :[ Rule 150, 195, 196]
- (a) It is admissible when an official is disabled by injury intentionally or accidentally, inflicted or caused in or in consequence of the due performance of his official duties.
- (b) The period of leave granted is such as is certified by an Authorised Medical Attendant/Medical Board subject to a maximum of 24 months
- (c) It may be combined with any other kind of leave

N.B. Medical Officers employed in the District Tuberculosis, Leprosy and other infections disease Hospitals and Institutions shall be entitled to disability leave not exceeding 24 months at a time, during which they will be given the last pay drawn for the purpose of their treatment free of cost, provided the disease is certified by the Medical Board to have been contracted in consequence of the due performance of their official duties. [West Bengal Health Service,(Pay and Allowance, Age of Superannuation and Pension), Rules, 1993 issued under Notification No. H/MA/ 435/JS-5/93 dt. 3.3.93 ]

[2) *Study leave*: [Rule 197 read with Appendix 5]

- (a) Shall not ordinarily be granted to a govt. employee with less than five years service or who is due to retire within three years to undergo approved course of study in scientific, technical or similar problems or to undergo special course of instruction to the advantage of govt. in the public interest in or out of India.
- (b) The maximum period of study leave at a time shall be for 12 months and for 24 months in all during entire service
- (c) It can be combined with other kinds of leave, but maximum period of continuous absence from his regular work should not exceed 28 months
- (d) The terms of Study Leave will be prescribed by the Government

(3) *Quarantine leave* : [ Rule 198 ]

1. Where, in consequence of the presence of an infectious disease, mentioned below in the family or household of a Govt. employee at his place of duty, residence or sojourns his attendance of his office is considered as hazardous to the health of other Govt. employees, such Govt. employee may be granted quarantine leave.

(i) Scarlet fever, (ii) Plague (Bueekmonic bubonic), (iii) Typhus, (iv) Cerebro-Spinal meningitis.

2. For the purpose of sub-rule (1), small-pox may be considered as infectious disease, chicken-pox shall not, however, be considered as infections disease unless the M.O. or Public Health Officer considers that because of doubt as to the true nature of the disease e.g. small pox, there is reason for the grant of such leave.

3. For persons employed in the preparation and distribution of food the following additional diseases shall also be treated as infectious (i) Dysentery, (ii) Enteric fever (Typhoid fever) (iii) Malta fever, (iv) Paratyphoid fever
4. (a) Quarantine leave may be granted by the head of office on the certificate of a Medl. Officer or Public Health Officer for a period not exceeding 21 days or in exceptional circumstances, 30 days  
(b) Excess of 30 days shall be debited to leave a/c.
5. May be combined with other leave.
6. A Govt. employee on Q.L. shall be treated as an duty and no substitute shall be appointed while he is on such leave

**(4) Maternity leave : [ Rule 199 ]**

- (a) Granted to a female Govt. employee for a period of 120 days in the case of pregnancy. From 1.7.2001 same is enhanced to 135 days as per GO NO. 3543-F dt. 28.3.2001.
- (b) In the case of miscarriages / abortions including induced abortion, it may be granted for a period not exceeding six weeks. In such cases the leave application should be supported with a certificate from registered medical practitioner/authorized medical attendant in case of Group A Officer.
- (c) It is granted on full pay
- (d) Any leave including commuted leave may be taken in continuation of maternity leave upto a maximum period of 1 year without medical certificate as GO No. 2658-F dt. 1.3.2002
- (e) Regular leave in continuation of maternity leave may be taken with medical certificate in the case of illness of the female employee and also of the newly born baby to the effect that condition of the baby warrants mother's personal attention and presence by the baby's side is considered absolutely necessary.

**(5) Hospital leave:[Rule 200 to 204 ]**

- (a) This leave may be granted to specified members of subordinate services whose duties expose them to special risk of accident or illness and involve handling of dangerous machinery, explosive materials, poisonous drugs etc.
- (b) It may also be granted to the Govt. employees of the specified classes for a period during which they are under treatment in a Govt.hospital or such other hospital as approved by the leave sanctioning authority.
- (c) It may be granted on production of a medical certificate from an Authorised Medical Attendant for such period as the leave granting authority may consider necessary not exceeding three months on full pay and only half-pay leave for the remaining period.
- (d) It may be combined with any other kind of leave With the condition that total period of all leave taken together shall not exceed 28 months

**(6) Special sick Leave: [ Rule 205 ]**

- (a) A Govt. employee serving as an officer, warrant officer or petty officer on a govt. vessel may, while-undergoing medical treatment for sickness or injury either

on his vessel or in hospital be granted special sick leave on leave salary equal to full pay not exceeding six weeks.

- (b) A seaman disabled in course of duty may be allowed spl. Sick leave on leave salary equal to full pay for a maximum period of three months subject to certain conditions.
- (c) This is not in addition to the leave salary benefits under Workman's Compensation Act.

**(7) *Leave to Survey parties*** ( Departmental Leave )

The grant of leave to Gr. B. C. & D service employee attached to parties in the Survey Deptt. not being members of the office establishment located with the headquarters offices in Calcutta is regulated as per rule 206. Only leave on half pay is admissible.

**Permanently Incapacitated for Govt. Service, Issue of Medical Certificates regarding;**

GOVERNMENT OF WEST BENGAL  
DIRECTORATE OF HEALTH SERVICES  
Writers' Building Calcutta-1 ,

No. HAD/10M-7-87/A 22714 (16) Calcutta, the 58.1987

To:

Medical Certificates are being issued by the Medical Board, declaring one to be completely incapacitated for further Govt. service and thereby making a case for providing the ward of such disabled person for appointment on compassionate ground. The validity of such certificates issued by the Medical Board constituted under your disposal, have been questioned, as it is stated that many such persons certified as permanently disabled & incapacitated for further Govt, service are in reality found to be physically **fit to continue in service.**

To avoid further complications regarding the issue of such certificates declaring one as permanently disabled & incapacitated for further Govt. service ; the following guidelines may be followed :

1. Medical Board should confirm the diseases by obtaining the opinion of the Specialist in particular branch with necessary investigations report & documentations thereof as may be needed for confirmation of the disease.
2. Degree of permanent/temporary S partial disablement may also be quantitatively and qualitatively assessed for consideration of alternative job by which the person concerned may be gainfully employed in other job.
3. Special cases should be referred to Standing Medical Board in Calcutta when so ordered by the undersigned. The Standard Medical Board ordinarily related to the Presidency Surgeons Board housed in the office of Asstt to Presidency Surgeons at Medical College Hospital, Calcutta unless otherwise qualified

None should be declared as completely and permanently incapacitated for further work by C.M.O.H. of the district without obtaining prior concurrence from the undersigned.

Release order to be released thereafter should be approved by D.H.S., West Bengal.

*Sd/- Illegible*  
*Director of Health Services*  
*West Bengal.*

## **West Bengal Services (Appointment, Probation and Confirmation) Rules, 1979**

No. 6060 F . CAL THE 25TH JUNE 1979

### **NOTIFICATION**

In exercise of the power conferred by the proviso to article 309 of the Constitution of India, and in supersession of all previous orders on the subject, the Governor is pleased hereby to make following rules :—

#### ***Rules***

##### ***1. Short title and commencement***

- (1) These rules may be called the West Bengal Services (Appointment, Probation and Confirmation) Rules, 1979.
- (2) They shall come into force with effect from the 1st June, 1979

##### ***2. Application***

- (1) These rules shall apply in cases of appointment on entry into Government service.
- (2) Subject to the provisions of sub-rule (3) these rules shall apply to all persons who are whole-time employees of Government, including those who are paid out of contingencies or under work-charged head or who are paid on piece-rate basis but employed throughout the year
- (3) These rules shall not apply to:
  - (a) Persons appointed on contract basis, or appointed otherwise than in accordance with recruitment rules.
  - (b) Part-time employees, casual labours, daily labours, muster-roll workers and seasonal labours.
  - (c) Employees of the Central Government or any other State Government who are on deputation to any Department of Government.
  - (d) Such other categories of persons as may be specified from time to time by Government by notification in the Official Gazette.
  - (e) The cases of appointment on promotion to higher posts and on appointment to selection grades

##### ***3. Definitions***

In these rules, unless there is anything repugnant in the subject or context-

- a) "Appointment on permanent basis" means substantive appointment with confirmation.
- b) "Appointment on probation" means appointment on trial before confirmation;
- b) Government means the Government of West Bengal;
- c) "Probationer" means a Government employee appointed on probation;
- d) "Temporary service" means service beginning from the date of appointment under Government till the date of appointment on probation or on permanent basis

##### ***4. Mode of appointment***

All appointments on entry into Government service shall initially be made on temporary basis.

**5. *Appointment on probation and appointment on permanent basis.***

(1) A Government employee-

(a) Shall be deemed to be on probation on completion of continuous temporary service for two years after his initial appointment in a post or service or cadre;

(b) Shall be confirmed and made permanent on satisfactory completion of the period of probation. Where passing of any departmental examination is essential before confirmation, the provisions of Chapter I of the Services (Training and Examination) Rules, West Bengal shall have to be complied with

(2) Except as otherwise provided elsewhere in these rules, the period of probation shall be one year.

(3) No formal declaration shall be necessary in respect of appointment on probation.

(4) On completion of the period of probation, the appointing authority shall either issue formal declaration making the probationer permanent or take such action as may be considered necessary in terms of the provisions of Part A of Chapter 1 of the Services (Training and Examination) Rules, West Bengal, within six months from the date of completion, or the extended period of probation if any, and the appointing authority shall ensure that confirmation on satisfactory completion of the period of probation is not delayed in any case.

**6. *Special provisions***

(1) On the date on which those rules come into force, Government employees who have completed more than three years but less than five years' continuous service in a post, service or cadre on that date, either on a temporary or quasi-permanent basis, shall be deemed to have been appointed on probation with effect from the said date and the period of probation in such cases shall be six months.

(2) On the date on which these rules come into force, Government employees who have rendered more than five years' continuous service on that date shall be deemed to have completed the prescribed period of probation. Where however, rules regulating the recruitment to any post or service or cadre require the passing of any academic, departmental or other examination before confirmation, these rules shall not be construed to relax such requirement.

(3) In respect of Government employees who are on probation on the date on which these rules come into force, the period of probation shall be subject to the limits prescribed in rule 6 and sub-rule (1) of this rule

**7. *Repeal and savings:***



(1)The West Bengal Services (Temporary and Quasi- permanent Service and Service with Permanent Status) Rules, 1967 is hereby repealed :

Provided that such repeal shall not affect the previous operation of the said rules in respects of things done or omitted to be done there under before such repeal

(2) On the coming into force of these rules, such of the provisions of the West Bengal Service Rules, the West Bengal Services (Revision of Pay and Allowance) Rules, 1970, the Services (Training and Examination) Rules, West Bengal or any other Rules as are inconsistent with these rules shall be deemed to have been amended notwithstanding anything to the contrary contained elsewhere in these rules.

**West Bengal Services (Determination of Seniority)  
Rules, 1981 NOTIFICATION**

No. 1882F.-11th March 1981.—In exercise of the power conferred by the proviso to Article 309 of the Constitution of India, the Governor is pleased to make the following rules :

**Rules**

***Short title and commencement***

- (1) These rules may be called the West Bengal Services (Determination of Seniority) Rules, 1981.
- (2) They shall come into force on the 11th March 1981

**2. *Application***

These rules shall apply to all Government servants except-

- (1) Members of the All India Services ;
- (2) Members of the West Bengal Higher Judicial Service;
- (3) Members of the West Bengal Civil Service (Judicial);
- (4) Members of the West Bengal Civil Service ;
- (5) Members of the West Bengal Police Service.

**3. *Definitions***

- i. "Appointing authority" in relation to a post means the authority competent to fill up such post; ii.
- ii. "Commission" means the Public Service Commission, West Bengal; iii.
- iii. "select list" means the list of candidates prepared in the order of merit in which candidates are selected through a competitive examination and/or interview and/ or, after training or otherwise ; iv.
- iv. "post", "cadre" or "grade" shall mean any post, cadre or grade in connection with the affairs of the State of West Bengal; v.
- v. "selecting authority" means the appointing authority or any other authority empowered to make selection of candidates for recruitment or promotion to any post, cadre or grade ; vi.
- vi. "Date of joining" shall be reckoned from the date of continuous officiating in a post/cadre or grade.

**4. *Determination of seniority of direct recruits***

The relative seniority of all persons appointed directly through competitive examination or interview or after training or otherwise shall be determined by the order of merit in which they are selected for such appointment on the recommendation of the Commission or other selecting authority, persons appointed on the result of an earlier selection being senior to those appointed on the result of a subsequent selection:

Provided that where appointment of persons initially made otherwise than in accordance with the relevant recruitment rules is subsequently regularized in consultation with the Commission, where necessary, seniority of such persons shall be determined from the date of regularization and not from the date of appointment. The inter-se-seniority amongst such persons shall, however, depend on the date of appointment of each such person in the department or office concerned: Provided

further that if any person selected for appointment to any post does not join within two months" of the offer of appointment, his seniority shall count from the date on which he joins the post unless the appointing authority for reasons to be recorded in writing condones the delay.

**Note—** (1) A list of candidates for the purpose of selection for appointment shall be prepared in all cases by the selecting authority, when there will be recruitment in a single process of selection of more than one person.

(2) Where the inter-se-seniority amongst several persons has not been determined prior to the coming into force of these rules, such seniority shall on the coming into force of these rules be determined on the basis of actual date of their joining. When the date of joining of all such persons is the same, seniority shall be determined on the basis of date of birth, person retiring earlier being adjudged as senior. When the date of birth is the same, seniority shall be determined on the basis of total marks obtained by each of the examination, passing of which is the qualification prescribed for recruitment to the particular post, cadre or grade.

(3) In so far as the determination of relative seniority of persons selected either by the Commission or by other selecting authority for appointment to different posts in the same grade with different qualification such as posts of Assistant Professors in History, Economics, Physics, Chemistry etc. is concerned, seniority shall be determined from the date of joining.

#### **5. *Determination of seniority of promotees***

(1) Seniority of persons appointed on promotion to any post, cadre or grade shall be determined from the date of joining such post, cadre or grade.

(2) When there will be appointment in a single process, of selection of more than one person, the relative seniority of persons so appointed shall be determined by the order in which they are selected for such promotion.

(3) Persons appointed on the result of an earlier selection shall be senior to those appointed on the results of a subsequent selection.

(4) Where promotions to a post, cadre or grade are made from more than one post, cadre or grade, the relative seniority of the promotees from different posts, cadre or grades shall be according to the order of merit determined by Commission or the selecting authority, if such posts, cadres or grades do not come within the purview of the Commission

**Note—** (1) A list of candidates for the purpose of selection for promotion shall be prepared in all cases by the selecting authority when appointments are made on promotion in a single process of selection of more than one person.

**Note—** (2) Where the inter-se-seniority amongst several persons has not been determined prior to the coming into force of these rules, such seniority shall, on the coming into force of these rules, be determined on the basis of date of joining. When

the date of joining of such persons is the same, seniority in the promotion post, cadre or grade shall follow the seniority in the lower feeder post, cadre or grade.

**6. *Relative seniority of direct recruits and promotees ;***

- (1) The relative seniority between a promotee and a direct recruit shall be determined by the year of appointment or promotion of each in the post, cadre or grade irrespective of the date of joining.
- (2) The promotees shall be en-bloc senior to the direct recruits of the same year

**7. *Determination of seniority of transferees :***

- (1) The relative seniority of persons appointed by transfer to a post, cadre or grade from the feeder post, cadre or grade of the same department or office or from other departments or offices of the Government shall be determined by the order of selection for such transfer.
- (2) When such transfer involve two or more persons selected from different departments or offices on the same occasion, the appointing authority for such appointment on transfer shall indicate the order of merit of the selected persons in each case.
- (3) The relative seniority between a promotee, a transferee and a direct recruit shall be determined by the year of promotion or transfer or recruitment, promotees being en-bloc senior to the transferees and direct recruits of the same year and transferees being en-bloc senior to the direct recruits of the same year.
- (4) Service benefits—With effect from the date of coming into force of these rules, for the purpose of service benefits available on the basis of seniority, such seniority shall mean the seniority determined under these rules

**8. *Interpretation:***

If any question arises relating to the interpretation of these rules, it shall be referred to the Government in the Finance Department whose decision thereon shall be final.

**9. *Repeal and saving :***

All rules, orders or memoranda concerning matters covered by these rules are hereby repealed;

Provided that the cases of benefits already given on the basis of seniority determined in accordance with the principles in force prior to the coming into force of these rules shall not be affected;

Provided further that there shall be no change in the existing order of inter-se-seniority amongst the officers of the services within the meaning of the West Bengal Services (Unification of State Services) Rules, 1979 (hereinafter referred to as the said rules) as determined prior to the coming into force of the said rules i.e. the 18th May, 1979

**Notes on the West Bengal Services (Duties, Rights and Obligations of Government Employees) Rules—1980**

**Introduction** : Rights imply duties. Duties imply obligations to perform. No right can be absolute. Absolute rights without any duties and obligations may result in liberty with license to do anything. Such action may shake the foundation of the society. In the Fundamental Rights guaranteed under Art 19 of the Constitution for freedom of speech and expression, peaceably assembly without arms, forming associations or unions, free movement throughout India, to settle in any part of India and to practice any profession or to carry on any occupation or trade or business, the State has been empowered to make laws to impose reasonable restrictions in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality. The Fundamental Right of equality of opportunity in matters of public employment is subject to provision/rules the State may make in regard to reservation of posts, any requirement as to residence or about religions for holding any office in a religious institution by a person professing a particular religion or belonging to a particular denomination.

Along with Fundamental Rights the Constitution has prescribed fundamental duties for the citizens under Art 51 A. When we think of fundamental rights, we should also abide by the fundamental duties.

Under Art 309, the State has been empowered to make rules to regulate recruitment and conditions of service for its employees. The WBS (Duties, Rights and Obligations of the Govt. Employees) Rules, 1980 had been framed in exercise of the said power and came into effect from 1st June, 1980 in replacement of the West Bengal Government Servants' Conduct Rules 1959. These rules apply to all employees of the Govt. of West Bengal excepting the members of the All India Services and Members of the Police and Jail staff falling under the purview of the Jail Code.

The rules give full trade union rights to its employees including right to strike. For obvious reasons the right to strike has not been given to the members of the WBCS (Executive & Judicial) and other allied executive, administrative, medical, engineering and educational services.

A Govt. employee is bound to observe the rules of conduct and discipline in the discharge of his duties and should not do anything, which is unbecoming of him. Govt. employees hold a position of trust and responsibility. Social relation and dealings of the employees should ensure that there is no ground or occasion to suggest that some individuals have more access or greater influence with them than others. Not only in official life but also in his private life, he should be above reproach.

It should be noted carefully that any violation or infringement of these rules shall be deemed to be a good and sufficient reason within the meaning of Rule 8 of WBS (Classification, Control and Appeal) Rules, 1971 for imposing penalties.

A Govt. employee is a public servant as defined in the Indian Penal Code. {Section 21 of the Code). A public servant is one who is to discharge some public duty. An honorary servant discharging a public duty is as much a Public Servant as a paid Govt. employee.

The word 'Strike' means cessation of work by a body of persons acting in combination or refusal to work or accept employment in any undertaking {Clause (q) of Sec. 2 of the Industrial Disputes Act.}

The duties, rights and obligations of the Government employees are enjoined in Rules 3, 4 and 5 respectively. These provisions are described below :

**Rule 3 : Duties of a Govt. Employee ;**

- (1) Every Govt. employee should bear in mind that he is a public servant, shall faithfully discharge his duties, behave courteously with the members of the public and colleagues and shall always try to help them in all possible ways through quick and faithful discharge of duties assigned to him ;
- (2) He shall rise above all personal, political or other considerations and maintain integrity, impartiality and devotion to duty
- (3) Notwithstanding his personal views on any matter relating to State Policy and Programme, a Govt. employee must carry out faithfully the duties and responsibility entrusted to him as a Public servant;
- (4) He shall practice, promote and encourage collective functioning in the interest of administrative efficiency and apply his personal initiative to the efficient discharge of his duties;
- (5) When in the discharge of duties, he is called upon to decide a matter in which he or a relation of his is financially or otherwise interested, he shall, at the earliest opportunity, bring this fact in writing to the notice of the authority to whom he is subordinate;
- (5) Every Govt. employee (other than a Group D employee) shall once in a year, submit in the prescribed form to the appointing authority a return of moveable and immovable property and other assets owned, acquired or inherited by him or any member of his family.  
[Family means wife or husband and the child or the stepchild of the Govt. employee [ Rule 2 (d) ]
- (a) Devotion to duty means a Govt. employee must have to be obedient, faithful, careful and reasonably competent to discharge his duties. Any act or omission which runs counter to the expected code of conduct will constitute misconduct. Lack of efficiency, failure to attain highest standard of administrative ability or error in judgment in evaluating the developing situation are definite shortcomings of an officer but not misconduct unless it is malafide.
- (b) Integrity implies honesty and uprightness. Govt. employees especially those holding positions of trust and responsibility should not only be honest and impartial but also have the reputation of being so.
- (c) **Asset Statement:** It is often difficult to establish the allegation of corruption or lack of integrity in respect of a Govt. employee by proof of specific instances though he may have the ill-reputation of being a corrupt officer. In such circumstances, he may be subjected to disciplinary actions by showing that his assets are disproportionate to his known sources of income. [Nandalal Sharma V. Union of India (1973) SLR 63 (Delhi ).

Removal from service for failure to submit Asset Statement was not interfered by High Court (Kshetra Mohan Nath - Vs - Dist. Controller of Stores, AIR 1970 Cal. 131). A Govt. employee is liable to be dismissed for not disclosing full assets (State of Assam V Mohendra Kumar Das, AIR 1970 SC 1255).

**Rule 4 : Rights of Govt. Employees :**

(1) Every Govt. employee shall have the right to form associations/federative bodies of the employees;

(3) Every Govt. employee shall have full trade union rights including the right to strike. The right to strike shall however be subject to compliance with the provisions laid down in the Appendix

**Note—** The right to strike shall not however be available to the members of the W.B.C.S. (Executive & Judicial) and other allied executive, administrative, medical, engineering and educational services.

Right to strike is not a Fundamental Right but right to form associations is a Fundamental Right under Article 19 of the. Constitution but reasonable restrictions may be imposed.

(3) Every Govt. employee shall enjoy full democratic rights except being a member of any political party.

**Explanation—**These rights do not however include any which is prohibited under the law of the land; Employees Unions are not political parties even though political leaders may be associated with it.

(4) Any Govt. employee may, with prior intimation to authority and subject to the provision of Clause 7 of Rule 5 participate in a radio or television programme provided that nothing should be said in such programme which:

(a) Incite communal or parochial feelings.

(b) Goes against the unity and integrity of the country.

(5) Any Govt. employee may contribute any literary or scientific writing or write any letter to any newspaper or periodical subject to provision laid down in Clause 4

**Rule 5: Obligations of a Govt. Employee :**

i. No Govt. employee shall commit any misconduct as laid down in Section 5 of the Prevention of Corruption Act or take any illegal gratification or obtain valuable things without consideration or on inadequate consideration from persons concerned in his official dealings as detailed in Sec. 161 and 165 of the Indian Penal Code,

ii. No Govt. employee shall, except with prior sanction of the appointing authority acquire or dispose of any immovable property by lease, mortgage sale, gift or otherwise either in his own name or in the name of any member of his family where such transaction is conducted otherwise than through a regular or reputed dealer. The same condition, shall apply in the case of sale or purchase of movable property exceeding

Rs. 5,000/- in value. The said amount raised to Rs. 10,000/- w.e.f. 1.4.2001 as per GO No.: 3571-F dt. 30.3.2001.

Note— The movable or immovable properties owned by The members of the family are either acquired from their own funds or inherited will not come under the provisions of these rules.

- iii. No Govt. employee shall lend money to or obtain loan from any member of the public, business house or trader with whom he has to deal in his official capacity either directly or indirectly. Co-op. Societies do not come under purview of this clause.  
[Govt. employee may take loan from the Banks both nationalized and private for the purpose (a) marriage expenses of self/daughter/sister, (b) medical expenses of self/children, (c) educational expenses of self/children, (d) to purchase essential necessary consumer goods like Refrigerator, TV, Washing Machine, Motor Car, Two wheelers etc, (e) Expenses relating to Tours/excursion etc. (f) Expenses relating to Construction of house subject to condition that the Govt. employee concerned shall have to inform the appointing authority the amount of loan, purpose of loan and monthly installment of loan. It is clarified in this connection that this intimation will not however, absolve the Govt. employee for obtaining permission of his appointing authority as may be required at present for acquiring movable/immovable properties. It is specifically stated that the that the Govt. will not be guarantor in favour of the employee for the purpose of obtaining loan nor it will take any responsibility for recovery of said loan and interest thereon as per GO No. 3368-F dt. 26.3.2001.]
- iv. No Govt. employee who has a wife/husband living shall contract another marriage without previously obtaining the dissolution of the first marriage notwithstanding such a second marriage being permissible under any personal law of the community concerned.
- v. No Govt. employee shall employ or engage any subordinate for any domestic, private or personal service.
- vi. No Govt. employee shall use or permit private use of Govt. Vehicles, save except for official business;
- vii. Shall not leak out official secrets;
- viii. (a) Shall not violate any law relating to intoxicating drinks or drugs, (b) consume or be under influence of any intoxicating drink or drug in course of his duty and /or in any public place.
- ix. Shall not accept either directly or indirectly without prior sanction of appointing authority any gift of more than trifling value; gift in conformity with religious or social customs shall not come under purview of this clause.
- x. Shall not, except with previous sanction of Govt, engage in trade, employment, business excepting honorary work of social and charitable nature or Co-op. Societies.

### **Misconduct under Prevention of Corruption Act**

The foremost obligation upon the employees is that they shall not commit any misconduct as contemplated in Sec. 5 of the Act, which is punishable as a criminal offence apart from being a ground for disciplinary action. This Act has now been replaced by the Prevention of



Corruption Act, 1988 and misconduct or criminal misconduct has been defined under Sec. 13 of the Act.

Under the Hindu Marriage Act (Sec. 17), the Indian Christian Marriage Act (Sec. 60), the Special Marriage Act (Sec. 44), marrying a second time while the earlier spouse is living is void and is subjected to the penalties provided in Sec. 494 and Sec. 495 of I.P.C. Though bigamy is not prohibited in Mohammedan Law, it will be misconduct under these Conduct Rules. These rules do not contravene the provisions of the Constitution even though such marriage is permissible under personal law. Such a condition may be considered reasonable which the employer is competent to impose.

Gifts under social or religious customs do not come within the purview of this rule. Acceptance of dowry has however been prohibited with punishable offence under the Dowry Prohibition Act. It has been held that only those articles are dowry which are given or agreed to be given as regard or reason or motive for solemnization of marriage. Gift is distinguishable from illegal gratification.

**Acknowledgement and Reference**— Shri S. K. Ghosal's Compendium of Service Benefits and Obligations regarding Conduct Rules.

***Rule 7: Submission of petitions and memorials***

- (1) Any Govt. employee or a group of employees desiring to place a claim or seeking redress of their grievance in any matter connected with service condition shall ordinarily address the authority at the lowest level competent to deal with the matter or the authorities superior to the officer against whose order or action redress is being sought for. If no intimation is received within a fortnight or if the employees are not satisfied with the redress given by the said authority they may directly address higher authorities, including the Minister, seeking interview or intervention.
- (2) A Govt. employee desiring to apply for any other position shall supply through the appointing authority who shall, unless there is any disciplinary proceedings pending against the applicant, forward the application to the addressee.  
A Govt. employee may, if necessary, send an advance copy of the application to the addressee.

***Rules 7A, 8 & 9***

Nothing in these rules shall be construed to be in derogation of the provisions of the West Bengal Govt. Services Conduct Rules, 1959—which stand repealed subject to this provision. *Under Rule 9 any violation of infringement of the rules shall be deemed to be a good and sufficient reason for imposing penalties under WBS(CCA) Rules 1971.*

## **APPENDIX**

*Procedure to be followed before going to strike:* No employee shall go on strike without completing the process of conciliation or negotiation and giving notice of at least 14 days and for public utility services thirty days.

### ***Public Utility Services are:***

- (1) All Services directly connected with running of hospitals
- (2) Fire Brigade—Operational services
- (3) Drinking Water Supply—Operational services
- (4) Milk Supply—Operational services
- (5) Ration Shops

Matters over which Govt. employees can go on strike relate to conditions of services and work, welfare of the employees and improvement of efficiency of standard of work.

### ***Process of Negotiation and Conciliation:***

- (1) Union/Association/Federative bodies will first exhaust discussion at the ministerial/departmental level.
- (2) Their grievances will then be placed before the State Negotiating Body headed by an officer of the rank of Secretary under direct control of Chief Secretary. The Negotiating Body shall not take more than 30 days except with mutual agreement to settle the matter and send its recommendation to the appropriate authority. If the negotiation fails, strike notice may be served to the Appropriate Authority.
- (3) On receipt of strike notice the Negotiating Body "may take further initiative to - solve the dispute. If it fails, the aggrieved party may go on strike.
- (4) When a strike commences and continues for more than a reasonable period, the Appropriate Authority may refer the matter to a Board of Arbitrators consisting of not more than three members—the majority of whom shall be other than Govt. employees. The Board will give its award within one month. After the matter is referred to the Board, the Government may prohibit continuance of the strike.

## **West Bengal Services (Classification, Control & Appeal) Rules, 1971**

W.B.S. (CCA) Rules 1971 govern disciplinary action against State Govt. employees and came into force from 1st of May, 1971 and applies to all State Govt. employees except :—

- i. Persons paid at daily rates;
- ii. Persons against whom action is taken or proposed to be taken under the West Bengal Civil Service (Safeguarding of Security Rules, 1949).
- iii. Members of All India Services who are governed by A.I.S.(Discipline and appeal) Rules, 1953
- iv. Inspectors of Police and members of Subordinate Police Force
- v. Members of West Bengal Judicial Service Officers

Under Rule 10 of the **W.B.S. (D.C.R.B.) Rules, 1971**, departmental/judicial proceedings may be instituted against a retired employee with the sanction of the Governor for any event, which took place within four years before such institution.

Govt. may withhold, withdraw pension or part of it or recover any pecuniary loss suffered by Govt. for grave misconduct or negligence during his service.

***Suspension (Rule 7).***

7(1) The appointing authority or any authority to which it is subordinate or any authority empowered by the Governor may place a Govt. employee on suspension:

- (a) Where a disciplinary proceeding or departmental enquiry is contemplated or is pending; or
- (b) Where in the opinion of the authority aforesaid 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 or trial. If the suspension order is issued by a subordinate authority, he must forthwith report to the appointing authority the circumstances of the case.

If a case had been registered by the Police against a Govt. employee under Sec. 304B (Dowry Death) of the Indian Penal Code and the employee has been arrested, he shall be placed under suspension immediately irrespective of the period of detention. If he is not arrested, he shall be placed under suspension immediately on submission of a Police report under sub-section (2) of section 173 of the Cr. P.C., 1973 to the Magistrate if the report prima facie indicates that the offence has been committed by the Govt. employee.

- (2) A Govt. employee against whom a proceeding has commenced on a criminal charge but, who is not in custody (i.e. released on bail) in a criminal case may be placed under suspension. If the criminal charge is related to the official position or involves any moral turpitude suspension shall be ordered unless there are any exceptional circumstances.
- (3) A Govt. employee detained in custody for more than 48 hours under any law providing for preventive detention or as a result of proceedings either on a criminal charge or otherwise shall be deemed to have been suspended from the date of such imprisonment.
- (4) Where a penalty of dismissal, removal or compulsory retirement is imposed on a Govt. employee under suspension or a disciplinary proceeding pending against him is set aside in appeal or review and the case remitted for further enquiry or action or any directions, the suspension order will remain in force.
- (5) Where the aforesaid penalty or proceedings are set aside by a Court of law and the disciplinary authority decides to hold a further enquiry the Govt. Employee

shall be deemed to have been placed under suspension from the date he was originally placed under suspension.

A Govt. employee on suspension is entitled to subsistence allowance and to pay and allowance on reinstatement under Rule 71 and 72 of W.B.S.R. pt. I respectively.

Provided that the subsistence allowance shall be reduced by the amount of allowance if any, paid to the employee while in custody for preventive detention.

Suspension on account of pendency of Criminal trial does not stand automatically revoked as soon as the employee is released from custody or acquitted of criminal charge. If an employee is acquitted and no departmental proceedings is contemplated, he is entitled to reinstatement. Suspension without cogent reasons is mollified. [ Union of India Vs. J.N. De, (1990), CalLJ84]

### ***Penalties (Rule 8)***

The following penalty may be imposed:

- i. Censure
- ii. Withholding of increments or promotion
- iii. Recovery from pay of the whole or part of any pecuniary loss caused to Govt. by negligence or breach of orders.
- iv. Reduction to a lower stage in the time scale of pay for a specified period with direction as to how future increments should be earned.
- v. Reduction to a lower time scale of pay, grade, post or service with or without further directions as to restoration to the original grade and seniority and pay on such restoration.
- vi. Compulsory retirement,
- vii. Removal from service, which shall not be a disqualification for future employment under Government,
- viii. Dismissal from service, which shall ordinarily be a disqualification for future employment under Government.

Penalties, imposed shall invariably be recorded in the confidential character Roll/ Service Book. Failure on the part of a Govt. employee to intimate to his superior officers the fact of his arrests shall be treated as suppression of material information and will render him liable to disciplinary action, apart from the action that may be called for on the outcome of the Police Case against him.

It may be mentioned that in disciplinary proceedings the punishment must commensurate with the gravity of the offence committed, otherwise it would be violative of Article 14 of the Constitution.

### ***Disciplinary Authority and Appellate Authority (Rule\_9 and Rules 14, 15 and 21)***

Appointing authority is competent to act as disciplinary authority. Officer performing current duties in absence of appointing authority cannot issue charge sheet. The Govt. can

confer powers on an officer other than an appointing authority to dismiss a Govt. employee provided he is not subordinate in rank to the appointing authority.

The disciplinary authority in respect of Group A and B is the Governor—for Group C and D, the appointing authorities. For Group A and Group B Officers, the Governor *persona designata* is the appellate authority while for others, it is the authority immediately superior to the disciplinary authority. Where the appointing /disciplinary authority is subordinate to *the* Govt. the appeal shall lie to the Govt.

Appeal should be submitted within 3 months—but it may be accepted beyond that date, if the appellate authority is satisfied about the reasons of delay.

If the disciplinary authority has in the meantime become the appellate authority by promotion or otherwise, he shall forward the appeal to his next higher authority who will then become the appellate authority.

In case where two or more Govt. employees are concerned, the Governor or any other authority competent to impose the penalty of dismissal make an order directing that the disciplinary action be taken in a common proceeding and specify the disciplinary authority. Departmental proceedings shall not as a rule be initiated on the same charges or on charges substantially similar to those of which the employee was acquitted in a Court of law. There is however no bar to further enquiry being undertaken in cases, where it is held by the Court that the safeguards imposed by Art 311 of the Constitution have not been properly followed and a subsequent enquiry be made.

Discharge by the court on final report by the police does not amount to acquittal and there is no bar to departmental charges being initiated on the same or substantially same charges.

When any trial in criminal proceedings had already commenced and the charge sheet has been submitted, it would not be expedient to proceed with the departmental enquiry. In the event of discharge, the authority will get opportunity to start such enquiry.

When a Govt. employee is transferred from the disciplinary control of one officer to that of another, the second authority will be competent to act as the disciplinary authority and impose penalty after completion of departmental proceedings in consultation with the first authority.

***Procedure for imposing penalties (Rule 10)***

- (1) No order imposing any of the penalties specified in rule 8 shall be made except after an enquiry held in the manner provided in this rule.
- (2) The disciplinary authority shall draw up or cause to be drawn up—
  - i. The substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge;
  - ii. a statement of imputations of misconduct or misbehaviour in support of each article of charge which shall contain—

- (a) a statement of relevant facts including any admission or confession made by the Government servant
- (b) a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.
- (3) The disciplinary authority shall deliver or cause to be delivered to the Government servant a copy of the articles of charge and the statement of imputations of misconduct or misbehavior prepared under clause (ii) sub-rule (2) and shall require the Government servant to submit to the inquiring authority within such time as may be specified a written statement of his defence and to state whether he desires to be heard in person.
- (4) (i) The disciplinary authority shall in all cases for the purpose of enquiry appoint an inquiring authority and forward to it—
  - a) Copy of the articles of charge and the statements of the imputations of misconduct of misbehaviour;
  - b) Copy of the statement of witness, if any
- (iii) Where the disciplinary authority appoints an inquiring authority for holding an inquiry into the articles of charge, it may, by an order, appoint a Government servant or a legal practitioner, to be known as the "Presenting Officer" to present on its behalf the case in support of the articles of charge.
- (5) (i) The Government servant shall appear in person before the inquiring authority on such day and at such time within ten working days from the date of receipt by him of the articles of charge and the statements of imputations of misconduct *or* misbehaviour as the inquiring authority may, by a notice in writing specify in this behalf or within such further time not exceeding ten days, as the inquiring authority may allow.
- (ii) The Government servant against whom departments proceedings have been instituted may take the assistance of any other Government servant to present the case on his behalf, but may not engage a legal practitioner for the purpose unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner, or the disciplinary authority, having regard to the circumstances of the case, permits to do so.
- (6) If the Government servant who has not admitted any of the articles of charge in his written statement of defence appears before the inquiring authority, such authority shall ask him whether he is guilty or has any defence to make and if he pleads guilty to any of the articles of charge, the inquiring authority shall record the plea, sign the record and obtain the signature of the Government servant thereon. The inquiring authority shall return a finding of guilt in respect of those articles of charge to which the Government servant pleads guilty. The inquiring authority shall, if the Government servant fails to appear within the specified time or refuses or omits to plead or claims to be tried require the disciplinary authority or his representative to produce the evidence by which he proposes to prove the articles of charge and shall adjourn the case to a later date not exceeding 30 days, after recording an order that the Government servant may for the purpose of preparing his defence—

- a) Inspect within five days of the order or within such further time not exceeding five days as the inquiring authority may allow, the documents specified in the list referred to in sub-rule (2);
  - b) Submit a list of witnesses to be examined on his behalf;
  - c) Give a notice within ten days of the order or within such further time not exceeding ten days as the inquiring authority may allow asking for the discovery or production of any documents, which are in the possession of Government but not mentioned in the list mentioned in sub-rule (2).
- (7) The inquiring authority shall, on receipt of the notice for the discovery or production of documents forward the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the document by such date as may be specified in such requisition. Provided that the inquiring authority may, for reasons to be recorded by it in writing, refuse to requisition such of the documents as are in its opinion, not relevant to the case.
- (8) On receipt of the requisition referred to in sub-rule (7) every authority having the custody or possession of the requisitioned document shall produce the same before the inquiring authority. Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded by it in writing that the production of all or any of such documents would be against the public interest or security of State, it shall inform the inquiring authority accordingly and the inquiring authority shall, on being so informed, communicate the information to the Government servant and withdraw the requisition made by it for the production or discovery of such documents.
- (9) After the completion of the enquiry, a report shall be prepared and it shall contain—
- (a) The articles of charge and the statement or imputations of misconduct or misbehaviour;
  - (b) The defence of the Government servant in respect of each article of charge;
  - (c) An assessment of the evidence in respect of each article of charge;
  - (d) The finding on each article of charge and the reasons therefore.
- (10) (i) The disciplinary authority shall consider the report of the enquiry and record its finding on each charge.  
(ii) The disciplinary authority may for reasons to be recorded in writing, remit the case to the inquiring authority for further inquiry and report, and the inquiring authority shall, thereupon, proceed to hold further inquiry, as far as possible, according to the provisions laid down in this rule.
- (11) If the disciplinary authority, having regard to its finding on the charges is of opinion that any of the penalties specified in clauses (i) to (iii) of rule 8 should be imposed, it shall pass appropriate orders on the case:  
Provided that in every case in which it is necessary to consult the Public Service Commission, the record of the enquiry shall be forwarded by the disciplinary authority to the Commission for advice and such advice should be taken into consideration before passing the orders.

- (12) If the disciplinary authority, having regard to its finding on the charges is of opinion that any of the penalties specified in clauses (iv) to (viii) of rule 8 should be imposed or where the commission recommends, in any of the cases referred to it under sub-rule (11) one or other of the penalties specified in clause (iv) to (viii) of rule 8 and the disciplinary authority agrees with the views, it shall-
- (a) Furnish to the Government servant a copy of the report of the inquiring authority and a statement of its findings together with brief reasons for disagreement, if any, with the findings of the inquiring authority; and
  - (b) Give him a notice stating the punishment proposed and the grounds-therefore and calling upon him to submit within a specified time such representation as he may wish to make on the punishment proposed but only on the basis of the evidence adduced during the inquiry.
- (13) In every case in which it is necessary to consult the Commission, the record of the enquiry together with a copy of the notice given under clause (b) of sub-rule (12) and the representation made in response to such notice, if any shall be forwarded by the disciplinary authority to the Commission for its advice.
- (14) On receipt of the advice of the Commission the disciplinary authority shall consider the representation if any made by the Government servant as aforesaid, and the advice given by the Commission and determine what penalty, if any, should be imposed on the Government servant and pass appropriate order on the case.
- (15) In any case in which it is not necessary to consult the Commission, the disciplinary authority shall consider the representation, if any, made by the Government servant in response to the notice under clause (b) of sub-rule (12) and determine what penalty if any, should be imposed on the Government servant and pass appropriate orders on the case.
- (16) Orders passed by the disciplinary authority under sub-rule (9) or sub-rule (10) shall be communicated to the Government servant who shall also be supplied with a copy of the report of the inquiring authority and, a statement of its findings together with brief reasons for disagreement, if any, with the findings of the inquiring authority, unless they have already been supplied to him, and also a copy of the advice, if any/given by the Commission and where the disciplinary authority has not accepted the advice of the Commission, a brief statement of the reasons for such non-acceptance.

There is no bar in initiating second departmental proceedings on different graver charges during dependency of first proceedings. It is not permissible to allege a fact in the charge sheet, which is not intended to be proved. The charge sheet must be clear, precise and accurate and must not be issued with a tainted and closed mind. The disciplinary authority cannot rely on adverse remarks on confidential reports not communicated to the charged officer. Non-supply of copy of statement which is basis of departmental proceedings amounts to denial of opportunity.

The function of the Public Service Commission is purely advisory in nature. Imposition of punishment without accepting the new of the PSC is not proper. However it should



be consulted where disciplinary action is taken in view of the safeguard under Art. 320(3) (c) of the Constitution. It is however not necessary if the charged officer present a petition for review after action is taken. The provision of second show cause notice under rule TO (12) of the CCA. Act is based upon the fifteenth amendment of Art. 311 (2) of the Constitution in 1963 but in the 42nd amendment made in 1976, this provision has been omitted and it has further been introduced that It shall not be necessary (o give such person any opportunity of 'making representation on the penalty proposed". Issue of Second show cause notice is therefore not mandatory. However as the CCA. Rules have not been amended, the second show cause notice should be issued.

Merely because the Rule does not envisage appointment of a legal practitioner to defend the charged officer, his prayer for appointment of a legal practitioners where he has been pitted against experienced presenting officers cannot be disallowed. [Gadadhar Rambin vs. Food Corporation of India {1989} 2 Cal Lj 86.] For further study of disciplinary rules and clarifications 'Compendium of Service Benefits and Obligation' by Shri S, K. Ghosal may be consulted.

Under rule 22, Governor may either on his motion or otherwise call for the records of the case and review any order made and after consultation with P.S.C wherever necessary, may confirm, set aside, modify or pass any order as he deems fit.

***Model Examples of Charge sheet and Enquiry Procedure:***

Three model examples of charge sheet are appended at the end of the notes. Two cases relate to W.B.H.S. officers where the Governor is the competent Authority and the charge sheets are issued under the signature of the Principal Secretary of the Department. One case relates to a cashier under the Health Directorate where the D.H.S.W.B. is the competent authority to issue the charge sheet.

These examples may be adopted with suitable modifications based on the facts of any individual case. A model draft for appointment of inquiring authority is also included.

In order that departmental enquiry is not vitiated for any lapse or default, step by step procedure to be followed by the Inquiring authority in keeping with the provisions of Rule 10 is indicated below:

***Procedure to be followed in conducting Departmental Enquiries by the Inquiring Authority under rule 10 of the W. B. Services (Classification, Control & Appeal) Rules, 1971.***

1. He shall maintain an order-sheet in chronological order from the date of receipt of the appointment letter as Inquiring Authority till the date of submission of report.
2. After being satisfied that the charged officer has received the charge-sheet and submitted his explanation to the charges, he should ask the charged officer to appear before him on such date, time and place as may be fixed by him. The charged officer should not be allowed to be represented by a lawyer. Upon appearance of the charged officer, charges as per annexure I and II of the

charge-sheet should be read over and explained to him and he should specifically be asked whether he pleads guilty to any or all of the charges or not and also whether he claims to be tried. He should note this in the order-sheet under his dated initials.

3. Hearing should be adjourned for the day and another date fixed by which the charge officer could be allowed the facility to inspect and take notes of the documents as per annexure III on the basis of which the charges are proposed to be substantiated. If the documents are not with the Inquiring Authority the charged officer should be referred the disciplinary authority under whose custody the documents are supposed to remain.
4. After he is satisfied that the charged officer has inspected all the documents on which the prosecution proposes to rely, as per the annexure III, he should fix another date for hearing and for examination of prosecution witnesses as per the annexure IV of the charge-sheet.
5. Examination of each prosecution witness should have to be done in the presence of the charged officer, who may be allowed to cross-examine PWs. It is upto the charge officer to decide whether he would cross-examine the PWs or not. But it must be on record that the charged officer was given the opportunity to cross-examine the PWs.
6. Examination of a witness will have to be done in the form of a memorandum (not in question-answer form) and signed by the witness and the Inquiring Authority. A certificate in following words shall be recorded under the dated initials of the Inquiring Authority.  
"Read over and explained to the deponent and admitted to be correct."
7. After the close of the prosecution evidence, the charged officer is to be asked if *he* wants to adduce any defence evidence. If the charged officer wants to adduce defence evidence, he should be asked to furnish a list of Defence Witness/ list of documents in his defence.
8. On the next date to be fixed, the defence witnesses should be examined one by one. Prosecution will have to be given the opportunity to cross examine the defence witnesses.
9. A date for hearing of the prosecution as well as defence arguments may be fixed by the Inquiring Authority at his discretion. Both parties, may, instead of oral arguments, submit written statement in their favour, at their discretion to the Inquiring Authority. The inquiry virtually comes to a close on the conclusion of defence evidence.
10. Finally, the Inquiring Authority should submit a report containing the article/articles of charges framed against the delinquent, analysis of evidence produced in support of the charges, statement in defence of the charged officer, defence evidence adduced and findings of the Inquiring Authority on each article of charge i.e. whether the charge has been proved or not.
11. After conclusion of the enquiry, the proceedings file, consisting of the following documents, should be forwarded to the disciplinary authority as early possible :
  - (1) Charge-sheet
  - (2) Order-sheet with correspondence
  - (3) Deposition of prosecution & defence witnesses
  - (4) Documentary evidence submitted by the prosecution and defence
  - (5) Concerned file of the Branch / Deptt. if sent to Inquiring Authority

12. While forwarding the documents to the disciplinary authority, the Inquiring authority should retain with him spare copies of his report for future reference, if necessary.

**Case No. 1**

**Model chargesheet where Governor is the Disciplinary Authority Government of West Bengal Department of Health & Family Welfare**

**G. A (Vig.) Branch**

No. HF./O/Ga (Vig.)                      Dated

**MEMORANDUM**

The Governor proposes to hold an inquiry under rule 10 of the West Bengal Services (Classification, Control and Appeal) Rules, 1971, against Dr. XYZ.

Medical Officer of MN Primary Health Centre

The substance of imputations »f misconduct in respect of which the inquiry is proposed to be held is set out in the articles of charge (Annexure I).

1. A statement of the imputations of misconduct or misbehaviour in support of the articles of charge is enclosed (Annexure - II). A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed (Annexure III and IV).

2. Dr. XYZ .....is directed to submit within 10 (ten) days of the receipt of this memo, a written statement of his defence to (Here state the name and designation of the Inquiring Authority) who has been appointed as the Inquiring Authority and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only if the article of charge is not admitted. He should, therefore, specifically admit or deny the article of charge.

4. Dr. XYZ is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of the orders and directions issued in pursuance of the West Bengal Services (Classification, Control and Appeal) Rules, 1971, the inquiring Authority may hold the enquiry against him exparte.

The receipt of this Memo may please be acknowledged.

By order of the Governor,  
*Principal Secy, to the Govt. of West Bengal*

### ***ANNEXURE — I***

Statement of Article of Charge framed against Dr. XYZ, Medical Officer, MN Primary Health Centre.

That Dr. XYZ, while functioning as Medical Officer, MN Health Centre, and holding charge of OP Subsidiary Health Centre, because of the vacancy in the post of Medical Officer of the said OP Subsidiary Health Centre, visited the said OP Subsidiary Health Centre on a good number of occasions and had full knowledge that ABC, a Pharmacist attached to the said OP Subsidiary Health Centre had without any authority or qualification, been admitting indoor patients and treating them in the aforesaid OP Subsidiary Health Centre without making any entry in any register or keeping any record of such admissions or treatments, but illegally omitted to take any step whatsoever for stopping such illegal activities of the- said Shri ABC and thereby aided the commission of such activities. Such conduct on the part of Dr. XYZ is unbecoming of a public servant and violative of Rule 3 (1) of the West Bengal (Duties, Rights & Obligations of Government Employees) Rules, 1980.

### ***ANNEXURE —II***

Statement of imputations of misconduct in support of the articles of charge framed against Dr. XYZ.

The said Dr. XYZ was in charge of MN PHC from 1982 to August 1992 and according to his own statement he was in charge of supervision of the work of OP Subsidiary Health Centre, where there was no medical officer from 1985 to June, 1990. During this period Shri ABC was in charge of OP Subsidiary Health Centre. It appears from the statement of Dr. XYZ that he was asked by the Chief Medical Officer of Health, BDN to supervise the work of the OP SHC and as a matter of fact he visited the OP SHC occasionally. It also, came to his knowledge that Shri ABC, Pharmacist had been treating patients admitting them in the Health Centre illegally without maintaining any record of the same but he did not take any step to stop this illegal activities of the Pharmacist. On the contrary it appears that on 9.5.1988 at 9 P.M. Dr. XYZ went to OP SHC being summoned by the above Pharmacist to attend one BC (S/O LM) of Dumuria, whom the Pharmacist had admitted in the OP SHC describing him to be a patient of Diarrhoea but found vomiting blood. But the Pharmacist did not maintain proper record in respect of the patient but noted about him in the outdoor register of patients one day after his actual admission in the Health Centre. The patient died on 19.5.1988 early in the morning but Dr. XYZ who visited him in OP SHC on 9.5.1986 did neither make any adequate arrangement for his treatment nor had taken any steps to see that proper records were maintained in respect of the patient by the Pharmacist-in-Charge, Shri ABC.

Dr. XYZ while acting as Medical Officer-in-Charge of MN Primary Health Centre had in course of his official visit to OP Subsidiary Health Centre, observed one CD (D/O DEJ.P\* village Dharpur, to undergo treatment under Sri ABC, Pharmacist at OP SHC for about 2 months in 1988 as an indoor patient illegally without maintaining any record for the same but Dr. XYZ did not take any action whatsoever for these illegal activities of Shri ABC, Pharmacist.

Dr. XYZ admitted in writing that he was aware that Sri ABC, Pharmacist was indulging in such illegal activities and he had reported it verbally to the Chief Medical Officer of Health.

But the Chief Medical Officer of Health had denied to have received any such report From the fact that Dr. XYZ had on 9.5.1988 went to OP SHC in a Private Ambassador provided free of cost by the guardian of the patient illegally admitted and treated at OP SHC, by Pharmacist ABC it appears that he acted in a manner unbecoming of a public servant lacking a public servant in integrity and violative of rule 3 (1) of the West Bengal Services(Duties,Rights and Obligations of Government Employees) Rules, 1980.

### ***ANNEXURE — III***

List of documents by which by which the articles of charge framed against Dr. XYZ is proposed to be sustained.

- (1) Log Book of Vehicle No. WBM-9113 of OP PHC.
- (2) Register of outdoor patients of OP SHC from 2.5.1988 to 31.12.1988
- (3) Statement of Dr. XYZ dated 17.10.1988 and 15.12.1988
- (4) Stock Register of medicine of OP SHC from 1.1.1988, which was checked by Dr XYZ, M.O. in charge, OP PHC on 17.12.1988 at page 52.
- (5) Sub-Stock ledger of OP SHC of Medicines from 1.1.1988 which was checked by Dr. XYZ, Medical Officer-in-Charge, OP SHC on 17.12.1988 at page 100 and /or any other documents with prior intimation to the officer impugned

### ***ANNEXURE—IV***

List of witnesses by whom the articles of charge framed against Dr. XYZ proposed to be sustained.

- (1) Shri BC, Family Planning Field Worker, MN Health Centre.
- (2) Sri DRN, GDA, OP SHC.
- (3) Sri KCB, Sweeper, OP SHC.
- (4) Dr. B. Mondal, Assistant Chief Medical Officer of Health
- (5) PTR ( S/O. Sri PK ) of Pratapbagan, BDN
- (6) Sri DCR (S/O. BCR ) of Kankradara, CDS
- (7) Sri PSP (S/O. CP) of Dumuria,
- (8) Sri RN (S/O. DN) of Dumuria,
- (9) inspector WN, A.C.I and/or any other witness with prior intimation to the Officer impugned

**CASE NO. 2**

Model Chargesheet where Governor is the Disciplinary Authority  
Government of West Bengal  
Department of Health & Family Welfare  
G. A (Vig.) Branch

No. *HF/O/Ga (Vig.)*                      *Dated*

**MEMORANDUM**

The Governor proposes to hold an inquiry under rule 10 of the West Bengal Services (Classification, Control and Appeal) Rules, 1971, against Dr. XYZ. EX-MO, AB P.H.C. Murshidabad and now posted at Medical College. Hospital, Calcutta.....

The substance of imputations of misconduct in respect of which the inquiry is proposed to be held is set out in the articles of charge (Annexure I).

1. A statement of the imputations of misconduct or misbehaviour in support of the articles of charge is enclosed (Annexure — II). A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed (Annexure III and IV).

2. Dr. XYZ is directed to submit within 10 (ten) days of the receipt of this memo, a written statement of his defence to (state the name and designation of the Inquiring Authority) who has been appointed as the Inquiring Authority and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only if the article of charge is not admitted. He should, therefore, specifically admit or deny the article of charge.

4. Dr. XYZ is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of the orders and directions issued in pursuance of the West Bengal Services (Classification, Control and Appeal) Rules, 1971, the Inquiring Authority may hold the enquiry against him *ex parte*.

The receipt of this Memo may please be acknowledged.

By order of the Governor,  
***Principal Secy, to the Govt. of West Bengal***

## ***ANNEXURE — I***

Statement of Article of Charge framed against Dr. XYZ Ex-M.O. AB P.H.C., Murshidabad and now posted at Medical College Hospital, Calcutta.

### ***Article of Charge I:***

That Dr. XYZ while posted as M.O., AB P.H.C., Murshidabad was absent without any intimation to the competent authority from 1.1.87 to 14.2.88 and thereby acted irresponsibly and in disregard of lawful authority. This reveals lack of devotion to duty as a public servant and in violation of rule 3 of the West Bengal Services ( Duties, Rights & Obligations of Govt. Employees) Rules, 1980.

### ***Article of Charge II:***

That Dr. XYZ while posted as M.O., AB P.H.C., Murshidabad was on unauthorised absence from 1.1.87 to 14.2.88 and an explanation was obtained from him. He had furnished earlier a Medical Certificate dt. 14.2.88 in support of his illness. It appears that the statement given by Dr. XYZ in his explanation is not in conformity with what has been stated in the Medical Certificate. Such act of Dr. XYZ is highly irregular and unbecoming on the part of a responsible Govt. Officer like him.

## ***ANNEXURE — II***

Statement of imputations of misconduct in support of the article of charges framed against Dr. XYZ ex-M.O., AB P.H.C., Murshidabad and now posted at Medical College Hospital, Calcutta.

### ***Article of Charge I:***

Dr. XYZ while posted at AB P.H.C., Murshidabad absented himself from duty from 1.1.87 to 14.2.88 without any intimation to the competent authority and latter on he furnished leave application on 27.3.89 with a xerox copy of M.C. dt. 14.2.88 which was sent to the office of the D.H.S. by the C.M.O.H., North 24-Parganas under his Memo. No. MO/1750 dated 29.5-89. The said Dr. XYZ was appointed to act as M.O., AB P.H.C., 24-Parganas (North) under the Health & F.W. Deptt.'s Notification No. H/MA/150/DHS/1K-282-77 dated 21.1.88 ' and Dr. XYZ reported to the Office of the C M O H, North 24-Parganas on 15-2-88 vide Memo. No. Estt./1792 Dt. 16.6.88 of the C M O H, North 24-Parganas.

Thus Dr. XYZ was on unauthorised absence from duties for the period from 1.1.87 to 14.2.88 and thereby he had shown lack of sense of responsibility and devotion to duty as a public servant and willful disregard of lawful authority amounting to misconduct under the W B S (Duties Rights & Obligations of Govt. Employees) Rules, 1980.



### ***Article of Charge II:***

Dr. XYZ while posted as M.O., AB P H C, Murshidabad was on unauthorised absence from 1.1.87 to 14.2.88 and an explanation was obtained from him through the Supdt. Mathabhanga S.D. Hospital, Cooch Behar—vide Memo. No. 88/MTD/SD/HOSPTL/92 dated 29.1.92 of the Supdt. Mathabhanga S.D. Hospital. Dr. XYZ had earlier furnished a leave application dt. 27.3.89 along with Medical certificate dated 14.2.88

In his explanation Dr. XYZ stated, interalia, that he had to take leave on 1.1.87 so as to arrange marriage ceremony of his younger sister scheduled to be held in the 1st week of January '87 when he fell ill at his home owing to serious attack of infective hepatitis and he was so ill that he failed to inform the BMCH, AB P H C and after recovery from illness which took three months, he went to report to CMOH office, Murshidabad. But in the Medical Certificate it was mentioned that he was suffering from Relapsing Hepatitis and was under treatment since 1.1.87 till 14.1.88, and was then advised absolute bed rest till 14.2.88. Thus the Medical certificate does not lend credence to his statement that his recovery from infection hepatitis took about three months. Again, in the M.C., he was declared fit to resume duty with effect from 15.2.88. But Dr. XYZ stated that he recovered from illness within three months, i.e. from 1.4.87 In addition to an M.C., Dr. XYZ furnished a copy of pathological report, which seems to be full of tampering of the dates.

Thus the statement of Dr. XYZ in his explanation is not in conformity with what was stated in the M.C., which is unbecoming on the part of a responsible Govt. Officer. Hence the charge.

### ***ANNEXURE - III***

List of documents by which the article of charges framed against Dr. XYZ Ex-M.O., AB PHC, Murshidabad and now posted at Medical College Hospital, Calcutta are proposed to be sustained.

- (1) Application dated 27.3.89 for Leave of Dr. XYZ with M.C.dt.14.2.88 and Report on Biochemical Investigation.
- (2) Memo. No. MO/1750 dt. 29.5.89 from CMOH, North 24- Parganas
- (3) Notification No. H/MA/150/DHS/1K-282-77 dated 21.1.88 of Deptt. of Health & F.W.(M. A. Branch).
- (4) Memo. No. Estt./1792 dt. 16.6.1988 of the CMOH, North 24-Parganas.
- (5) Memo. No. 1K-282-77/A 848 dt. 9.1.92 of Health Directorate, W.B..
- (6) Memo. No. 88/MTB/SD/HOSPTL/92 dated 29.1.92 of Supdt., Mathabhanga S.D. Hospital, Cooch Behar and its enclosure (explanation from Dr. XYZ)

***ANNEXURE— IV***

List of witnesses by whom the articles of charges framed against Dr. XYZ, ex-M.O., AB PHC, Murshidabad and now posted at Medical College Hospital, Calcutta are proposed to be sustained.

- (1) Chief Medical Officer of Health, North 24-Parganas.
- (2) Chief Medical Officer of Health, Murshidabad.
- (3) Dy. Asstt. Director of Health Services { P & E }, W.B.
- (4) Asstt. Director of Health Services ( P & B), W.B.
- (5) Supdt. Mathabhanga S.D. Hospital, Cooch Behar

**CASE NO. 3**

Standard form of chargesheet where DHS W.B. is the Disciplinary Authority  
Government of West Bengal **Directorate of Health Services**  
Writers' Buildings : Calcutta

No

Cat, the : '94

**MEMORANDUM**

The undersigned proposes to hold an enquiry under rule 10 of the West Bengal Services {Classification, Control & Appeal) Rules, 1971, against Shri Madan Pal, (not his real name), Cashier, S. P., W.B., Calcutta. The substance of imputations of misconduct in respect of which the enquiry is proposed to be held is set out in the articles of charge (Annexure I).

1. A statement of the imputations of misconduct in support of each article of charge is enclosed (Annexure II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed {Annexure-III&IV)..

2. Shri Madan Pal, Cashier, SFWB is directed to submit within 7 days of the receipt of this memorandum a written statement, of his defence direct to (Here state the name and designation of Enquiring Authority) who has been appointed as the enquiring authority and also to state whether he desires to be heard in person.

3. He is informed that an enquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Shri Madan Pal, Cashier, SFWB is further informed that if he does not submit his written statement of defence on or before the date specified in paragraph 2 above, or does not appear in person before the enquiring authority or otherwise fails or refuses to comply with the provisions of the rules / orders / directions issued in pursuance of rule of West Bengal Services (Classification, Control & Appeal) Rules, 1971, the enquiring authority may hold the enquiry against him ex-parte.

The receipt of this memo, may please be acknowledged.

Sd/-

**Director of Health Services,**  
West Bengal

To  
Shri Madan Pal,  
Cashier, SFWB,  
Calcutta

No

Cal, the ; '94.

Copy forwarded to :-

1. Thefor information and necessary action. The above memorandum {in original) along with its annexures is enclosed for service upon the impugned Officer on proper receipt. The document of such delivery may be sent to the E.O. under intimation to this Directorate.
2. The for information.
3. The for information.

for Director of Health Services, West Bengal

Enclo : As stated.

## ***ANNEXURE-I***

Statement of Articles of charges framed against Shri Madan Pal, Cashier, SFWB. Calcutta.

### ***Article of Charge -I***

That the said Sri Madan Pal, while functioning as Cashier, S.F.W.B., Calcutta was entrusted with the job of maintaining Cash Book and handling Cash of the Bureau. Audit on the accounts of the S.F.W.B. Calcutta for the period from 1.7.93 to 31.7.94 as well as verification of Cash revealed a shortage of Rs. 9656.90 P. and Sri Madan Pal is held responsible for the same. Such conduct on his part is highly unbecoming of a Govt. employee and amounts to deliberate attempt to defalcate the amount from Govt. exchequer which he did actually and hence liable for disciplinary action for violation of Rule 3(1) of the West Bengal Services ( Duties, Rights and Obligations of Government Employees) Rules, 1980.

### ***Article of Charge - II***

That the said Shri Madan Pal, while functioning as Cashier, S.F.W.B., Calcutta had made innumerable corrections / alterations of figures in the Cash Book, without any attestation by the authority which is required under S.R. 31 (II) of W.B.T.R. Vol. I and totaling had not been done and checked by any persons other than the writer of the Cash Book in violation of the provisions laid down in S.R. 31 of W.B.T.R. Vol-I. Such conduct on his part indicate utter negligence of duty with motive to shirk responsibility and hence liable to departmental action, for violation of Rule 3 (1) of the West Bengal Services (Duties, Rights and Obligation of Government Employees) Rules, 1980.

### ***Article of Charge - III***

That the said Sri Madan Pal while functioning as Cashier, S.F.W.B. Calcutta had retained heavy cash balances in contravention of the provisions laid down in S.R. 572, as per instance on—

16.9.91— Rs. 10,63,988.44

16.3.91— Rs. 2,48,819.76

31.3.93 — Rs. 33,86,590.02

31.7.94— Rs. 20,46,444.97

Such conduct on his part showed utter disregard of Treasury and Financial Rule on his part and hence liable for disciplinary action for violation of Rule 3(1) of West Bengal Services ( Duties, Rights and Obligations of Government Employees ) Rules, 1980.

## ***ANNEXURE - II***

Statement of imputation of misconduct to substantiate the article of charges framed against Sri Madan Pal, Cashier, S.F.W.B. Calcutta.

### ***Article of Charge -I***

That the said Sri Madan Pal while functioning as Cashier S.F.W.B. Cal. was entrusted with the job of maintaining Cash Book and handling Cash of the Bureau. Audit on the Accounts of the S.F.W.B. Calcutta for the period from 1.7.93 to 31.7.94 as well as verification of Cash on different dates during the period, and Cash Book checking disclosed an overall shortage of Cash of Rs. 9656.90 P. on 31.7.94 and Sri Madan Pal is held responsible for the same. Such conduct on his part is highly unbecoming of a Govt. employees, irregular and amounts to deliberate attempt to defalcate the amount from Govt. exchequer which he did actually and hence liable for disciplinary actions under the rules cited above.

### ***Article of Charge – II***

That the said Sri Madan Pal, while functioning as Cashier, S.F.W.B., Calcutta had made innumerable corrections / alterations of figures in the Cash Book without any attestation by the authority which is required under S.R. 31 (II) of W.B.T.R. Vol-I and totaling have been done and checked by any person other than the writer of the Cash Book, in violation of provisions laid down in S.R. 31 of W.B.T.R. Vol-I. Such conduct on his part indicate utter negligence of duty with motive to shirk responsibility and hence liable to departmental action under Rule 3 (1) of WBS ( Duties, Rights and Obligations of Government Employees) Rules 1980.

### ***Article of Charge - III***

That the said Sri Madan Pal while functioning as Cashier S.F.W.B., Cal. had retained heavy balances in contravention of the provisions laid down in S.R. 572 as for instance on—  
16.9.91— Rs. 10,63,988.44 P  
16.3.92— Rs. 2,48,819.76 P. 31.3.93 — Rs. 33,86,590.02  
P. 31.7.93 — Rs. 20,46,444.97 P.

Such conduct on his part showed utter disregard of Treasury and Financial Rules on his part and hence liable for disciplinary action for violation of Rule 3 (1) of West Bengal Services ( Duties, Rights and Obligations of Government Employees) Rules, 1980.

### ***ANNEXURE — III***

List of Papers/documents/records etc. by which the Article of charges framed against Sri Madan Pal, Cashier, S.F.W.B., Calcutta is proposed to be sustained.

- (1) Audit query Statement of A.G., West Bengal, dated 31.9.94.
- (2) Cash Book, Token Registers Bill Registers, Cheque Registers and office copy of bills for the pertaining period and any other papers / documents / registers etc. if any on prior intimation to the impugned Officer

**Model Draft for appointment of Inquiring Authority  
Government of West Bengal Department of Health &  
Family Welfare/Directorate of  
G. A. (Vig.) Branch**

No. HF/0/GA (Vig.)

Dated.

**ORDER**

In exercise of the power conferred by sub-rule" (4) of rule 10 of the West Bengal Services Classification, Control and Appeal) Rules, 1971, the undersigned hereby appoints as Inquiring Authority to enquire into the charge framed against Shri / Smt under this Deptt. Memo. No. HF/O/GA (Vig.) dated 19 and directs him to submit his report in accordance with the provisions of Rule 10{9) of the W.B.S. (Classification, Control and Appeal) Rules, 1971 and records of the case including proceedings file to the undersigned after holding the enquiry at an early date.

2. His attention is invited to rule 10 of the West Bengal Services (Classification, Control and Appeal) Rules, 1971 for following the procedure laid down therein. He should proceed to hold enquiry according to the provisions laid down in the said rules.

3. Copies of the articles of charge and the statements of imputation of misconduct in support of the articles of charge etc. are enclosed herewith.

By order of the Governor,

***Principal Secy, to the Govt. of West Bengal.***

To

.....  
.....

## Notes on the Vigilance Commission

1. The Government of West Bengal, by a resolution No. 221 GAC dated the 4th March, 1965 set up a Vigilance Commission to be headed by the Vigilance Commissioner, West Bengal. The Commission will be attached to the Home Deptt but in the exercise of its powers, it will not be subordinate to any department and will have the same measure of independence and autonomy as the Public Service Commission, W. B.

### *Cases, which come under the purview of the Vigilance Commissioner:*

1. To undertake an enquiry into any transaction in which a public servant is suspected or alleged to have acted for an improper purpose or in a corrupt manner;
- ii. To cause an enquiry or investigation to be made into—
  - (a) Any complaint that a public servant had exercised or refrained from exercising his powers for improper or corrupt purpose.
  - (b) Any complaint of corruption, misconduct, lack of integrity or other kinds of malpractices or misdemeanor on the part of public servant, including members of the AI! India Services serving in connection with the affairs of the State Government.
2. The Vigilance Commission is not therefore concerned with allegations or complaints of any other types, e.g., insubordination, breach of discipline, negligence of duties, etc. not involving corruption. Allegations of these other types should be enquired into and disposed of departmental and should not be referred to the Vigilance Commission at any stage.
3. Where the Departments, Directorates, Heads of Offices have reasonable suspicion about the integrity of some public servants, the disciplinary authority should first make a preliminary verification with reference to its own records and if there is any basis for the complaint, allegation or suspicion, then only the matter should be reported to the Vigilance Commission with a self-contained precise and all the relevant documents for investigation and/or advice as to the further action to be taken
4. ***Complaints regarding corporate State Undertakings***  
The powers and jurisdiction of the Vigilance Commission also extends to corporate State Undertakings.
5. **Investigation and Enquiry ;**  
Broadly speaking there are two phases in each case ending in departmental proceedings viz., "investigation" and "Enquiry". The "Investigation" starts on receipt of a complaint about corruption. If the Vigilance Commission considers that the complaint or information is sufficiently specific and verifiable, it asks the Anti-corruption Bureau or some other agency (including the department to which the Public Servant belongs) to make investigation confidentially and to submit a preliminary report to the Commission for advice as to further action. The department itself may also initiate such an investigation *suo-motu* and forward the report to the Vigilance Commission for perusal and advice as to further action. If the Vigilance Commissioner is of opinion that there is a *prima facie*



case for further investigation by way of examination of the public servant concerned and of the records etc., of the department with the knowledge of the head of the department then the Vigilance Commission orders what is known as an "Open investigation" which is actually the second stage— of the first phase, viz. the process of preliminary investigation. At this stage, the officer concerned is invariably given his first opportunity to explain informally the allegations against him. If he can satisfactorily explain his conduct, the matter is dropped and the head of the department is informed accordingly. If he is unable to do that, then only the case enters the second phase, i.e. the formal enquiry.

6. After examination of the report of the preliminary investigation, the Commission advises the Government or the disciplinary authority of the Public Servant complained against as to the suitable action to be taken. The action may include drawing up of departmental proceedings or the filing of a case in Criminal Court or recommendation for compulsory retirement under Rule 75(aa) of WBSR-I. When a departmental proceeding is advised, the Commission drafts the specific charges and in the case of Group A Officers (erstwhile Gazetted Officers), invariably nominates a Commissioner for departmental enquiries attached to its organization for holding the formal oral enquiry.

**7. Classification of Cases in which consulting Vigilance Commission is obligatory:**

- (1) Demand and/or acceptance of illegal gratification.
- (2) Misappropriation of Government money and property.
- (3) Breach of trust in respect of public fund.
- (4) Forgery or falsification of document for getting undue advantage for self or somebody else.
- (5) Showing false expenditure of Government money with improper motive
- (6) Incurring unnecessary Government expenditure with the motive of giving undue benefit to others.
- (7) Possession of assets disproportionate to known sources of income.
- (8) Drawing of false traveling allowance, daily allowance, house rent allowances etc.
- (9) Private trade, business or employment, speculation and investment, promotion and management of companies.
- (10) Non-declaration or suppression of assets or submission of false, incorrect or misleading assets statement
- (11) Commission to report to the Appointing Authority about acceptance of gifts.
- (12) Financial impropriety, lack of supervision, negligence of duty, arbitrator/action etc. resulting in loss of Government money or facilitating corruption.
- (13) Unauthorised raising of Subscription.
- (14) Unauthorised lending and borrowing.
- (15) Unauthorised obtaining of patents.
- (16) Abuse of power or authority for deriving improper gain for self, relatives, friends, etc.

N.B.— Due to the large variety of delinquencies that continue to be reported, this **list** should not be taken as exhaustive.

### **8.6. *Vigilance Officers in Departments, Directorates, Corporate State Undertakings and District Vigilance Officer***

In the districts, normally the District Magistrate himself functions as the District Vigilance Officer unless for special reasons he prefers to delegate his powers and responsibilities to some other senior officer, serving in the General Administration in the District headquarters.

In each Department/ Directorate /Corporate State Undertakings an officer of or corresponding EO the rank of Deputy Secretary is designated as the Vigilance Officer. The Vigilance Officers are responsible to co-ordinate work relating to vigilance in the Department and also with the Vigilance Commissioner.

### **9. *Treatment of anonymous and pseudonymous complaints :***

(a) Complaints of allegations received anonymously or pseudonymously should not be rejected as a matter of course. If there are specific allegations which are susceptible of verification, an attempt should be made at such verification and make a preliminary enquiry. In the alternative, the Department / Directorate etc. may at its discretion forward the petition to the Vigilance Commission, when further action will be taken by the Vigilance Commission.

Allegations of trivial or insignificant nature or about minor service matters and administrative inefficiency need not be referred to the Vigilance Commission and should be dealt with and disposed of departmentally

(b) If the matter concerns an erstwhile non-gazetted employee and the preliminary enquiry reveals that there is a case for departmental action or for prosecution in Court, the Department/ Directorate etc. may proceed accordingly after collecting further necessary materials. No consultation with the Vigilance Commission is ordinarily, necessary but it should be kept informed of the final results of the case.

(c) If the matter concerns an erstwhile Gazetted Officer, the report of the preliminary enquiry should be sent to the Vigilance Commission. The Commission will consider whether there is any prima facie case for departmental proceedings or prosecution in Court it will then advise the Department <sup>A</sup>Directorate etc. whether (i) further proceedings should be dropped or (ii) departmental proceedings should be instituted against the delinquent officer or (iii) a formal complaint should be lodged with the police. If departmental proceedings are to be recommended, the Vigilance Commission will draw up formal charges and forward to the disciplinary authority-suggesting enquiry by a particular Commissioner of Departmental Enquiries of the Commission. The disciplinary authority will then issue a formal order appointing such officer as Enquiry Officer. Such Officer will then hold the enquiry and submit his report to the Vigilance Commissioner who will forward the same to the Department / Directorate with his advice as to further action

### **10. Maintenance of Strictest Secrecy of the advice, recommendation or opinion given by the Vigilance Commission:**

The Vigilance Commissioner, whose function is only advisory in nature, tenders its advice to the disciplinary authorities in confidence and its advice is a *Confidential document*. The advice of the Commission should neither be shown to the accused public servant nor any mention of the same should be made in any show cause notice, formal order, including the final order of punishment. If the accused officer asks for a copy of the advice tendered by the Commission, it should be explained to him that even though the Commission's advice has been obtained, it is a confidential communication and in any case, the disciplinary authority has applied his own mind in arriving at the final decision.

### **11. Overriding the recommendation of the Vigilance Commission;**

- (a) Vigilance Commission is a purely advisory body. Where the disciplinary authority is Government (Governor) and where the advice of the Vigilance Commission is not proposed to be accepted, orders of the Minister-in-Charge should be obtained. A Second reference should thereafter be made to the Commission explaining the reason of non-acceptance and inviting further observation within a fortnight. After a fortnight has elapsed, the matter should be placed before the Minister-in-Charge again with the further views of the Commission, if any. If the original opinion of the Minister-in-Charge stands, the case should be referred to the Public Service Commission if necessary as required under Article 320(3)(c) of the Constitution. Before any final decision is arrived at, after compliance of the constitutional requirements and the procedure for imposing any penalty, The case should be referred with a self-contained summary indicating the advice of the Vigilance Commission and the reasons for its non-acceptance to the Chief Minister to Governor during President's Rule) through Chief Secretary. Final orders should be issued by the Department concerned in accordance with the decision of the Chief Minister , Governor during President's Rule)and communicated to the Commission.
- (b) In a case where the disciplinary authority is an authority subordinate to Government, the above instructions should be followed mutatis mutandis. However, no reference to Government or to the Minister-in-Charge is necessary at this stage. It will be open to the Vigilance Commission to move the Government if it so desires, to review such orders in accordance with provisions contained in Rule 22 of West Bengal Services (Classification, Control and Appeal) **Rules, 1971.**

### **12. Vigilance Clearance :**

All cases of confirmation in Superior-Service, promotion to higher post (except under Career Advancement Scheme) involving exercise of greater discretionary powers, deputation to foreign service, selection for training abroad, foreign travel, re-employment, extension in service, the Vigilance Commission shall have to be consulted for assessing the integrity of the officer

concerned. For sanction of pension and retirement benefits, the Commission may also be consulted, if considered necessary.

### **NOTES ON TRAVELLING ALLOWANCES -**

- i. Traveling Allowances Rules
- ii. Leave Travel Concession
- iii. Travel Concession

#### **Part - I General Conditions and Explanatory Notes**

1. Traveling allowance is compensatory in nature and not a source of profit (Rule 7 of WBSR -II). It is granted for traveling in the interest of the public service (Rule V(41) of WBSR Part - I) to cover the expenses of journey.
2. In terms of Memo No. 4730-F dt. 25.5.99 Govt. employees have been grouped into 5 pay ranges for the purpose of TA entitlements as under:
  - i. Rs. 16400 and above.
  - iii. Rs. 8,000 and above but less than Rs. 16,400
  - iv. Rs. 6,500 and above but less than Rs. 8000
  - v. Rs. 4,100 and above but less than Rs. 6,500
  - vi. Below Rs. 4,100

All India Service Officers will be included in pay range (ii) unless they are already included in pay range (i). Confidential Assistants to Ministers, Political Secretary to Chief Minister will belong to (ii) but they will draw Daily Allowance at the rate admissible to Ministers, which is Rs. 120 for ordinary locality in West Bengal and Rs. 230 for Darjeeling (except Siliguri Sub-division). Jamadars of Eastern Frontier Rifles, fall under (iii) Motor drivers (Special cadre) for Ministers under (v) and attendants to Ministers under (vi) Ministers are entitled to take one attendant for journey on official duties. The TA entitlements are effective from 1.6.1999 but TA Bills already finalized before issue of the above order will not be reopened as per GO No. 4730-F dt. 25.5.99.

3. The following are the different kinds of traveling allowance which may be drawn in different circumstances by Govt. Employees (Rule 24 of WBSR 11).
  - i. Permanent monthly traveling allowance ( Rule 11 *ibid* )
  - ii. (Unconditional) Conveyance or horse allowance ( Rule 12 *ibid* )
  - iii. Allowance for distance travelled ( Rule 24 *ibid* )
  - iv. Daily Allowance ( Rule 24 *ibid* )
  - v. Actual cost of travelling ( Rule 11, 24 *ibid* )

3.1 Permanent Monthly Travelling Allowance is granted to a Govt. employee, whose duties require extensive journey within his sphere of duty. It cannot be drawn during leave, temporary transfer or journey time or when other kind of T.A. is drawn (Rule 25). Rates of allowance revised from June 1999 are shown in the Annexure of GO No. 4730-F dt. 25.5.1999 given in Part - II of this chapter.

**4. Allowances for distance travelled :**

Journey should be performed by the shortest or the cheapest or the most practicable route. Where there are alternative routes and the difference in time and cost is not great, journey by any of such routes is permissible. When journey is not performed by any of those routes, Controlling Officer may accept or reject the necessity of travel by this route. **[Rule 32]**

5. T.A. is admissible for journey beyond 8 K.M. from the city point which is reckoned from the Chief Public Office or such other point as may be fixed by the Govt., for example, Raj Bhavan is the Chief Public Office in Calcutta and Court House and Police Station in the district. For journey within 8 K.M. actual expenditure is admissible. **[Rules 24, 33 & 71 ]**

5.1 Group 'D' employees may be allowed to draw actual T.A. beyond the radius of 8K.M.from contingencies. **[Rule 88(2)]**

6. Travelling in a lower class and charging the entitled fare will call for disciplinary action. Controlling Officer to report such case to the Govt. (Rule 34). Payment of incidental charges is abolished with effect from 1.6.1999 as per GO N. 4730-F dt. 25.5.99.

7. Railway Ticket No. should invariably be quoted on the T.A.Bill in absence of money receipts. When First Class Railway fare is claimed for journey by hired conveyance the controlling officer must satisfy himself that the employee actually travelled by hired conveyance between places connected by rail and not by a lower class of accommodation in train or by a cheaper public transport. **[ Rule 34]**

8. Govt. vehicles should not be used between places connected by railways except with the prior approval of the Controlling Officer. **[ Rule 157]**

Daily allowance is a uniform allowance for each day of absence from H.Qs at the scale specified for each category of employees (Rule 55}. Day means a full calendar day of 24 hours reckoned from midnight to mid-night. For absence for less than a day, daily allowance is regulated as under:

(i) Absence not exceeding 6 hrs.	Nil
(ii) Absence exceeding 6 hrs. but not exceeding 12 hrs	70%
(iii) Exceeding 12 hrs	Full

9.1 For Local Journey daily allowance is admissible at half the above rate. Rates of daily allowance for ordinary localities, expensive localities and for stay in hotels are shown separately in this note. Journey beyond 8 K.M. from the H.Qs and within a radius of 20 Km are local journeys. NO DA is admissible for journeys to offices located at Calcutta from Salt Lake, Dum Dum, Baranagar, Howrah Sadar and vice versa only actual expenses are admissible under Rule 88(No. 12660-F dt. 1.12.1993).

10. Incidental expenses may be obtained in lieu of DA for a particular journey as a whole and not for any segment. The said system is abolished as per GO No. 4730-F dt. 25.5.1999 (Rule-38).

***Local Journey (Rule 71B amended as per GO No. 4730-F dt. 25.5.99)***

In partial modification of the said rule the term "Local Journey" means beyond 8 Km from head quarters and within the radius 20 km thereof as per GO No. 4730-F dt. 25.5.1999.

11. **How the absence from HQs is counted:** Journey by rail/air: The entire absence from HQs shall be reckoned with reference to the scheduled departure/arrival time of the train/plane. However where arrival time is late by more than 15 minutes, the actual arrival time.  
**Journey by Bus:** The entire absence from headquarters shall be recorded with reference to the actual arrival/departure time.
12. **How DA is counted:** Where the absence from head quarters falls on 2 calendar days but the total absence is less than 24 hours, it should be calculated separately for each day.

**Illustration No. 1:** A Govt. employee leaves HQ at 3 pm and returns on the following at 12 noon or earlier. DA will be admissible at 70% of the normal rate for 3 pm to 12 midnight and another 70% for the period midnight to 12 noon.

**Illustration No. 2:** When an employee leaves HQ at 6 pm and returns by 6 am next day, the journey falls in two calendar days but DA will be admissible at 70% of the normal rate, as the total duration of absence exceeds 6 hours. **(Rule 71 (A))**

13. **Overnight Journey:** When train journey can take the officer from one station to another without loss of best part of a working day. The places are deemed to be accessible overnight by rail. Ordinarily journeys which can be covered between 6 pm and 6 am fail under this category. However, controlling officers can decide at his discretion. **(Rule 53(A))**.
14. Blind and orthopedically handicapped employees will get a conveyance allowance @5% of Basic Pay subject to a maximum of Rs. 200/- pm. **(Rule 29A & GO. No.4730-Fdt. 25.5.1999)**.
15. Definition of family is revised. Please see Annexure of GO. No. 4730-F dt. 25.5.1999 given in Part-II of this chapter. **(Rule 4(7))**.
16. TA will be forfeited if the claim is not preferred to the head of office, Controlling Officer within a year from the date it becomes due and for the officers who are their own Controlling Officer to the Treasury Officer, Pay & Accounts Officers within such period. **(Rule 166(A))**.
17. ***Travelling Allowance is also admissible for the following kinds of journey :***
  - (i) To attend obligatory departments examination. [ *Rule 120* ]

- (ii) To give evidence and/or to answer charge in a departmental enquiry (Rule 135 & 136) if the enquiry is held at the outstation at the request of the charged officer this is not admissible
- (iii) To peruse official records at outstation in disciplinary cases [Rule 138A].
- (iv) To obtain medical advice on production of a certificate from the medical officer consulted that further consultation with a medical officer at another station is absolutely necessary. (Rule 138)
- (v) When the Chief Medical Officer or other Govt. Medical Officer advises that the sick employee should be accompanied to proceed on leave or for further medical advice, the attendant, if a Government employee is entitled to T.A. for outward and return journey, if not he shall be entitled to actual travelling expenses. (Rule 146) **18.**

***Leave Travel concession :***

In terms of F.D. Memo. No. 3430F of dt. 2.9.81 read with No. 5019F dt. 31.5.85 and No. 1629F dt. 17.2.89, a Govt. employee is entitled to / **L.T.C.** during the period of two years preceding the date of retirement for journeys to any place in India and back.

Class of accommodation for journey to any place in India and back.

The L.T.C. shall be the reimbursement of the actual Rly. 2nd class Mail/Express fare. However if an employee travels by any higher class, the ceiling of fare is for journey of 3000 kms by 2nd class rail-fare to and fro journey taken together, or the actual fare whichever is less.

For journey to places like Port Blair, Agartala, where one can travel by sea or air, L.T.C. will be limited to the ceiling of the actual fare by Sea or air by the lowest class admissible but where there are alternative method of sea and air routes, the cheaper routes should be availed of. If, however, an employee travels by a higher class to which he is entitled under normal T.A. rules the ceiling of reimbursement will be the actual fare of the lowest class for the distance actually travelled. For journey to places including hill stations not connected by rail and in such cases where road journey is unavoidable, reimbursement will be limited to the fare for the cheapest mode for such road journeys. L.T.C. will be admissible to the members of family if they are residing with and wholly dependant on the Govt. employees. It is not admissible for journeys made through package tour agencies. Journeys should be by the cheapest route. T.A. advance is admissible. Any kind of leave may be taken for such journeys.

**19. *Travel Concession:***

Introduced under No. 5471F dt. 27.12.61 is admissible to Govt. employees who are transferable district-wise and posted at a distance of 400 kms. or above from Calcutta. It is admissible once a year for journeys while on leave limited to the actual railway fare for self and family as defined

under Rule 4(7) of WBSR 11 from the place of work to Calcutta and back by the shortest route. No road mileage is admissible. In case journey is performed by bus, the fare of which is lower than railway fare, bus fare is admissible. In case the employee visits any place other than Calcutta, the Rly. fare of the class to which he is entitled is limited to the journey between the place of work and Calcutta. (No. 4386FTdt. 5.8.70)

Bill for both LTC & TC will be drawn in Bill Form No. 26 out of provision under HRA & OA.



## Travelling Allowance

### Part II

#### ANNEXURE TO FINANCE DEPARTMENT MEMORANDUM NO.4730-F, DATED 25TH MAY, 1999 Orders effected from 1.6.1999

#### 1.1 Revised classification of the Government employees in pay ranges :

A. In supersession of rule 22 of the West Bengal Service Rules, Part-II and Finance Department Memo No. 5299-F, dt. 1.6.90, for the purpose of travelling allowance Government employees will henceforth be grouped into the following number of pay ranges :

Group. No.	Pay Range
I	Rs. 16.400 and above
II	Rs. 8000 and above but less than Rs. 16400.
III	Rs. 6500 and above but less than Rs. 8000.
IV	Rs. 4100 and above but less than Rs. 6500.
V	Below Rs. 4100.

B. The members/incumbents of the following services/posts shall be deemed to belong to such Group in terms of pay range as mentioned hereunder irrespective of the pay/consolidated pay drawn by them :

- (a) The members of Indian Administrative Service, Indian Police Service, Indian Forest Service will be included in Group No. II in terms of pay range irrespective of the pay drawn by them unless they are already included in Group No. I on the basis of their pay.
- (b) Confidential Assistants to the Chief Minister, Ministers and Minister of State, Political Secretary to the Chief Minister will be included in Group No. II except for the purpose of daily allowance, which will be regulated by separate order.
- (c) The Jamadars of the Eastern Frontier Rifles will be included in Group No. III.
- (d) The Motor Drivers (Special Cadre) exclusively for the Ministers and the Attendants to the Ministers, the Ministers of State or the Deputy Ministers will be treated as belonging to Group No.V.

#### 1.2 Travelling allowance for undertaking journeys in higher class of accommodation :

A Government employee performing a journey for which travelling allowance is admissible is required to travel by the class of accommodation to which his pay range entitles him. However, if a Government employee travels in a higher class of

accommodation by air, rail, ship, bus etc. than one by which he is required to travel under the rules, the reimbursement shall be limited to the fare of the entitled class of accommodation only.

### **3. Accommodation Entitlements for Journeys on Tour :**

#### **A. Mileage Allowance for Journeys by Air :**

- (a) In partial modification of the provisions of rule 53A of the West Bengal Service Rules, Part-II and in supersession of Finance Department Memo No.5299-F, dt. 1.6.90 and the orders subsequently issued from time to time in this connection, for travel by air within the country /officers drawing pay of Rs.16,400 and above, may in the exigency of public service travel by air on tour at their discretion. Such officers in receipt of pay between Rs. 12,300 and Rs.16,400 may also be permitted to travel by air on tour at their discretion provided the distance involved is more than 500 kms. and the journey cannot be performed overnight by direct train service/direct sleeper-coach service.

State Service Officers drawing pay of Rs. 10,000 and above, and All India Service Officers irrespective of the amount of pay drawn by them may be permitted to travel by air from districts of Darjeeling, Jalpaiguri, Coochbehar and Dinajpur to Calcutta and back subject to the existing terms and conditions. Such officers posted in Calcutta may also perform journey by air to the aforesaid North Bengal districts with the approval of the Departmental Secretaries.

- (b) Class of accommodation for the purpose of air travel will be as follows:
- (i) Government employees who will be authorised to travel by air within India, will be entitled to travel by Economy (Tourist) Class. None will be allowed to undertake journey by a higher class than the lowest class of accommodation available on the Indian Airlines.
- (ii) In the case of international travel, the Ministers and Officers of and above the rank of Secretary will be entitled to travel by Business Class or Club Class. All other Officers who will be authorised to travel by air abroad will have to travel by Economy Class.
- (c) The Officers who are entitled to perform journey by air or specially permitted by the Government to travel by air may, if necessary, undertake journey by air-service offered by the Private Airlines provided the lowest class of accommodation is availed of in such cases of air-travel.

#### **B. Entitlement to rail accommodation and mileage allowance:**

In partial modification of rules 37 and 37A of the West Bengal Service Rules. Part-II and in supersession of Finance Department Memo No. 5299-F, dt. 1,6.90, the pay ranges and travel entitlements for journeys by rail on *tour* and *transfer* shall be as follows :

Pay Range	Rajdhani Express	Shatabdi Express	Other Trains
Rs. 16,400 and above	AC First Class	Executive Class	AC First Class
Rs. 8000 and above but less than Rs. 16400	AC II-Class 2-Tier Sleeper	AC Chair Car	AC-II-Class 2 - Tier Sleeper
Rs. 6500 and above but less than Rs. 8000	-Do-	-Do-	**First Class/AC-II Class, III-tier Sleeper/AC Chair Car
Rs. 4,100 and above but less than Rs. 6500	-Do-	-Do-	-Do-

\*\*Note : All Government employees who are entitled to travel on tour/transfer by First Class/A.C. II-Class 3-Tier Sleeper/A.C. Chair Car may, at their discretion travel<sup>1</sup> by A.C. II-Class 2-Tier Sleeper where any of the direct trains, connecting the originating and destination stations by the direct shortest route do not provide these three Classes of accommodation.

### C. Mileage allowance for travel by Sea or by River in a Steamer :

(a) The general entitlements for journeys by Sea or by River in a Steamer under Rule 41 of West Bengal Service Rules, Part-II are revised as indicated below

Pay Range	Entitlement of Class of Accommodation
Officers drawing pay of Rs. 8000 and above	Highest Class
Rs.6500 and above but less than Rs. 8000	If there be 2 classes only on the steamer the lower class
Rs. 4100 and above but less than Rs. 6500	If there be 2 classes only on the steamer the lower class; if there be 3 classes the middle or the 2 <sup>nd</sup> class; and if there be 4 classes the 3 <sup>rd</sup> class.
Less than Rs. 4100	The lowest class

(b) In modification of the 'State Government decision' below rule 41 of the West Bengal Service Rules, Part-II, the entitlement for travel between mainland and Andaman and

Nicobar Islands and Lakshadweep Group of Islands by Ships operated by the Shipping Corporation of India Limited will be as follows:

Pay Range	Entitlement of Class of Accommodation
Officers drawing pay of Rs. 8000 and above	Deluxe Class
Rs.6500 and above but less than Rs. 8000	First/'A'- Cabin Class
Rs. 4100 and above but less than Rs. 6500	Second/'B'- Cabin Class
Less than Rs. 4100	Bunk Class

(c) For journeys on official tours the Ministers and the officers drawing pay of Rs. 16,400 and above will be entitled to travel by the Business Class in the Catamaran "Silverjet", linking Calcutta with Haldia.

**D. Mileage allowance for journey by Road :**

In modification of rule 47 of the West Bengal Service Rules, Part-II and in supersession of Finance Department Memo No.5299-F, dr. 1.6.90 for journey by road on tour, allowance for distance travelled will be calculated at the following revised rates:

Pay Range	Entitlements
Officers drawing pay of Rs. 8000 and above	Actual fare by any type of public bus including air-conditioned bus or Rs. 5 per km for journey by taxi/own car or Rs. 2 per km for journeys by auto rickshaw, own scooter/motor cycle/moped etc or 60 paise per km for journey by bicycle or foot.
Rs.6500 and above but less than Rs. 8000	Actual fare by any type of public bus excluding air-conditioned bus or Rs. 5 per km for journey by taxi/own car or Rs. 2 per km for journeys by auto rickshaw/own scooter/motor cycle/moped etc. or 60 paise per km for journey by bicycle or foot

Rs. 4100 and above but less than Rs. 6500	Actual fare by any type of by public bus excluding air conditioned bus or Rs. 2 per km for journeys by auto rickshaw, own scooter, motor cycle, moped etc. or 60 paise per km for journeys by bicycle or foot
Less than Rs. 4100	Actual fare by ordinary public bus only or Rs. 2 per km for journeys rickshaw, own scooter, motor cycle, moped etc or 60 paise per km for journeys by bicycle or foot

Notes :

1. Tanga, cycle-rickshaw and man-driven rickshaws will be equated to journey by scooter/motor cycle.
2. Officers belonging to the categories at III and IV above will not be eligible for travel by taxi/own car or taking a single seat in a taxi. If they travel by taxi for whatever reason, the mileage will be limited to Rs.2 per km or actual expenses incurred whichever is less.
3. Special types of bus fare may also be allowed to the Officers belonging to the categories at IV above in exigencies of public service subject to the existing terms and conditions on the basis of the certificate of the Controlling Officer.
4. Subject to the existing conditions as laid down in Note2belowrule88ofthe West Bengal Service Rules, Part-II for hiring taxis for official use within 8 km. of the Headquarters of a Government employee, the existing ceiling of the total taxi hire or similar other conveyance hire in any one month as laid down in clause (6) of the said Note 2 will be Rs.100 in respect of a Government employee.
5. Subject to the existing conditions as laid down in Note3 below rule 88 of the West Bengal Service Rules, Part-II for official journeys on tour from residence or office to Air-port/Railway Station/Bus Standard vice-versa, actual taxi hire charges may be reimbursed to the officers belonging to the pay range Rs. 8,000 and above, without having any existing maximum ceiling.

**3. Daily Allowance :**

I. Subject to the existing provisions in rule 57 of the West Bengal Service Rules, Part-II and in supersession of Finance Department Memo No. 5299-F, dated 1.6.90, the rates of daily allowance are revised as follows :

**(A) When the Government employee stays in Government/Public Sector Guest Houses, Dak Bungalows or makes his own arrangements:**

<b>Pay Range</b>	<b>Ordinary Localities</b>	<b>Calcutta, Darjeeling District (except Siliguri Sub)</b>
Rs. 16400 and above	Rs. 135	Rs. 260
Rs. 8000 and above but less than Rs. 16400	Rs. 120	Rs. 230
Rs. 6500 and above but less than Rs. 8000	Rs. 105	Rs. 200
Rs. 4100 and above but less than Rs. 6500	Rs. 90	Rs. 170
Below Rs. 4100	Rs. 54	Rs. 4100Rs.5

B. When the Government employee stays in a hotel or other establishment providing board and/or lodging at Scheduled Tariffs.

<b>Pay Range</b>	<b>Ordinary Localities</b>	<b>Calcutta, Darjeeling District (except Siliguri Sub division)</b>
Rs. 16400 and above	Rs. 335	Rs. 650
Rs. 8000 and above but less than Rs. 16400	Rs. 225	Rs. 505
Rs. 6500 and above but less than Rs. 8000	Rs. 200	Rs. 380
Rs. 4100 and above but less than Rs. 6500	Rs. 130	Rs. 245
Below Rs. 4100	Rs. 65	Rs. 125

**Notes:**

1. For the purpose of daily allowance, journey to Salt Lake Notified Area will be treated as a journey within the peripheral areas of Calcutta Municipal Corporation. So, special rates of daily allowance which apply now to officers whose Headquarters are not within the limit of Calcutta Municipal Corporation, will also be admissible for journeys to Salt Lake to those whose Headquarters are neither at Calcutta nor at Salt Lake.  
For journeys to the offices located in Calcutta in connection with official duties from the places like Salt Lake, Dum Dum, Baranagore, Howrah Sadar etc. and vice-versa, no daily allowance will be admissible. Government employees performing such journeys will be entitled to recover the actual expenses only in terms of rule 88 of the West Bengal Service Rules, Part-II irrespective of the distance travelled.

## II. Daily allowance for continuous halts :

In modification of rule 73 of the West Bengal Service Rules, Part-II, the admissibility of daily allowance at a place outside Government employees' headquarters for continuous halts will be as follows:

First 60 days	Full DA
Beyond 60 days and upto 180 days	Half DA
Beyond 180 days	Nil

## III. T. A. entitlement to the Government employees deputed to undergo a course of Training in India :

In modification of rule 73A of the West Bengal Service Rules, Part-II and in supersession of Finance Department Memo No. 5299-F, dt. 1.6.90 admissibility of daily allowance when an Officer is deputed by the Government for any training/re fresher course or the like within India entirely in the interest of the State, will be as follows :

(i) *When the Government employee is deputed for training outside his headquarters, where board and lodging are not provided :*

First 180 days	Full daily allowance
Beyond 180 days	Nil.

*Training institutes where board and lodging facility exist:*

First 30 days	Full daily allowance
Next 150 days	Half daily allowances

Note : The existence of board and lodging facilities at particular training centre would also include cases where a messing-system available at the centre is run on cooperative basis.

ii. In all cases of Government sponsored training programmes which are residential, and where board and lodging at the Training Institute are compulsory and are provided at fixed rates, a special allowance in lieu of daily allowance will be admissible to Government employees deputed to undergo such training courses. The special allowance, irrespective of the period of the training course, will be calculated as follows :

Outstation participants	Actual expenditure on board and lodging <i>plus</i> daily allowance at 25% of the rate admissible for the place of halt.
Local participants	Actual expenditure on board and lodging only



Notes :

1. The term "*board and lodging charges at fixed rates*" will mean and include the expenditure on working lunch, breakfast, tea etc. as well as lodging charges as are borne by the Training Institute as per prescribed rates.
2. In residential training programmes, the participants who are specially permitted to stay outside the Training Institute will be eligible to draw only the daily allowance, if any, admissible to the under normal

**4. Payment of Incidental charges abolished:**

The existing system of paying incidental to cover on the way expenses for journeys by rail, steamer, road or by air under rules 37A, 38, 42, 49 and 54 of the West Bengal Service Rules, Part-II is hereby abolished. A Government employee on tour will henceforth draw the actual fare for journeys by rail, sea or air, or the revised rates of road mileage, as the case may be, and in addition draw daily allowance for the entire absence from Headquarters starting from departure from Headquarters and ending with arrival at Headquarters to cover both on the way expenses as well as expenses for halt at out-station.

**5. Local journey redefined :**

In partial modification of rule 7 IB of the West Bengal Service Rules, Part-II, the term 'local journey' shall henceforth be construed to mean a journey to a temporary duty point beyond 8 kms. from the permanent duty point at Headquarters but within a radius of 20 kms thereof.

Notes:

1. For such local journeys other conditions remaining the same, a Government employee shall draw, for journey involved, mileage allowance and in addition draw 50% of daily allowance calculated at the rates laid down in rule 71 A of the West Bengal Service Rules, Part-II i.e. where the absence from Headquarters is for less than twelve hours but excluding six hours and exceeding twelve hours at 35% and 50% respectively of the normal rate of daily allowance.
2. No travelling allowance or daily allowance shall be admissible for the local journeys to the same temporary duty point beyond 60 days.
3. Unless it is expressly allowed by the Government by any special order, halt i.e. night-halt shall not be allowed for performing duties at the out-station falling within the jurisdiction of local journeys.

**6. Journey by Government vehicles:**

Regarding use of Government vehicles and admissibility of daily allowance the provisions laid down in the "State Government decision" under Note 6 below rule 157 of West Bengal Service Rules, Part-II shall be modified as follows :

"Government vehicles should not be used between places connected by Railway except with the prior approval of the Controlling Officer, who will accord such approval only in the exigencies of public service and after having due regard to the need for performing the journey by Government vehicle."

## 7. Entitlements for journey on Transfer:

- I. Unless it is otherwise indicated in this para, the entitlements of a Government employee for journey on transfer shall continue to be guided by the provisions laid down in rule 99 read with rule 100 of the West Bengal Service Rules, Part-11.
- II. In supersession of Finance Department Memo No. 5299-F, dt. 1.6.90, a Government employee on transfer will be entitled to the following concessions :

### A. Transfer grant and packing allowance:

The rates of lump sum transfer grant and packing allowance will be as follows:

Pay range	Lump sum transfer grant	Packing allowance
Rs. 16,400 and above	Rs. 2,250	Rs. 1,500
Rs. 8,000 and above, but less than Rs. 16,400	Rs. 1,800	Rs. 1,200
Rs. 6,500 and above, but less than Rs. 8,000	Rs. 1,350	Rs. 900
Rs. 4,100 and above, but less than Rs. 6,500	Rs. 900	Rs. 675
Below Rs. 4,100	Rs. 675	Rs. 675

**Notes:** Packing allowance is admissible to a Government employee subject to the conditions detailed below :

1. Packing allowance is in the nature of lump sum transfer grant and is sanctioned at flat rate. The same can be sanctioned without insisting on production of receipts relating to packing of personal effects.
2. Packing allowance will be admissible if any quantum of luggage is carried by the officers irrespective of the fact whether he has claimed transportation charges for the personal effects or not.
3. Packing allowance is admissible even if the officer does not shift his family but shifts his personal effects.
4. Packing allowance is admissible in full even if the officer carries only very little personal effects.
5. Full amount of lump sum transfer grant and packing allowance will be admissible only when a change of residence is involved as a result of transfer and the transfer involves a change of station located at a distance of/or more than 20 km. from each other.
6. For transfer to a station which is at a distance of less than 20 km. from the old station and for transfer within the same station, the lump sum transfer grant and packing allowance will be restricted to one-third of

the admissible amount provided a change of residence is actually involved.

**B. Accommodation and Mileage Allowance for journeys by rail, steamer or by road :**

**(I) Journey by rail / steamer :**

Accommodation and mileage allowance entitlements as prescribed in paras 2B and 10. above for journeys on tour between places connected by rail or steamer will also be applicable in case of journeys on transfer.

**(II) Journey by road :**

Where the Government employee himself with the members of his family travels by road on transfer, the entitlement will be in the following scale :

***Between places connected by rail:***

Road mileage, limited to rail mileage by the entitled class.

***Between places connected by road only :***

*For journeys in full taxi or own car:* Road mileage at Rs. 5 per km. as under notwithstanding how the Government employee and the members of his family travelled—

For self	One road mileage
For one additional member of the family	Nil
For two additional members of the family	One additional road mileage
For more than two additional members of the family	Two additional road mileages

(ii) *For journey by bus :* Actual bus fare for self and each member of the family.

**C. Carriage of personal effects on transfer :**

**(a) When personal effects are carried by rail :**

The pay ranges and the entitlement for carriage of personal effects will be as follows :

<b>Pay range</b>	<b>Personal effects that can be carried</b>
Rs. 16,400 and above	Full four-wheeler wagon, or 6,000 kg. by goods train; or one double container.

Rs. 8,000 and above, but less than Rs. 6,400	Full four wheeler wagon, or 6,000 kg. by goods train; or one single container.
Rs. 6,500 and above, but less than Rs. 8,000	3,000 kg. by goods train.
Rs. 4,100 and above, but less than Rs. 6,500	1,500 kg. by goods train
Below Rs. 4,100	1,500 kg. by goods train.

(b) *When personal effects are carried by road between places connected by rail :*

A Government employee carrying goods by road between places connected by rail may draw actual expenditure on transportation of personal effects by road or the amount admissible on transportation of the maximum admissible quantity by rail plus an additional amount of not more than 25% thereof whichever is less.

(c) *When personal effects are carried by road between places not connected by rail :*

The allowance for carriage of personal effects between places connected by road only will be at the following uniform rates subject to existing conditions :

<b>Pay range</b>	<b>Ordinary Localities</b>	<b>Calcutta, Darjeeling District (except Siliguri Sub-</b>
Rs. 8,000 above and	Rs. 18.00	Rs. 30.00
Rs. 6,500 above, but than Rs. 8, and less 000	Rs. 9.00	Rs. 15.00
Below 6,500 Rs.	Rs. 4.60	Rs 7.60

**D. Transportation of Conveyance on transfer :**

Subject to the existing conditions, the following modifications are made in the rules regarding transportation of conveyance on transfer : (a) *A Government employee on transfer shall be entitled to transportation of conveyance in the following scales :*

<b>Pay range</b>	<b>Scale</b>
Rs. 6,500 and above	One motor car, or one motor-cycle/scooter, or one horse.

Less than Rs. 6,500	One motor cycle/scooter, <u>or</u> <u>one bi-cycle</u>
---------------------	---

(b) The rates of allowance for transportation of motor car or motor cycle/ scooter by road on transfer shall be as follows subject to the existing terms and conditions:

Mode of Transportation	Between places connected by Rail		Between Places not connected by Rail	
	Motor Car	Motor Cycle/ Scooter etc.	Motor Car	Motor Cycle/ Scooter etc.
1. When the conveyance is sent under its own propulsion	Rs. 5 per km limited to expenditure on transportation by passenger train on rail	Rs. 2 per km limited to expenditure on transportation by passenger train on rail	Rs. 5 per km	Rs. 2 per km
2. When the conveyance is sent loaded on a truck	Actual expenses limited to the amount calculated at the rate of Rs. 5 per km. Or expenditure on transportation on rail whichever is less	Actual expenses limited to the amount calculated at the rate of Rs. 2 per km. Or expenditure on transportation by passenger train whichever is less	Actual expenses limited to the amount calculated at the rate of Rs. 5 per km.	Actual expenses limited to the amount calculated at the rate of Rs. 2 per km.

**E. Additional to and fro fare by entitled class to a Government employee on transfer :**

An employee will be entitled to an additional fare by the entitled class for both onward and return journey, in addition to the normal transfer travelling allowance entitlement, if he has to leave his family behind because of non-availability of Government residential accommodation at the new place of posting : Provided that—

- (i) Where the Government accommodation is available and the Officer does not accept the Government accommodation allotted to him on the ground of being of lower category or for any other reason, he will not be entitled to

the additional fare, as the Government accommodation is available and the Officer had refused it;

- (ii) Where a Government employee brings family before actual allotment, in such cases, if T.A./D.A. has been claimed for such family members, no additional fare will be admissible to the Government employee;
- (iii) non-availability of private accommodation will not be treated as a ground for additional fare.

#### **8. Travelling Allowance for Temporary Transfer :**

In all cases of transfers for short periods not exceeding one hundred and eighty days, the journeys from the Headquarters to the station of deputation and back may be treated as on tour for purposes of regulating travelling allowance and daily allowance. Daily allowance will be paid for the halts at the out-station as per para 3(11) of this Annexure. Every transfer order should specify whether it is a regular transfer or a temporary transfer for a period not exceeding 180 days.

#### Notes:

1. No advance of pay will be allowed in the case of temporary transfer.
2. No joining time shall be admissible in cases of temporary transfer. Only the actual **transit** time, as admissible in case of journeys on tour, shall be admissible.
3. In order to obviate difficulty in Audit, the nature/period of transfer is to be indicated in the T.A. Bill
4. The period of 180 days for drawal of daily allowance for halt at an out-station on temporary transfer will be calculated on the basis of the halt which will begin from the time the forward journey ends at the out-station and will end at the time the return journey commences. The claim for daily allowance for halt at the new station will require counter-signature of the Controlling Officer in respect of the post at the new station, in case of any portion of the claim remaining undrawn on retransfer to the old Headquarters.
5. Save the provisions laid down above in the matter of regulating travelling allowance/daily allowance and joining time in the case of temporary transfer, on other factors like assumption of charge of a new post, change of Headquarters, drawal of pay and allowances of the post etc. associated with the term 'transfer' defined in rule 5(40) of the West Bengal Service Rules, Part-I, the normal rules shall continue to apply.

#### **9. Travelling Allowance entitlements to the State Government employees on retirement :**

Notwithstanding the provisions laid down in rule 132 of the West Bengal Service Rules, Part-II, travelling allowance will be admissible in respect of the journey of a retiring Government employee and members of his family from the last station of his duty to his home town or to the place where he and his family is to settle down permanently,

even if, it is other than his declared home to»'n subject to the following terms and conditions:

**(a)Accommodation and Mileage allowance for journeys by rail, steamer or by road:**

Entitlements shall be as for journey on transfer laid down in para 7 of this Annexure.

*Explanation:* In regard to the question as to how the travelling allowance in respect of the members of the family of a retiring Government employee, who do not actually accompany him is to be regulated, the provisions laid down in rule 105 of the West Bengal Service Rules, Part-11 may be applied *mutatis mutandis* in all such cases. A member of a Government employee's family who follows him within six months or precedes him by not more than one month may, therefore, be treated as accompanying him. The period of one month or six months, as the case may be, may be counted from the date the retiring Government, employee himself actually moves. The claims of travelling allowance in respect of the family members shall not be payable until the head of the family himself or herself actually moves.

- (b) The Government employee shall, besides the fares for the journey, be also eligible to draw lump sum transfer grant and packing allowance, if the distance from the last station of duty to place of settlement is more than 20 km. However, as in the case of serving employees on transfer. Government employees who, on retirement, settle at the last station of duty itself or within a distance of less than 20 km. may be paid one-third of the amount of lump sum transfer grant and packing allowance, subject to the condition that a change of residence is actually involved.
- (c) Transportation of personal effects at the scale and rate, laid down in para 7 of this Annexure is allowable. The Government employee shall also be entitled to claim the cost of transportation of personal effects between railway station and residence at either end of the journey as in the case of transfer.
- (d) The actual cost of transporting a motor car or other conveyance maintained by the Government employee before his retirement is reimbursable as per provisions laid down in para 7 of this Annexure.

*Explanation:* In regard to the time-limits applicable for transportation of personal effects, the time-limit prescribed in the Explanation below sub-para (a) above in the case of members of the family, namely, one month anterior and six months posterior to the date of the move of the retiring Government employee himself, should apply in the case of transportation of his personal effects.

- (e) The grant of the concession will be further subject to the following conditions:
  - (i) It will be admissible by the shortest route from the last place of duty of the Government employee to his home town or to the place where he and his

family are to settle down permanently, even if, it is other than his declared home town.

- (ii) The concession may be availed of by a Government employee who is eligible for it, at any time during his leave preparatory to retirement, or within six months of the date of retirement.
- (iii) The concession will be admissible to the permanent State Government employees who retire on a retiring pension or on superannuation, invalid or compensation pension.
- (iv) The concession will also be admissible to the temporary State Government employees who retire on attaining the age of superannuation or become invalid or are retrenched from service without being offered alternative employment, provided that they have put in a total service of not less than 10 years under the State Government at the time of retirement, invalidation or retrenchment.
- (v) Where an Officer is re-employed under the State Government while he is on leave preparatory to retirement or within six months' of the date of his retirement, the concession may be allowed to be availed of by him within six months of the expiry of the period of his re-employment.
- (vi) A Government employee will be eligible to the retirement travelling allowance concession in full, notwithstanding the fact that he had availed of leave travel concession to home town or any place in India just before his retirement.
- (f) The concession will not be admissible to Government employees—
  - (i) Who quit service by resignation; or
  - (ii) Who may be dismissed or removed from service; or
  - (iii) Who are compulsorily retired as a measure of punishment; or
  - (iv) Who are temporary employees with less than ten years of service retiring on superannuation/invalidation/retrenched
- (g) The concession will not be admissible to persons who -
  - (i) Are not in the whole-time employ of the Government or are engaged on contract;
  - (ii) Are paid from contingencies;
  - (iii) Are eligible for any other form of travel concession on retirement
- (h) The claims for the concession will have to be drawn on T. A. Bill forms like Transfer Travelling Allowance claims. The claims of officers who were their own Controlling Officers before retirement will, however, be countersigned by the next superior administrative authority.
- (i) Before reimbursing the Travelling Allowance admissible under these orders, the Controlling Officer should satisfy themselves, as far as possible, that the claimant and members of his family actually performed the journey to the home town or the other place to which he might have proceeded to settle there, e.g., by requiring the production of original railway vouchers relating to transportation of personal effects, conveyance etc.

#### **10. Definition of Family :**

In supersession of rule 4(7) of the West Bengal Service Rules, Part-II, the term '*Family*' is defined as follows : "Family means a Government employee's wife (*but not more than one*



wife) or husband, as the case may be, residing with the Government employee and legitimate-children and step-children residing with and wholly dependent on the Government employee. It also includes parent, stepmother, sisters and minor brothers residing with and wholly dependent on the Government employee."

Notes :

1. "Children" shall mean and include major sons and married daughters, including widowed daughters, so long as they are residing with and wholly dependent upon the Government employee.
2. The "children" shall also include children taken as wards by the Government employee, under the Guardians and Wards Act, 1890, provided such a ward lives with the Government employee and is treated as a member of the family and provided the Government employee through a special will, has given such a ward the same status as that of natural-born child.
3. The married daughter can be said to be wholly dependent on the father/ mother only in case of special and exceptional circumstances, such as where she has been divorced, abandoned or separated from the husband, and is financially dependent on the parent.
4. The term "*sisters*" occurring above, shall mean both unmarried sisters residing with and wholly dependent on the Government employee and widowed sisters residing with and wholly dependent on the Government employee (provided their father is either not alive or is himself wholly dependent on the Government employee concerned).

*Explanation.* A legitimate-child, step-child, parents, sisters and minor brothers who reside with the Government employee and whose income from all sources including pension (inclusive of dearness relief, temporary increase in pension and pension equivalent of gratuity) does not exceed Rs.1500 p.m. shall be deemed to be "wholly dependent" upon the Government employee.

**11. Conveyance Allowance to Blind and Orthopaedically handicapped employees :**

In partial modification of Rule 29A of the West Bengal Service Rules, Part-II and supersession of Finance Department Memo No. 5299-F, dt. 1.6.90, the rate of conveyance allowance admissible to blind and orthopaedically handicapped State Government employees shall be 5% of basic pay subject to a maximum of Rs. 200 p.m.

**12. Permanent monthly Travelling Allowance/(unconditional) Conveyance Allowance:**

The incumbents of the posts to which permanent monthly traveling allowance/(unconditional) conveyance allowance is attached or such allowance has been sanctioned under general or special orders of the Government shall draw permanent monthly travelling allowance/(unconditional) conveyance allowance at the following uniform rates according to their pay ranges under the existing terms and conditions :

Pay Ranges	Rate per month
Rs. 8500 and above	Rs. 185
Rs. 5500 and above. but less than Rs.	Rs. 150
Rs. 4000 and above. but less than Rs.	Rs. 120
Rs. 3000 and above. but less than Rs.	Rs. 105
Less than Rs. 3000	Rs. 90

***Exp lanatio ns:***

1. If the existing rates of permanent monthly travelling allowance/ (unconditional) conveyance allowance admissible to any category of employees are higher than the rates mentioned above, such employees will continue to draw the existing rates without further revision.
2. This order does not qualify a Government employee, who was not in receipt of any permanent monthly travelling allowance/ (unconditional) conveyance allowance to draw such benefit without prior approval of the Government.

**13. Conveyance Allowance:**

Subject to the provisions laid down in Appendix 5 of the West Bengal Service Rules, Part-II regulating the drawal of conveyance or horse allowance, the rates of conveyance allowance prescribed in rule 29 shall be as per following maxima :

- a. for horse or pony .... Rs. 150 p.m.
- b. for a motor car .... Rs. 450 p.m.
- c. for a motor cycle .... Rs. 125 p.m.
- d. for a bi-cycle or tri-cycle Rs. 25 p.m.

**Note :** No motor car allowance will be admissible to any Government employee drawing pay of Rs. 10,000 or less a month.



GOVERNMENT OF WEST BENGAL  
Finance Department Audit Branch  
MEMORANDUM

No4731 -F Calcutta, the 25<sup>th</sup> May, 1999

Consequent upon revision of travelling allowance and daily allowance admissible to the State Government employees under this Department Memo No. 4730-F, dated 25.5.99, a question has arisen as to how the drawal of travelling allowance and daily allowance admissible to the Ministers, the Ministers of State and the Deputy Ministers will be regulated.

2. After careful consideration of the matter, the Governor has been pleased to make the following modifications in the existing rules and orders in this regard :

- (i) The Ministers, the Ministers of State and the Deputy Ministers will draw travelling allowance at the same rates and scales as are admissible and under the same conditions as are applicable to the State Government Officers drawing pay of Rs. 16,400 and above, unless there is any specific provision to the contrary for drawal of such travelling allowance in the rules laid down in Appendix 17 of the West Bengal Service Rules, Part-II.
- (ii) **Journey by road** : Other conditions remaining unchanged, the Ministers may, at their option, charge road mileage at a rate of Rs. 5 per km. for journey by road
- (iii) **Daily allowance** : While touring on public business, daily allowance shall be drawn by Ministers, Ministers of State or Deputy Ministers for the period of absence from the Headquarters at the rates detailed below :

(I) *When daily allowance is claimed for tours within the State—*

(a) For ordinary localities	Rs. 135
(b) For Darjeeling District (except Siliguri Sub-division)	Rs. 260

(II) *When travelling in localities outside the State of West Bengal on official business—*

The drawal of daily allowance will continue to be regulated under Finance Department Memo No. 4515-F, dated 16.6.98.

(III) The rates of daily allowance as laid down in para 2(iii) above, will be admissible to the Political Secretary to the Chief Minister as well as to Confidential Assistants to the Chief Minister, Minister and Minister of State.

(IV) The order will take effect from 1.6.99

Necessary amendments in the relevant amendments in the relevant rules will be made in due course.

AK Gani,  
Jt. Secy, Finance Deptt.

## West Bengal Services

### Death-cum-Retirement Benefit) Rules—1971

WBS (DCRB) Rules, 1971 came into force from 1st January, 1972 and apply to all Govt. employees except

- (a) Persons paid at daily rates;
- (b) Govt. employees not in whole time employment;
- (c) Members of All India Services;
- (d) Members of W.B. Higher Judicial Service;
- (e) Persons for whom any special provision is made by or any law or by an agreement made with them.

2. **Retirement benefits** of a Govt. employee include pension, which is paid monthly, and gratuity, which is paid in lump in recognition of meritorious service. Pension except when the term 'pension' is used in contra-distinction to gratuity, pension includes gratuity.  
[ Rule 7(f) ]

2.1 **Future good conduct** will be an implied condition of every grant of pension (Rule 8), if commercial employment is accepted within 2 years of retirement without sanction of Competent Authority, no pension is payable. Commercial employment among other criteria, should be of a thoroughly reputable kind. Employment in work of maintaining liaison or contact with Govt. agencies cannot be described as employment of a thoroughly reputable kind (Rule 89). No pension is also payable for acceptance of **employment outside India** without Govt. permission (Rule 90).

2.2 **Withholding or withdrawing both pension and gratuity either in full or a part of it whether permanently or for a specified period** may be made in the following cases :

- (a) By an order of the appointing authority i.e. pension sanctioning authority when the pensioner is found guilty of grave misconduct. Where a part of the pension is withdrawn, the amount of such pension shall not be reduced below Rs. 400/-p.m.[Rule 8(1)]107
- (b) By a Govt. order for recovery from pension or gratuity or both of an officer passed not later than four years after the date of retirement to meet any sum due under the liability incurred by such officer to Govt. (Rule 9)

**Note (1)** When such recovery from pension is ordered it shall not ordinarily be made at a rate exceeding one-third of the basic pension. [ No. 444 (F) (Pen) dt. 29.3.93.]

**Note (2)** Where departmental and judicial proceedings are pending and continued after retirement, provisional pension may be sanctioned by Head of Office after obtaining admissibility report from AG WB till final disposal of the case and thereafter AGWB will issue PPO. (DCRB Rule 10(2) GO NO.: 691-F dt. 30.1.81 and No. 334-F (Pen) dt. 19.3.99). No Gratuity may be sanctioned.

2.3 With the sanction of Governor, departmental or judicial proceedings may be instituted against a pensioner for any event which took place not more than four years before such institution and when the pensioner is found guilty to recover full pecuniary loss caused to Govt. or a part of it in consultation with P.S.C. (Rule 10). There is however no bar to start criminal proceedings.

3. **Calculation of Pension:** Amount of pension is determined by the length of service and last pay as defined under Rule 5 (28) of W.B.S.R. Pt. 1. [Rule 62 65 & 67]

**3.1 Ceiling of qualifying service is 33 years** (G.O. No. 8290- F and 8391-F dt. 13.9.80) -calculated on the basis of six monthly periods of completed service. Fraction of less than 3 months is ignored while 3 months of service or above is reckoned as complete 6 months service. (Rule 62).

**3.2 Pension is calculated at 50% of last pay including special pay/non-practising pay of Medical Officers for 33 years of service.** Pension for less than 33 years of service will be proportionately less. Minimum 10 years completed service is required for entitlement of pension. For less than 10 years service only gratuity is admissible @ half monthly salary for each six months service. If a junior employee moves to a position in the parent department which carries a spl. Pay and if it is certified by the Adm. Deptt., that the senior employee sent on deputation would have been entitled to such spl. Pay due to his position in the parent cadre had been continued in the parent department, such special pay though not actually drawn shall be notionally taken into account for calculation of pensionary benefit including death gratuity and family pension. (No. 44F (Pen) dt. 9.1.91).

**Pension = Last pay x qualifying service subject to max. of 33 yrs.x 50  
100x 33**

- 3.3 **Maximum amount of pension is Rs. 11,200/- p.m. minimum pension is Rs. 1300/- p.m.** from 1.1.1996 notionally but cash benefit was allowed w.e.f. 1.4.1997 as per GO No. 1227-F dt. 27.10.98. Pension is to be rounded off to next higher rupee (No. 10650-F dt. 15.10.84). In addition, pensioners are entitled to relief as sanctioned from time to time, medical relief with effect from 1.4.1999 @ Rs. 100/- pm as per GO No. 517-F(Pen) dt. 21.4.99) and exgratia festival grant (At present Rs. 400/-). Relief (Dearness Relief) is sanctioned at the rate of DA given to serving employees. Pensioners who migrated from erstwhile East Pakistan (now Bangladesh) and getting pension from WB Govt. under "Provisional Payment Pension Scheme" will get with effect from 7.12.93 minimum of Rs. 1300/- pm as pension and relief thereon. (1227-F dt. 27.10.98).
- 3.4 **Past Services under State/Central Government/ Statutory body/ Government undertaking/Nationalized Bank/ Autonomous body and Military Service will count as qualifying service on fulfillment of certain conditions** (No. 709 1-F dt. 17.9.86 and No. 11322 dt. 4.10.89 [No. 849-F (Pen) dt. 9.4.94 No. 1874-F (Pen) dt. 1.12.94] (Rules 186, 193 & 194. Relate to counting of military service)
- 3.5 **Extra-ordinary leave** other than on (i) medical grounds, (ii) higher scientific and technical studies and (iii) civil commotion will not count as qualifying service (Rule 28A).
- 3.6 **Interruption in service** will not count as qualifying service unless condoned by the Govt. under Rule 35.
- 3.7 **Period spent on suspension** will not count unless the competent authority expressly declares so under Rule 72 of W.B.S.R.I (Pt.1). [Rule 32]
- 3.8 **Resignation, dismissal and removal from service entails forfeiture of past service** (R-33) Resignation to take up with prior permission, another appointment/service which counts in full part is not resignation of public service. [Rule 33(2)]
- 3.8 **Rules for recording service** (Rule 27); Concession of adding to qualifying service- An officer appointed to a service or post may add to his service qualifying for superannuation (but not for any other class or pension) the actual period not exceeding three years as per GO No. 654(Pen) dt. 8.6.98 by which his age at the time of recruitment exceeds twenty-five years if the service or post is one—
- (a) For which post-graduate research or specialist qualification of experience in scientific, technological or professional field is essential, and (b) to which candidates of more than twenty-five years of age are normally recruited: Provided that this concession shall not be admissible to any such officer unless his actual qualifying service at the time he quits Government service is less than ten years. So far 126 services or posts have

been included under this category, the latest being the direct recruits to the basic grade of WBHS inserted under notification No. 555 (F) Pen dt. 29.3.94.

#### **4. Classification of Pension (Rule 37)**

4.1 **Compensation** pens/on-admissible on retirement on abolition of permanent post when no alternative appointment is given (vide Rule 38).

4.2 **Invalid pension** -is awarded under Rule 48 when an employee is permanently incapacitated for further service due to bodily or mental infirmity.

4.3 **Superannuation pension** (Rule 57)-On attaining the age of superannuation 60 years for all category of staff except when otherwise specified by any Govt. order.

4.4 **Pro-rata pension**-when absorbed permanently in Govt. undertaking in the interest of public service (Rule 189A).

4.5 **Retiring pension**-is granted under Rule 58 when an employee is compulsory retired under Rules 75 (aa) of W.B.S.R. Pt. 1 or on voluntary retirement Under Rule 75 (aaa) ibid.

4.6 **Retiring pension** (Rule 59) Members of certain services or holders of posts such as WBCS (Ex) WBCS (Judicial), WBPS, WBHS etc. are entitled, on their resignation being accepted, retiring pension after completing qualifying service of not less than 25 years. Retiring pension is also granted to them when they are retired by Govt. on completion of 25 yrs. service.

4.7 **Scheme for voluntary** retirement- According to Memo. No. 6620-F dated 20.8.81 Government employees excepting holders of posts covered under Rules 59 Vide Para 4.6 who have put in not less than 20 years qualifying service may, by giving notice of 3 months (or less in deserving cases with concurrence of Finance Deptt.) to the appointing authority, retire from service voluntarily. Appointing authority may withhold permission for voluntary retirement when there is a disciplinary case pending or is contemplated against the employee. If a Government servant retires voluntarily while he is on leave not due the retirement shall take effect from the date of commencement of the leave not due. A notice of voluntary retirement may be withdrawn subsequently provided the request for such withdrawal is made before expiry of the notice. Weightage upto 5 years in addition to qualifying service already rendered may be granted subject to the condition that the total qualifying service shall not exceed 30 years and which is further limited upto the age of compulsory retirement under Rule 75 (aa) of WBSR-1.

5. **Retiring gratuity** (Rule 67)-For service of 10 yrs or more, half-month's salary for every year subject to a maximum of 33 years (i.e. 161 month's pay) limited to Rs. 85,000/- (No. 4055-F dt. 25.4.90) and Rs. 2 lacs from 1.12.95. [No. 1465-F (Pen) dt. 15.11.95] and Rs. 2,50,000/- w.e.f. 1.1.1996 (GO No. 1227-F (Pen) dt. 27.10.98)



$$\text{Retirement Gratuity} = \frac{\text{Last Pay} \times \text{Qualifying Service}}{2}$$

N.B. Last Pay means Basic and any other pay declared as pay under Rule 5(28) WBSR-I including DA drawn immediately before retirement/ death as per GO No. 1227-F(Pen) dt. 27.10.98.

#### 5.1 Death gratuity in the event of death in harness

Period of Service	Amount of gratuity
(a) Less than 1 year	Last pay x
(b) 1 yr. To less than 5 yrs	Last pay x
(c) 5 yrs. To less than 20 yrs.	Last pay x
(d) 20 yrs and above	Last Pay x length of services subject a maximum of 33 times but not exceeding Rs. 85,000/- (Rules 97 to 99) and Rs. 2 lacs from 1.12.95 to be calculated as under: (No. 1465-F(Pen) dt. 15.11.95). Rs. 2,50,000 w.e.f. 1.1.1996 (GO

For death gratuity family means wife or husband, sons including step sons, unmarried or widow daughters including step-daughters, minor brothers, mother and father. (*Rule 7 Note 2*)

**Commutation of pension on superannuation**-Not exceeding 1/3 rd and 40% w.e.f. 1.1.1996 (GO No. 1227-F (Pen) dt 27.10.98) of pension except invalid pension may be commuted within one year of retirement without medical examination. Commuted value of one rupee is Rs. 117.72 when the next birthday is 61-years. Relief is paid on original pension. [*Rule 81* ]

Commutation becomes absolute after date of retirement and cannot be withdrawn Rules (171 & 173). Reduction of pension will be effective from the date of payment of commuted value or within 3 months of *the* issue of the order for payment whichever is earlier. (*No. 10546-F dt, 3.12.80*)

**Restoration of** commuted pension-may be made on application after 15 years of \_ retirement to the Pension Disbursing Officer i.e. Treasury Officer in the districts and Manager of Public Sector Bank in Calcutta from whom pension is received, but no second commutation is permissible (No. 9765-F dt. 19.8.87 and No.128-F (Pen) dt. 21.1.93). Application for commutation without medical examination is to be submitted in duplicate in Form C under Rule 14 (i) (a) of Commutation of Pension Rules, 1983.

7. **Pension Sanctioning Authority**-The power of appointing authority to sanction pension/ family pension under Rule 7 has been delegated to the Head of Office under F.D. Memo. No. 13071 dt. 1.11.83. Head of Office can also sanction leave encashment (No. 4794-F dt. 6.5.94). In respect of Head of Office, the next higher authority is empowered to sanction such pension and leave encashment.

7.1 In terms of GO. 1315-F (Pen) dated 14.10.96 if payment of pension and gratuity on the date of superannuation is delayed, the sanctioning authority shall be held responsible in this regard. Any lapses on his part, may apart from making him liable for disciplinary action, require him to pay to the Govt. such additional expenditure which Govt. may have to incur by way of payment of interest for delayed payment of retiring benefits to the employees.

7.2 **Provisional Pension and Provisional Gratuity-If**

for any special reasons, P.P.O. and G.P.O. cannot be issued a month before retirement, 100% provisional pension for 1 year and provisional gratuity should be sanctioned after recovery of Govt. dues and deduction of 10% or Rs. 1,000/- whichever is less (for final adjustment) and handed over to the employee on the date of retirement. [ No. 10060-F. dt. 22.11.85]

8. **Nomination Rule 100** -Pension sanctioning authority should obtain from the employee working his office—

- (a) *A statement of the members of his family-as defined in Rule 7 (1) & (2) for the purpose of family pension immediately after joining the service and.*
- (b) The nomination in proper form for the purpose of death gratuity ( Rule 100 ) immediately" after entry into whole time employment and paste them in the Service Book duly countersigned (Appendix 1, Rule 109 and No. 1750-F(Pen) dt. 6.12.93 . At the time of annual verification of S.B. the availability of nominations in respect of Death Gratuity, GPF, GISS should be checked and the employees who have not filed such nominations be directed in writing to do so No. 1313-F dt. 6.12.86 if there is no nomination, death gratuity will be paid to the surviving members of the family (Under Rule -7 Note - 2) in equal shares. (GO NO. 2564-F dt. 30.3.76)

**8.1 Nomination for arrear pension** -A pensioner may nominate any other person, to receive after his death, all- moneys payable to the pensioners on account of such pension before or after the date of such nomination and which remain unpaid immediately before his death. Nomination under Rule 100 vide Para 8 above shall not extend to the cases of retiring gratuity which will be covered only by nomination made under Payment on Arrears of Pension

(Nomination) Rules, 1986 as amended Order No. 1633-F dt, 17.1-89 [ No. 885-F (Pen) dt. 5.8.93 ]. The said nomination will cover also gratuity, commutal value of pension and family pension as per GO No. 9302-F dt. 11.8.89.

Every retiring employee shall also submit such nomination but those who are unwilling [to submit must communicate his unwillingness and the Head of Office shall send such j nomination / letter of unwillingness as the case may be to the AGWB while forwarding i pension papers [No. 1358-F (Pen) dt. 30.7.91 ].

9. **Family Pension**-Introduced from 1,4.65 is admissible in case of death in harness of the employee on completion of one year's service. The requirement of 3 year's service under Rule 100 has been reduced to one year under Finance Deptt. Notification No. 5625-F dt. 27.7.81. The same has been again revised as per GO No. 959-F(Pen) dt. 20.7.95. In case of death less than one year service family pension , may be awarded provided he joined with medical fit certificate otherwise one year. (GO No. 959-F(Pen) dt. 20.7.95).

9.1 **Under Rule 7** - Family for family pension includes (1) the Husband/wife, (2) sons and unmarried daughters including adopted daughters upto the age of 25 years (3) mother (4) father. Sons including adopted sons and unmarried daughters who had crossed 18 yrs or 21 yrs as the case may be on 18.6.91 will not be entitled to this benefit and their cases will not be re-opened. (No. 1806-F (pen) dt. 3.8.91 & No. 10773 (Pen) dt. 18.6.91. The children born out of second marriage even when the marriage is void under the Hindu Marriage Act, 1955 are to be accepted as members of the family/ legal heirs under the meaning of Rule 7(1)(1) and (2) and Rule 170 of DCRB Rules, 1971.

9.2 Where the family pension is payable to more widows than one, the family pension shall be paid to widows in equal shares. In the event of death of a widow, her share will be paid to their eligible children. If a widow has no child, her share will be paid to other widows in equal shares. Where family pension is payable to twin children, it shall be paid to them in equal shares, when one of such children ceases to be eligible, his/her shall revert to the other child. When both of them cease to be eligible, the family pension shall be payable to the next eligible single child/twin children. (Rule 104 of DCRB Rules, 1971 as amended under No. 54-F(Pen) dt. 13.1.97.

9.3 A divorced wife is not entitled to Family Pension but the eligible children of such marriage are entitled to Family Pension (No. 1568-F (Pen) dt. 31.7.92).

9.4 ***Children suffering from disorder and disability of mind or physically crippled*** or disabled who are unable to earn a living even after attaining a certain age, which is at present 25 years, will get life long pension as minor. A certificate from a Medical Officer not below the rank of Civil Surgeon stating that the handicap is of such a nature as to prevent him/her from earning a livelihood setting out as far as possible, the exact mental or physical condition of the

child should be furnished. A similar certificate every three years is to be produced for continuance of such pension.

**Appointment of guardian** for drawal of such pension is not necessary when such physically crippled/disabled pensioners attain the age of majority.

However appointment of guardian will continue for drawal of such pension when the child is a minor and also for the children suffering from disorder/disability of mind {Rule 104A & No. 839-F dt 2.2.77, No. 2000-F (Pen) dt. 3.10.91.]

**9.5 Order of payment of family pension**

1. Widow/Widowers till death or re-marriage whichever is earlier.
2. Minor son including adopted sons till 25 years.
3. Unmarried daughters including adopted daughters till 25 years.
4. Son or daughter suffering from disorder or disability of mind or is physically crippled or disabled, if there are more than one such son or daughter, the family pension shall be payable in order of their birth, younger shall get family pension only after the next above him/her ceased to be eligible. Where the family pension is payable to twin to the other and when both of them cease to be eligible, the family pension shall be payable to the next eligible single/twin children [No. 2000-F(Pen) dt. 3.10.91.] children, it shall be paid to such twin children in equal shares, provided when one such child ceases to be eligible his/her share shall revert

**9.5 Family pension of pensioners who have suddenly disappeared** will be granted by the Administrative as discussed in Para 9.13 of the Note.

9.6 Govt. dues may be recovered from Family Pension [No. 2136-F (Pen) dt. 13.10.92]. In case **when a person is receiving two pensions**—one service and one family pension from the State Govt. both the pensions are to be consolidated for calculation of relief (No. 7532-F dt. 6.7.88). In case of two pensions one sanctioned by the Govt. and another by other State Govt./PSU/Autonomous Body etc. relief will be determined by such pension sanctioning authority (No. 12146-F dt. 4.11.89). Relief on State Govt. pension will be paid as usual.

9.7 When the surviving children are entitled to two family pensions on the death of both parents who were State Govt. employees the total of both the pensions if paid at enhanced rate, should not exceed Rs. 2000/- with effect from **1.1.83** and when paid at normal rates Rs. 1000/- p.m. from that date {No. 4451-F dt. 8.5.90).

**Rates of Family Pension**

<b>Last Pay</b>	<b>Monthly Pension</b>
(i) Not exceeding Rs. 1500/- - 30%	Minimum Rs. 400/- (effective from 1.5.92)
(ii) Exceeding 1500/- but not exceeding Rs. 3000/- - 20%	Minimum Rs. 450/-
(iii) Exceeding Rs. 3000/- - 15%	Minimum Rs. 600/- Maximum Rs. 1000/-

(iv) Rate of Family Pension revised 30% of the pay last drawn w.e.f. 1.1.96 notionally but cash benefit was give w.e.f.	Minimum pension Rs. 1300/- Maximum pension - Rs. 6720/- (GO No. 1227-F (Pen) dt. 27.10.98)
---	---

*Formula regarding calculation of enhanced rate of Family Pension :*

9.9 In case of death in harness-after seven years of service, pension is payable at double the above rate or 50% of the last pay of the employee whichever is less. This benefit is also admissible in case of death after retirement upto the age on which the pensioner would have attained the age of 65 years. After expiry of the period, family pension is payable at the normal rate.[ *Rule 103*].

**9.10 Ad-hoc family pension**-payable to widows of Government employees who died in harness prior to 1.4.65. or retired prior to that date @ Rs. 375/-p.m. from 1.1.86. and Rs. 400/- p.m. from 1.5.92 and Rs. 1300/- pm. Notionally w.e.f. 1.1.1996 but cash benefit was allowed w.e.f. 1.4.97 as per GO No. 1227-F dt. 27.10.98. (No. 11585 F dt. 19.10.87 and No. 1066-F (Pen) dt. 2.6.92)

**9.11 Family Pension to the post retiral spouses**-Post retiral spouses and their children will be eligible to family pension with effect from 1.4.65 by virtue of amendment of Note below (Rule 7(2)) of W.B.S. (DCRB) Rules 1971 [No. 1996-F (Pen) dt. 27.9.91, No. 540-F (Pen) dt. 28.3.94 & No. 1886-F (Pen) dt. 6.12.94].

**9.12 Sudden disappearances of pensioner/employee-** When employee / pensioner disappears leaving his family, family pension may be granted by the Administrative Deptt.

The family concerned shall apply to the Head of Office after one year of disappearance along with the police report that the person could not be traced inspite of best efforts and an Indemnity Bond from the beneficiaries to the effect that all payments received from the Govt. will be refunded to Govt. if the missing employee/pensioner reappears and claims his dues (No. 4671-F dt. 14.5.90). Head of Office is empowered to accept Indemnity Bond on behalf of the Governor . On the basis of the bond payment of salary, leave encashment, GPF, Death Gratuity and family pension may be made.[ No. 1500-F (Pen) dt. 17.7.92 and Judicial Deptt. No. 12023-J dt. 12.5.92).

**10. Scheme for providing immediate relief to Govt. employee who die while in service.** In case of Govt. employee in receipt of pay not exceeding Rs. 2500/- p.m. who dies while in service his family will be paid an immediate relief of Rs. 2500/- or three month's pay whichever is less as advance by the Head of Office to be adjusted

against his leave, Death gratuity, GPF, etc. (No. 7325-F dt. 11.7.78 and No. 10849-F dt. 31.10.90 effective from 31.10.90. The family will be granted a relief of Rs. 250/- towards funeral expenses of the deceased employee {No. 6122-Fdt. 1.7.91).

**11. Functions of Head Office** - For early finalisation of pension cases (No. 1112-F dt. 2.2.89) Head of Office will maintain a list of employees due to retire within two years as per Annexure 1 of Rule 124. He should also maintain "check list" and "Programme" Statement as per Annexure II and Annexure 111 of Rule 125. The employee will apply for pension in Form 5 one year before date for retirement and open a single name S/B A/c with a Public Sector Bank for payment of pension. Head of Office will initiate pension cases two years before the date of retirement of an employee so that all necessary steps involved in the finalization of pension cases are taken well in time and take up preparation of pension papers eight months before retirement. Pension papers are to be sent to Principal A.G., W.B. at least six months before retirement for issue of P.P.O., G.P.O., Principal A.G., W.B. will after necessary scrutiny issue P.P.O., G.P.O. at least one month before the date of retirement of the employee.

**Employees retiring on or after 31.8.97 will come under the new scheme discussed in Para 14 onwards.**

11. Before sanction of pension consultation with the Vigilance Commission may be made when necessary, in the matter of grant of pension in terms of Memo. No. 587-GAC (Vig) dt. 25.5.76 vide Chief Secy. Memo. No. 103 (100)-PAR (Vig) dt. 27.1.88.
12. No final pension be sanctioned when court case regarding higher fixation of pay is pending. No. final/provisional gratuity should also be sanctioned. Only provisional pension may be sanctioned till disposal of the court case. The fact of the court case shall be recorded in the S.B. of the writ petitioners with full context of the order if any, passed by the court. In other cases, it should be certified in the S.B. that no court case/appeal is pending except where the Govt. has already been directed to pay interim retirement benefits [No. 547-F (Pen) dt. 12.4.93].
13. The pension sanctioning authority will only submit the following documents to the Principal A.G. (A & E), W.B. along with the Single Comprehensive Form (instead of Form 1 & 3 and Annexure I under (DCRB) Rules 1971 and No. 747-F dt. 1.6.95 duly filled in :

I. (a) LPC/Statement of outstanding dues, (b) Service Book, (c) Calculation sheet of Qualifying Service, Pension, Gratuity and Family Pension, (d) Attested

Passport size Joint Photograph/Photograph and Specimen Signature/Left thumb and finger impression of the pensioner/ family pensioner (4 copies each), (e) Death Certificate/ Medical Certificate (in case of death/invalidation) (f) Nomination under arrears of Pension Nomination Rules, 1986. (g) Application for commutation in prescribed Form.

II. Fixation of pay under the relevant ROPA rules should be checked by the Finance Deptt. and a certificate to that effect should be given in the Service Book, failing which the pension case is likely to be returned.

*In respect of the payment of retirement benefit/death benefit securing on or after 31.8.97, the provisions made in II above is deleted as the requirement of checking the Initial Pay Fixation Statement by the P.I. Celt of Finance Deptt. has been dispensed with. Pay fixation matters will now be examined by the Pr. A.G. (A & E), W.B. [No. 492-F (Pen) dt. 21.3.97].*

III. In case payment is desired outside West Bengal this form may be submitted in duplicate.

#### **14. Scheme for payment of Pension and Gratuity on the date of Superannuation,**

A new scheme for payment of pension and gratuity to the employees on the date of superannuation was issued covering cases of employees whose superannuation fails due on or after the 31.8.1997. Under the Scheme, there is compulsion on the part of the pension sanctioning authority to settle Pensionary claims on the date of superannuation. In particular the Head of Office (Pension Sanctioning Authority) shall be held personally responsible for non-compliance with the procedure to be followed by him for payment of pension. Any lapse on his part may, apart from making him liable for disciplinary action, require him to pay to Government such additional expenditure as Government may have to incur by way of payment of interest for delayed payment of retiring benefits to the employees.

#### **Procedure to be followed by the Head of Office**

- 14.1 The Head of Office (who is the Pension Sanctioning Authority in respect of his subordinate staff) shall maintain a Pension Register as prescribed in the West Bengal- Services (Death-cum-Retirement Benefit) Rules, 1971 {as amended by G.O. No. 5977-F dated 27.6.85). He shall prepare on the 1st January/1<sup>st</sup> July of each year a list (in duplicate) of employees under his control who will retire within the next 30 months, and send one copy of the same to the Principal Accountant General (A & E), West Bengal and the second copy to the Pension Cell of the Finance Department.
- 14.2 A notice shall be issued to the retiring Government employee two years in advance from the date of superannuation enclosing along with the notice. Form No. 5 (Formal application for pension), Form C (Form for commutation of

- pension) and Form for nomination for payment of Life Time Arrears of Pension (G.O, No. 10885-F, dated 24.10.86) as well as the Form of Application for drawal of pension through Public Sector Banks in Calcutta as prescribed under Rule 4(3) of the Rules for Payment of Pension to State Government Pensioners in Calcutta (vide Annexure 'A' to the said Rules) with the direction to submit the said Forms along with other documents as indicated in the Forms one year in advance from the date of superannuation.
- 14.3 On receipt of application" in Form 5 and Form C etc. along other documents from the retiring employee, the Head of Office shall start the work of preparation of pension papers in the *Comprehensive Form* prescribed by Memo. No. 747-F (Pen), date 01.06.95 eight months in advance from the date of superannuation. He shall simultaneously prepare/obtain from the Drawing and Disbursing Officer, if he himself is not Drawing and Disbursing Officer, a pay statement in the proforma specified and also prepare a Calculation Sheet showing admissible pension and gratuity of the retiring employee and family pension, where payable.
- 14.4 The Head of Office shall send the pension papers complete in all respects to the Principal Accounts General (A & E), West Bengal, Treasury Building, Calcutta-700 001 along with enclosures as mentioned in the Comprehensive Form six months in advance from the date of superannuation of the employee for issue of Pension Payment Order, authority for payment of retiring gratuity and authority for payment of commuted value of pension, if any. No checking of Initial Pay Fixation Statement by the P.I. Cell, is necessary. Pay Fixation matters will be examined by the Pr. A.G. (A & E), W. B. [No. 492-F (Pen)dt. 21.3.97.]Sending of pension papers along with Annexure - I to the Pension Branch of Finance Deptt. is not required as per GO No. 422-F (Pen) dt. 7.4.2004 for the employee who will retire/die on or after 31.3.2004. The same should be sent to AG WB six months in advance from the date of retirement.  
If after the pension papers have been forwarded to the Principal Accountant General, / West Bengal within the specified period, any event occurs which has a bearing on the amount of pension admissible, the fact shall be promptly reported to the Principal Accountant General, West Bengal by the Head of Office.
- 14.5 The Head of Office shall promptly issue reply to any observation made by the Principal Accountant General (A & E), West Bengal in connection with disposal of any pension case to enable the Principal Accountant General (A & E), West Bengal to issue pension payment order in time.
- 14.6 On receipt of Pensioner's copy of the intimation letter regarding issue of Pension Payment Order from the Principal Accountant General (A & E), West Bengal and the authority for the payment of gratuity and commuted value of pension, the Head of Office, if he himself is the Drawing and Disbursing Officer in respect of the establishment to which the Government employee belongs shall prepare a Bill immediately in the Bill Form used for payment of provisional gratuity, for payment of retiring gratuity and commuted value of pension as authorised by the Principal Accountant General (A & E) West Bengal and submit the same to the Pay & Accounts Officer / Treasury Officer, as the case may be with the instruction to issue chequers), not encashable before the first working day following the date of



superannuation of the Government employee. If the Head of Office is not the Drawing & Disbursing Officer, he shall forward the relevant records to the concerned Drawing & Disbursing Officer, who shall take similar action. The cheques for gratuity and commuted value of pension shall be handed over by the Head of Office to the retiring Government employee along with pensioner's copy of the intimation letter regarding issue of Pension Payment Order already received from the Principal Accountant General (A & E), West Bengal at the close of the day of his retirement or on the next working day, if the day of retirement falls on a holiday. In case of transfer to other office before retirement cheques and intimation letter regarding issue of PPO will be sent to his present office for disbursement as per GO NO. 1315-F(Pen) dt. 14.10.96.

Provided that if any disciplinary / judicial proceeding has been instituted during the intervening period between forwarding of pension papers to the Principal Accountant General (A & E), West Bengal and the date of retirement of the employee the Head of Office shall not deliver the copy of intimation letter regarding issue of Pension Payment Order etc., if received from the Principal Accountant General to the retiring employee so long as the retiring employee is not honourably acquitted of the charges. Where disciplinary/judicial proceeding is pending even after the employee attained the age of superannuation, the Head of Office shall continue payment of Provisional Pension as authorised by the Principal Accountant General, West Bengal till conclusion of the disciplinary/judicial proceedings. No gratuity or Commuted value of Pension shall be paid during this period. On completion of disciplinary / judicial proceedings, if any employee is honourably acquitted, the Head of Office shall hand over the pensioner's copy of intimation letter regarding issue of Pension Payment Order etc. to the concerned employee and issue a direction to the concerned Pension Disbursing Officer indicating therein the amount of Provisional Pension sanctioned in favour of the Government employee concerned and also the period of such payment for adjustment of the same against final pension. Where revalidation of cheques is necessary, necessary action for such revalidation shall be taken by the Head of Office. 14.7

14.7 If there is no case pending against a retiring employee, the Head of Office shall Issue a Certificate on the date of superannuation of the concerned employee to the effect that (i) no provisional pension has been authorised; (ii) the amount paid on account of gratuity and commuted value of pension and the date of such payment; and (iii) that the retiring employee does not owe to the Government in any way and hand over the said certificate to the retiring employee on the date of superannuation. [No. 1315-F (Pen) dated 14.10.96]

### **Procedure to be followed by the Principal Accountant General (A & E) West Bengal**

**14.8 On receipt of pension papers complete in ail respects from the Head of Office six months in advance from the date of superannuation** of a Government employee the Principal Accountant General (A & E), West Bengal shall apply requisite checks for determining the admissibility of pension and gratuity and also family pension cases.

14.9 If any information / clarification is wanted, the Head of Office shall be contacted within 3 months from the date of receipt of pension papers.

14.10 Where no information / clarification is desired or where necessary clarification has been received from the Head of Office, the Principal Accountant General (A & E), West Bengal shall straightway issue (i) Pension Payment Order, (ii) authority for payment of gratuity and (iii) authority for payment of commuted value of pension one month in advance from the date of superannuation of the Government employee.

14.11 He shall send pensioner's copy of intimation letter regarding issue of Pension Payment Order and the authority for payment of retiring gratuity and commuted value of pension to the concerned Head of Office under whom the retiring employee is serving and the both halves of Pension Payment Order to the Pension Disbursing Officer as chosen by the retiring Government employees, with the direction to start payment from the specific date as fixed therein.

14.12 When the retiring employee is in receipt of higher pay on the basis of interim orders passed by the Hon'ble High Court/Hon'ble Supreme Court of India, West Bengal Administrative Tribunal or where appeal, if any, preferred by the Government is pending, such higher pay may be taken into account for calculation of pension only on provisional basis till finalisation of the case. No gratuity or commuted value of pension, shall be authorised in such cases till finalisation of the court case and issue of consequential Government instructions.

14.13 Where payment of pension /family pension is to be made in other State, the Special Seal Authority for payment of pensionary benefits may be issued as usual to the concerned Accountant General, in whose audit jurisdiction the pensioner intends to draw pension.

14.14 The procedures outlined in paragraphs shall be followed-mutatis mutandis, in case of (a) settlement of pensionary claims arising on grounds other than ground of superannuation and (b) settlement of family pension and death gratuity in the event of death in harness of an employee.

15. A small committee has been set up by the Finance Department to review the pension cases for settlement of pensionary claims and to avoid delay in payment of pensionary benefit. Pension Cell of the Finance Department is entrusted with the entire work of monitoring the scheme. Henceforth, Pension Cell would systematically follow-up pension cases with the Pension Sanctioning Authority and the Pr. A. G. (A & E), W. B. for timely sanction of pension cases [ No. 1550-F (Pen) dt. 17.12.97].

